

In the Matter of:

**MISSOURI-AMERICAN WATER COMPANY'S APPLICATION FOR A CERTIFICATE, etc.**

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**SA-2021-0017, VOL. II**

*April 08, 2021*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

April 8, 2021

Jefferson City, Missouri via WebEx

Volume 2

In The Matter Of Missouri-American )  
Water Company's Application for a )  
Certificate of Convenience and ) File No. SA-2021-0017  
Necessity Authorizing it to Install, )  
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.

RYAN A. SILVEY,  
Chairman,  
WILLIAM P. KENNEY,  
SCOTT T. RUPP,  
MAIDA J. COLEMAN,  
JASON R. HOLSMAN,  
Commissioners.

REPORTED BY:  
Lisa M. Banks, CCR  
TIGER COURT REPORTING, LLC

A P P E A R A N C E S

1  
2 DEAN COOPER, Attorney at Law  
JENNIFER HERNANDEZ, Attorney at Law  
3 Brydon, Swearngen & England  
312 E. Capitol  
4 P.O. Box 456  
Jefferson City, Missouri 65102  
5 Dcooper@brydonlaw.com  
Jhernandez@brydonlaw.com  
6 FOR: Missouri-American Water Company

7 TIMOTHY LUFT, Attorney at Law  
727 Craig Road  
8 St. Louis, Missouri 63141  
Timothy.Luft@amwater.com  
9 FOR: Missouri-American Water Company

10 JENNIFER GRIFFIN, Attorney at Law  
Lathrop GPM  
11 314 E. High Street  
Jefferson City, Missouri 65101  
12 Jennifer.Griffin@latrhropgpm.com  
FOR: Boone County Regional Sewer District

13 TRAVIS PRINGLE, Legal Counsel  
14 MARK JOHNSON, Legal Counsel  
Governor Office Building  
15 200 Madison Street, Suite 800  
P.O. Box 360  
16 Jefferson City, Missouri 65102-0360  
Travis.Pringle@psc.mo.gov  
17 Mark.Johnson@psc.mo.gov  
FOR: Staff Of Missouri Public Service Commission

18 NATHAN WILLIAMS, Legal Counsel  
19 Governor Office Building  
200 Madison Street, Suite 650  
20 Jefferson City, Missouri 65102  
Nathan.Williams@opc.mo.gov  
21 FOR: Office of the Public Counsel

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23  
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P R O C E E D I N G S

1  
2 JUDGE JACOBS: We are now on the record. Good  
3 morning. Today is April 8th, 2021. The time is now 8:15 a.m.  
4 The Commission has set this time aside for an evidentiary  
5 hearing in Case Number SA-2021-0017, which is the matter of  
6 Missouri-American Water Company's Application for a Certificate  
7 of Convenience and Necessity Authorizing it to Install, Own,  
8 Acquire, Construct, Operate, Control, Manage and Maintain a  
9 Sewer System in and around the City of Hallsville, Missouri.

10 My name is Jana Jacobs, and I'm the regulatory  
11 law judge assigned to this case. As you know, the members of  
12 the commission are Chairman Ryan Silvey, who is present with us  
13 today, Commissioner William Kenney, Commissioner Scott Rupp,  
14 Commissioner Maida Coleman, who is also present with us today,  
15 Commissioner Jason -- and Commissioner Jason Holsman.

16 If any of the other commissioners join us at any  
17 point today, or if commissioners have to leave briefly and then  
18 return, I would just ask if you would all feel free to just  
19 speak up and let me know and let all of us know when you're  
20 present, so that I can give you an opportunity to ask any  
21 questions you want and acknowledge your presence here today with  
22 us.

23 Okay. So we will get started first with entries  
24 of appearance. If your current contact information is already  
25 included with your appearance in this case, you don't need to

1 repeat all of that now. I'll leave that up to you. Please  
2 identify all counsel present today and the party that you're  
3 representing.

4 So if you could just go ahead, Missouri-American  
5 Water, please.

6 MR. COOPER: Yes, Judge. Thank you. Dean  
7 Cooper and Jennifer Hernandez from the law firm of Brydon,  
8 Swearngen & England, P.C. Our address is on record with the  
9 Commission, appearing for Missouri-American Water Company. Also  
10 appearing for Missouri-American Water Company is Mr. Timothy  
11 Luft of Missouri-American Water Company, and his address is also  
12 on record with the Commission. Thank you.

13 JUDGE JACOBS: Thank you very much, Mr. Cooper.

14 And I see Mr. Luft. I haven't seen  
15 Ms. Hernandez yet this morning, but it might be another screen I  
16 need to click to. Okay.

17 MR. COOPER: I believe -- yeah, I believe she is  
18 on the line.

19 JUDGE JACOBS: Okay. I see. Thank you very  
20 much. I see her now.

21 MS. HERNANDEZ: I'm here, Judge. Thank you.

22 JUDGE JACOBS: Thank you, Ms. Hernandez.

23 Okay. And now we can move on to appearances for  
24 Staff, please.

25 MR. PRINGLE: Yes. Thank you, Judge. Good

1 morning. Travis Pringle with Mark Johnson on behalf of Staff.  
2 Our contact information is also already in the record.

3 JUDGE JACOBS: Okay. Thank you very much. I  
4 see both of you here this morning. We can now proceed to Office  
5 of the Public Counsel, please.

6 MR. WILLIAMS: Nathan Williams appearing on  
7 behalf of the Office of the Public Counsel and the Public, P.O.  
8 Box 2230 Jefferson City, Missouri 65102.

9 JUDGE JACOBS: Thank you very much,  
10 Mr. Williams.

11 And now for Boone County Regional Sewer  
12 District, please.

13 MS. GRIFFIN: Yes, thank you, Judge. Jennifer  
14 Griffin with Lathrop GPM appearing on behalf of the Boone County  
15 Regional Sewer District.

16 JUDGE JACOBS: Thank you so much.

17 All right. So we can get started now. This  
18 hearing is being conducted via video and telephone conference.  
19 For the convenience of those who do not need to directly  
20 participate in the hearing before the Commission today, the  
21 hearing is also being streamed on the Commission's website,  
22 which is at [psc.mo.gov](http://psc.mo.gov). Any nonpublic matters will not be  
23 streamed, and I will rely on counsel to alert me to help me  
24 insure that confidentiality is preserved today.

25 Please silence your line unless you are

1 speaking. Among counsel who are appearing by video today, I  
2 would ask that you remain present. Although, obviously, for  
3 privacy purposes you need to briefly terminate your video, I  
4 understand that. And also, Mr. Williams has mentioned that he  
5 might have a connection problem today. If anybody starts having  
6 trouble with their video or audio connection, it's often helpful  
7 just to cut the video for that purpose. So please feel free to  
8 do so, if that is going to help us have a better connection  
9 today.

10 Any witnesses who will appear by video today,  
11 need only remain visible by video during their testimony, and I  
12 actually prefer if those folks don't leave their video on the  
13 whole time because it is hard for me to distinguish among the  
14 many faces when I have folks that I can see, who are not  
15 actually witnesses. They may not, of course, apply to  
16 commissioners. I will leave it totally up to commissioners  
17 about whether they want to remain on video or not. If you feel  
18 like that is going to help you communicate with me, please feel  
19 free to do so.

20 All right. And then I will also ask that  
21 witnesses remain available for recall for the duration of the  
22 hearing. So even after they've given their testimony and  
23 they've been excused from the stand, it's possible that we might  
24 need to recall them. We are trying to make sure we get this all  
25 done as efficiently as possible in one day. So, hopefully, your

1 witnesses can accommodate that. If that is a problem for any of  
2 your witnesses, please let me know.

3 All right. The chat function in this WebEx  
4 software is public, and it is displayed to all participants who  
5 are connected to the videoconference. It is not private, and  
6 the chat is not part of the official record of this case.

7 We will try to take breaks about every 90  
8 minutes, and I'll look for a good opportunity to break for lunch  
9 sometime after 11:30, depending how things are going. Please  
10 speak up if you need a break before that time for some reason.

11 All right. The parties have exchanged exhibit  
12 lists and have identified proposed exhibits, including any  
13 exhibits that were already filed in this case in the  
14 Commission's filing system. Does anyone have any remaining  
15 questions or concerns regarding any exhibits at this time?

16 I know there were some amendments to exhibit  
17 lists. I didn't have a problem with those. Does anyone have  
18 any concerns that we should talk about before we get started?

19 I do not see any lawyers who want to speak up  
20 and say anything and no one has said anything. So I think I'm  
21 safely -- can conclude that you guys do not have anything to add  
22 here. So we're going to follow the order of opening statements,  
23 order of witnesses and order of cross-examination proposed by  
24 the parties and the joint issues list that was filed in this  
25 case. That proposal was filed on March 22nd, and it didn't



1 include a formal opportunity for the Office of the Public  
2 Counsel to question witnesses, and I haven't had an opportunity  
3 to ask Mr. Williams if that is something that OPC anticipates  
4 doing today. So I will ask now.

5 Mr. Williams, did you have any concerns about  
6 the fact that parties have essentially proposed  
7 cross-examination that doesn't formally include OPC? Do you  
8 want me to give you an opportunity or can we just allow you to  
9 speak up?

10 MR. WILLIAMS: You can just allow me to speak up  
11 if I choose to, but I am anticipating no cross.

12 JUDGE JACOBS: Okay. Thank you very much.

13 Okay. So those were all the preliminaries that  
14 I wanted to cover. Do any of the parties have any additional  
15 matters that they would like to address before we proceed to  
16 opening statements this morning?

17 MR. WILLIAMS: Judge, this is Public counsel. I  
18 will waive opening now.

19 JUDGE JACOBS: Okay. Thank you. I appreciate  
20 you clarifying that. Just give me one second to send a message  
21 and then we will get started with opening.

22 Okay. I apologize for that little delay, but I  
23 just have to make sure everything is all right and people know  
24 what is going on. So now we are ready to move on to opening  
25 statements, and we will begin with Missouri-American.

1 MR. COOPER: Thank you, Judge. This hearing is  
2 the most recent step in Missouri-American's effort to purchase  
3 the Hallsville sewer system. On August 26th of 2019, the  
4 Hallsville Board of Alderman passed Ordinance Number 370, which  
5 was styled, An ordinance calling for an election in the City of  
6 Hallsville, Missouri, to be held on November 5th of 2019, for  
7 the purpose of submitting to the qualified voters of the city, a  
8 proposition to sell certain assets associated with the city's  
9 wastewater system to Missouri-American Water Company.

10 Section 2 of that ordinance provided that if a  
11 majority of the votes cast on the question by the qualified  
12 voters voting thereon are in favor of the question, then the  
13 City may negotiate a contract with Missouri-American Water for a  
14 price of not less than \$2 million cash and a capital commitment  
15 of \$3,300,000 over five years, including terms that provide for  
16 future service, maintenance, capital improvements, and other  
17 terms and conditions. The election was held on November 5th of  
18 2019, and a majority of votes were cast in favor of the  
19 proposition.

20 On July 14th of 2020, Missouri-American entered  
21 into a purchase agreement with the City of Hallsville. It has  
22 been provided in this -- in this case. Missouri-American  
23 requests in this case a Certificate of Convenience and Necessity  
24 to provide sewer service within the identified service area  
25 utilizing the Hallsville system. The Commission may grant a

1 sewer corporation a CCN to operate after determining that the  
2 construction and/or operation are either necessary or convenient  
3 for the public service.

4           There are currently violations of Hallsville's  
5 operating permit that result in discharges that eventually enter  
6 waters of the state in violation of the Missouri Clean Water Law  
7 as well as other compliance problems. As a result of the  
8 numerous compliance issues documented over the years by the  
9 Missouri Department of Natural Resources, the Hallsville  
10 facility is under enforcement with MDNR's water protection  
11 enforcement section.

12           The Commission has articulated criteria to be  
13 used when evaluating applications for utilities Certificates of  
14 Convenience and Necessity, it is sometimes called the Tartan  
15 factors.

16           Those factors are as follows: One, there must  
17 be a need for the service; two, the applicant must be qualified  
18 to provide the proposed service; three, the applicant must have  
19 the financial ability to provide the service; four, the  
20 applicant's proposal must be economically feasible; and five,  
21 the service must promote the public interest.

22           There is a need for the service in this case, as  
23 residents currently make use of the existing sewer system and  
24 there are no compliance violations that must be addressed.  
25 Missouri-American is qualified to provide this service as it

1 already provides safe, adequate, and compliant water service to  
2 over 470,000 Missouri customers and sewage service to over  
3 15,000 Missouri customers. Missouri-American has the financial  
4 ability to provide and improve the service. Missouri-American's  
5 feasibility study indicates that the purchase of the city sewer  
6 assets will not generate positive income in the initial years;  
7 however, Missouri-American's financial standing is such that  
8 this situation will not impact its ability to provide safe and  
9 adequate service, and there's likely to be no impact from this  
10 transaction on Missouri-American's general population of  
11 ratepayers.

12           Further, Missouri-American possesses adequate  
13 tactical, managerial and financial capacity to operate and  
14 improve the sewer system it wishes to purchase from the City.  
15 The Commission has indicated in the past that positive findings  
16 with respect to the other four Tartan factors will in most  
17 instances support a finding that the application for a CCN will  
18 promote the public interest. The factors for granting a  
19 Certificate of Convenience and Necessity to Missouri-American in  
20 this case has been satisfied and it is in the public's interest  
21 for Missouri-American to provide sewer service to the customers  
22 currently served by the City of Hallsville as called for by the  
23 actions of the Board of Aldermen and the vote of the people.

24           There is a further question as to what  
25 conditions, if any, the Commission should impose in conjunction

1 with any CCN it may grant in this case. Missouri-American  
2 agrees that the Commission should authorize the transfer of  
3 assets and grant Missouri-American the CCN to provide sewer  
4 service within the proposed service area subject to the  
5 conditions proposed by Staff.

6           The Boone County Regional Sewer District  
7 proposes five additional conditions in its statement of  
8 position. Missouri-American does not object to the District's  
9 proposed Conditions 1 and 2; however, Missouri-American would  
10 object to the District's Conditions 3, 4, and 5.

11           District Condition 3 would grant, essentially,  
12 the District veto power in regard to any plans to address the  
13 system's capacity and compliance issues for an indefinite period  
14 of time. DNR already exists for the purposes -- purpose of  
15 regulating those issues.

16           District Condition 4 would mandate a certain  
17 treatment process for Hallsville, again, without regard to the  
18 decisions of the entity responsible for such issues, that being  
19 DNR.

20           And District Condition 5 would require ownership  
21 of certain land where other treatment options might be  
22 acceptable. Again, there's no need for the Commission to get  
23 into regulation of what type of treatment should be used when  
24 that is ultimately a DNR matter.

25           Lastly, the District argues that there should be

1 an issue in this case as to certain DNR regulations concerning  
2 continuing authority and DNR permits. The term continuing  
3 authority means the permanent entity that will be responsible  
4 for the operation, maintenance, and modernization of the sewage  
5 systems for which the permit application is being to DNR. The  
6 District argues that it is a Level 2 continuing authority within  
7 the incorporated City of Hallsville and over the sewer system  
8 owned by the City. Missouri-American believes that is not the  
9 case based upon the actions of the Clean Water Commission --  
10 previous actions of the Clean Water Commission. But even if DNR  
11 were to find that the District is a Level 2 authority regarding  
12 the Hallsville systems, there are exceptions to the continuing  
13 authority hierarchy that allow a lower authority to operate a  
14 system.

15 At the end of the day, the Commission need not  
16 resolve this continuing authority issue. This issue concerns  
17 DNR regulations associated with permitting. It should be  
18 resolved by DNR. A grant of a CCN by this Commission is the  
19 next step in bringing that issue before the Missouri Department  
20 of Natural Resources.

21 Judge, the Commission should grant  
22 Missouri-American a Certificate of Convenience and Necessity to  
23 provide sewer service within the proposed service area subject  
24 to the conditions described by Staff. And that's all that I  
25 have at this time.

1 JUDGE JACOBS: Thank you very much, Mr. Cooper.  
2 I had contemplated that we would have questions  
3 for counsel after all opening statements have been made, but I  
4 understand that Chairman Silvey needs to leave this morning for  
5 important meetings at the Capitol at 9:00. And so I just wanted  
6 to give Chairman Silvey an opportunity to ask  
7 Missouri-American's counsel any questions he might have at this  
8 time, in case he would like to.

9 COMMISSIONER SILVEY: I appreciate that, Judge.  
10 I have no questions at this time.

11 JUDGE JACOBS: Okay. So I think what I will do  
12 then is probably -- looks like we have Commissioner Rupp joining  
13 us. So I think I'll just proceed, then, and we'll take an  
14 opening statement from Staff, and then I will open the floor to  
15 questions.

16 COMMISSIONER HOLSMAN: Judge --

17 JUDGE JACOBS: I'm sorry -- Commissioner  
18 Holsman?

19 COMMISSIONER HOLSMAN: Judge, this is  
20 Commissioner Holsman. Yeah. I just have one real quick  
21 question.

22 JUDGE JACOBS: Please, go ahead, sir.

23 COMMISSIONER HOLSMAN: What was the vote count.  
24 You said that the vote had passed in 2019? I'm just curious of  
25 what the -- what the end result was of that count.

1 MR. COOPER: Judge, I don't have that -- or I'm  
2 sorry, Commissioner, I don't have those numbers right in front  
3 of me, but I will -- I will grab those and get those to you  
4 during the course of the hearing, if that would be okay.

5 COMMISSIONER HOLSMAN: Okay. Thank you very  
6 much. No further questions.

7 JUDGE JACOBS: And I don't recall seeing  
8 information about that, though, offered by any party up to this  
9 point, in this case, unless I happen to miss that fact. I don't  
10 think it is any information that has been offered at this time  
11 unless I've overlooked it.

12 MR. LUFT: It may be in the application.

13 COMMISSIONER HOLSMAN: It was just more of a --  
14 more of a curiosity. I was just interested to see what the  
15 public support was for the proposal.

16 JUDGE JACOBS: Okay. The court reporter may  
17 have trouble with folks speaking up without us knowing who they  
18 were. There was someone who just said, It may have been in  
19 application. Who was that person?

20 MR. COOPER: That was Mr. Luft, Judge.

21 JUDGE JACOBS: Okay. Thank you, sir.

22 Mr. Luft, if you have anything to add there, you  
23 can go ahead and finish your statement.

24 MR. LUFT: I think that's in our application. I  
25 will check and then update that that's in there.



1 JUDGE JACOBS: The actual vote tally is  
2 something you think was in the application?

3 MR. LUFT: Typically, we put that in there. I  
4 will double check.

5 JUDGE JACOBS: Okay. Thank you.

6 MR. PRINGLE: I have the numbers, Judge, if  
7 Commissioner Holsman would like to hear them.

8 JUDGE JACOBS: Okay. Please, proceed,  
9 Mr. Pringle.

10 MR. PRINGLE: The vote was 136 to 64 in favor.  
11 So 68 percent of the vote was in favor.

12 COMMISSIONER HOLSMAN: Thank you very much.

13 JUDGE JACOBS: Mr. Pringle, did you locate that  
14 in some documents that are, in fact, in the case file in this  
15 case?

16 MR. PRINGLE: It is on the -- in the  
17 application, I believe.

18 JUDGE JACOBS: Okay. Thank you. I overlooked  
19 that. Is it an attachment or it's simply recited in the  
20 application as a fact?

21 MR. PRINGLE: It's cited in the application, I  
22 believe. I think it may also be in Mayor Carter's testimony as  
23 well.

24 JUDGE JACOBS: Okay. Perhaps Mayor Carter's  
25 testimony today will give us a chance to revisit that.

1 MR. PRINGLE: Okay.

2 JUDGE JACOBS: Were there any additional  
3 questions that came out of Mr. Cooper's opening statement?

4 Okay. I believe that we were ready, then, to  
5 proceed to opening statement from Staff, please.

6 MR. PRINGLE: Thank you, Judge. May it please  
7 the Commission. My name is Travis Pringle and together with  
8 Mark Johnson, we represent the staff of the Missouri Public  
9 Service Commission. I am here today to explain what is  
10 necessary or convenient for the Public Service. I'm here to  
11 explain Staff recommendation to approve the Missouri-American  
12 Water Company's request for a Certificate of Convenience and  
13 Necessity. I'm also here to help you understand the process  
14 that led to Staff's recommendation.

15 The Commission has jurisdiction over  
16 applications for Certificates of Convenience and Necessity, or  
17 CCNs, under Section 393.170 RSMo. Under the CCN statute, the  
18 Commission may approve a CCN application if it is found to meet  
19 the standard of necessary or convenient for the public service.  
20 Under statute, there is no specific criteria as to when a CCN is  
21 necessary or convenient for the public service. Now, while  
22 guidance has not been laid out under statute, the Commission has  
23 tools to refer to in helping it reach the decision as to whether  
24 application is necessary or convenient for the public service.

25 The Commission has issued its own rule through

1 20 CSR 4240-3.305, outlining the filing requirements of every  
2 CCN application for sewer service. This is in addition to the  
3 blanket application rule, found in 20 CSR 4240-2.060. These  
4 rules can act as a guide map in helping the Commission determine  
5 if an application is complete and sufficient. The Commission  
6 may also look to the courts for guidance as to what would be  
7 necessary or convenient for the public service.

8           At Intercon Gas, the court has stated that  
9 necessity does not mean essential or absolutely indispensable.  
10 Rather, necessity refers to an additional service which would be  
11 an improvement justifying its cost. To quote Missouri Coach  
12 Lines, any improvement which is highly important to the public  
13 convenience and desirable for the public welfare may be regarded  
14 as necessary. If it is of sufficient importance to warrant the  
15 expense of making it, it is a public necessity, end quote.

16           Intercon Gas further holds that the decision of  
17 whether the evidence indicates that public interest would be  
18 served and need award of the certification falls within the  
19 discretion of this Commission.

20           This necessary or convenient for the public  
21 service standard is applied in every CCN application that comes  
22 before the Commission, and it is a standard that Staff concludes  
23 has been met by Missouri-American Water. When applying for a  
24 CCN, the burden of establishing an application is necessary or  
25 convenient for the public service rests on the applying party.

1 In this case, that burden rests on the Missouri-American Water  
2 Company.

3 The Commission determines if Missouri-American  
4 Water has carried this burden if the preponderance of the  
5 evidence shows so. By that, I mean the greater weight of the  
6 evidence leans toward the party having to carry this burden.

7 Missouri-American Water applied for a CCN to  
8 install, own, acquire, construct, operate, control, manage, and  
9 maintain a sewer system in and around the City of Hallsville,  
10 Missouri on July 20, 2020. This application was the result of  
11 public meetings, a vote by the people of the City of Hallsville,  
12 and the signing of a purchase agreement dated July 14, 2020,  
13 between the city's elected officials and Missouri-American Water  
14 to sell the sewer system.

15 On July 23, 2020, the Commission ordered Staff  
16 to begin its review and investigation. Staff reviewed the  
17 application to insure the applying utility complies with the  
18 requirements of 20 CSR 4240-2.060 and 3.305. This is the  
19 standard process employed by Staff in compliance with the rules  
20 through their requirement for a utility seeking a CCN before the  
21 Commission. Further used for staff and investigating the  
22 utility's application for a CCN, especially when as today, the  
23 CCN is to acquire an already existing system, is reviewing the  
24 applicant's technical, managerial, and financial capabilities to  
25 run the system. This is known as TMNF.

1                   TMNF capacity helps lead sustainable systems.  
2 For example, technical capabilities referred to an applicant's  
3 capacity to meet the engineering and structural integrity  
4 requirements to serve the needs of its customers. Managerial  
5 capabilities refer to the applicant's managerial capacity to  
6 properly manage the system. And the financial capabilities  
7 refer to an applicant's ability to raise and properly manage the  
8 money required to operate a system over the long-term. It is  
9 recommendation to approve, Staff concluded that  
10 Missouri-American Water Company exhibits the necessary TMNF  
11 capacity to provide service necessary or convenient for the City  
12 of Hallsville.

13                   Staff also employed the Tartan criteria to  
14 ensure that a utility is qualified to provide service. These  
15 criteria are one, there must be a need for the service; two, the  
16 applicant must be qualified to provide the proposed service;  
17 three, the applicant must have the financial ability to provide  
18 the service; four, the applicant's proposal must be economically  
19 feasible; and five, the service must promote the public  
20 interest.

21                   Over the course of Staff's investigation, Staff  
22 conclude that Missouri-American Water Company meets the Tartan  
23 criteria. Having concluded this review for the CCN process as  
24 outlined under statute and under Commission rules, Staff  
25 concluded that the granting of the CCN to Missouri-American

1 Water to install, own, acquire, construct, operate, control,  
2 manage, and maintain a sewer system in and around the City of  
3 Hallsville is necessary and convenient for the public service.

4 That being said, Staff also included 18  
5 conditions that recommended the Commission include in an order  
6 granting Missouri-American Water's application.

7 Missouri-American Water agreed to all 18 conditions outlined by  
8 Staff, and its response to Staff recommendation filed on  
9 December 4, 2020. In its position statement, filed on March 24,  
10 2021, the District also expressed its agreement with Staff's  
11 conditions, if the Commission were to grant Missouri-American  
12 Water's application.

13 Today you'll hear from Staff witnesses Jim  
14 Busch, Jarrod Robertson, Matthew Young, and Daronn Williams. I  
15 implore you to ask them questions. Ask them how Staff  
16 investigated and reviewed Missouri-American Water's application.  
17 Ask them how Staff determined Missouri-American Water's  
18 application is convenient or necessary for the public service.  
19 Ask them how Missouri-American Water exhibited the requisite  
20 TMNF capacities and met the Tartan criteria. They are here to  
21 provide you information and aid in your understanding of Staff's  
22 recommendation in this matter.

23 And I do want to make a note about a term you  
24 may hear a lot about today, and that is continuing authority.  
25 Continuing authority is outlined under the Department of Natural

1 Resources rules, specifically 10 CSR 20-6.010(2). Continuing  
2 authority can play a factor in the Department of Natural  
3 Resources issuing of an operating permit, which  
4 Missouri-American water would need before it can operate the  
5 Hallsville sewer system. The district put forward its Level 2  
6 continuing authority as a reason for the Commission to deny  
7 Missouri-American Water's application because it is a Level 2I  
8 continuing authority, lower than the District. The District has  
9 put forward that awarding Missouri-American Water a CCN in this  
10 case would assert their long-term planning authority and rights  
11 to decide how best to achieve realization within Boone County.

12           Continuing authority is not something that is  
13 determined by this Commission. It is a determination made by  
14 the Missouri Department of Natural Resources. The Department of  
15 Natural Resources issues and assigns continuing authority  
16 levels, not this Commission. The Department of Natural  
17 Resources grants waivers regarding continuing authority per DNR  
18 Rule 10 CSR 20-6.010(2)(C), not this Commission. There is no  
19 mention of continuing authority in the Commission's rules or  
20 founding statutes. The Commission has no jurisdiction over  
21 continuing authority.

22           In fact, the Department of Natural Resources  
23 Rule 10 CSR 20-6.010(2)(B)(3), outlines that the only way that  
24 Missouri-American Water can apply for an operating permit as a  
25 Level 2I continuing authority is to first receive a CCN from

1 this Commission. As I stated earlier, continuing authority is  
2 but one factor that the DNR reviews in determining if an  
3 applicant is to be granted an operating permit. This is a  
4 process that happens every time the Commission grants a CCN  
5 sewer -- a CCN for sewer service. Having intervention by the  
6 District in this master does not change that process.

7           It's the Staff's opinion, the law clearly states  
8 the issue of continuing authority is to be decided by the  
9 Department of Natural Resources. The Commission is here to  
10 determine if the award of a CCN to Missouri-American Water is  
11 necessary or convenient for the public service. The continuing  
12 authority rules, as laid out by DNR, do not dictate to this  
13 Commission what is necessary and convenient to the public  
14 service. It is clear that Missouri-American Water will have to,  
15 when applying for an operating permit, deal with this issue.  
16 But that issue is to be decided by the Department of Natural  
17 Resources, not this Commission. And in deciding what is  
18 necessary and convenient for the public service is an issue to  
19 be decided by this Commission, not the Department of Natural  
20 Resources.

21           Staff does not deny the District having clear  
22 interest in who owns and operates the Hallsville sewer system.  
23 Staff reviewed the documents submitted by the District with an  
24 intervention including its long-term plans in greater  
25 jurisdiction for its higher level continuing authority. Staff



1 considered the impact of the District's interest on  
2 Missouri-American Water's application. It should be stated,  
3 however, that the District had an opportunity to acquire the  
4 system before today. The City of Hallsville asked interested  
5 parties to submit bids to by the sewer system no later than  
6 November 1, 2019. The City received bids from Missouri-American  
7 Water, the District, and Liberty Utilities. The people of  
8 Hallsville then approved by vote to move forward in selling its  
9 sewer system during the November 5, 2019 election. All three  
10 interested parties were then invited to present their proposals  
11 before the Board of Aldermen on January 22, 2020. The elected  
12 officials reviewed the bids, and in the end, they chose  
13 Missouri-American Water.

14 By sticking to the process outlined by the  
15 General Assembly via Section 393.170, and the rule embraced by  
16 this Commission under 20 CSR 2240-2.060 and 3.305, as well as  
17 taking into account all of the evidence submitted, Staff  
18 concludes that Missouri-American Water's application to install,  
19 own, acquire, construct, operate, control, manage and maintain a  
20 sewer system in and around the City of Hallsville is by a  
21 preponderance of the evidence necessary or convenient public  
22 service.

23 And I have nothing further. Thank you.

24 JUDGE JACOBS: Thank you very much, Mr. Pringle.

25 I think it would be appropriate to proceed now

1 to the District's opening, and then we'll take any questions for  
2 Staff at the District after that.

3 MS. GRIFFIN: Thank you, Judge. Good morning.  
4 This case involves an unusual fact pattern. Missouri-American  
5 is a privately owned provider of wastewater services. It seeks  
6 a Certificate of Convenience and Necessity to enable it to  
7 acquire and privatize Hallsville's public municipal wastewater  
8 system. The Hallsville system is undisputedly located within  
9 the boundaries of the Boone County Regional Sewer District and  
10 serves customers in and around Hallsville, including customers  
11 of the District. The District is a public sewer district formed  
12 by a vote of the citizens of Boone County. By statute, Section  
13 204.290, it is a political subdivision of the state. The  
14 District's voter-approved boundaries are those of all of Boone  
15 County. The District has long-term planning powers within Boone  
16 County under Chapter 204 of the Missouri Revised Statute, state  
17 regulation, its regulation, and its approval by the Missouri  
18 Clean Water Commission as a Level 2 continuing authority.

19 For decades now, the District has exercised this  
20 authority in Boone County with a mission to eliminate discharges  
21 of wastewater to waters of the state in Boone County for the  
22 protection of the environment and the public health. It has  
23 done so by developing an area-wide management plan consisting of  
24 facility plan for different areas of Boone County. The District  
25 has a facility plan that includes the Hallsville's service area.

1 Under state law and the District sanitary sewer  
2 regulation, the City of Hallsville is authorized to own and  
3 operate a municipal wastewater system that is exempt from  
4 regulation by the jurisdiction. Missouri-American, however, is  
5 not. By regulation, if Hallsville no longer wishes to own and  
6 operate its system, it must tender the system to the District.  
7 Hallsville does not have the option to sell the system to  
8 Missouri-American, and Missouri-American does not have the  
9 option to purchase the system unless the District is unwilling  
10 or unable to own and operate it, and gives consent to  
11 privatization by Missouri-American.

12 In addition, under the District's regulations  
13 and Level 2 continuing authority approval, the Missouri  
14 Department of Natural Resources lacks authority to issue  
15 Missouri-American a state operating permit for the Hallsville  
16 system because Missouri-American's privatization of the system  
17 would conflict with the District's regulations in approved  
18 area-wide management plan for Boone County, whereas here, the  
19 District has indicated that it is willing and able to own and  
20 operate the system and that it objects to privatization.

21 In order to grant Missouri-American's request  
22 for a Certificate of Convenience and Necessity, the Commission  
23 must find that the fifth Tartan factor is met. And that factor  
24 has been referenced already by counsel. It is promoting the  
25 public interest. The CCN must promote the public interest in

1 order for it to be issued to Missouri-American. The unique  
2 facts here do not support a finding that granting  
3 Missouri-American a Certificate of Convenience and Necessity  
4 promotes the public interest because its privatization would be  
5 facilitated by the grant of such a CCN and is contrary to the  
6 public interest because it interferes with the District's  
7 exercise of its authority and will result in the District and  
8 Missouri-American expending resources in DNR permit litigation  
9 that are better used protecting the environment and public  
10 health.

11           Accordingly, this Commission should find that  
12 Missouri-American does not meet all of the necessary criteria  
13 for the requested CCN and deny Missouri-American's request.

14           Alternatively, should the Commission consider  
15 issuing the requested CCN, the District submits and requests  
16 that the Commission needs to impose reasonable conditions to  
17 mitigate the conflict between Missouri-American's privatization  
18 of Hallsville's system and the District's area-wide plan. These  
19 conditions are outlined in the District's position statement and  
20 are as follows:

21           One, limit Missouri-American service area to the  
22 Hallsville city limits, specifically excluding any areas outside  
23 of the city limits other than those where the current storage  
24 basins and land application fields are located absent a valid  
25 contract between Missouri-American and the District.

1 Two, require Missouri-American to obtain an  
2 operating permit from DNR within two years of the effective date  
3 of the CCN.

4 Three, require Missouri-American to obtain the  
5 District's consent for any plan to address the Hallsville  
6 system's capacity and compliance issues prior to submitting  
7 applications for permits to DNR.

8 Four, prohibit Missouri-American from submitting  
9 applications for construction or operating permits to DNR that  
10 seek approval to convert the Hallsville's system to make  
11 no-discharge facility to a discharge facility.

12 And, five, require Missouri America in any plan  
13 involving an irrigation system to own any land used for land  
14 application of wastewater flow collected by the Hallsville  
15 system.

16 In conclusion, the District respectfully  
17 requests the Commission to deny Missouri-American's request for  
18 a CCN. Thank you.

19 JUDGE JACOBS: Thank you very much, Ms. Griffin.

20 So we can proceed now to any questions from  
21 commissioners for Staff counsel or for the counsel for the  
22 District. Any commissioners, if you have any questions please  
23 just speak up.

24 COMMISSIONER HOLSMAN: No questions, Judge.  
25 Thank you.

1 CHAIRMAN SILVEY: Thank you, Judge. This is  
2 Commissioner Silvey. Do DNR's regulations require a sewer  
3 system to get a CCN from the PSC first?

4 MR. PRINGLE: Good morning, Chairman Silvey.  
5 This is Travis Pringle from Staff. Yes. There is a -- in the  
6 DNR regulations MAWC Level 2I continuing authority. They do  
7 need the CCN from us first before they can apply for an  
8 operating permit.

9 CHAIRMAN SILVEY: Okay. So then would that mean  
10 that DNR will only consider the application of a system that has  
11 a CCN?

12 MR. PRINGLE: Correct. If MAWC were not to  
13 receive a CCN from this Commission, they can't move forward to  
14 apply for an operating permit.

15 CHAIRMAN SILVEY: Okay. Thank you.

16 JUDGE JACOBS: And it sounded like Commissioner  
17 Holsman indicated he did not have any questions. And I believe  
18 we have Commissioner Coleman and Commissioner Rupp with us as  
19 well. I do have a couple of questions for counsel for the  
20 District. And, of course, commissioners are always invited to  
21 interrupt and speak up.

22 There is one question, Ms. Griffin, I wanted to  
23 ask you about one of the conditions in the alternative that the  
24 District has proposed. And this is related to the requirement  
25 that a permit be obtained from DNR within two years. And I was

1 wondering what the difference is between requiring the permit  
2 within a two-year period and the provision under the statute  
3 Section 393.170.3, which requires a certificate holder to  
4 exercise that certificate within two years. I just wanted to  
5 understand if there is a difference between those two provisions  
6 and the condition that the District has proposed.

7 MS. GRIFFIN: There was not intended to be a  
8 difference, Judge.

9 JUDGE JACOBS: Okay. So that condition is  
10 really just kind of emphasizing that there is a two-year limit  
11 under statute.

12 MS. GRIFFIN: Correct.

13 JUDGE JACOBS: Okay. It seems like there could  
14 possibly be an issue as far as what constitutes exercising a  
15 certificate, however. Do you think that is true? Would you see  
16 the only way that the certificate is exercised is by obtaining  
17 the permit?

18 MS. GRIFFIN: The latter is what I -- how I  
19 viewed the law.

20 JUDGE JACOBS: Okay. I don't know if Staff  
21 counsel would have anything to say on that point.

22 MR. PRINGLE: I know we've faced complaints  
23 before about what it means to exercise the CCN, Judge. So  
24 really I could not tell you until they were to get that  
25 operating permit. Personally, I would see that as exercising

1 it, but we have had cases regarding when it is exercising of the  
2 CCN.

3 JUDGE JACOBS: Okay. Did any other party have  
4 anything to say on that point, perhaps, counsel for the company?

5 MR. COOPER: Only, Judge that I would agree that  
6 while that language is in the statute, I'm not familiar with any  
7 case or any further guidance beyond what is those words are in  
8 the statute, in terms of what it means to exercise a  
9 certificate. So I think that is an open question.

10 JUDGE JACOBS: And if I understood you correctly  
11 this morning, the Company was indicating that this particular  
12 requested condition was not something that the Company would  
13 have a problem accepting; is that right?

14 MR. COOPER: That's correct.

15 JUDGE JACOBS: Okay. Thank you.

16 I did have another question for the District,  
17 and this question is simply about the request that the condition  
18 the Commission might impose would prohibit Missouri-American  
19 from converting the Hallsville system to a discharge facility.  
20 And my question for counsel there was: Doesn't the Clean Water  
21 Commission have the authority to refuse the discharge permit?

22 MS. GRIFFIN: Yes, they do, Judge, but it's the  
23 District's position that its regulations also would prohibit  
24 that solution to the compliance issues being experienced at the  
25 Hallsville system, and the District believes that it is



1 appropriate for Missouri-American to be required to coordinate  
2 any solution that would involve such a conversion with the  
3 District under its regulations.

4 JUDGE JACOBS: Okay. And so your references to  
5 the District and its regulations are -- could you clarify for me  
6 what you are referring to? Are you referring to the District's  
7 management plan or some other document?

8 MS. GRIFFIN: I'm referring to the District's  
9 sanitary sewer regulations which are included in the materials  
10 that were pre-filed as part of the facility plan that includes  
11 the Hallsville service area.

12 JUDGE JACOBS: And that must be part of the  
13 extensive schedules that are attached to Mr. Ratermann's  
14 testimony; is that right?

15 MS. GRIFFIN: Correct. It's Schedule on TR-1.

16 JUDGE JACOBS: Thank you very much for  
17 clarifying that for me.

18 Okay. Those were the only questions that I had.  
19 I don't know if the Company or Staff counsel had any additions  
20 that they would like to make, thereafter, having heard from  
21 Ms. Griffin? It doesn't appear so.

22 And unless we have any questions for counsel, we  
23 are ready to proceed to start hearing from witnesses. Does  
24 anyone have anything to add before we go ahead and get started  
25 with our first witness? Okay.

1                   According to the information I have, we should  
2 be hearing from Mr. Horan. Give me one moment here while that  
3 individual gets his video lined up, and I am going to send a  
4 message. I will be right back.

5                   Thank you-all very much for your patience with  
6 me this morning. It appears that we have Mr. Horan by video  
7 this morning.

8                   Sir, could you speak up to make sure that we can  
9 hear you?

10                  MR. HORAN: Yes, Judge, can you hear me?

11                  JUDGE JACOBS: Yes, we can hear you very well.  
12 Okay. So the first thing that we need to do is get you sworn  
13 in. Could you raise your right hand, sir?

14                  (Witness sworn.)

15                  JUDGE JACOBS: Okay. Counsel for  
16 Missouri-American, you may proceed with your witness. Thank  
17 you.

18                  MR. COOPER: Thank you, Judge.

19 MATT HORAN, being first duly sworn, testifies as follows:

20 DIRECT EXAMINATION BY MR. COOPER:

21                  Q.       Mr. Horan, would you go ahead and state your  
22 name for the record?

23                  A.       Yes. My name is Matthew Horan.

24                  Q.       And by whom are you employed and in what  
25 capacity?

1           A.           I'm employed by the Missouri-American Water  
2 Company. My employment title is senior operations manager for  
3 the east central division.

4           Q.           Have you caused to be prepared for the purposes  
5 of this proceeding certain direct and surrebuttal testimony in  
6 question and answer form?

7           A.           I have.

8           Q.           Is it your understanding that that testimony has  
9 been marked as Exhibits 1 and 3, in both public and confidential  
10 form?

11          A.           It is.

12                       MR. COOPER: Judge, we had -- I'm going to ask  
13 Mr. Horan about changes, and we had provided the errata sheet to  
14 you yesterday. We'll work from that. I don't whether you want  
15 to do anything else with the errata sheet or mark it or how you  
16 would like for us to handle that.

17                       JUDGE JACOBS: I think that it probably needs to  
18 be marked as an exhibit to make sure that it gets in the record  
19 in writing, and then you can go ahead and work from it in your  
20 -- in Mr. Horan's testimony as well today. Does that work for  
21 you?

22                       MR. COOPER: That's fine. Judge, we would ask,  
23 then, that the errata sheet be marked as Exhibit 7.

24                       JUDGE JACOBS: Okay. We will mark that as  
25 Exhibit 7.

1 BY MR. COOPER:

2 Q. Mr. Horan, you have before you the reference to  
3 errata sheet that has now been marked as Exhibit 7?

4 A. I do.

5 Q. Does that sheet represent changes that you have  
6 to your surrebuttal testimony?

7 A. Yes, it does.

8 Q. Would you go through those for us one at a time?

9 A. Yes. So the first correction to the testimony  
10 is on Page 5, Line 5, and it says that we propose to maintain  
11 Hallsville's current rates and we are changing the words  
12 "current rates" and replacing the "current rates at closing."

13 Q. And then the second change?

14 A. The secondary change is on Page 8, Line 2, and  
15 we are just striking the word "highly" out of the testimony.

16 Q. And the third change?

17 A. Third change occurs on Page 8, Line 8, and the  
18 last word on the line should be an "A" not a "And".

19 Q. And then the final change?

20 A. The final change occurs on Page 10, Line 19.  
21 The first word on the line should be "such."

22 Q. And are those are all the changes you have to  
23 your testimony?

24 A. They are.

25 Q. If I were to ask you the questions which are

1 contained in Exhibits 1 and 3 today, as now corrected, would  
2 your answers be the same?

3 A. They would.

4 Q. Are those answers true and correct to the best  
5 of your information, knowledge, and belief?

6 A. They are.

7 MR. COOPER: Judge, at this time I would offer  
8 Exhibits 1P, 1C, 3P, 3C, and the errata sheet, Exhibit 7, into  
9 evidence and tender the witness for cross-examination.

10 (WHEREIN; Exhibits 1P, 1C, 3P, 3C, and 7 were  
11 offered into evidence.)

12 JUDGE JACOBS: Are there any objections to the  
13 admission of those exhibits which constitute Mr. Horan's  
14 prefiled testimony in this case and the errata sheet? Hearing  
15 no objections, those exhibits will be admitted into the record.

16 (WHEREIN; Exhibits 1P, 1C, 3P, 3C, and 7 were  
17 received into evidence.)

18 JUDGE JACOBS: And we can proceed to  
19 cross-examination. We'll start with Staff.

20 MR. PRINGLE: Thank you, Judge.

21 CROSS-EXAMINATION BY MR. PRINGLE:

22 Q. Good morning, Mr. Horan.

23 A. Good morning.

24 Q. How many sewer customers are served by the  
25 Missouri-American Water Company?

1           A.       We have -- I don't have the exact number off the  
2 top of my head right now, but I believe it is somewhere in the  
3 neighborhood of 15,000 customers in Missouri.

4           Q.       And how many wastewater treatment facilities  
5 does Missouri-American Water operate in Missouri?

6           A.       To the best of my knowledge, it is 73 wastewater  
7 systems.

8           Q.       And I'm correct in saying that Missouri-American  
9 Water is a Level 2I continuing authority?

10          A.       That is my understanding, yes.

11          Q.       And when it comes to the issuance of continuing  
12 authority, is that a -- is that more to do with operating  
13 permits or CCNs?

14          A.       To my understanding, it has to do with operating  
15 permits.

16          Q.       And where would a sewer utility go to receive an  
17 operating permit?

18          A.       We would go to Missouri Department of Natural  
19 Resources.

20                   MR. PRINGLE: Thank you, Mr. Horan. I have  
21 nothing further at this time.

22                   THE WITNESS: Thank you.

23                   JUDGE JACOBS: And we will now hear from the  
24 District for cross-examination.

25                   MS. GRIFFIN: Thank you, Judge.

1 CROSS-EXAMINATION BY MS. GRIFFIN:

2 Q. Good morning, sir.

3 A. Good morning.

4 Q. Has Missouri-American seen the contracts between  
5 the City of Hallsville and the District, under which the  
6 Hallsville system is to serve the District customers in  
7 Sunnyslope and Silver Creek subdivision?

8 A. We have.

9 Q. And so Missouri-American is aware of these  
10 contracts do not expire until 2039?

11 A. I believe that is what is on those contracts,  
12 yes.

13 Q. And does Missouri-American continue to take the  
14 position that it has no obligation under these contracts?

15 A. I'm not an attorney. So I'm not sure to go  
16 through them, but I know we are committed to working with the  
17 District to make sure that we will continue the treatment of  
18 wastewater from those subdivisions.

19 Q. Do you know if Missouri-American has provided  
20 any draft or contracts to the District that would be between  
21 Missouri-American and the District for service at the Sunnyslope  
22 and Silver Creek subdivisions?

23 A. I am not sure if anything has been provided to  
24 the District, but I know counsel has worked up some -- had been  
25 working on some draft agreements and is willing to get with the

1 District on this.

2 Q. Does Missouri-American have any intention on  
3 serving future customers of the District in areas of  
4 unincorporated Boone County, outside of Sunnyslope or Silver  
5 Creek subdivision?

6 A. In regards to the Hallsville acquisition, no, we  
7 do not. I can't speak for the entire county.

8 Q. Okay. Has Missouri-American evaluated the  
9 impact of its purchase of Hallsville's system on the District's  
10 long-term planning for the regionalization of sewer services  
11 within Boone County?

12 A. We have not.

13 Q. Has the District done any evaluation of the  
14 impact of its purchase of Hallsville's system on the District's  
15 operations?

16 A. Can you repeat that question?

17 Q. Sure. Has Missouri-American evaluated at all  
18 what the impact might be of its purchasing Hallsville's system  
19 on the District's operation?

20 A. No.

21 Q. And did you have any involvement in the process  
22 followed by the District to obtain the Missouri Clean Water  
23 Commission's approval as a Level 2 continuing authority?

24 A. I did not.

25 Q. Do you know anyone at Missouri-American did have



1 involvement in that process?

2 A. I do not know that. I believe it was back in  
3 the '70s.

4 Q. Okay. So the only information that  
5 Missouri-American has regarding that approval issued by the  
6 Missouri Clean Water Commission are the schedules that are  
7 attached to your surrebuttal testimony?

8 A. That is my understanding.

9 Q. Thank you. And would you agree on behalf of  
10 Missouri-American, that Hallsville's current practice of land  
11 applying Hallsville's wastewater effluent is not a long-term  
12 solution for the Hallsville facility?

13 A. I do agree with that. We believe some other  
14 type of treatment is necessary.

15 Q. Okay. And as part of the reason that that would  
16 not be a long-term solution because of the dependency on the  
17 local landowners, Mr. Martin and Mr. Teal, from whom the land  
18 application fields for the Hallsville system are leased?

19 A. Yes, that is correct.

20 Q. And would you also agree that Hallsville has  
21 indicated it has had issues with these landowners for years, in  
22 terms of them complying with the contracts with the City?

23 A. I would agree with that.

24 Q. In your surrebuttal testimony, you testified as  
25 to two different irrigation options as a solution, a long-term

1 solution for the Hallsville facility. And you indicated that  
2 Missouri-American would need to purchase land to have an  
3 irrigation option or modify and continue the agreements with  
4 landowners/partners cooperation. Do you recall giving that  
5 testimony?

6 A. I do.

7 Q. And my question to you is: Based on the history  
8 of issues with landowners, Mr. Martin and Mr. Teal, how would  
9 modifying and continuing the agreements with these individuals  
10 be a viable solution for the Hallsville system?

11 A. I believe we would need to modify the agreements  
12 and get more language in there to make sure that they are  
13 following the operating permit.

14 Q. If this Commission grants Missouri-American's  
15 request for a Certificate of Convenience and Necessity, how long  
16 does Missouri-American anticipate operating the Hallsville  
17 system before selecting a long-term solution?

18 A. That is unknown at this point. We get stressed  
19 along the process that we would like to make sure that we  
20 operate it for a period of time to collect all the data  
21 necessary, in fact, all the options that we are considering as  
22 of now, knowing that there may be some more options out there  
23 that we're not considering at this point.

24 Q. Does Missouri-American intend to involve the  
25 District in its process for selecting a long-term treatment

1 option?

2 A. No, we do not.

3 MS. GRIFFIN: Nothing further, Judge.

4 JUDGE JACOBS: Thank you very much.

5 At this point we will take any questions that we  
6 may have from commissioners. I will also have some questions  
7 for Mr. Horan, and so anytime commissioners would like to ask  
8 questions, just go ahead and speak up. Okay.

9 The first thing I wanted to address before we  
10 get to additional questions for Mr. Horan, is we did hear some  
11 testimony about agreements that are in place between Hallsville  
12 and the District in regard to providing service to some  
13 subdivisions. And my understanding is that those agreements  
14 were attached in a pleading filed by the Company on August 31st.  
15 They appear to be Appendix E and Appendix F, and that includes  
16 an ordinance from the City of Hallsville, and then the attached  
17 related contracts that apparently arose out of that authority.  
18 I would propose that it would be helpful for the Commission's  
19 decision in this case to actually have those documents in the  
20 record, rather than just testimony and references to them.

21 So I would propose that as Commission's Exhibit  
22 303, we would admit the contents of Appendix E, which was  
23 attached to the August 31st filing by the Company, which  
24 constitutes the Hallsville Ordinance 358 and the cooperative  
25 agreement between the District and the City regarding

1 Sunnyslope. And then Appendix F would be included on the record  
2 as Commission Exhibit 304. That should be composed of  
3 Hallsville Ordinance 362, with the attached cooperative  
4 agreement between the District and the City in regard to the  
5 Silver Creek subdivision.

6 (WHEREIN; Exhibit 303 and 304 were offered into  
7 evidence.)

8 JUDGE JACOBS: I think that adding these  
9 documents to the record is potentially going to be helpful for  
10 further testimony today and for the Commission's decision.

11 Are there any objections to that from any body?

12 MR. COOPER: No objection.

13 JUDGE JACOBS: Okay. Then we will admit those  
14 document as I have described them.

15 (WHEREIN; Exhibit 303 and 304 were received into  
16 evidence.)

17 JUDGE JACOBS: And after they are filed, the  
18 parties will have an opportunity to verify that exactly these  
19 precise documents were selected and filed. Okay?

20 All right. So we can proceed now with questions  
21 that I have for Mr. Horan.

22 QUESTIONS BY JUDGE JACOBS:

23 Q. The first thing I would like to ask you about is  
24 you just clarified your testimony through the errata statement  
25 to indicate that the Company's proposal is to use the rates that

1 are currently charged by Hallsville at the time of closing; is  
2 that correct?

3 A. That is correct.

4 Q. Okay. So I have questions for you about these  
5 figures, or the numbers that are used in the feasibility study  
6 that is attached to your testimony. And I understand that the  
7 feasibility study as a whole is a confidential document.

8 However, the proposed rates to be paid on the Hallsville system,  
9 if the Company gets the CCN and actually gets an operating  
10 permit, the amount that would be proposed to charged to  
11 customers. My understanding is that that is not a confidential  
12 element to that feasibility study.

13 Counsel for the Company, do you agree?

14 MR. COOPER: I would agree with that, Judge.

15 BY JUDGE JACOBS:

16 Q. Okay. So I'm going to ask you about that, but  
17 obviously not trying to breach any confidentiality.

18 Are you able to look at the feasibility study,  
19 Mr. Horan?

20 A. I am.

21 Q. Okay. Could you look at what is the amount as  
22 indicated to be charged Hallsville customers in that feasibility  
23 study. And please tell us what that is.

24 A. Yes. The amount in that study is \$38.75 flat  
25 rate.

1 Q. Okay. And are you familiar with the amount that  
2 Missouri-American's application indicates it intends to charge  
3 customers in Hallsville?

4 A. Yes, I am.

5 Q. And what amount is that?

6 A. That was the current rates that Hallsville was  
7 charging. From memory, I believe it was \$19.35 for the first  
8 thousand gallons and \$5 per thousand gallons -- additional  
9 thousand gallons, thereafter.

10 Q. Your memory appears to be pretty good because I  
11 do believe those are the amounts that are stated in the  
12 application. So can you explain to me the difference -- the  
13 apparent difference between what is in the feasibility study and  
14 what is in the application?

15 A. I just believe that when we filed the  
16 application that we had an improper rate in there. The 38.75  
17 that was originally identified in the feasibility study is our  
18 intention.

19 Q. What is the net worth of the \$38.75 rate?

20 A. That is the current rate that we charge small  
21 sewer -- smaller sewer systems outside of the city of Arnold, as  
22 authorized by the PSC.

23 Q. Okay. And so I previously informed the -- or  
24 the Commission had previously informed the parties that we may  
25 need to bring into the record Missouri-American's current rates

1 under its existing tariff, and that was a proposed Exhibit 300,  
2 Commission's Exhibit 300. So I would propose based on  
3 Mr. Horan's testimony today and his reference to the current  
4 sewer rate, that that Exhibit 300, that was disclosed to the  
5 parties to be admitted to the record.

6 (WHEREIN; Exhibit 300 was offered into  
7 evidence.)

8 JUDGE JACOBS: Does anyone have an objection to  
9 that? Okay. Commission Exhibit 300 will be admitted to the  
10 record.

11 (WHEREIN; Exhibit 300 was received into  
12 evidence.)

13 BY JUDGE JACOBS:

14 Q. Okay. I do require, then, some additional  
15 explanation, Mr. Horan, because I think your testimony today was  
16 that the Company is proposing to adopt the rates that are  
17 charged in Hallsville at the time of closing; is that right?

18 A. That is correct.

19 Q. Okay. And then what is the relationship between  
20 that rate and what is stated in the feasibility study?

21 A. So the rate -- so the rate that Hallsville's  
22 charging right now, they're actually in the process of redoing  
23 their rate structure to have it as a 38.75 flat rate.

24 Q. Okay. And then we have some testimony and  
25 statements by counsel and also, in your testimony, you've

1 indicated that the Hallsville's system is under enforcement with  
2 the DNR's water protection enforcement section. Can you tell me  
3 anything more about what that means? Do you know what it means  
4 to be under enforcement?

5 A. So I'm not a water quality expert, but I do know  
6 under enforcement, the DNR basically follows up with the  
7 municipality or the sewer or water purveyor to make sure that  
8 they are continuing to improve their system to get it up to the  
9 standards of the State. And typically, there are financial  
10 implications involved in that.

11 Q. Okay. Thank you. The -- another question I  
12 wanted to ask you was whether the Company serves any sewer  
13 customers or holds any Certificates of Convenience and Necessity  
14 in Boone County?

15 A. I don't believe so, but I do not know that  
16 answer 100 percent.

17 Q. Okay. So you're not 100 percent confident about  
18 whether Missouri-American is operating in Boone County for sewer  
19 services at this time?

20 A. Correct.

21 Q. Okay. Does the Company currently serve any  
22 water system customers in Boone County?

23 A. Again, I don't believe so, but I would have to  
24 double check.

25 Q. Okay. And does Missouri-American currently



1 operate any sewer systems in Missouri that use land application  
2 in the way that the Hallsville system uses land application at  
3 this time?

4 A. I am not familiar with every sewer system that  
5 we have in the county. I'm not aware, but once again, I do not  
6 know that answer.

7 Q. Okay. Are you -- so it sounds like you are not  
8 aware of any systems operated by the Company that use land  
9 application in Missouri, but you -- there could be some. You  
10 simply don't know?

11 A. Correct, yes. Because we have operations all  
12 over. I'm not familiar with each individual one.

13 Q. Okay. And in your role and in your job, are you  
14 supervising the use of land application in any of those systems?

15 A. I am not.

16 Q. Okay. So could you explain to us what your  
17 understanding is of the feasibility study that's submitted to  
18 the Commission with an application for a certificate and how  
19 that relates, if at all, to any improvements that a new operator  
20 might want to make to a system after acquisition?

21 A. Again, I do not believe it's in there, but that  
22 is all handled by our staff accountants on board and prepared  
23 for us through our experts, and I am not an accounting expert on  
24 that.

25 Q. Okay. Can you tell us how urgent

1 Missouri-American views the need to upgrade the Hallsville sewer  
2 system?

3 A. Yes. As soon as we are able to get the CCN and  
4 begin to operate the system, we immediately plan on checking  
5 numbers, verifying estimate parameters, and working towards a  
6 better solution because, as stated in my testimony, we do not  
7 believe land application is the best option here in Hallsville.

8 Q. Do you have any idea of the time frame in which  
9 the Company would expect to begin construction or introduction  
10 of any upgrades to the Hallsville system?

11 A. I think that would depend on the type of  
12 treatment option that we did, how long it would actually take to  
13 design it. So there is no set date for that, but I know it's  
14 something we're not looking to push off for five years or  
15 anything. It would be immediately after we would start looking  
16 into it.

17 Q. All right. And then I wanted to ask you about  
18 one of the statements that you made in your testimony. I  
19 believe that I'm restating it accurately here. You said that  
20 Missouri-American can make the upgrades needed to achieve  
21 compliance with DNR requirements while keeping customer rates  
22 lower than those that would be assessed by Hallsville. I'm  
23 paraphrasing to some degree. This appears in your direct  
24 testimony on Page 10.

25 So I just wanted to ask you to please explain to

1 us why Missouri-American would be able to upgrade this system,  
2 comply with DNR requirements, but without raising rates to the  
3 degree the City would have to?

4 A. Sure. So we are in a situation unlike the City,  
5 where the City has 600 -- I believe it's 664 connections to  
6 their sewer system, and they have a limited base that they are  
7 able to spread those charges out over. With Missouri-American  
8 being statewide, we have different rate groups that allow us to  
9 spread charges over larger customer bases, thus resulting in  
10 less price. Sorry, Judge.

11 Q. I apologize. That was my fault. I stepped on  
12 you. I shouldn't have done that. Okay.

13 I want to ask you about something that does  
14 appear in a confidential item in Schedule MH-5C. And I am  
15 hoping that it will be possible to discuss it without getting  
16 specifically into information that is confidential. However, if  
17 it is not, we can go into a private breakout session to have an  
18 in-camera discussion. And, so, what I am going to do is let you  
19 and your counsel know what I'm going to ask about and you guys  
20 can assess whether we can do that without breaching  
21 confidentiality.

22 Basically, my question relates to one of the  
23 estimates that is provided in 5C, and in particular it is for  
24 one of the estimates that includes two figures, essentially.  
25 And this is for what was dubbed to be triple point. Okay. So I

1 was not able to understand, based on the testimony that I had  
2 seen on that estimate, what that estimate means because of the  
3 larger figure appearing above it and a much lower figure  
4 underneath, and I didn't understand what that was indicating.

5 As I describe this, I'm starting to think we  
6 would have to discuss this in-camera, but perhaps not.

7 Mr. Cooper, do you see what I am talking about,  
8 about why that is hard to understand?

9 MR. COOPER: I see what you are referring to,  
10 Judge, yes. And I mean, I guess if the question is, you know,  
11 what is the difference between those figures without specifying  
12 the numbers, I suspect we could do it.

13 JUDGE JACOBS: You know --

14 MR. COOPER: To keep it in public statement.

15 JUDGE JACOBS: Right. Breaking down -- okay,  
16 the first set of figures was supposed to describe this, and then  
17 the second set of figures is describing this. If it is possible  
18 to do that in public, that is fine. If it seems like it is  
19 going to be too vague, like I said, I can pull us into an  
20 in-camera.

21 MR. COOPER: We can certainly give that a try,  
22 if Mr. Horan thinks that he can approach it that way.

23 BY JUDGE JACOBS:

24 Q. Mr. Horan, what is your confidence level on what  
25 I am trying to figure out here and your access to the

1 terminology to describe it without breaching confidentiality?

2 A. I think I could do it without breaching  
3 confidentiality.

4 Q. Okay. All right. So, did you find the part of  
5 Schedule MH-5C that I am talking about that provides two  
6 different figures?

7 A. Yes, I did, Judge.

8 Q. All right. And I suppose that you have a better  
9 idea of what is truly confidential here and what is not. So the  
10 description of this particular option, would you consider that  
11 to be confidential information?

12 A. I do not.

13 Q. Okay. Could you describe it for me, then, just  
14 as it is labeled?

15 A. Yes, Judge. I do see the confusion that we have  
16 here. These estimates were prepared by some of our experts in  
17 our engineering department, and what a triple-point system is,  
18 it's specifically for removing ammonia, is one of the big things  
19 it is. The first figure, from my understanding from my  
20 engineers, is for us treating 100 percent of the flow. The  
21 second figure would still be utilizing some type of irrigation.  
22 So it would be a slightly smaller system with a little bit less  
23 flow.

24 Q. Okay. So, essentially, it's an estimate that  
25 shows either introducing a system that is for the whole

1 treatment or kind of a hybrid, where you introduce this  
2 treatment method for some portion of the wastewater and then  
3 still use irrigation for some other portion?

4 A. That is correct. It is my understanding --  
5 excuse me -- that our engineers had done that if we did still  
6 have some type of irrigation, obviously the flow would be a  
7 little bit lower, so we could downsize that package area a  
8 little bit.

9 Q. Okay. Thank you so much. That is far less  
10 mysterious to me now. So I appreciate that.

11 All right. You have also provided testimony  
12 that has indicated that perhaps you believe that the proposal  
13 the District has made to build connecting sewer and transport  
14 Hallsville waste is perhaps unrealistic or -- I won't put words  
15 in your mouth -- but anyway, you questioned the viability of  
16 that option. And so it seems that one of the reasons you were  
17 questioning it was the distance over which wastewater would have  
18 to be transported, and you pointed out in your testimony that it  
19 was eight miles.

20 Is there something about transporting wastewater  
21 over eight miles that makes that especially expensive,  
22 erroneous, impractical?

23 A. Our opinion it's cost prohibitive compared to  
24 what we are looking at.

25 Q. Okay. And so would your opinion about that be

1 different if Missouri-American had a treatment facility eight  
2 miles away?

3 A. Depends on the infrastructure that you have set  
4 up, but not necessarily. Would be always looking for the most  
5 prudent option for our customers.

6 Q. Okay. Is there a volume of wastewater that  
7 would justify that kind of transport arrangement?

8 A. I'm sure there is, but I would have to rely on  
9 my engineering staff to come up with that financial analysis.

10 Q. Okay.

11 JUDGE JACOBS: All right, sir. I believe that  
12 those were all the questions that I had for you. I am going to  
13 check with commissioners and give commissioners another  
14 opportunity to speak up if they had any questions, and make sure  
15 I don't have any additional questions. Okay.

16 It doesn't appear that there are any additional  
17 questions from the bench at this time. So we will open it up to  
18 recross and start with Staff.

19 MR. PRINGLE: Thank you, Judge.

20 RE-CROSS EXAMINATION BY MR. PRINGLE:

21 Q. Mr. Horan, I just wanted to make sure I heard  
22 you right. Did you say the City was going to change its base  
23 rate to \$38?

24 A. \$38.75. That is correct.

25 Q. Okay. And is it true that the current base rate

1 is around 19?

2 A. So the current base rate, it is \$19.35 for the  
3 first thousand gallons of water consumed, and then every  
4 thousand gallons after that is an additional \$5. So if they  
5 were an additional 4,000 gallons, it would be an additional \$20  
6 on top of that 19.35.

7 Q. Okay. But now it says we're just going to have  
8 the flat 38?

9 A. That is our intention, yes, sir.

10 Q. Thank you, sir.

11 A. Uh-huh.

12 JUDGE JACOBS: Okay. It appears that we are  
13 ready for recross from the District.

14 MS. GRIFFIN: Thank you, Judge.

15 RECROSS EXAMINATION BY MS. GRIFFIN:

16 Q. Sir, did Missouri-American do any analysis of  
17 the cost to transport wastewater flows from the Hallsville  
18 system to the District's Rocky Fork wastewater treatment  
19 facility?

20 A. We have not.

21 MS. GRIFFIN: Nothing further, Judge.

22 JUDGE JACOBS: Okay. Thank you very much.

23 Missouri-American, did you want to engage in any  
24 redirect?

25 MR. COOPER: Yes, Your Honor.



1 JUDGE JACOBS: Feel free to get started. Thank  
2 you.

3 MR. COOPER: Thank you.

4 REDIRECT EXAMINATION BY MR. COOPER:

5 Q. Mr. Horan, at the end of your initial  
6 cross-examination by Ms. Griffin, you were asked whether  
7 Missouri-American intended to involve the District in any of its  
8 planning process. Do you remember that?

9 A. I do.

10 Q. And I believe you said -- at that time.  
11 Correct?

12 A. I missed that. I'm sorry.

13 Q. Did you answer no to that question?

14 A. I believe so. Yes.

15 Q. In your experience, does Missouri-American's  
16 approach change sometimes based upon circumstances in the  
17 future?

18 A. Occasionally, circumstances change.

19 Q. So your answer was based on what you know today.  
20 Correct?

21 A. Yes.

22 Q. But unknown circumstances of the future might  
23 lead to a different answer?

24 A. I would say that's accurate.

25 Q. You were asked a question about why you

1 testified that Missouri-American could provide service in  
2 Hallsville at a lower rate than Hallsville could provide it  
3 itself. Correct?

4 A. I was.

5 Q. And I believe you mentioned the impact of the  
6 greater customer base. Correct?

7 A. I did.

8 Q. Would there also be economies of scale in regard  
9 to cost of materials, labor, engineering, that sort of thing?

10 A. There would. We do have national contracts for  
11 different types of materials that we are able to leverage our  
12 purchasing power nationwide to get better rates on different  
13 materials.

14 Q. And I assume you have engineering in-house as  
15 well?

16 A. We do have engineering staff in-house.

17 Q. If you know, there was a discussion of the  
18 Sunnyslope and Silver Creek, the other sub -- the other  
19 subdivision -- the two subdivisions that are served by the  
20 District, but the waste is treated by Hallsville. Do you know  
21 approximately how many customers were in those subdivisions  
22 today?

23 A. So it has been, I think, back and forth in  
24 testimony. My understanding was that it was a minimal number,  
25 something in the range of just a couple of residences, but I

1 know the District had said that was incorrect. So I am a little  
2 confused on that. I know the Mayor has a similar understanding  
3 that I do.

4 Q. But, ultimately, I think your testimony was that  
5 it would be Missouri-American's intention, if it purchased  
6 Hallsville system, to continue to provide the treatment of the  
7 waste from those subdivisions?

8 A. That is correct.

9 MR. COOPER: That's all the questions I have,  
10 Your Honor.

11 JUDGE JACOBS: Okay. Thank you very much.  
12 Before we take a short break, I am going to ask if there are any  
13 additional questions for Mr. Horan at all? Okay.

14 FURTHER QUESTIONS BY JUDGE JACOBS:

15 Q. Mr. Horan, can you tell us if -- you know, the  
16 current rates under the application that the Commission received  
17 indicated the City is charging a current rate of 19.35, and then  
18 an additional amount that is apparently based on water  
19 consumption. So is the Company willing to have a certificate  
20 granted on those terms that those would be the rates until an  
21 actual rate proceeding?

22 A. So I don't think that we're not saying that that  
23 would blow up the granting of the CCN or anything. I think we  
24 will go with what the Commission does, but our intention and our  
25 recommendation was the 38.75 flat.

1 JUDGE JACOBS: Okay. And was there any --  
2 anyone, perhaps, Staff or District, did you want to ask any  
3 questions on cross since I just introduced a new question? No?

4 Mr. Pringle?

5 MR. PRINGLE: Yeah, Judge.

6 FURTHER RECROSS EXAMINATION BY MR. PRINGLE:

7 Q. Mr. Horan, when did the Company make a decision  
8 about the 38.75?

9 A. It's been a little bit. I don't know the exact  
10 date or anything like that, Mr. Pringle. I did notice when I  
11 was reviewing some of the stuff with the older rates there from  
12 Hallsville, we brought it to the attention of my counsel.

13 Q. Okay. Again, I just wanted to make sure. I  
14 know in the Staff recs we had that 19.35 number. So I just  
15 wanted to confirm it. And I couldn't get where the 38.75 came  
16 from, but thank you, Mr. Horan.

17 A. No problem.

18 JUDGE JACOBS: Any questions from the District?

19 MS. GRIFFIN: No, Judge. Thank you.

20 JUDGE JACOBS: And, Mr. Cooper, did you have any  
21 follow-up questions for Mr. Horan?

22 MR. COOPER: I do. Just briefly, Judge.

23 FURTHER REDIRECT EXAMINATION BY MR. COOPER:

24 Q. Mr. Horan, just so that it's clear, I think what  
25 you said in response to the judge's question is, is that if the

1 Commission decides that -- to grant the CCN but call for the  
2 combination fixed rate and volumetric rate that was reflected in  
3 the application, Missouri-American, that would not stop  
4 Missouri-American from moving forward with the transaction.

5 Correct?

6 A. That is correct.

7 Q. And if you know, when the public hearings were  
8 conducted in Hallsville, what rate -- what was utilized in those  
9 presentations?

10 A. So from the literature that I have seen, it has  
11 always been 38.75 to the public.

12 Q. And then one more question. If you know, in  
13 terms of total revenue to the Company is the 38.75 fixed rate  
14 the rough equivalent to the -- what is it -- 19.75, plus the  
15 volumetric rate, just computed in a different way on an  
16 individual customer basis?

17 A. They are similar. First, \$5,000 -- 5,000 gallon  
18 average customer usage I believe it is slightly less than what  
19 the District -- the City is currently charging.

20 Q. But in terms of the overall revenues to be  
21 received by the Company, once you consider all of the customers,  
22 are they roughly equivalent to Missouri-American?

23 A. That is my understanding.

24 MR. COOPER: Yeah. That's all the questions I  
25 have, Judge.

1 JUDGE JACOBS: Okay. It appears we have now  
2 opened up an issue about what rate was proposed to the  
3 Hallsville public. There is a document that was offered as an  
4 attachment to a District filing on December 14th, which appears  
5 to be an offer to Hallsville from Missouri-American, and that  
6 document appears to identify a proposed rate.

7 So is it possible for Mr. Horan to access that  
8 filing at this time?

9 MR. HORAN: Which filing was it, Judge?

10 JUDGE JACOBS: It was filed on December 14,  
11 2020, in this case, by the District. And it is attached as  
12 Appendix A.

13 MR. COOPER: I'll have to pull that up, Judge.

14 JUDGE JACOBS: Okay. I will be patient while  
15 everyone locates this document. Once you have located it, if  
16 you could just let me know, each party, and then we'll know when  
17 we can proceed?

18 MR. HORAN: I have located it, Judge.

19 JUDGE JACOBS: I think Mr. Horan has indicated  
20 he has found it.

21 MR. PRINGLE: I have it as well, Judge.

22 MS. GRIFFIN: I have it, too.

23 MR. COOPER: I have it, Judge.

24 JUDGE JACOBS: And I'm sorry, Mr. Cooper, I  
25 wasn't looking at my screen, so I don't know if I've heard from

1 you yet.

2 MR. COOPER: Yes, I have found it.

3 JUDGE JACOBS: Okay. I apologize. There are a  
4 lot of voices. It is hard to keep it straight.

5 So I think I have heard from all parties that  
6 this document has been found, and it appears that Mr. Horan has  
7 it and can review it. So I believe it would be useful,  
8 especially in talking to Mayor Carter about the proposals to the  
9 City and what kind rates are and the plan to change the City's  
10 rates, if that is currently what is underway, to be able to  
11 refer to this document.

12 FURTHER QUESTIONS BY JUDGE JACOBS:

13 Q. Mr. Horan, can you tell us if you recognize this  
14 document?

15 A. I have seen it before, yes.

16 Q. Okay. And did you -- have you been able to  
17 locate where it discusses the proposed rate?

18 A. I have.

19 Q. Okay. Is that Page 5?

20 A. Yes, it is.

21 Q. Okay. And could you just tell us what that  
22 proposal is in regard to the rate?

23 A. So the proposal for Missouri-American Water in  
24 here, it is 38.75 flat rate.

25 Q. Do you have any insight into why the current

1 rate for Hallsville is indicated at \$40?

2 A. I do not. I would probably have to do some  
3 quick math on it.

4 Q. Okay. It looks like it indicates a typical  
5 residential wastewater -- or water use of 5,000 gallons. So all  
6 you mathematicians out there, perhaps, that provides their  
7 explanation.

8 MR. COOPER: I --

9 JUDGE JACOBS: So I would propose -- I'm sorry,  
10 go ahead.

11 MR. COOPER: No, I'm sorry, Judge. I'll let you  
12 finish.

13 JUDGE JACOBS: I would propose that this  
14 document would be useful to the Commission in understanding this  
15 case. And so I would propose that this document be admitted  
16 into the record as Commission Exhibit 305.

17 (WHEREIN; Exhibit 305 was offered into  
18 evidence.)

19 JUDGE JACOBS: Does anyone have an objection?

20 I will note that it was attached to the public  
21 document, and so it has been out there as a public document  
22 despite the fact that it is indicated on top that it's  
23 confidential. Are there any continuing concerns about the  
24 confidentiality of anything in this document? Okay. I imagine  
25 that ship has sailed at this point.



1                   So this, which I will characterize as a proposal  
2 offer, will be admitted into the record as Commission Exhibit  
3 305.

4                   (WHEREIN; Exhibit 305 was received into  
5 evidence.)

6                   JUDGE JACOBS: And once again, once all the  
7 exhibits are filed, everyone will have an opportunity to make  
8 any corrections if the wrong documents get filed. Okay.

9                   So we've now gone into the question of what the  
10 proposed rate would be in Hallsville. And I'm going to once  
11 again give all the parties a chance to clarify any issues before  
12 we move from Mr. Horan's testimony here today.

13                   So, once again, I will start with Staff. Did  
14 you have anything?

15 FURTHER CROSS-EXAMINATION BY MR. PRINGLE:

16                   Q.       Mr. Horan, I think you stated earlier that this  
17 38 rate is cheaper than the current rate charged by the City of  
18 Hallsville?

19                   A.       For a typical 5,000-gallon user. That is  
20 correct.

21                   Q.       Thank you, sir.

22                   MR. PRINGLE: I have nothing further, Judge.

23                   JUDGE JACOBS: Thank you.

24                   And anything from the District?

25                   MS. GRIFFIN: No, Judge.

1 JUDGE JACOBS: Thank you.

2 And, Mr. Cooper, was there any final issues you  
3 wanted to clarify with Mr. Horan?

4 MR. COOPER: Just one thing. I'm going to  
5 follow up on your invitation to do some math here.

6 FURTHER REDIRECT EXAMINATION BY MR. COOPER:

7 Q. Mr. Horan, if you take the 19 -- is it 19.75?

8 A. I want to say 19.35, but I would have to go look  
9 at the City's rates.

10 Q. Yeah, yeah. But, okay, ultimately that \$40  
11 appears to be just a slight rounding from the fact that you are  
12 taking into account the base charge plus the additional 4,000  
13 gallons of volumetric usage. Correct?

14 A. Correct.

15 MR. COOPER: That's all the questions I have,  
16 Your Honor.

17 JUDGE JACOBS: Okay. Thank you very much.

18 All right. So we are going to take a short  
19 break. I would suggest that we get back together at 10:00 a.m.  
20 So it will be a short break. Does that work for everyone?  
21 Okay. Will be in recess until 10:00 a.m., and we will get back  
22 together and start with Mr. Carter's testimony. Thank you-all  
23 so much.

24 (OFF THE RECORD.)

25 JUDGE JACOBS: We are ready to get back underway

1 and back on the record here today as we resume our hearing in  
2 SA-2021-0017. I believe where we are now is to take the  
3 testimony of Mr. Logan Carter, unless any party has anything  
4 that they would like to discuss before we get to that. Okay.

5 And it looks like I'm seeing a warning sign on  
6 Mr. Carter's connection that indicates low bandwidth.

7 Mr. Carter, are you able to hear us?

8 MR. CARTER: Yes, Judge, I am.

9 JUDGE JACOBS: And, so, it looks like because of  
10 low bandwidth, you are not able to use video or are you going to  
11 give it a try?

12 MR. CARTER: I do have it on. I don't see any  
13 indication of low bandwidth on my end.

14 JUDGE JACOBS: Okay. And you actually sound and  
15 look good. So I think it is probably fine. Okay. So, sir, if  
16 you could just raise your right hand.

17 (Witness sworn.)

18 JUDGE JACOBS: Thank you very much.

19 Mr. Cooper, you may proceed.

20 MR. COOPER: Thank you, Judge.

21 LOGAN CARTER, having been first duly sworn, testifies as  
22 follows:

23 DIRECT EXAMINATION BY MR. COOPER:

24 Q. Will you go ahead and state your full name for  
25 us?

1 A. Logan Patrick Carter.

2 Q. And are you testifying today in your capacity as  
3 mayor of the City of Hallsville?

4 A. Yes, sir, I am.

5 Q. Have you caused to be prepared for the purposes  
6 of this proceedings certain direct testimony in question and  
7 answer form?

8 A. Yes, I have.

9 Q. And is it your understanding that that testimony  
10 has been marked as Exhibit 2 for identification?

11 A. That is my understanding.

12 Q. And I assume you do not have any changes that  
13 need to be made to that testimony?

14 A. I do not.

15 Q. If I ask you the questions which are contained  
16 in Exhibit 2 today, would your answers be the same?

17 A. Yes, sir, they would.

18 Q. Are those answers true and correct to the best  
19 of your information, knowledge, and belief?

20 A. Yes, sir.

21 MR. COOPER: Judge, I would offer Exhibit 2 into  
22 evidence and tender the witness for cross-examination.

23 (WHEREIN; Exhibit 2 was offered into evidence.)

24 JUDGE JACOBS: Are there any objections to  
25 admitting Missouri-American's Exhibit 2 into evidence? Hearing

1 no objections, Exhibit 2 will be admitted.

2 (WHEREIN; Exhibit 2 was received into evidence.)

3 JUDGE JACOBS: I don't know if this is causing  
4 any problems for our court reporter, but it doesn't sound like  
5 our connection is as good as it could be. I'm going to mute  
6 your line, Mr. Cooper, as we might be getting a little bit of  
7 echo. Thank you very much.

8 Okay. So we can proceed to cross-examination  
9 from Staff now.

10 MR. PRINGLE: Yes. Thank you, Judge.

11 CROSS-EXAMINATION BY MR. PRINGLE:

12 Q. Good morning, Mayor Carter.

13 A. Good morning, sir.

14 Q. Why did the City of Hallsville decide to sell  
15 its sewer system?

16 A. The main reason being for us to continue to  
17 maintain and make the upgrades and repairs needed to our system,  
18 it would prove too costly to our citizens.

19 Q. And in order to sell the City's system, what  
20 kind of process did the City have to follow?

21 A. First, we had to have a public meeting 30 days  
22 prior. We had to pass an ordinance to have an election, have a  
23 public hearing 30 days prior to the election, and then hold an  
24 election.

25 Q. And were you at that public meeting?

1           A.       The public meeting held by the City of  
2 Hallsville, yes, I was.

3           Q.       And who attended that public meeting?

4           A.       I don't have the official minutes in front of me  
5 of that meeting.

6           Q.       I guess, was Missouri-American Water in  
7 attendance?

8           A.       I believe they were, yes.

9           Q.       And are you aware if any of the representatives  
10 from the District was in attendance?

11          A.       I believe Mr. Ratermann was as well.

12          Q.       And did Missouri-American Water speak or answer  
13 questions?

14          A.       I can't remember off the top of my head on that  
15 meeting, if either the District or company, Missouri-American,  
16 had an opportunity to speak.

17          Q.       Are you aware were there any other meetings that  
18 either party had an opportunity to speak at to the public?

19          A.       I know Missouri-American Water held two public  
20 meetings at our community center.

21          Q.       And are you aware if the District has held any  
22 public meetings?

23          A.       I am not aware if they had any or not.

24          Q.       Were there any other bids besides the bid from  
25 Missouri-American Water?

1           A.       Boone Regional Sewer District and Liberty  
2 Utilities also submitted.

3           Q.       And why did the City choose the  
4 Missouri-American Water bid over both Liberty and the District?

5           A.       I can't speak for my alderman, but the general  
6 consensus is it was the best proposal for the City of  
7 Hallsville.

8           Q.       Does the City have a plan for what to do should  
9 the Commission deny Missouri-American Water's application for a  
10 CCN?

11          A.       We are starting to work on that, Number 1, being  
12 our rate increase to begin to have funds to begin the  
13 maintenance issues, but as far as treatment moving forward and  
14 our growth no, there is not.

15          Q.       And that rate increase, would that be the \$38  
16 flat fee?

17          A.       It's Bill Number 2021-2 to be known as Ordinance  
18 384. It would be raising our residential rates to a 38.75 flat  
19 rate, our commercial rate to 43.75 flat rate, and then a high  
20 commercial rate, which is 12,500 gallons or more, to 164.75 flat  
21 rate.

22          Q.       And is that rate cheaper or more expensive than  
23 the current rates charged by the City?

24          A.       Well, our current base rate is 19.35, plus a  
25 thousand -- plus \$5 for a 1,000 gallons passed the first

1 thousand. It would be a reduction for just over 50 percent of  
2 our customers.

3 Q. And when is that -- is that ordinance also going  
4 to require a public vote?

5 A. No. It does not require a public vote. The  
6 bill has been read first and second time, and is set to be vote  
7 to become ordinance on April 12th.

8 Q. Thank you, Mayor Carter. And as part of the  
9 City's initial planning for what to do if the Commission were to  
10 deny the CCN, does the City have any plans to sell to the  
11 District if that CCN were to be denied?

12 A. That would be up to a vote of my alderman, but  
13 at this time I do not see that happening. No.

14 Q. Thank you, Mayor. I have no further questions.

15 A. Thank you.

16 JUDGE JACOBS: Thank you. We can proceed to any  
17 cross-examination from the District.

18 MS. GRIFFIN: I do not have any  
19 cross-examination, Judge.

20 JUDGE JACOBS: Okay. Thank you. We would now  
21 take any questions from commissioners, if there are any. And I  
22 do have some questions that I would like to ask the mayor and I  
23 invite commissioners to interrupt me at any point if you have  
24 questions that you would like to ask.

25 COMMISSIONER HOLSMAN: -- question in, Judge.



1 I'm good just having you ask that question.

2 JUDGE JACOBS: Okay. Thank you very much,  
3 Commissioner Holsman, and I am aware of that. Thank you.

4 Do I have any other questions that commissioners  
5 wanted to ask at this time?

6 COMMISSIONER HOLSMAN: Not at this time, Judge.  
7 Thank you.

8 JUDGE JACOBS: Thank you so much.

9 Okay. So I just wanted to ask just a few basic  
10 kind of background questions of Mr. Carter.

11 QUESTIONS BY JUDGE JACOBS:

12 Q. So first of all, when were you first elected  
13 mayor of Hallsville?

14 A. I was elected April of 2018.

15 Q. Okay. And did you serve as an alderman before  
16 your election as mayor?

17 A. No, ma'am. I did not.

18 Q. Okay. And can you just tell us a little bit  
19 about the governing structure of the City? How many aldermen  
20 are there?

21 A. We have two wards with two alderman representing  
22 each ward.

23 Q. Okay. So you have four aldermen and a mayor?

24 A. That is correct.

25 Q. Okay. And when you-all vote on something, it's

1 one person, one vote?

2 A. That is correct.

3 Q. Okay. And could you just remind us, how big is  
4 Hallsville? Do you know the population?

5 A. On the latest census, I do not. We are  
6 approaching 2,000 quickly, just waiting for that official census  
7 to come out.

8 Q. Okay. And as mayor, what level of involvement  
9 do you have with the City's sewer system?

10 A. I am in no means a wastewater expert. We have  
11 our director of public works for that, but me overseeing the  
12 board of aldermen, financial decisions, moving forward with it  
13 would be on us.

14 Q. Okay. There has been some discussion this  
15 morning about the rates that Hallsville has charged in the past  
16 and apparently now there is a proposal to increase those rates.  
17 You noted that for -- you said over 50 percent, apparently, of  
18 your residential customers of the system, this rate change would  
19 actually reduce their rates?

20 A. Yes. As a more than 50 percent of our residents  
21 use more than 5,000 gallons a month, so it would be a rate  
22 decrease for those.

23 Q. So for that proportion of the people served,  
24 it's going to be a rate decrease, and for the rest of them, it's  
25 a rate increase?

1 A. It would be a rate increase, yes.

2 Q. Okay. Because the reason that the City would be  
3 proposing this is to bring in more money for the system?

4 A. That is correct. We run a very tight budget,  
5 and if this was not to go through, we need to begin forward  
6 thinking of having the revenue to do the projects needed.

7 Q. Okay. And can you just restate for us because  
8 some of the testimony we've heard so far has been that Mr. Horan  
9 wasn't able to, maybe, exactly remember what the current rate is  
10 in Hallsville. So are you able to tell us exactly what the  
11 current rate is in Hallsville today?

12 A. That current rate is \$19.35 for the first 1,000  
13 gallon, as our base rate. For each additional 1,000 gallons  
14 beyond that, it is charged \$5.

15 Q. And it's \$5 for each 1,000 additional gallon of  
16 water usage?

17 A. Correct.

18 Q. And I don't know much about water and sewer, but  
19 I'm pretty sure you're not actually metering sewer, so that  
20 1,000 gallons is water usage?

21 A. Correct.

22 Q. Okay. And could you explain to us how  
23 Hallsville comes up with that water usage number?

24 A. We meter water.

25 Q. Okay.

1           A.           And the customers that we do not serve, the  
2 water is metered by Public Water Service District Number 4.

3           Q.           Okay. And that's Boone County Public Water  
4 Sewer District Number 4; is that right?

5           A.           Public Water Service District.

6           Q.           Public Water Service District Number 4 of Boone  
7 County?

8           A.           Yes.

9           Q.           Okay. And so you have a proportion of folks in  
10 Hallsville that get water from the Public Water District and  
11 then you have some that get water from the City?

12          A.           Correct.

13          Q.           And I believe that water -- sewer rates are  
14 based on water usage during a certain period of the year; is  
15 that right?

16          A.           That is correct. We average the months of  
17 January, February, and March.

18          Q.           Okay. So it is January, February, and March  
19 includes this?

20          A.           Correct. Those months' average.

21          Q.           Okay. And that is going to determine a person's  
22 sewer flat rate for the whole year?

23          A.           Sewer rate for the year. Correct.

24          Q.           And then for some folks you have to go to the  
25 Public Water District and ask how much water is that customer

1 using, so we know what to charge them for sewer; is that right?

2 A. Yes. They provide those numbers for us.

3 Q. Okay. Thank you for your patience, as I go  
4 through my list of questions and see what I've already asked.

5 A. That's perfect.

6 Q. Okay. So we heard -- we have received testimony  
7 from Mr. Horan, and part of his testimony includes this  
8 statement that the main holding lagoon for the Hallsville system  
9 discharged continuously for most of 2020, and that was in  
10 violation of Hallsville's permit. Is that accurate, sir?

11 A. It would have to be confirmed with my director  
12 of public works on the exact time, but we were in discharge in  
13 2020.

14 Q. And can you tell us more about what it means to  
15 be under enforcement by DNR?

16 A. So that's briefly where I have a little bit of a  
17 different understanding than everyone else. Under enforcement,  
18 we have a consent judgment from April 16th of 2013, which we  
19 have met those conditions. And under the judgment, we are  
20 allowed to ask the Court to release us of that, but we were  
21 under advisement of a previous city attorney to not do that.

22 Q. Okay.

23 A. And that was before my time here in the City of  
24 Hallsville.

25 Q. Okay. So Mr. Horan's testimony also included

1 a list of recent enforcement issues with the Hallsville's  
2 system. His testimony includes the statement that the system  
3 was cited because only one of two aerators in the primary lagoon  
4 were functioning; is that correct?

5 A. That could be correct. Yes.

6 Q. Okay. And that the system was also cited for  
7 failing to submit a complete annual operations report as  
8 required by its permit; is that accurate?

9 A. I am not aware of that.

10 Q. Okay. And there was also a problem with failing  
11 to lower lagoon and storage basins to minimum operating levels  
12 from September to November, as required under a condition of the  
13 operating permit; is that correct?

14 A. That is correct.

15 Q. Okay. So what is your understanding of the  
16 current enforcement status of the system in relation to DNR?

17 A. My understanding is DNR continues to watch us  
18 and looks over us with a bit more of a microscope than others,  
19 but I believe that we overall are in good standing with the  
20 progress we've made in.

21 Q. Okay. Are you familiar with the ordinance that  
22 was passed by the Hallsville's alderman in August of 2019,  
23 concerning the sale of the sewer system?

24 A. Yes, I am.

25 Q. And that was attached to Mr. Horan's testimony.

1 I believe it was attached to Schedule MH-1. So I just wanted to  
2 ask you a few questions about that.

3 A. Yes.

4 Q. Do you have access to it or if you needed to  
5 look at it, would you be able to?

6 A. I should be able to pull it up. Yes.

7 Q. Okay. Was the purpose of that ordinance to ask  
8 voters to authorize a sale specifically to Missouri-American?

9 A. That is how that was approved by our then-city  
10 attorney.

11 Q. Okay. So I noticed that the title of the  
12 ordinance includes and identifies Missouri-American. Are you  
13 able to read the title of that ordinance?

14 A. An ordinance calling for an election in the City  
15 of Hallsville, Missouri to be held on November 5, 2019, for the  
16 purpose of submitting to qualified voters of the City, a  
17 proposition to sell certain assets associated with the City's  
18 wastewater system to Missouri-American Water.

19 Q. Okay. Thank you. And part of -- and aspects of  
20 that ordinance, after it describes the proposition to be put to  
21 voters on the ballot, also includes authority to the City to  
22 negotiate a sale; is that right?

23 A. Yes, it did.

24 Q. Okay. So if Hallsville's alderman decided --  
25 and I'm just -- we're just going to assume that Hallsville would

1 be able to do this -- if Hallsville decided it wanted to sell  
2 the system to a different entity, is it your understanding that  
3 Hallsville would have to propose another proposition to its  
4 voters?

5 A. That is not my understanding, as the ballot  
6 language did not include Missouri-American Water. The ballot,  
7 which was simply shall Hallsville sell the wastewater system.

8 Q. So your understanding is that the voters of  
9 Hallsville have now given the alderman the authority to sell the  
10 system?

11 A. Yes, ma'am.

12 Q. Okay. And that's even though the ordinance,  
13 itself, specifically authorized the alderman to negotiate with  
14 Missouri-American to sell the system?

15 A. That was -- that was my understanding. Yes.

16 Q. Okay. All right. And then there is a document  
17 that was filed in this case on December 14th, as an attachment,  
18 and has been admitted as Commissions's Exhibit 305. Were you  
19 able to locate that document or did you look for it when we were  
20 looking for it earlier in the hearing?

21 A. I did look forward it, but I was unable to find  
22 it. Could you share again who filed it or what exhibit it is?

23 A. Yes. Okay.

24 Q. So you will find this document in the EFIS  
25 record for this case. Are you accessing the Commission's record



1 of this case?

2 A. I'm looking at --

3 MR. COOPER: Judge --

4 JUDGE JACOBS: Or potentially counsel might be  
5 able to provide it to you.

6 MR. COOPER: Yeah, Judge, if you give me just a  
7 second, I will get it to the mayor here.

8 JUDGE JACOBS: Thank you.

9 MR. COOPER: Mayor, I just hit send, so let me  
10 know if it gets to your email there.

11 Again, Judge, this is the doc that you marked as  
12 Exhibit 305?

13 JUDGE JACOBS: That is correct.

14 MR. COOPER: Okay.

15 JUDGE JACOBS: On the top it says, Proposal  
16 offer to City of Hallsville.

17 THE WITNESS: I have pulled up that document.

18 JUDGE JACOBS: Okay. Thank you.

19 BY JUDGE JACOBS:

20 Q. So if you can take a look at that. I wanted to  
21 ask you, first of all, do you recognize this document?

22 A. Yes. I've seen this document.

23 Q. Okay. And it appears that it is dated July 18,  
24 2019; is that right?

25 A. Yes.

1 Q. Okay. So I wanted to ask you about the timeline  
2 for the events that took place. So it would appear that this  
3 document comes into the City in July of 2019, and then as you  
4 have described to us, in August of 2019, the City passed an  
5 ordinance, which we have been discussing that authorized the  
6 sale; is that correct?

7 A. Correct.

8 Q. Okay. And I believe that that's what's  
9 indicated by your testimony on Page 4. So then after that  
10 ordinance passed, the City also put out a document that is a  
11 request for bids. Is that -- and that document is actually  
12 attached to some rebuttal testimony from the District. So that  
13 has not been admitted into evidence or offered yet, but this  
14 would be attached to Mr. Stith's rebuttal testimony as Schedule  
15 DES-2. So according to the dates on those documents, the City  
16 put out the request for bids in September 2019; is that right?

17 A. Yes. Our city attorney felt that we should also  
18 request open for bids and not focus on one sale -- one potential  
19 buyer.

20 Q. Okay. So the City hadn't solicited this when it  
21 received this offer from Missouri-American?

22 A. Correct. I had met with them and discussed the  
23 possibility with our Board over the months prior to that.

24 Q. Okay. And I just -- I'm clarifying this just  
25 because I wanted to make sure the timeline was accurate or some

1 dates hadn't gotten mixed up somewhere. All right. And then,  
2 we are in September when the request for bids goes out to -- for  
3 the City soliciting bids, but the City has already authorized  
4 this proposition to go to voters in November of 2019. Right?

5 A. Correct.

6 Q. Okay. And then we have heard some testimony  
7 about hearings or maybe the term would be meetings that were  
8 held in Hallsville regarding the acquisition potentially of the  
9 sewer system. And I just want to clarify there were three  
10 different meetings held; is that right?

11 A. The City of Hallsville held one on October 3rd  
12 of 2019.

13 Q. Okay. And then I believe your testimony -- oh,  
14 I'm sorry. Mr. Horan's testimony provides the dates for two  
15 other hearings. So you are aware of two additional hearings  
16 that were conducted by Missouri-American?

17 A. That is correct.

18 Q. Okay. And then the next thing that happens is  
19 after the meetings are held in October, then we get to the  
20 election on November 5, 2019. And there was some discussion  
21 earlier today about whether we actually have any information in  
22 the record regarding the actual vote in that election?

23 A. So the certified votes from Boone County Clerk  
24 was in the City of Hallsville, November 5, 2019 election; yes,  
25 was 136 to no, 64.

1 Q. Okay. And did you consult something today to  
2 get those numbers or are you aware if they appear anywhere in  
3 this case file?

4 A. I am not aware of them being in the case file.  
5 I pulled those numbers from our county clerk's results.

6 Q. Okay. So did you just go to the Boone County  
7 Clerk website today or did you have them sitting somewhere?

8 A. I have them as well here in a document with me.

9 Q. Okay.

10 A. I thought --

11 Q. I'm sorry -- I'm sorry. I apologize. Please  
12 finish.

13 A. I thought it might come into question, so I  
14 wanted to have it to be prepared.

15 Q. Thank you. I appreciate that. That does answer  
16 a question that we have had today.

17 All right. And then after this vote occurs and  
18 the majority of voters approved the sale, then it appears that a  
19 -- other bidders had made a proposal to buy the City -- I'm  
20 sorry, to buy the system from the City; is that right?

21 A. Yes. So our RFPs were due on November the 1st.  
22 November the 5th, the election passed. And then November 20th,  
23 we had a board meeting to discuss the next steps to take in the  
24 wastewater sale, which Missouri-American, Liberty Utilities, and  
25 Boone County Regional Sewer District also had representatives

1 at, and discussed our next steps there.

2 Q. Okay. And was there a session in January of  
3 2020 concerning the sale of the system?

4 A. Yes. We had -- January 22nd, we had a board  
5 meeting in which all three parties, Missouri-American Water,  
6 Liberty Utilities, and Boone County Regional were able to  
7 present their offers.

8 Q. Okay. And I wanted to clarify something about  
9 your testimony there because I believe your testimony was that  
10 Missouri-American, the District, and Liberty Utilities, quote,  
11 were given the opportunity to present their proposals. And I  
12 wanted to clarify, did those entities all show up and present  
13 their proposals --

14 A. Yes.

15 Q. -- on January 22nd?

16 A. Yes. In person.

17 Q. Okay. And what was the purpose of that session  
18 if the sale had already been approved?

19 A. For more understanding, the voters had voted  
20 that we were allowed to sell our sewer system and we wanted to  
21 do what was best by our voters and hear out all parties of their  
22 offers.

23 Q. Okay. And we went to pains today to make sure  
24 that you could take a look at that proposal offer to the City of  
25 Hallsville.

1 A. Yes.

2 Q. And I wanted to look at the rate of -- where the  
3 rates are discussed on Page 5. Can you find that?

4 A. Yes. I am there, Judge.

5 Q. Okay. Thank you. So can you just explain to us  
6 your understanding of the proposal for a flat rate and how that  
7 related to what the City had been charging? And what  
8 Missouri-American was proposing here?

9 A. I don't think I can speak to their thought  
10 process behind their rates, other than knowing that it was the  
11 rate that they charge small municipalities outside of Arnold,  
12 Missouri.

13 Q. Okay. And was this -- I guess, a better  
14 question would be: This proposal to charge Hallsville's  
15 customers 38.75 as a flat rate, was that presented to the City  
16 and to -- in these meetings before the Board, and also at public  
17 meetings that the City hosted?

18 A. It was presented to the City and presented to  
19 the public through Missouri-American Water's meetings.

20 Q. Okay. And I'm asking that question because the  
21 Company's application to the Commission actually refers to  
22 Hallsville's existing rates, but this proposal document to  
23 Hallsville references a different rate, and so I am trying to  
24 understand if this document represents what was represented to  
25 Hallsville or is the presentation was, in fact, that

1 Missouri-American was going to adopt Hallsville's existing  
2 rates?

3 A. No. There was no presentation to the City of  
4 Hallsville that they would use our current rate structure all  
5 along they've been at 38.75, as presented to the public and the  
6 City.

7 Q. Okay. All right. Then I wanted to ask you  
8 about the document attached to Schedule MH-2 to Mr. Horan's  
9 testimony. This, I believe, is the purchase agreement. Are you  
10 able to access that document or can Mr. Cooper provide that to  
11 you?

12 A. I am seeing if I can get through on the EFIS.

13 Q. Right. So it will be Mr. Horan's direct  
14 testimony on January 26th.

15 A. And you said it's MH-4?

16 Q. It is actually -- I believe it's MH2.

17 A. Okay.

18 MR. COOPER: It is not a separate file. It's  
19 part of the base testimony.

20 THE WITNESS: Okay.

21 BY JUDGE JACOBS:

22 Q. If I can provide you a page number I will. I  
23 believe it is Page -- I'm getting there -- I believe it is Page  
24 15, according to my PDF program. It's the beginning of that  
25 document.

1 A. Yes. I am there, Judge.

2 Q. Okay. So is this the purchase agreement that  
3 was signed by Missouri-American and Hallsville?

4 A. I'm just going through it to confirm, but yes,  
5 it should be.

6 Q. And I believe that you are a signatory to this  
7 document; is that right?

8 A. I'm trying to get to the end to confirm, but  
9 yes. Yes, I am.

10 Q. Thank you. All right. And then I also wanted  
11 to ask you about the City's entering into agreements with the  
12 District to provide sewer services to some District customers in  
13 certain subdivisions?

14 A. Yes.

15 Q. Okay. And this concerns a couple documents that  
16 were previously attached to some filings in this case and have  
17 now been made exhibits. And I'm sure if you will need  
18 assistance from Mr. Cooper to access these or if you can get to  
19 them directly yourself, but these were marked as commissioners  
20 -- Commission Exhibit 303 and 304. And they are found in the  
21 August 31st filing made by the Company, Missouri-American. They  
22 are Appendix E and Appendix F to that pleading.

23 A. You said it was the August --

24 Q. It is August 31st.

25 MR. COOPER: Judge, I also just sent send on



1 that, if that happens to get to the mayor before he finds it in  
2 the other direction.

3 JUDGE JACOBS: Thank you for your help. I  
4 apologize for some of the tedium here.

5 THE WITNESS: You're fine. I'm here at the  
6 Appendix E and -- did you say E and F?

7 BY JUDGE JACOBS:

8 Q. Yes. Yes. So there should be one right after  
9 it that we will be talking about. So let's start with the  
10 document that is marked Appendix E. On the top, it says Bill  
11 Number 2019-4. Can you tell us what that ordinance number is?

12 A. 358.

13 Q. Okay. And are you a signatory to this document,  
14 sir?

15 A. Yes, Judge.

16 Q. Okay. What does this document do?

17 A. This would allow the mayor to execute a  
18 cooperative agreement with Boone County Regional Sewer District  
19 in regards to -- which on this one is -- the Sunnyslope  
20 subdivision.

21 Q. Okay. And, so, then following that document is  
22 there a cooperative agreement that's dated January 14, 2019?

23 A. Yes, there is.

24 Q. And that concerns the Sunnyslope subdivision?

25 A. Correct.

1 Q. All right. And what can you tell us about this  
2 agreement? What was the purpose?

3 A. From my understanding, the Sunnyslope system  
4 needed some updating and to get rid of the lagoon that is  
5 currently on that property, just outside of the city. And there  
6 would be a time frame in which Boone County would do upgrades to  
7 the lines in that neighborhood and to connect to us and fill in  
8 that lagoon.

9 Q. Okay. Why was the City interested in entering  
10 into this agreement?

11 A. Being a good neighbor.

12 Q. Okay. It's providing, I suppose, some  
13 assistance to residents?

14 A. They are just outside of our city limits. And  
15 to my knowledge, that subdivision has not been yet connected.

16 Q. So is this a new development?

17 A. No, it is not.

18 Q. Okay. So it's an existing residential  
19 development?

20 A. Correct, outside of the city.

21 Q. And I have been trying to figure out how many  
22 lots are here that are potentially affected by the Sunnyslope  
23 agreement. Do you know the answer to that question?

24 A. I believe off the top of my head I am going to  
25 say there's 11 customers. You would have to confirm that with

1 the District. They are currently their customers.

2 Q. Okay. And I believe there is a map that is  
3 attached as an Exhibit A to that cooperative agreement. Did you  
4 find that?

5 A. Yes.

6 Q. Okay. Does that depict the number of lots?

7 A. That would.

8 Q. Okay.

9 A. The larger lot, I believe, is where their lagoon  
10 is on that property.

11 Q. Okay. Are there -- you said this was an  
12 existing development. So are these occupied lots of people  
13 living on these lots and houses requiring sewer service?

14 A. I can't confirm that every lot has a house on  
15 it, but it -- it was existing structures in there.

16 Q. Okay. So is it a maximum of about 11 lots that  
17 would be residential?

18 A. It looks -- there could be 14 to 15. Again,  
19 this is outside of our city limits, so I don't know the correct  
20 number.

21 Q. And did this agreement require the District to  
22 make any lump-sum payment to the City to make this agreement  
23 work?

24 A. No. I do not believe there was a lump-sum  
25 payment. I'm trying to --

1 Q. Okay. Can you look at Paragraph 10 and tell me  
2 what the purpose of that was?

3 A. I need to take that back. There was a one-time  
4 payment.

5 Q. Do you know the amount of that payment?

6 A. It looks like it says \$5,100 to cover costs and  
7 necessity.

8 Q. Okay. Could you read the sentence after that?  
9 It may answer some of our questions.

10 A. This charge represents a \$300 per unit fee of 17  
11 units.

12 Q. Okay. So that might tell us how many possible  
13 units that are expected -- or exist in the subdivision?

14 A. Correct.

15 Q. Okay. Do you know if any payments have been  
16 made under this agreement?

17 A. I do not recall.

18 Q. And I just -- I may have asked this and you may  
19 have been asked this, but I just want to make sure. Do you know  
20 if the City is currently providing sewer service to any of the  
21 residents of Sunnyslope subdivision at this time?

22 A. My understanding is that the County Regional  
23 Sewer District has not connected Sunnyslope at this time.

24 Q. Okay. All right. So we can proceed now to what  
25 has been marked Commission's Exhibit 304, which I believe starts

1 on Page 20, and it looks like it's Bill Number 209-8. Did you  
2 find that, sir?

3 A. I'm scrolling down now. Yes, I'm there,  
4 Ordinance 362.

5 Q. Okay. Thank you. And you're a signatory to  
6 this document, sir?

7 A. I am.

8 Q. Okay. And what does this document do?

9 A. This document gives me the authorization to  
10 execute an agreement for the Silver Creek subdivision  
11 cooperative agreement with Boone County Regional Sewer District.

12 Q. Okay. And does the cooperative agreement appear  
13 on the next page?

14 A. It does, dated --

15 Q. I'm sorry, repeat the date, please, sir.

16 A. April 8, 2019.

17 Q. Thank you. And this agreement looks like it's  
18 slightly different because it involves and mentions a developer  
19 in addition to the District and the City?

20 A. Correct. This piece of land, I believe, there  
21 is currently only one home on it, and then he was going to  
22 develop another six lots for a total of seven.

23 Q. Okay. And can you tell us what the purpose for  
24 the City was of entering into this agreement?

25 A. And, again, to assist Boone County Regional

1 Sewer District with providing treatment to their customers.

2 Q. And does this agreement call for a lump-sum  
3 payment of any kind?

4 A. I believe there was. I'm going back through.

5 Q. I think you'll -- Paragraph 10 might help you.

6 A. Yes. The amount of said payment shall be \$4,200  
7 representing a one-time connection charge. This charge  
8 represents \$600 per unit fee for seven units.

9 Q. Okay. And do you know if that fee, lump-sum fee  
10 or any fee has been paid under this agreement?

11 A. I would have to look back at records to see.

12 Q. Okay. Do you know if anyone is receiving  
13 service in the -- I believe this is the Silver Creek  
14 subdivision; is that right, that this pertains to?

15 A. Yes. There are residents -- or individuals  
16 receiving service in Silver Creek.

17 Q. Do you know how many lots are receiving service  
18 from the Hallsville sewer system?

19 A. I believe that number is three in that  
20 neighborhood.

21 Q. Okay. And once again, these are lots that are  
22 outside the city limits?

23 A. Correct.

24 Q. And they are District customers?

25 A. Correct.

1 Q. Okay. This cooperative agreement also appears  
2 to have a map attached to it?

3 A. Yes, Judge.

4 Q. Okay. So it looks like your testimony today is  
5 about three lots in the Silver Creek subdivision are currently  
6 receiving service from the City of Hallsville sewer system. And  
7 you weren't sure if any of the Sunnyslope lots are receiving  
8 service at this time?

9 A. Correct. From my understanding, Sunnyslope has  
10 not been connected.

11 Q. Okay. So I asked several questions about these  
12 two agreements. Is there anything else that you would tell me  
13 about those agreements or you think the Commission should  
14 understand?

15 A. No. I believe they're thorough. It was us  
16 doing our part to be a good neighbor to the District.

17 Q. And that reminds me of, actually, another  
18 question I wanted to ask about both of these agreements. Do you  
19 happen to recall the term under each agreement, how long these  
20 were supposed to be in place?

21 A. I do not recall off the top of my head. I can  
22 review it the document.

23 Q. Okay. It looks like Paragraph 16 might have  
24 that information in it.

25 A. The initial term shall be 20 years beginning on

1 the date first shown on this agreement. Thereafter, this  
2 agreement shall automatically be renewed for a -- five -- term  
3 of five years unless it is terminated pursuant to the provisions  
4 of this paragraph.

5 Q. Okay. And does it appear that that's the same  
6 provision in both agreements, essentially?

7 A. Yes, it does.

8 Q. Okay. Are there -- have there been any efforts  
9 by the City to annex either Silver -- I want to say Silver  
10 Creek, but I might be making that up. Could it be Silver Star?

11 A. Silver Creek is --

12 Q. Silver Creek and Sunnyslope, have either -- has  
13 the City made any efforts to annex those?

14 A. Silver Creek is not contiguous with our border,  
15 so we are unable to annex that property.

16 Q. Okay.

17 A. With Sunnyslope, a forced annexation is never a  
18 good thing. It would be up to the residents to willingly annex,  
19 and we have -- we have not proceeded with anything of that  
20 nature.

21 Q. Okay. So there's no pending issue of  
22 annexation.

23 A. Correct.

24 JUDGE JACOBS: Okay. Thank you. So those were  
25 the questions from the bench at this point. Once again, if



1 commissioners have any questions that they wanted to ask of the  
2 mayor, the floor is open for those now.

3 Okay. We can proceed, then, to recross and we  
4 may always be interrupted by commissioners if they so desire.

5 Please proceed, Staff.

6 MR. PRINGLE: No recross, Judge. Thank you.

7 JUDGE JACOBS: Thank you.

8 And anything from the District?

9 MS. GRIFFIN: No, Judge. Thank you.

10 JUDGE JACOBS: And did -- Mr. Cooper, did you  
11 have any redirect?

12 MR. COOPER: Yes, Your Honor, briefly.

13 JUDGE JACOBS: Thank you. Please, proceed.

14 REDIRECT EXAMINATION BY MR. COOPER:

15 Q. Mayor, you were -- you provided a couple times  
16 information related to -- or you mentioned the city attorney  
17 that was advising Hallsville during the course of this sort of  
18 election and RFP process. Do you remember that?

19 A. Yes, sir.

20 Q. Who was that attorney?

21 A. City attorney at the time was John Whiteside.

22 Q. Is it your understanding that Mr. Whiteside has  
23 also represented at times the Boone County Regional Sewer  
24 District?

25 A. My understanding is John Whiteside is the

1 general counsel for Boone County Regional Sewer District.

2 Q. You had mentioned in regard to a question that  
3 in your opinion a sale to a different entity, other than  
4 Missouri-American, would not require a separate vote of the  
5 public. Correct?

6 A. That's correct.

7 Q. And I assume that you don't offer that opinion  
8 as an attorney, but just as your own personal understanding.  
9 Correct?

10 A. That is how it was presented from our then-city  
11 attorney, John Whiteside.

12 Q. And again you -- the City currently has no  
13 contract to sell its sewer system to the District, does it?

14 A. There is no such contract to sell to the  
15 District.

16 Q. You were asked what the City would do if  
17 Missouri-American did not purchase the sewer system, the  
18 Hallsville sewer system. Am I correct that you said that the  
19 City really doesn't have a plan for how it would address the  
20 treat issues in that circumstance?

21 A. That is correct. Not at this time.

22 Q. And I assume you also would not have a plan for  
23 how to address any financing that would be necessary to address  
24 those problems; is that correct?

25 A. Not at this time, sir.

1 MR. COOPER: I believe that is all the questions  
2 I have, Your Honor.

3 JUDGE JACOBS: Thanks. I have a wondering mouse  
4 and I could not find my mute button.

5 All right. So I did want to ask if perhaps it  
6 would be possible for Missouri-American to provide for  
7 Mr. Carter whatever certified documents or copy of certified  
8 documents from the Boone County Clerk's Office or perhaps Boone  
9 County election in regard to that November 5, 2019 election, so  
10 we don't have to rely solely on statements in the transcript?

11 Would it be possible for that document to be  
12 filed as a late-filed exhibit by April 12th in this case?

13 MR. COOPER: Judge, we are certainly willing to  
14 do that. I'll have to get further into it before I know whether  
15 April 12th is a doable date, but certainly we will strive to do  
16 that.

17 JUDGE JACOBS: Okay. So if April 12th doesn't  
18 work, then I would ask that you file something just letting us  
19 know what your timeline looks like. And then -- and then you  
20 could file it promptly as soon as it were possible. It sounds  
21 like Mr. Carter has some kind of document that he has been able  
22 to refer to?

23 THE WITNESS: Correct.

24 JUDGE JACOBS: Does anyone have an objection to  
25 that document being admitted to the record? Obviously, once we

1 actually see it, there will be an opportunity to object to the  
2 actual document itself once we've seen it.

3 (WHEREIN; Exhibit 8 was offered into evidence.)

4 MR. PRINGLE: No objection, Judge, but I do have  
5 in the alternative, I have found an article from the Missourian  
6 that has the exact same numbers as well in a case that probably  
7 rises with the Boone County Clerk.

8 JUDGE JACOBS: Thank you. I hope the Boone  
9 County Clerk can provide what is needed. And in the event that  
10 that isn't possible, then we will rely on the good old  
11 Missourian. Okay? Thank you.

12 All right. So I believe that that was all the  
13 questions that anyone had for Mr. Carter before we move on. I  
14 would just give an opportunity for anything else that has come  
15 up.

16 All right. So it appears that we have heard  
17 from Missouri-American's witnesses. We've talked about the  
18 possibility of this late-filed exhibit to give as a document to  
19 refer to with the election results for the vote on the  
20 preposition to sell the Hallsville system. As I said before,  
21 I'll ask that Missouri-American provide that.

22 First, I should say thank you, Mayor Carter for  
23 appearing today, and I'm asking witnesses to remain available  
24 during the hearing in case we have to recall you, but hopefully,  
25 that won't be the case.

1 So the -- whatever document is filed by  
2 Missouri-American to verify the results of that election, that  
3 would be Missouri American's Exhibit 8, if I'm keeping track.

4 Okay. So it looks like we can move on and get  
5 started with a Staff witness before we go to lunch. Give me one  
6 moment to check my email and we'll get right back to get  
7 started. Actually, this is what I'm going to propose. I'm  
8 going to take a quick recess until 11:15 to reorganize  
9 ourselves, and then we'll get started with Staff's witnesses, if  
10 that's okay with everyone. Okay.

11 We are in recess until 11:15. Thank you so  
12 much.

13 (OFF THE RECORD.)

14 JUDGE JACOBS: Now we are genuinely back on the  
15 record. This hearing is SA-2021-0017. And we will be getting  
16 started with Staff's witnesses, and we will start with  
17 Mr. Busch.

18 So, Mr. Busch, I can see you, sir. If you could  
19 speak to us now and we'll make sure you have a good connection?

20 MR. BUSCH: Good morning, Judge.

21 JUDGE JACOBS: Good morning. I can hear you.  
22 So if you want to raise your right hand, I'll get you sworn in.

23 (Witness sworn.)

24 JUDGE JACOBS: Thank you very much, sir.

25 Mr. Pringle, you may proceed.

1 MR. PRINGLE: Thank you, Judge.

2 JAMES BUSCH, having been first duly sworn, testifies as follows:

3 DIRECT EXAMINATION BY MR. PRINGLE:

4 Q. Good morning, Mr. Busch.

5 A. Good morning, Mr. Pringle.

6 Q. Please state and spell your name for the court  
7 reporter.

8 A. My name is James Busch, and Busch is spelled  
9 B-U-S-C-H.

10 Q. Mr. Busch, by whom are you employed and in what  
11 capacity?

12 A. I am the regulatory manager of the Water and  
13 Sewer Department for the Missouri Public Service Commission

14 Q. Now, are you the same James Busch who  
15 contributed to Staff's recommendation to grant CCN marked here  
16 as Staff Exhibit 100?

17 A. I am.

18 Q. And do you have any additions or corrections  
19 regarding corrected direct testimony of James Busch Exhibit  
20 Number 100?

21 A. I do not.

22 Q. And if I were to ask you the questions contained  
23 in Exhibit 100, would your answers be similar or substantially  
24 similar today as those contained herein?

25 A. They would.

1 Q. Are those answers true and correct, to the best  
2 of your knowledge and belief?

3 A. They are.

4 MR. PRINGLE: Thank you, Mr. Busch.

5 At this time, Staff moves to enter Staff Exhibit  
6 100 into the record.

7 (WHEREIN; Exhibit 100 was offered into  
8 evidence.)

9 JUDGE JACOBS: Okay. Thank you.

10 And just to make sure that we are very clear, we  
11 are talking about a corrected direct testimony of Mr. Busch,  
12 which Mr. Pringle circulated to all of the parties, that's been  
13 marked as Staff Corrected -- I'm sorry, that's been marked as  
14 Staff's Exhibit 100.

15 Does anyone have any objections to that being  
16 admitted to the record? Okay.

17 Hearing no objections, Staff's 100 will be  
18 admitted into the record.

19 (WHEREIN; Exhibit 100 was received into  
20 evidence.)

21 JUDGE JACOBS: And we can proceed to any  
22 cross-examination, starting with the Company.

23 MR. COOPER: Thank you, Judge.

24 CROSS-EXAMINATION BY MR. COOPER:

25 Q. Mr. Busch, would you describe the Hallsville

1 sewer system to be a small system?

2 A. Yes, I would, sir.

3 Q. Would you consider it to be a troubled system,  
4 given its environmental compliance issues?

5 A. I think it is fair to say that it has  
6 environmental issues.

7 Q. Now, you sponsored the Staff's recommendation in  
8 this case, that the MAWC application be approved. Correct?

9 A. Correct.

10 Q. In your role as regulatory manager of the  
11 Commission's Water and Sewer Department, have you previously  
12 been involved in small water and sewer systems acquisition  
13 cases?

14 A. Yes, I have.

15 Q. Would you have a guess as to how many?

16 A. I have been the manager since February of 2008,  
17 so 13 years. Probably fair to say we do, maybe, four or five a  
18 year. So, you know, that is, what, 13 years times five. Maybe,  
19 approximately 60, maybe more.

20 Q. In your experience, does a feasibility study for  
21 a small water or sewer system that's being acquired generally  
22 show a positive income in early years?

23 A. Generally, they don't. It is my experience that  
24 most of our small systems, be they a regulated system or an  
25 unregulated system, the rates are generally not high enough or



1 sufficient enough to allow for any sort of profit or positive  
2 income in a feasibility study.

3 Q. And in that situation, is that -- that lack of  
4 positive income likely to continue until a future rate case?

5 A. Yes. Yeah.

6 Q. If you know, has Missouri-American in the past  
7 been permitted to pursue rate cases on a system-by-system basis?

8 A. I am not familiar. I've worked with  
9 Missouri-American rate cases since 2000, and I am not aware of  
10 any Missouri-American rate case that was for a specific system.  
11 They were always for all of the separate districts at the same  
12 time. And Staff would very much frown upon Missouri-American  
13 coming in for an individual system rate case.

14 Q. So if Missouri-American ultimately purchases and  
15 then makes improvements to the Hallsville system, would you  
16 agree that it will not be able to raise rates on that system on  
17 a system-specific basis?

18 A. They would have to come in for a general rate  
19 increase which would include all of the other service areas that  
20 Missouri-American provides service to.

21 Q. And that general rate case, would it be true  
22 that any improvements to the Hallsville system would be examined  
23 for a possible recovery to include the prudence of those  
24 improvements?

25 A. Yes. Any improvements that are done by a

1 utility regulated by the Public Service Commission, we would  
2 viewed those for the prudence of those decisions.

3 MR. COOPER: That is all the questions I have at  
4 this time, Your Honor. Thank you.

5 JUDGE JACOBS: Thank you. Do we have any  
6 questions from the District?

7 MS. GRIFFIN: Yes. Thank you, Judge.

8 CROSS-EXAMINATION BY MS. GRIFFIN:

9 Q. Mr. Busch, would you agree that the entirety of  
10 Hallsville's wastewater treatment system is located outside the  
11 city limits in unincorporated Booneville?

12 A. It's my understanding that they are -- the  
13 wastewater treatment facility is located outside the city limits  
14 of Hallsville and Boone County.

15 Q. And would you agree that that is an  
16 unincorporated area of the county?

17 A. That would be my understanding.

18 Q. And would you agree that so long as the City of  
19 Hallsville owns and operates its system that that system would  
20 be classified as a municipal sewer system?

21 A. I'm -- could you repeat that, please?

22 Q. Sure. Would you agree that as long as the City  
23 owns and operates that system, that the system would be  
24 classified as a municipal sewer system?

25 A. My understanding would be a municipal system,

1 yes.

2 Q. Would you also agree that if Missouri-American  
3 is authorized by this commission to consummate its purchase of  
4 the Hallsville wastewater system, the system will no longer be a  
5 municipal system following the consummation of that purchase?

6 A. The system will no longer be owned by a  
7 municipality. It will be owned by a private entity.

8 Q. So would you agree that in that instance it  
9 would no longer be classified as a municipal system?

10 A. I'm not exactly 100 percent sure what you --  
11 where you get a classification of municipal system. So not  
12 knowing exactly how that classification goes, but it would not  
13 be a municipal system or owned by a municipal system owner.

14 Q. Thank you.

15 MS. GRIFFIN: I have nothing further.

16 JUDGE JACOBS: Okay. The floor is now open for  
17 any questions from commissioners. I will have a few questions  
18 to ask and then, of course, as I have said before, commissioners  
19 can always interrupt me.

20 QUESTIONS BY JUDGE JACOBS:

21 Q. So I just had a question for you, Mr. Busch,  
22 just starting with a that is attached to Mr. Horan's testimony,  
23 his direct testimony, as Schedule MH-3. I don't know if you are  
24 able to look at.

25 A. I am looking for that now, Judge. You said

1 MH-3?

2 Q. I believe it is MH-3.

3 A. I am looking at it.

4 Q. Okay. Then my understanding from reading  
5 Staff's recommendation was that Staff was not satisfied with the  
6 map that was initially provided with Missouri-American's  
7 application; is that right?

8 A. I think that is correct.

9 Q. And do you know if this map attached with  
10 Mr. Horan's testimony addresses all of Staff's concerns about  
11 the depiction of the area to propose for -- to be certificated  
12 or any of the other concerns Staff would have had?

13 A. I believe so, but Staff Expert Williams may be  
14 better to answer that question completely.

15 Q. Okay. Thank you.

16 I would like to ask you about your understanding  
17 of a feasibility study, which is required to be provided with an  
18 application for a certificate. What is your understanding of  
19 whether a feasibility should or must include information about  
20 any improvements that a new operator might need or want to make  
21 into the system?

22 A. I am not familiar with that level of detail  
23 required in our feasibility studies.

24 Q. Okay. We have heard some testimony today  
25 indicating that Missouri-American has proposed to apply to the

1 Hallsville system one of the flat rates that it has established  
2 under its tariffs. Staff's recommendation actually discusses  
3 the information provided in Missouri-American's application,  
4 which restated the City's current rates for sewer service.

5 Can you explain to the Commission whether Staff  
6 has any concerns about the disparity between what was stated in  
7 the application, the information that was provided in the  
8 feasibility study, and the testimony as far as, apparently, a  
9 proposal to increase Hallsville's rates to match a Missouri flat  
10 rate?

11 A. I don't believe that Staff had any issue with  
12 the -- what was in the feasibility study and what was in the  
13 application. As has been mentioned before, the current rates  
14 for the City of Hallsville, as I understand them, and the  
15 Missouri-American current tariff rates for a system that  
16 Hallsville would be a part of, are very similar. It is slightly  
17 less. Missouri-American rates are slightly less if a customer  
18 uses 5,000 gallons. It will be slightly more if a customer uses  
19 4,000. So, you know, it's probably -- it's a good approximation  
20 but I think Staff went ahead and recommended that the City of  
21 Hallsville's current rates continue.

22 From my perspective, it's new information that  
23 the City of Hallsville is proposing to increase its sewer rates  
24 to 38.75, and then that may be the rate going forward. I don't  
25 think that I'm in a position right now, today, to speak on

1 behalf of Staff because we have not had a chance as an entire  
2 staff to think through what we have heard today to make a good  
3 recommendation to the Commission.

4 Q. So I just wanted to clarify so the Commission  
5 understands exactly what the application included. Didn't  
6 Missouri-American's feasibility study in this case always  
7 include the 38.75 figure?

8 A. The feasibility study did, but I believe their  
9 application stated that they were going to keep rates the same.  
10 My -- my assumption would be, and Staff Expert Young, he  
11 reviewed the feasibility studies, so he can correct me later if  
12 my understanding is wrong, but since its volumetric rate that is  
13 currently in effect for the City of Hallsville, for  
14 Missouri-American to do a feasibility study they would have to  
15 come up some level of monthly income. So based upon what the  
16 current rates are for Hallsville, like I said, if a customer  
17 uses 4,000 gallons it's right around \$34. If they use 5,000,  
18 it's around \$39. So 38.75 is probably a good proxy as an  
19 average for all those customers for the feasibility study  
20 instead of having different rates, or different monthly rates  
21 for the citizens.

22 Q. You may not know the answer to this question.  
23 But I will ask: In your experience, have you seen applications  
24 where a company asks for a certificate and proposes to adopt the  
25 rates being used by the system at that time?

1           A.       We see that. It really depends on each  
2 situation, and generally speaking, if the current rates that the  
3 existing system is charging its consumers is lower than the  
4 purchasing company's tariff rates, Staff usually recommends that  
5 we -- that the rates do not change because of the acquisition.

6           Q.       So which rates don't change; the rates of the  
7 acquired system?

8           A.       Right. The current rates. The customers --  
9 Staff's philosophy has been that the rates to the current  
10 customer should not increase solely due to the fact that it's  
11 being purchased by another entity.

12          Q.       Okay. So proposing to acquire a system and keep  
13 rates stable for the customers of that system, that would be  
14 typical of an application?

15          A.       It is. Yeah, typical is probably a good word.

16          Q.       And in this case, what we have received now is  
17 testimony that the Company is proposing to just adopt the rates,  
18 whatever they are, at the time the system is acquired,  
19 understanding that apparently there is a move to increasing  
20 rates?

21          A.       That's --

22          Q.       Does Staff, in order to do its recommendation to  
23 Commission, want an application to say exactly what rates are  
24 going to be if the certificate is granted?

25          A.       I mean, Staff -- you know, we need to see what

1 the Company's proposal is, but ultimately, Staff will -- we'll  
2 review it. We will review the current rates. We will review  
3 the tariff rates, and then we will make our recommendation based  
4 on that.

5 Q. Okay. And I have to go back and clarify  
6 something. In this case, the Company said that we are going to  
7 adopt the system's rates that we would like to acquire, and  
8 these are the system's rates. And, typically, just to make sure  
9 I understand your testimony, typically, Staff would recommend  
10 that the current rates be used rather than adopting the  
11 acquiring company's rates?

12 A. If those rate are below, yes. If the rates are  
13 above, then we would recommend going with the company's tariff  
14 rates, so a rate decrease.

15 Q. I see. Okay. And is that a preference for a  
16 rate that has been set in a rate proceeding or is it just a  
17 preference to not approve an acquisition and have people's rates  
18 go up?

19 A. It's preference to not -- for the customers not  
20 to see a rate increase.

21 Q. Okay. All right. So I would like to ask you  
22 about one of the conditions that have been proposed by Staff in  
23 Staff's recommendation. And this condition concerns the effort  
24 to ensure service to the District customers, and the Silver  
25 Creek and Sunnyslope subdivisions under the agreements with



1 Hallsville.

2           As I read Staff's recommendation, the  
3 recommendation is to require the Company, once it gets its  
4 operating permit from DNR, to initiate negotiations with the  
5 District to provide that service. And then when Staff  
6 elaborates on the condition, the explanation seems to be that if  
7 they -- apparently, if those required negotiations don't result  
8 in an agreement, then that would be considered a violation of  
9 the certificate.

10           So the question that I have about that is: Can  
11 you explain the purpose of this, why wouldn't the requirement  
12 simply be to provide the service under the existing terms rather  
13 than telling folks that they need to negotiate?

14           A.       Probably -- Staff probably phrased it the way  
15 that we did because Missouri-American had indicated -- or we  
16 read where Missouri-American indicated that they were not held  
17 to that agreement itself. And so we felt that since, you know,  
18 Missouri-American is not the City of Hallsville that it would be  
19 better to have a new negotiated contract between the actual  
20 entity that is operating the system rather than just taking over  
21 a contract that may or may not provide -- prove unsuitable for  
22 Missouri-American and the District.

23           Q.       And so then that's when I get around to asking  
24 what the intent was. Because when it's explained, it is  
25 explained as if the intent is to make sure that these customers

1 in these two subdivisions continue to have service. And so if  
2 that's the purpose, can that result be reached by requiring  
3 negotiations?

4 A. We believe so, yes.

5 Q. And can you explain to me why Staff is concerned  
6 about making sure that those District customers still have sewer  
7 service available through Hallsville?

8 A. Well, you want to make sure that those consumers  
9 who are living in that area continue to receive service.

10 Ultimately, if the District is capable of providing service to  
11 the customers themselves, in a safe and adequate manner, I think  
12 Staff would be comfortable with that as well. So we just want  
13 to make sure that as it sets up currently, that no customer will  
14 lose service simply because of this transaction.

15 Q. Okay. So I think that the Staff's  
16 recommendation provides that ensuring continued service for the  
17 customers in question is essential for the requested CCN to be  
18 necessary and convenient for the public service. So if the  
19 Commission were to conclude that for whatever reason it doesn't  
20 want to condition a certificate on service of those customers,  
21 is Staff recommending that the Commission would not be able to  
22 find that the certificate is necessary and convenient for the  
23 public service? I'm trying to figure out how essential this  
24 issue is under Staff's recommendation?

25 A. I apologize, Judge. There was a lot in

1 question. So I'm going to rephrase it to make sure I understand  
2 exactly what you are asking me. If the Commission decides to  
3 approve the transaction, and they want to exclude that  
4 recommendation -- is that the first part of what you are asking?

5 Q. Right. Because it seems the Staff's  
6 recommendation seems to take the position that this is actually  
7 necessary for a necessary and convenient finding. So I am  
8 trying to figure out if that was really what was intended there?

9 A. Well, that -- well, that was our intent. If the  
10 Commission does -- decides that they want to not include one of  
11 those conditions, but they still find that it is in the public  
12 interest, that is the Commission's decision.

13 Q. Do you happen to have updated information about  
14 how many households are currently receiving service in those  
15 subdivisions from Hallsville?

16 A. I have no more information than what the mayor  
17 provided earlier today.

18 Q. Okay. And then just one other question on this  
19 point. Is there a reason why Staff recommends that those  
20 negotiations would have to start after a permit is issued by  
21 DNR?

22 A. I believe that we put that in there because if  
23 DNR does not give them an operating permit, there would be no  
24 need for Missouri-American to have an agreement with the  
25 District.

1 Q. Okay. Then I wanted to ask you a question about  
2 -- just to make sure that we are all on the same page about the  
3 basic facts. It appears from previous testimony that the --  
4 some customers in Hallsville receive water service from the  
5 Public Water Supply District Number 4. Is Staff aware of that?

6 A. I don't know if the rest of the Staff is aware  
7 of it. I found that out today.

8 Q. Okay. Okay. And then -- I think that those are  
9 all of the questions that I had for you, Mr. Busch, and I  
10 appreciate your patience with me. I may have a couple more.

11 A. And if I may, Judge, based upon that information  
12 and finding out that all the water is not provided by  
13 Hallsville, that may influence, at least my recommendation, to  
14 Staff that going with a flat 38.75 might be better because it  
15 may be more difficult for Missouri-American to obtain the water  
16 readings from the water District.

17 Q. Right. So as we developed before, Hallsville  
18 presently has to go to the Public Water Supply District and get  
19 that usage information. And so Missouri-American would also  
20 have to do that if they wanted to use a volumetric system?

21 A. That is correct.

22 Q. Okay. All right. And I just need to clarify  
23 this point for you, just to make sure that it's clear. If the  
24 Commission didn't require that service be provided to the  
25 residents of the Silver Creek and Sunnyslope subdivisions, would

1 Staff still support a Commission order to grant a certificate on  
2 those terms?

3 A. It is Staff's job to support all Commission  
4 orders.

5 Q. Would Staff recommend that the Commission grant  
6 a certificate if the certificate didn't include a condition that  
7 either required negotiation to ultimately provide service to  
8 residents of those two subdivisions or required the Company to  
9 comply with obligations under the current agreements on the same  
10 terms?

11 A. Well, I -- that's a very difficult question, and  
12 it would be -- I mean it's Staff's recommendation that that be  
13 included, and it would be my thought that that is a necessary  
14 condition. Since that is something that has just been posed to  
15 me, that is a pretty significant change that I think Staff would  
16 really want to talk about internally.

17 Q. And I apologize for having to just toss that at  
18 you today, and I appreciate you're doing your best with that.  
19 And, hopefully, with posthearing briefing or further  
20 developments here, that can be clarified.

21 JUDGE JACOBS: Okay. Once again the floor is  
22 open to any questions from the Commission. And I will also ask  
23 for any recross at this time. Is there any recross from  
24 Missouri-American?

25 MR. COOPER: No, Your Honor.

1 JUDGE JACOBS: And does the District have any  
2 further questions for Mr. Busch?

3 MS. GRIFFIN: No, Your Honor.

4 JUDGE JACOBS: And Mr. Pringle, did you want an  
5 opportunity for redirect?

6 MR. PRINGLE: Yes, Judge, real quick.

7 REDIRECT EXAMINATION BY MR. PRINGLE:

8 Q. Mr. Busch, regarding the condition you were  
9 discussing with Judge Jacobs about from a recommendation, are  
10 those customers we discussed, are they customers of the City of  
11 Hallsville?

12 A. No, they are not.

13 Q. Are they simply direct customers?

14 A. They're -- it's my understanding that they are  
15 customers of the District and that the City is providing a  
16 wholesale service.

17 Q. Yeah. Thank you for correcting what I said. I  
18 said "direct", I meant District. Thank you, sir.

19 MR. PRINGLE: Nothing further.

20 JUDGE JACOBS: Okay. Thank you very much. I  
21 think that what we will do -- and thank you, Mr. Busch. I have  
22 asked that all witnesses remain available during the hearing to  
23 the degree reasonably possible. If that is a problem for you  
24 today, please ask Mr. Pringle to let us know. So thank you for  
25 your testimony. You are excused at this time.

1           It is 11:45. So rather than starting with  
2 another witness, I would propose that we would break for lunch  
3 until 1:00. Does that work for everyone? Okay.

4           So we will all reconvene at 1:00, and we will  
5 pick up at that time with Mr. Robertson. We are now in recess.  
6 I thank you all.

7           (OFF THE RECORD.)

8           JUDGE JACOBS: Okay. It's now 1:00, and we will  
9 go back on the record in our hearing today in SA-2021-0017. I  
10 believe where we left off was to get started with  
11 Mr. Robertson's testimony. Before we do that, I wanted to  
12 mention that I did have a chance to take a look at the document  
13 that Mr. Cooper circulated.

14           Does anyone else have any comment on that  
15 document or any concerns about it? I didn't see any reason why  
16 it wouldn't be adequate to help us establish the vote in regard  
17 to the Hallsville sewer system. Does anyone have any concerns?

18           Okay. My understanding is that that would be  
19 filed as Missouri-American Exhibit 8, and I would just ask that  
20 that be filed by the 12th, if possible.

21           Did you have any other comments or questions  
22 about that, Mr. Cooper?

23           MR. COOPER: I do not.

24           JUDGE JACOBS: Okay. Thank you so much.

25           Does anyone have any other preliminaries before

1 we get started with Mr. Robertson? Okay. So I believe I have  
2 spotted Mr. Robertson here on my screen.

3 And if you would speak up for a minute and we'll  
4 make sure we can hear you.

5 MR. ROBERTSON: Good afternoon, Judge.

6 JUDGE JACOBS: Okay. Good, we're able to hear  
7 you. Could you raise your right hand, sir?

8 (Witness sworn.)

9 JUDGE JACOBS: Thank you very much, sir.

10 Mr. Pringle, you may proceed.

11 MR. PRINGLE: Thank you, Judge. And, also, I  
12 apologize. This is my cat who keeps jumping on my shoulders.  
13 She was good all morning, but now something changed.

14 JUDGE JACOBS: You will be forgiven.

15 MR. PRINGLE: Thank you, Judge.

16 JARROD ROBERTSON, after being first duly sworn, testifies as  
17 follows:

18 DIRECT EXAMINATION BY MR. PRINGLE:

19 Q. Good afternoon, Mr. Robertson?

20 A. Good afternoon, Mr. Pringle.

21 Q. Can you please state and spell your name for the  
22 court reporter?

23 A. Jarrod Robertson. That's J-A-R-R-O-D  
24 R-O-B-E-R-T-S-O-N.

25 Q. And, Mr. Robertson, by whom are you employed and



1 what capacity?

2 A. I'm a data research analyst with the Missouri  
3 Public Service Commission.

4 Q. And are you the same Jarrod Robertson who  
5 contributed to Staff's recommendation to grant CCN previously  
6 entered into the record as Staff Exhibit 100?

7 A. I am.

8 Q. Did you also call out to prepare the surrebuttal  
9 testimony of Jarrod Robertson premarked as Staff Exhibit 101?

10 A. Yes.

11 Q. Do you have any additions or corrections  
12 regarding your surrebuttal testimony at this time?

13 A. I do not.

14 Q. If I were to ask you the questions contained in  
15 Exhibit 101, would your answers be similar, or substantially  
16 similar, today as those contained herein?

17 A. Yes.

18 Q. Are those answers true and correct, to the best  
19 of your knowledge and belief?

20 A. Yes.

21 Q. Thank you, Mr. Robertson.

22 MR. PRINGLE: Staff moves to enter Staff Exhibit  
23 101 into the record.

24 (WHEREIN; Exhibit 101 was offered into  
25 evidence.)

1 JUDGE JACOBS: Thank you very much.

2 Is there any objection to Staff's Exhibit 101,  
3 which is Mr. Robertson's surrebuttal testimony?

4 Okay. Staff Exhibit 101 will be admitted to the  
5 record.

6 (WHEREIN; Exhibit 101 was received into  
7 evidence.)

8 JUDGE JACOBS: I believe we might be getting a  
9 little bit of an echo from Mr. Robertson's line. So I'll ask  
10 Mr. Pringle to mute in case that is the source of that echo.

11 MR. PRINGLE: Not a problem.

12 JUDGE JACOBS: Thank you.

13 Okay. So any cross-examination from  
14 Missouri-American?

15 MR. COOPER: No, Judge. Thank you.

16 JUDGE JACOBS: And from the District?

17 MS. GRIFFIN: Yes. I have a few questions.

18 JUDGE JACOBS: Please, proceed.

19 MS. GRIFFIN: Thank you.

20 CROSS-EXAMINATION BY MS. GRIFFIN:

21 Q. Mr. Robertson, is it a fair assessment or  
22 statement from your testimony that you evaluated Mr. Ratermann's  
23 concern, the District's concerns, about the issue of continuing  
24 authority?

25 A. Yes.

1 Q. Did you or any other staff, to your knowledge,  
2 perform any evaluation of the boundaries of the Boone County  
3 Regional Sewer District outside of the continuing authority  
4 issue?

5 A. Could you rephrase that again. I'm concerned  
6 that you're asking about service area boundary or something  
7 beyond that.

8 Q. Well, there was some testimony and it's  
9 addressed in the Staff report about whether -- what the  
10 District's boundaries are for purposes of the Level 2 continuing  
11 authority. And my question is: Outside of that context,  
12 boundaries of the District's Level 2 continuing authority, did  
13 you or any other person on staff, to your knowledge, evaluate  
14 boundaries of the actual sewer district which it was a  
15 voter-approved district in terms of its service area?

16 A. Not that I am aware.

17 Q. And, so would it be fair to say that the  
18 evaluation of boundaries was limited to what the boundaries are  
19 for purposes of the District's Level 2 continuing authority?

20 A. Can you state that question again, please?

21 Q. Sure. I'm just trying to establish that the  
22 only boundaries relating to the District that factor into  
23 Staff's analysis were boundaries of where it could exercise its  
24 Level 2 continuing authority approved by the Missouri Clean  
25 Water Commission?

1           A.       I may not be understanding the question  
2 correctly in that in reviewing the application in front of us,  
3 Staff reviewed the service area boundaries as related to the  
4 City. And then are you asking me further information related to  
5 continuing authority?

6           Q.       Well, I'm asking, as I mentioned a moment ago,  
7 there is a discussion in the Staff's investigation report about  
8 whether the District's Level 2 continuing authority boundaries  
9 include incorporated areas of Boone County. And my question is:  
10 were those, for purposes of boundaries of the District and what  
11 the Staff considered in its investigation, were the only  
12 boundaries of the District that were evaluated Level 2  
13 continuing authority boundaries versus the District's entire  
14 service area, as approved by the voters of Boone County, when it  
15 was formed and approved and created as a public sewer district  
16 under Chapter 204.

17           A.       Correct.

18           Q.       Okay. And do you agree that the District's  
19 Level 2 continuing authority includes unincorporated areas of  
20 Boone County?

21           A.       Are you asking me to speak on DNR regulations,  
22 which I am not an expert on?

23           Q.       Okay. Did you form any opinion in your capacity  
24 of being a staff member of this commission, as to whether the  
25 District's Level 2 continuing authority includes unincorporated

1 areas of Boone County?

2 A. I believe that is more open-ended. We did not  
3 come to the conclusion. We left that as a posed question, in  
4 that we are not in a place to make such determinations.

5 Q. Okay. Thank you. And in conducting Staff's  
6 investigation, did you or to your knowledge any member of the  
7 staff evaluate any of the Boone County Regional Sewer District's  
8 regulations?

9 A. No.

10 Q. I heard some testimony earlier today from  
11 Mr. Busch about whether the Staff concluded that the condition  
12 proposed and recommended by Staff that Missouri-American  
13 negotiate -- initiated negotiations with the District for new  
14 contracts for the Sunnyslope and Silver Creek subdivisions  
15 within 30 days of receiving its operating permit from DNR,  
16 whether it was the Staff's opinion that that condition was  
17 essential for the requested CCN to be necessary and convenient  
18 for the public service.

19 And my question to you is: Does Staff believe  
20 that requiring that condition on the grant of the CCN is  
21 essential for the requested CCN to be necessary and convenient  
22 for the public service?

23 A. Continue service for those customers would be  
24 essential, yes.

25 MS. GRIFFIN: I don't have anything further at

1 this time.

2 JUDGE JACOBS: Because that was somewhat  
3 jumbled, Mr. Robertson, I'm going ask you to restate your answer  
4 to that question. It was the audio.

5 THE WITNESS: Continued service for the Staff,  
6 yes.

7 JUDGE JACOBS: Thank you very much.

8 I'm going to let the Commission know that if the  
9 commissioners have any questions, we can take those now. I do  
10 have a couple of questions to ask Mr. Robertson.

11 QUESTIONS BY JUDGE JACOBS:

12 Q. First of all, I know that there is an attachment  
13 Schedule JJR-2 -- JJR-s1 to your testimony. It did talk about  
14 your work experience, but it does not seem to include your  
15 educational background. Could you describe your educational  
16 background for us, sir?

17 A. I have undergraduate degree in biology from the  
18 Columbia College in Columbia, Missouri.

19 Q. So do you have a bachelor's degree, an  
20 associate's degree. What is your level?

21 A. Bachelor's, I'm sorry. Bachelor's degree.

22 Q. So that was a bachelor's degree in biology from  
23 Columbia College?

24 A. Correct.

25 JUDGE JACOBS: Thank you. Ms. Griffin had

1 already asked you about the condition that I was interested in  
2 asking you about, so I did not have any additional questions for  
3 you at this time. Unless commissioner questions come in, we can  
4 proceed now to recross if Missouri-American has anything that  
5 they would like to ask.

6 MR. COOPER: No questions, Judge.

7 JUDGE JACOBS: And the District, did you have  
8 any recross, Ms. Griffin?

9 MS. GRIFFIN: No, Judge.

10 JUDGE JACOBS: And did you want to do any  
11 redirect, Mr. Pringle?

12 MR. PRINGLE: Yeah, Judge, briefly.

13 REDIRECT EXAMINATION BY MR. PRINGLE:

14 Q. Mr. Robertson, as part of the water and sewer  
15 staff of this commission, is reviewing continuing authority a  
16 regular part of your duties?

17 A. No, it is not.

18 Q. Does the Commission have jurisdiction over  
19 continuing authority?

20 A. No.

21 Q. Who does?

22 A. The Department of Natural Resources.

23 Q. And during Staff's investigation, did Staff  
24 review any kind of minutes or agenda from the Department of  
25 Natural Resources pertaining to the District's award of Level 2

1 continuing authority?

2 A. Can you ask me that question again? I'm sorry.

3 Q. In Staff's recommendation, is there any  
4 discussion about meeting -- the agenda or minutes that led to  
5 the Clean Water Commission approving the District's Level 2  
6 continuing authority?

7 A. Regarding minutes, I would just have to look  
8 back at the testimony. I'm sorry.

9 Q. Okay. Well, if you could, could you -- do you  
10 have the Staff recommendation in front of you?

11 A. I sure can, and I do.

12 Q. All right. Thank you, Mr. Robertson.  
13 If you turn to Page 3 of Staff's recommendation.  
14 In Exhibit 100, that would be Page 8 of 25.

15 A. All right. So I got 15 of the memo, I believe.

16 Q. Oh, sorry, yes. Page 15 in the exhibit. That  
17 is correct.

18 A. I am there.

19 Q. Okay. When you look at Footnote 4 --

20 A. Yes.

21 Q. What was the result of Staff's review of the  
22 minutes and agenda of the Clean Water Commission when the Level  
23 2 authority was given to the District?

24 A. Well, essentially, that's -- the entirety of the  
25 collection system is within the municipal boundary and the



1 majority of the wastewater treatment facility is within  
2 unincorporated Boone County. And it does not appear that the  
3 District Level 2 authority was in the incorporated boundaries of  
4 the City.

5 Q. Why is that?

6 A. Has the District requested the CWC -- CWC  
7 approved Level 2 continuing authority in only the unincorporated  
8 areas of Boone County, as it existed at the time of CWC  
9 approval.

10 Q. Thank you, Mr. Robinson.

11 MR. PRINGLE: I have no further questions,  
12 Judge.

13 JUDGE JACOBS: Thank you very much. I don't  
14 believe we have any additional pending questions for  
15 Mr. Robertson. So thank you very much for your testimony today,  
16 sir, and you are potentially subject to recall. So if you can  
17 remain available for the duration of hearing, we would  
18 appreciate that.

19 MR. ROBERTSON: Thank you, Judge.

20 JUDGE JACOBS: Thank you. So I believe we would  
21 be ready, then, for Mr. Young, Matthew Young. And I can see  
22 Mr. Young. He is appearing on my screen on a different -- a  
23 different set of pages. So, hopefully, he'll pop over when he  
24 speaks up for us.

25 Mr. Young, can you speak up so we can hear you

1 today?

2 MR. YOUNG: (Inaudible).

3 JUDGE JACOBS: Okay. So I didn't hear that.

4 Let's check your audio and make sure you do not have something

5 muted on your end. You don't appear to be muted on our end.

6 I'm going to mute and unmute you and see if that does anything.

7 This says request unmute. So -- and that didn't change

8 anything.

9 So what I'm going to ask you to do, sir, is  
10 disconnect entirely and then rejoin the call. Okay?

11 I am assuming that no one else was able to hear  
12 Mr. Young.

13 MR. PRINGLE: That is correct, Judge. I  
14 couldn't hear him.

15 JUDGE JACOBS: Okay.

16 MR. YOUNG: I am back, Judge.

17 JUDGE JACOBS: Oh. Oh, great. Now we can hear  
18 you. Okay. Great. We can see you and we can hear you. So if  
19 you would like to raise your right hand, please, sir?

20 (Witness sworn.)

21 JUDGE JACOBS: Thank you, very much.

22 Mr. Pringle, you may proceed.

23 MR. PRINGLE: Thank you, Judge.

24 MATTHEW YOUNG, having first been duly sworn, testifies as  
25 follows:

1 DIRECT EXAMINATION BY MR. PRINGLE:

2 Q. Good afternoon, Mr. Young.

3 A. Good afternoon.

4 Q. Please state and spell your name for the court  
5 reporter.

6 A. My name is Matthew, M-A-T-T-H-E-W; Young,  
7 Y-O-U-N-G.

8 Q. Mr. Young, by whom are you employed and in what  
9 capacity?

10 A. I'm a senior utility regulatory auditor for the  
11 staff of the Missouri Public Service Commission.

12 Q. And are you the same Matthew Young who  
13 contributed to Staff's recommendation to grant CCN previously  
14 entered into the record as Staff Exhibit 100?

15 A. Yes.

16 Q. Did you also call to be prepare the surrebuttal  
17 testimony of Matthew Young premarked as Staff Exhibit 102?

18 A. Yes.

19 Q. Do you have any additions or corrections  
20 regarding your surrebuttal testimony at this time?

21 A. No, I don't.

22 Q. If I were to ask you the same questions  
23 contained in Staff Exhibit 102, would your answers be the same  
24 today, or substantially the same, as those contained herein?

25 A. Yes.

1 Q. Are those answers true and correct, to the best  
2 of your knowledge and belief?

3 A. Yes.

4 Q. Thank you, Mr. Young.

5 MR. PRINGLE: Staff moves enter Staff Exhibit  
6 102 into the record.

7 JUDGE JACOBS: Thank you very much.

8 (WHEREIN; Exhibit 102 was offered into  
9 evidence.)

10 JUDGE JACOBS: This testimony is Mr. Young's  
11 surrebuttal testimony, which has been premarked as 102. Does  
12 any party have an objection to admission of that exhibit?

13 Hearing no objection, Exhibit 102 will be  
14 admitted.

15 (WHEREIN; Exhibit 102 was received into  
16 evidence.)

17 JUDGE JACOBS: Okay. We are now ready to move  
18 on with cross-examination, and I'm going to ask Mr. Pringle to  
19 mute for us. Thank you. We can proceed to any cross from  
20 Missouri-American.

21 MR. COOPER: No questions, Your Honor.

22 JUDGE JACOBS: Thank you. And any questions for  
23 the District?

24 MS. GRIFFIN: Yes, Judge.

25 CROSS-EXAMINATION BY MS. GRIFFIN:

1           Q.       Mr. Young, in your surrebuttal testimony, you  
2 testified that the feasibility study submitted in an CCN  
3 application provides insight on the financial ramifications of  
4 the application and the affect the application may have on  
5 ratepayers of the new system and general body of ratepayers.

6                   And my question is: How can Staff make a  
7 credible determination as to the effect of Missouri-American's  
8 application on ratepayers, and the general body of ratepayers,  
9 without having information about the solution Missouri-American  
10 will use to remedy compliance issues of the Hallsville system  
11 and the cost of that remedy?

12           A.       While the cost of the solution was not included  
13 as part of the feasibility study, we did get those figures from  
14 data request response. Staff were able to work those into the  
15 figure and calculations and come to a general conclusion that  
16 it's likely not going to be detrimental.

17           Q.       Was Staff able to make any sort of determination  
18 in terms of an actual dollar amount of what the impact would be  
19 on the ratepayers and general body of ratepayers with the  
20 information it had?

21           A.       No. That kind of determination isn't  
22 impossible. By the time that Missouri-American incorporates the  
23 Hallsville system into its rates, everything will have changed  
24 from customer account to revenues to expenses to rate base. And  
25 so an exact determination is not possible.

1 MS. GRIFFIN: I have nothing further.

2 JUDGE JACOBS: That's my first time today I  
3 forgot to unmute. Okay.

4 Do we have any questions from commissioners at  
5 this point? If we do, please speak up.

6 QUESTIONS BY JUDGE JACOBS:

7 Q. I imagine, Mr. Young, that in your experience  
8 with the staff of the commission that you are experienced in  
9 reading tariffs. Is that something that you do?

10 A. I'm sorry, I'm experienced in what?

11 Q. Reading tariff sheets?

12 A. Tariff sheets are actually not -- preparing them  
13 and editing them are not part of my job. I do reference them.

14 Q. Do you know how to look at them to get  
15 information?

16 A. Yes.

17 Q. Okay. So I was hoping that we could talk about  
18 the feasibility study in this case. I understand that you  
19 worked with that; is that right?

20 A. That's correct.

21 Q. And the amount that's shown on the feasibility  
22 study in this case, the case that was submitted by  
23 Missouri-American, as far as the rate that would be charged for  
24 Hallsville customers, can you tell me what amount is stated on  
25 the study, understanding that it's a confidential document, but

1 that figure is not confidential?

2 A. Yes. The amount is \$38.75 per customer.

3 Q. Okay. And did you have an understanding about  
4 where that figure came from?

5 A. It's my understanding that that is  
6 Missouri-American's current tariff rate for this area of  
7 Missouri.

8 Q. Okay. And do you have access to EFIS at this  
9 time so that you can look at documents?

10 A. I do.

11 Q. Okay. So there is a document that was admitted  
12 into the record as Commission's Exhibit 300. And that was  
13 actually attached to a filing on April -- April 5th. So if  
14 you're looking at the most recent document, it should be the  
15 latest filing in the case?

16 A. Okay. I'm there.

17 Q. And then attached to that is the proposed  
18 Exhibit 300. Could you open that up, sir?

19 JUDGE JACOBS: If anyone else needs time to get  
20 to these documents, go ahead and let me know.

21 BY JUDGE JACOBS:

22 Q. Okay. Can you tell us -- I believe it is four  
23 pages. Can you just describe what we are looking at there?

24 A. This appears to be Missouri-American's current  
25 tariff. Page 1 would be for the city of Arnold. Page 2 would

1 be for all other areas of Missouri.

2 Q. And it must not be all of other areas because  
3 there are two more sheets. So what is Page 3?

4 A. Okay. A quick review of Page 2 appears to be a  
5 rate for high -- high-volume customers outside of the city of  
6 Arnold. And it's my understanding Missouri-American has a rate  
7 for low-volume customers, and that is on Page 3. Page 4  
8 discusses a volumetric charge that I am not familiar with.

9 Q. Is there a --

10 A. It looks like this from the City of Lawson.

11 Q. Okay. Is there a notation on the feasibility  
12 study that references Arnold in relation to the 38.75 figure?

13 A. Yes. There is a notation that's --

14 Q. What does it say?

15 A. It indicates -- it indicates the customers  
16 placed on an existing lower rate for Arnold, who are customers,  
17 what they used in the feasibility study, which means the 38.75  
18 tariff rates.

19 Q. Okay. So would that be the tariff rate, or the  
20 tariff sheet, which is third revised sheet number RT3.1? That  
21 indicates that 38.75 -- I'm sorry, \$38.75 rate?

22 A. Yes.

23 Q. Okay. So would it be your understanding that  
24 that's -- this is the tariff sheet that that rate was drawn  
25 from?



1 A. That is my understanding, yes.

2 Q. Okay. Okay. I just -- I did not want to make  
3 any assumptions and wanted to run that by someone who would  
4 know. So I thank you for your testimony on that.

5 JUDGE JACOBS: I don't think I have any  
6 questions. So unless there are Commission questions, we can  
7 proceed to see if there is any recross from Missouri-American.

8 MR. COOPER: No questions, Your Honor.

9 JUDGE JACOBS: Thank you.

10 And does the District have any additional  
11 questions?

12 MS. GRIFFIN: No.

13 JUDGE JACOBS: Any redirect from Staff?

14 MR. PRINGLE: No redirect, Judge.

15 JUDGE JACOBS: Thank you very much.

16 Okay. Mr. Young, thank you so much for your  
17 testimony today. You are excused from the stand. It is  
18 possible you could be recalled so I hope you will remain  
19 available today until we wrap this hearing up. Thank you.

20 Looks like we are ready do proceed with  
21 Mr. Williams, and I'm looking -- there we go. We have  
22 Mr. Daronn Williams, I see, has joined us.

23 Are you ready to proceed with the next witness,  
24 Mr. Pringle? Uh-oh. Think you were muted.

25 MR. PRINGLE: Yes, Judge.

1 JUDGE JACOBS: It's all right. I can see it's  
2 you. I made you mute. Okay.

3 So Mr. Williams, if you would please raise your  
4 right hand for us, sir?

5 (Witness sworn.)

6 JUDGE JACOBS: Thank you so much, sir.

7 Mr. Pringle, you may now proceed.

8 MR. PRINGLE: Thank you, Judge.

9 DARONN WILLIAMS, having been first duly sworn, testifies as  
10 follows:

11 DIRECT EXAMINATION BY MR. PRINGLE:

12 Q. Good afternoon, Mr. Williams.

13 A. Hello. Good afternoon.

14 Q. Please state and spell your name for the court  
15 reporter.

16 A. Sure. My name is Daronn A. Williams. Daronn is  
17 D-A-R-O-N-N, an A., Williams, W-I-L-L-I-A-M-S.

18 Q. And Mr. Williams, by whom are you employed and  
19 in what capacity?

20 A. I am an associate engineer with the Missouri  
21 Public Service Commission.

22 Q. Are you the same Daronn Williams who contributed  
23 to Staff's recommendation to grant CCN previously entered into  
24 the record as Staff Exhibit 100?

25 A. Yes.

1 Q. Did you also cause to be prepared the  
2 surrebuttal testimony of Daronn Williams premarked as Staff  
3 Exhibits 103C and 103P, and these are your corrected surrebuttal  
4 testimony?

5 A. Yes, that is true.

6 Q. Do you have any addition -- corrections  
7 regarding your corrected surrebuttal testimony at this time?

8 A. No, I do not.

9 Q. If I were to ask you the same questions  
10 contained in Exhibits 103C and 103P, would your answers today be  
11 similar, or substantially similar, as those contained herein?

12 A. Yes.

13 Q. And are those answers true and correct, to the  
14 best of your knowledge and belief, Mr. Williams?

15 A. Yes.

16 Q. Thank you, Mr. Williams.

17 MR. PRINGLE: At this time Staff moves to enter  
18 Staff Exhibits 103C and 103P.

19 (WHEREIN; Exhibits 103C and 103P were offered  
20 into evidence.)

21 JUDGE JACOBS: Okay. That's Staff Exhibit 103P  
22 and Staff Exhibit 103C, which are the corrected testimony of  
23 Mr. Williams in public and confidential form. And those  
24 corrected versions have been circulated to the parties, have  
25 been offered on the record. Are there any objections?

1                   Hearing no objection, those exhibits will be  
2 admitted

3                   (WHEREIN; Exhibits 103C and 103P were received  
4 into evidence.)

5                   JUDGE JACOBS: And we can now proceed to  
6 cross-examination, and I will ask Mr. Pringle to mute again for  
7 us. Thank you.

8                   We would start with Missouri-American, if there  
9 are any questions.

10                  MR. COOPER: No questions, Your Honor.

11                  JUDGE JACOBS: Okay. And then any questions  
12 from the District?

13                  MS. GRIFFIN: Yes, Judge. And just as a  
14 preliminary matter, I want to make sure that I don't divulge any  
15 confidential information. And I would note that the overview  
16 reasoning and estimate of the five possible long-term solutions  
17 proposed by Missouri-American that are contained in  
18 Mr. Williams' corrected surrebuttal testimony, are marked as  
19 confidential. I just wanted -- I have some questions about the  
20 evaluation, not so much the numbers. I wasn't sure if it was  
21 just the numbers that were needed to be treated as confidential  
22 or if all of it needed to be treated as confidential and it was  
23 marked. So I thought I would just ask.

24                  JUDGE JACOBS: Thank you for raising that issue.

25                  Mr. Cooper, can you help us?

1 Oh, I'm sorry. Well, this is an interesting  
2 question, actually, because it's the Company's proposals but it  
3 that has come to us through Staff. So, actually, Mr. Pringle  
4 and Mr. Cooper, please help us out here.

5 MR. PRINGLE: I would defer to Mr. Cooper and  
6 the Company seeing how it is their information.

7 MR. COOPER: That is what I would have done as  
8 well, if I was Mr. Pringle. Let me -- let me see if Mr. Luft is  
9 still on or Mr. Horan is still on --

10 MR. LUFT: I'm here.

11 MR. COOPER: -- so I can confirm this with them.

12 Mr. Luft, my thought is if that it's the  
13 numbers, it's the estimate that are truly confidential because  
14 of the potential for bidding those or -- and that the options  
15 themselves are not confidential. Would that be accurate?

16 MR. LUFT: That's right. That's exactly right.  
17 You don't want them bidding on --

18 MR. COOPER: Yeah. You don't want them to have  
19 those estimates at the time they bid.

20 MR. LUFT: (Inaudible).

21 MR. COOPER: Okay.

22 Is that clear, Ms. Griffin?

23 MS. GRIFFIN: Yeah, I think so. I think all of  
24 the questions I have just relate to docs and evaluation of the  
25 five options, not the dollar numbers. I just wanted to be sure.

1 MR. COOPER: Thank you.

2 CROSS-EXAMINATION BY MS. GRIFFIN:

3 Q. Mr. Williams, would you agree that in your  
4 testimony, which is your corrected surrebuttal testimony that is  
5 in the record, that you provide an overview in reasoning for  
6 five potential long-term solutions for the Hallsville system  
7 that were proposed by Missouri-American to Staff?

8 A. Yes, that is true.

9 Q. Okay. And is spray irrigation with land  
10 application one potential issue -- excuse me, one potential  
11 solution that you evaluated, as proposed by Missouri-American?

12 A. Yes.

13 Q. And in your analysis, did you conclude that the  
14 -- some issues with the landowners created a potential problem  
15 with effective use of this option?

16 A. It is an obstacle, if you will, that would need  
17 to be addressed for long-term use.

18 Q. Okay. Is that because in part of dirt-work  
19 projects done by one of the farmers that has resulted in  
20 partially treated wastewater entering waters of the state and  
21 resulting in noncompliance?

22 A. Well, in my opinion, the main factor is because  
23 of what currently the application -- the land for the  
24 application is not owned by the city. So the landowners, the  
25 farmers, themselves, essentially have the final say on when

1 their land can be used. So that is the ultimate issue with the  
2 current situation.

3 Q. So is it fair to say that based on your  
4 evaluation, the lack of control over the land since it's leased  
5 is an issue?

6 A. Yes.

7 Q. Okay. And you noted in your testimony that  
8 securing nearby land and owning the spray irrigation equipment  
9 would avoid the issues over control with the land being leased  
10 from farmers. Correct?

11 A. Yes. That is one -- one option to create a  
12 better situation for any form of land application.

13 Q. Okay. But you also indicated that it might be  
14 difficult for Missouri-American to acquire land for use for land  
15 application. Correct?

16 A. There is always an -- you know, the possibility  
17 of, you know, that not working out. So, it's --

18 Q. And what facts or information did you base your  
19 conclusion that it might be difficult for Missouri-American to  
20 acquire the land needed for land application?

21 A. Well, because the current -- it's my  
22 understanding that the -- that the farmland may be a  
23 multi-generational farmland. And it sounded like when I was on  
24 site during the inspection, that the farmers may or may not be  
25 interested in selling, you know. And -- but that will be an

1 issue that, you know, if -- if MAWC is granting the CCN, they  
2 would, you know, follow through and assess that situation at the  
3 time.

4 Q. Okay. So your conclusion was based on  
5 information you obtained at the time the Staff conducted an  
6 investigation of the Hallsville system?

7 A. Correct.

8 Q. And did you conduct any sort of evaluation of  
9 how much land Missouri-American would need to secure for spray  
10 irrigation with land application to be a viable option?

11 A. I did not. No.

12 Q. Do you know how much land is required by the  
13 current permit for land application for the Hallsville system?

14 A. I do not. No.

15 Q. If Missouri-American is unable to secure  
16 whatever land may be appropriate or necessary for land  
17 application, would you still -- is it still your that spray  
18 irrigation is a viable long-term solution for Missouri-American?

19 A. So the question is if they are unable to acquire  
20 the necessary land to conduct this spray -- the spray  
21 irrigation, would it still be a viable option?

22 Q. Yes, sir.

23 A. No.

24 Q. Okay. The next option that you evaluated was  
25 for a drip irrigation system. Correct?



1           A.       Correct.

2           Q.       Okay. And would you agree that this potential  
3 solution, like this spray irrigation option, would not be a  
4 viable option if Missouri-American would be unable to acquire  
5 land needed for land application?

6           A.       Well, since this is my first time testifying  
7 before the Commission and Judge, I do have a correction to that  
8 -- to the original question. So what would be the best way to  
9 address that?

10                   JUDGE JACOBS: I think you should just proceed  
11 to answer the question you were asked, sir. And if you need to  
12 elaborate to clarify something that you said earlier, you should  
13 be able to do so. Start with Ms. Griffin's question.

14                   THE WITNESS: Okay. So to answer your question  
15 about the drip irrigation and also the spray irrigation, yes, if  
16 land -- besides acquiring their own land to do the irrigation,  
17 another viable option is to basically work a better deal with  
18 the current farmers, so to better ensure that the land would be  
19 able -- so the land would be used as needed and more consistent  
20 than it is currently being used.

21 BY MS. GRIFFIN:

22           Q.       Okay. I think I understand what you're saying.  
23 Do you know, Mr. Williams, how many years that the land has been  
24 leased by the City of Hallsville from the two farmers that we  
25 are talking about?

1           A.       I know -- well, I do not know the overall time,  
2 but the contract information is in the Staff memo on when the  
3 contract started for farmer to the north near Cells 1 and 2.  
4 And I know that contract was for a 10-year period, and that  
5 expires, I believe, in -- I believe next year in 2022. But I'm  
6 not sure for, like, how long they've been using the land  
7 application system on those lands.

8           Q.       Okay. Is it your understanding that those  
9 leases have been continuing for a period of years?

10          A.       Yes, that is my understanding.

11          Q.       And is it also your understanding that there  
12 have been problems for a period of years with these particular  
13 farmers?

14          A.       Well, not exactly. It is my understanding that  
15 there's just been concerns regarding the field to the south near  
16 Cell 2. And if I may, the other contract for the farmers to the  
17 north actually ends September 15, 2023.

18          Q.       Okay. Do you know when that contract was  
19 renewed last?

20          A.       No. It was for a 10-year period. So I believe  
21 it went into effect in 2013.

22          Q.       Okay. And I'm looking at the case file  
23 memorandum right now, which is Schedule JAB-b2. Are the  
24 references to -- well, let me just read this sentence and then  
25 I'll ask you a question. On Page 11 of that report, in the

1 first full paragraph it says: The City has no control over when  
2 and how long the landowners operates a pivot. The City's  
3 operator told Staff during its inspection that even though the  
4 landowners and the City have a written agreement, the landowners  
5 often do not follow its terms, including failing to notify the  
6 City before the pivots are turned on and failure to keep a  
7 monthly log of that pivots' operation.

8                   Were you present when the city's operator made  
9 that statement of --

10           A.       Yes.

11           Q.       Okay.

12           A.       Yes, I was.

13           Q.       And so I guess what I'm trying to get at is, if  
14 there''s a history of these landowners not following the terms  
15 of the written agreement that they have with the City, why do we  
16 have any reasonable expectation to believe that if a different  
17 agreement is negotiated with Missouri-American, that they will  
18 follow the terms of that agreement?

19           A.       Well -- well, I'm not a lawyer so I can't really  
20 speak to those specifics. But -- but if the contract had more,  
21 you know, language regarding the day-to-day operation, then the  
22 expectations -- you know, there is a chance that -- that the  
23 farmers -- especially the farmer for the south, may be more  
24 amicable, you know, more easier to work with. But, yeah, that  
25 would be a question for an attorney, I would think.

1 Q. Okay. When evaluating the drip irrigation  
2 system option, did you factor into your analysis whether any  
3 permits would be required from Boone County?

4 A. Boone County, like the -- as in the county  
5 officials?

6 Q. Correct.

7 A. No, that was not evaluated.

8 Q. And when evaluating this option, did you  
9 consider whether the Boone County Regional Sewer District's  
10 regulations would require Missouri-American to submit any plans  
11 to the District for approval?

12 A. No.

13 Q. Okay. Well, assuming that additional approvals  
14 or permits were required from, either Boone County or the  
15 District, and Missouri-American was not able to obtain those  
16 approvals, would a drip irrigation system be a viable option for  
17 the Hallsville system?

18 A. Well, that would be a decision for them to make  
19 at that time.

20 Q. But as you are sitting here today, if there were  
21 permits or approvals that had to be obtained in order for them  
22 to alter the current Hallsville system and make it a drip  
23 irrigation system, would Missouri-American be able to do that  
24 without necessary approvals or permits?

25 A. If the parameters to allow a drip irrigation

1 system was not, you know -- was not acquired or obtained, then  
2 the option would not be viable.

3 Q. Okay. And then the third option that you  
4 evaluated was a new mechanical plant. Right?

5 A. Yes.

6 Q. And did you evaluate whether Missouri-American  
7 might need any additional land if it selected this as a  
8 long-term solution for the Hallsville system?

9 A. It just depends on the parameter of the plant,  
10 like how much -- how big of a footprint they would need, but in  
11 theory, like assuming that they would close one of the cells  
12 they would have plenty of land to operate a mechanical plant in  
13 lieu of a three-cell lagoon system. But there also is land, you  
14 know, near -- well, in the parcel of Cell 2, which is the  
15 largest cell that, you know, in theory that land could be used  
16 to, if they chose to, you know, use the lagoon system and the  
17 mechanical plant. But until pretty much anyone operates -- any  
18 new owner operates the system and gets real-time data, they will  
19 be able -- then they would be able to make an informed decision  
20 on the most viable option.

21 Q. Okay. And so I'm just trying to understand your  
22 testimony. The answer to my question, maybe, that you are  
23 unsure whether Missouri-American would need any available land  
24 at this time?

25 A. That is a decision that I am unable to make

1 because it depends on how big of a footprint the mechanical  
2 plant would require.

3 Q. Okay. When evaluating the action of a new  
4 mechanical plant, did you consider whether Missouri-American  
5 would need to obtain any permits from Boone County or approvals  
6 from the District?

7 A. The only -- the only outside entity that I  
8 considered was the Department of Natural Resources.

9 Q. Okay. And with respect to the department, are  
10 you referring to the need of Missouri-American to obtain a  
11 permit for the new plant?

12 A. Yes, an operating permit and also if -- for a  
13 mechanical plant, it would go from a no-discharge system to a  
14 discharge system and that would require an anti-degradation  
15 review.

16 Q. So you are saying that the proposition for a new  
17 mechanical plant would involve a discharge facility as opposed  
18 to a no-discharge facility?

19 A. Yes.

20 Q. Okay. I didn't see that in any of the  
21 information that was provided regarding that plant. So I have  
22 kind of the same question that I had at the end of our  
23 discussion of the drip irrigation system.

24 A. Sure.

25 Q. Assuming that Missouri-American was unable to

1 secure any necessary permit from Boone County or approval from  
2 the District, would constructing a new mechanical plant be a  
3 viable option?

4 A. Just as before, and with each option, if the  
5 parameters -- if the required parameters are -- if they are  
6 unsuccessful in acquiring the necessary parameters for this  
7 option, then they would need to choose a different option.

8 Q. Okay. Is it correct to say that the fourth  
9 potential long-term solution that Missouri-American proposed and  
10 that you've evaluated was the direct discharge with triple-point  
11 ammonia removal technology option?

12 A. Yes, as the fourth option.

13 Q. Okay. And is that option -- would involve a  
14 discharge. Correct?

15 A. Yes.

16 Q. Okay. Do you know if the existing Hallsville  
17 system is permitted by DNR as a discharge or a no-discharge  
18 facility?

19 A. It is currently permitted as a no-discharge  
20 system.

21 Q. Okay. And just for purposes of helping all of  
22 us understand, could you explain what the difference is between  
23 a discharge facility and a no-discharge facility?

24 A. I will do my best. It is my understanding, so a  
25 no-discharge system is a wastewater treatment system where --

1 where the -- where it is designed that the -- the waste -- the  
2 wastewater, also known as effluent, does not directly go into  
3 the waters of the state. And in the current system, the way the  
4 Hallsville system is currently been designed as no-discharge  
5 system, it's obviously set up with some irrigation fields. And  
6 the idea is for the crops and the soil to absorb the water  
7 without the water going to waters of the state.

8 And so a discharge system would be basically a  
9 wastewater treatment system where the effluent goes directly  
10 into the waters of the state.

11 Q. Okay. And isn't it generally true that  
12 generally speaking that a no-discharge facility would be more  
13 protective of the environment than a discharge facility?

14 A. I would say no. One, that's a question and it  
15 stands for DNR. And then two, that -- that would be something  
16 that where all factors would need to be evaluated to make that  
17 call.

18 Q. You mentioned in your testimony that the  
19 discharge with triple-point technology would be contingent on  
20 DNR's approval to allow Missouri-American to discharge from the  
21 existing lagoon used in the Hallsville facility. Is that  
22 because the lagoons currently are not allowed under the existing  
23 permit to discharge to the waters of the state?

24 A. Basically. As stated earlier, because the  
25 Hallsville wastewater treatment system is currently deemed as a



1 no-discharge system. To go from a no-discharge system to a  
2 discharge system, a anti-degradation review is required --

3 Q. Okay.

4 A. -- that DNR does after a CCN and operating  
5 permit are issued.

6 Q. And you kind of walked right into my next  
7 question, which was do you know what process Missouri-American  
8 would need to follow to seek DNR approval of this option, and it  
9 sounds like your testimony is that to pursue this option  
10 Missouri-American would need DNR to perform an anti-degradation  
11 review?

12 A. Right. And basically -- yes.

13 Q. Do you know what kind of an evaluation the DNR  
14 makes when it conducts an anti-degradation review?

15 A. I am generally familiar with it, but basically  
16 they would evaluate, like, what is the best option for the  
17 situation and if -- yeah. Actually, I am not familiar with all  
18 of the details of the anti-degradation review.

19 Q. Okay. Do you have any knowledge about how long  
20 the process normally takes to go through?

21 A. I do not. No, ma'am.

22 Q. Okay. And are you aware of any instances in  
23 which DNR has been approved a no-discharge facility, converting  
24 to a discharge facility using this triple-point ammonia removal  
25 technology?

1           A.       I am not familiar with all of the -- all of the  
2 wastewater treatment plants that DNR regulates, nor do I know of  
3 a specific example of a no-discharge system going to a discharge  
4 system using the triple-point. I do know of instances where the  
5 triple-point technology have been used and according to DNR,  
6 they -- there are a great number, depending on how you define  
7 that, of the triple-point system being used, and it has been  
8 deemed to be successful to reaching DNR at the moment standards.

9           Q.       But you're not aware that any of those  
10 facilities that you are referencing, of them having formerly  
11 been permitted as no-discharge facilities?

12          A.       That is correct. I am not aware of any that  
13 went from a no-discharge to a discharge system.

14          Q.       Okay. When you evaluated this triple-point  
15 potential solution, did you consider whether Missouri-American  
16 would have to obtain the approvals from Boone County for permits  
17 or permits or approvals from the District?

18          A.       It's my understanding that they would not have  
19 to receive any special permits from those entities. I guess the  
20 technology gets used by a number of sewer facilities throughout  
21 the state.

22          Q.       Okay. The last option that you evaluated was  
23 the direct discharge merged with plant upgrades. Correct?

24          A.       Yes.

25          Q.       Is this, as it sounds, also an option that would

1 involve converting the Hallsville facility from a permitted  
2 no-discharge facility to a discharge facility?

3 A. Yes, that is correct.

4 Q. Okay. And so would your testimony be the same  
5 as for the triple-point option, in terms of this option would  
6 require DNR approval and require an anti-degradation review  
7 before it could be used?

8 A. Yes. Yes, it would. It would also require the  
9 anti-degradation review.

10 Q. Okay. And did you consider this option whether  
11 Missouri-American would have to obtain any approvals or permits  
12 from Boone County or the District to implement it?

13 A. It is my understanding, just like with the other  
14 option, that the only approval they would need after getting a  
15 CCN from the commission here, would be approval permits from the  
16 Missouri DNR.

17 Q. Okay. And if the Missouri -- excuse me. My  
18 computer's giving me a little feedback here. In the event that  
19 the DNR would not approve either the direct discharge with  
20 triple-point technology option or the direct discharge with  
21 plant upgrade option, would those be viable options for  
22 Missouri-American for the Hallsville system?

23 A. Yes. If Missouri-American receives permanent  
24 roadblocks to any of the situations -- I mean any of the  
25 proposals, then, you know, they would need to find a viable

1 option.

2 Q. I don't have anything further at this time.

3 JUDGE JACOBS: Okay. Thank you very much.

4 We would now have the floor open for any  
5 questions from commissioners, if we have any.

6 There was one thing I wanted to clear up,  
7 Mr. Williams.

8 THE WITNESS: Yes, Judge.

9 QUESTIONS BY JUDGE JACOBS:

10 Q. Okay. So I just wanted to ask you can -- is a  
11 mechanical plant something always -- would be classified as a  
12 discharge system or might it be a no-discharge system depending  
13 on how it is set up?

14 A. Thank you, Judge. That's a good question. With  
15 my understanding, typically -- typically that it is a discharge  
16 system. But, of course, depending on the situation, it could be  
17 a no-discharge -- a no-discharge system with land application or  
18 a different means, to, you know, deal with the final there --  
19 hauled off or, you know -- but typically I would hate to throw  
20 out a number, but 99 percent of the time, or at least I've only  
21 seen a mechanical plant being a discharge system. But, you  
22 know, given the parameters, it is possible for it to become a  
23 no-discharge -- it will be a no-discharge system as well.

24 Q. Okay. Thank you for clarifying that. That is  
25 helpful. There was another thing I wanted to clarify with you.

1           Is someone else trying to get in there? Perhaps  
2 I'm hearing my own voice bouncing back at me. Okay.

3           I was hoping that you could look at Schedule --  
4 or a schedule attached to Mr. Horan's surrebuttal testimony,  
5 which is now in evidence. That's Schedule MH-5C, and that is a  
6 confidential schedule, but I'm not really asking you about any  
7 substance there. What I wanted to do was ask if you could tell  
8 me the relationship between that schedule and the schedule  
9 attached to your own testimony, which is schedule DAW-S2, which  
10 is multiple pages.

11           A.       Okay.

12           Q.       I don't want to make an assumption about the  
13 relationship between those schedules. So I was hoping you could  
14 make it clear for us.

15           A.       Sure. And that is -- well, you said MH-5C. Let  
16 me pull that up. I believe I know which schedule that you are  
17 speaking of.

18           Q.       It is multicolored in the version I saw. It  
19 has --

20           A.       Yes.

21           Q.       Okay.

22           A.       And it's 5C, okay. Yes. So yes. What is  
23 presented in MH-5C is the exact same thing that I have. Instead  
24 of having it color-coded like Mr. Horan, I just had them on  
25 separate pages for ease.

1 Q. Okay. So I just wanted to make sure that I did  
2 not have to go through those line by line and see if there are  
3 any differences. Essentially, did you take information provided  
4 to you from Missouri-American and then converted it to the  
5 multiple pages to attach to your own testimony?

6 A. I did --

7 Q. Okay.

8 A. -- yes.

9 Q. All right. Thank you.

10 JUDGE JACOBS: Okay. Do we have any recross  
11 from Missouri-American?

12 MR. COOPER: No questions from questions from  
13 the bench.

14 JUDGE JACOBS: Thank you.

15 And anything from the District, Ms. Griffin?

16 MS. GRIFFIN: No, Judge.

17 JUDGE JACOBS: I feel like we have some audio  
18 problems that are developing here this afternoon. I hope they  
19 go away.

20 Any redirect by Staff?

21 MR. PRINGLE: Yes, Judge.

22 REDIRECT EXAMINATION BY MR. PRINGLE:

23 Q. Mr. Williams, regarding the five proposals in  
24 your surrebuttal testimony, how practical is it for MAWC to have  
25 detailed proposals prior to operating the system themselves?

1           A.       Well, it is not practical, nor does Staff expect  
2 a detailed proposal before they operate the system.

3           Q.       Why is it so important for Missouri-American to  
4 operate the system itself before coming forward with the  
5 detailed proposal?

6           A.       Sure. It is important for them to be able to  
7 operate the -- the -- to operate the plant and get real-time  
8 data because there's various moving parts and parameters that  
9 would need to be identified and evaluated. And until those  
10 issues and any day-to-day operation -- I'm sorry. It's  
11 important to see the day-to-day operations to develop a  
12 permanent long-term -- long-term solution for the concerns of  
13 the system.

14          Q.       And is there anything limiting Missouri-American  
15 Water from choosing only from these five proposals?

16          A.       No. No.

17          Q.       And I just wanted to clarify from your  
18 cross-examination by the District, Mr. Williams. Did you say  
19 that you had a correction you wanted to make to your testimony  
20 regarding drip irrigation or is that not the case?

21          A.       Yes. I'll take the opportunity. So yes, I  
22 wanted to just share that with the land application options, the  
23 spray irrigation, and drip irrigation, those options could be  
24 used with the current farmers or -- oh, my gosh -- they could be  
25 used with current farmers and with adequate storage and land

1 application. And they can also be used if Missouri-American  
2 purchased additional land.

3 Q. Okay. Mr. Williams, is that a correction or  
4 just an elaboration?

5 A. An elaboration.

6 Q. Thank you, Mr. Williams.

7 MR. PRINGLE: I have nothing further, Judge.

8 JUDGE JACOBS: Thank you very much.

9 Thank you for your testimony today,  
10 Mr. Williams. You are excused at this time, but please remain  
11 available if at all possible until the hearing has completed in  
12 case we need to recall you. Okay?

13 THE WITNESS: I will, Judge. Thank you.

14 JUDGE JACOBS: Thank you very much.

15 And I do understand that the Commission will not  
16 have additional questions for Mayor Carter today. Do any other  
17 parties have any reason why they would request him to be  
18 recalled at this time so we can let him know that he doesn't  
19 actually have any childcare concerns this afternoon? Okay.

20 Mr. Cooper, you can go ahead and let Mr. Carter  
21 know or if he is with us, Mayor Carter, thank you so much for  
22 appearing today. You will be excused and you should not be  
23 subject to recall.

24 MR. COOPER: Thank you, Judge.

25 JUDGE JACOBS: Okay. And speaking of recall.



1 Because it occurs to me that I -- given Missouri-American's  
2 recent, at least, approval of the stipulation and agreement, I  
3 think there are usually a few other subsequent steps that might  
4 take place after a rate case resolve, but it appears that  
5 Missouri-American's pending rate cases, the Commission just  
6 issued the Order approving the Stipulation and Agreement. My  
7 understanding is that Staff's proposal in this case is that  
8 depreciation rates will be based on the previous rate case, and  
9 then those rates were, in fact, established in the current rate  
10 proceeding. So the issue is, can we just stipulate that those  
11 are indeed the facts? Is it necessary to bring a Staff witness  
12 back to confirm that information? What would you prefer,  
13 Mr. Pringle?

14 MR. PRINGLE: Could you repeat that one more  
15 time, Judge. You cut out towards the end.

16 JUDGE JACOBS: Oh, I'm -- I'm sorry. Okay. I  
17 apologize. I hope my audio is okay.

18 All right. So this pertains to Staff's  
19 recommendation as to depreciation rates that would be required  
20 if a certificate were approved. My understanding is that Staff  
21 was recommending depreciation rates that were said in what had  
22 been Missouri-American's most recent rate case. And I believe  
23 that those were carried forward into the Stipulation and  
24 Agreement the parties reached in the very most recent rate case,  
25 which is in the process of resolution right now, that the

1 Commission Order issued on Wednesday.

2                   So my question is: Is it necessary to bring  
3 back a Staff witness to confirm the recommendation and let us  
4 know which cases those are? I don't think this is an issue in  
5 controversy. So the alternative is to stipulate that that is  
6 the state of affairs.

7                   MR. PRINGLE: I would lean towards stipulate,  
8 Judge. It is Staff's understanding that the depreciation rates  
9 are not changing between the rate cases. We'd be fine to  
10 stipulate. Really, we leave it up to you. If you prefer to  
11 have a Staff witness come forward, we can do that, too, but I  
12 think stipulation would be the easiest way forward.

13                   JUDGE JACOBS: And Mr. Cooper?

14                   MR. COOPER: We certainly would stipulate that  
15 there's no change in the depreciation rates from case to case,  
16 as identified in the stipulation.

17                   JUDGE JACOBS: Okay. Thank you.

18                   And Ms. Griffin?

19                   MS. GRIFFIN: We would stipulate as well.

20                   JUDGE JACOBS: Okay. I'm comfortable that  
21 because this is not controversial in any way, that combined with  
22 your statements all today on the record and what is expressed in  
23 Staff's recommendation that this should be well-established for  
24 purposes of our record. So thank you for that.

25                   Okay. We have just finished with Mr. Williams,

1 which means we've finished with Staff's witnesses and we are  
2 ready to get started with the District's witnesses. So I  
3 anticipate that Mr. Ratermann's testimony may be extended to  
4 some degree. We're about 15 shy of when I would normally want  
5 to take a break. So I'm going to propose that we take a break  
6 right now until 2:30, and get back to start with Mr. Ratermann.  
7 So we will be in recess until 2:30. Thank you.

8 (OFF THE RECORD.)

9 JUDGE JACOBS: All right, everybody, we are back  
10 together. We will get back on the record for this hearing,  
11 it's SA-2021-0017. It is now 2:30 p.m. Mr. Williams mentioned  
12 to me that I had neglected to ask the Office of the Public  
13 Counsel if the Office of the Public Counsel would also agree to  
14 the stipulation concerning the depreciation rates and Staff's  
15 recommendation.

16 Mr. Williams, would you like to go ahead?

17 MR. WILLIAMS: Yes. Staff will stipulate to  
18 that and Staff also has no objection if the Commission wants to  
19 take notice of its Order yesterday approving the Stipulation and  
20 Agreement in Case Number WR-2020-0344.

21 JUDGE JACOBS: I appreciate that suggestion and  
22 that may, in fact, be useful. So I think we've now established  
23 that OPC has no objection to the Stipulation that the other  
24 parties had agreed to. I think it may be useful to us, in this  
25 case, to take notice of the Order issued in that rate

1 proceeding, which is WR-2020-0344, I believe.

2 MR. WILLIAMS: That's correct.

3 JUDGE JACOBS: Okay. Great. So are there any  
4 objections to that Order being incorporated into the record in  
5 this case by reference? And that would be the Order issued at  
6 the Commission's agenda on Wednesday, April 7th, in  
7 WR-2020-0344. I'm seeing that Staff counsel, Mr. Pringle, has  
8 indicated no objection. Mr. Cooper has no objection as well.  
9 And Ms. Griffin? And in this case, it was the suggestion of the  
10 Office of the Public Counsel so happily, OPC has been included.  
11 So that is what we will do in this case. That Order is  
12 incorporated by reference into the record in this case. Thank  
13 you very much.

14 All right. So we already, I believe, to get  
15 started with the District's witnesses, unless there are any  
16 parties with any preliminaries that they would like to bring up  
17 before we bring Mr. Ratermann on. It looks like everyone is  
18 ready. Ms. Griffin appears to be ready.

19 So, Mr. Ratermann, if you would like to initiate  
20 your video line and speak up and we will get you sworn in.

21 MR. RATERMANN: Good afternoon, Judge.

22 JUDGE JACOBS: Okay. Here you are coming on my  
23 screen here. There we go. Very difficult visually, the way  
24 people are moving around. I keep looking for people's faces in  
25 one spot and they move so then I can't find them. We now have

1 Mr. Ratermann with us.

2 Mr. Ratermann, could you raise your right hand,  
3 sir?

4 (Witness sworn.)

5 JUDGE JACOBS: Thank you, very much.

6 I'm not sure if you are responsible for this  
7 line, Ms. Court Reporter, but it seems like I might be picking  
8 up something from your line. Are you definitely muted? Okay.

9 All right. So, Mr. Ratermann, I believe we are  
10 ready to proceed. Something is coming off of a line. I'm going  
11 to mute myself and that might help, but you can let Ms. Griffin  
12 take over. Thank you.

13 MS. GRIFFIN: Thank you, Judge.

14 TOM RATERMANN, having been first duly sworn, testifies as  
15 follows:

16 DIRECT EXAMINATION BY MS. GRIFFIN:

17 Q. Good afternoon, Mr. Ratermann. Could you please  
18 state and spell your name for the court reporter?

19 A. My name is Tom Ratermann. First name's T-O-M.  
20 My last name is R-A-T-E-R-M-A-N-N.

21 Q. By whom are you employed and in what capacity?

22 A. I'm employed by the Boone County Regional Sewer  
23 District. I am the general manager.

24 Q. Are you the same individual who caused to be  
25 prepared the rebuttal testimony of Tom Ratermann, which we have

1 premarked as Exhibit 200?

2 A. Yes.

3 Q. Do you have any additions or corrections  
4 regarding your rebuttal testimony?

5 A. Yes, I do have some additions. I would like to  
6 respond to Mr. Horan and Mr. Robertson and Mr. Williams.

7 Q. Do you --

8 MR. COOPER: Judge, I'm going to object to that.  
9 I don't think that that's a proper part of our process to  
10 supplement testimony in this fashion at this point in the case.

11 JUDGE JACOBS: Could you just explain,  
12 Ms. Griffin? I apologize.

13 MS. GRIFFIN: Well, there were some matters that  
14 came up in the surrebuttal testimony that the District has not  
15 had the ability to address, and that is the purpose of this  
16 testimony, is to respond to those items that were raised after  
17 we filed our testimony.

18 JUDGE JACOBS: So the first thing you are doing  
19 here is introducing on the record Mr. Ratermann's filed  
20 testimony; is that right?

21 MS. GRIFFIN: Well, I wasn't sure since, as I've  
22 indicated previously, I'm new to the process. Since he had  
23 additions, what I had planned to do was ask him questions about  
24 additional information raised after his testimony was filed, and  
25 then enter his written testimony into the record. Obviously, I

1 could reverse the order. It doesn't really matter to me.

2 JUDGE JACOBS: Okay. So it sounds like we have  
3 a dispute developing about to what degree you can ask any  
4 additional questions, based on matters that were raised in  
5 surrebuttal. Or -- yes, in surrebuttal.

6 So could you tell us more about these specific  
7 issues so that I can consider what Mr. Cooper might be saying,  
8 and I'll let Mr. Cooper respond to that?

9 MS. GRIFFIN: Certainly. Basically, I have some  
10 questions that there's a dispute raised about what the  
11 boundaries of the District's are and what its authority is  
12 vis-`-vis Missouri-American, if, in fact, the requested CCN is  
13 granted by this Commission to enable the sale to go forward.  
14 And we wanted to address some matters regarding the continuing  
15 authority issues and the general authority of the District that  
16 were raised in that surrebuttal testimony. We also wanted to  
17 address some of the treatment options that were discussed and  
18 evaluated in surrebuttal testimony that was filed by Staff.

19 JUDGE JACOBS: So I think what might make sense  
20 is to take these one issue at a time and one question at a time  
21 rather than debate whether Ms. Griffin can ask any additional  
22 questions of this witness. Of course, I'm happy to hear what  
23 Mr. Cooper and Mr. Pringle have to say about this.

24 Mr. Cooper?

25 MR. COOPER: Yes, Judge. We are working with

1 the procedural schedule that, you know, was set up a long time  
2 ago. It set out the rounds of testimony. And what Ms. Griffin  
3 seems to be discussing is, essentially, an additional round of  
4 testimony that would be conducted live in a way that we would  
5 not be able to respond to it. I think that the applicant has  
6 the burden, is supposed to kind of have -- is supposed to have  
7 the last shot at that. That is why it was set up in a direct  
8 rebuttal, surrebuttals sort of fashion.

9           So I guess I just think that it complicates this  
10 process considerably if we're going to have a live additional  
11 round of testimony at the hearing.

12           MR. PRINGLE: And I would second Mr. Cooper's  
13 objections, Judge. It's just the point of the prefiled  
14 testimony is for us to review it prior to hearing. Having live  
15 testimony at this point I think would be unfair to the other  
16 parties. And, further, I think cross-examination really is the  
17 way to handle that surrebuttal, and I just think -- I agree with  
18 Mr. Cooper. It does not seem proper right now.

19           JUDGE JACOBS: Would Mr. Williams with OPC want  
20 to provide any commentary on this issue?

21           MR. WILLIAMS: I can give you some input on,  
22 based on my experience, over the past 20-plus years in  
23 practicing in front of the Commission. First of all, there may  
24 be changes to his testimony in light of what people said later.  
25 In other words, it wouldn't be what he said before in the



1 prefiling would not be his testimony currently, and so there  
2 would be a revision for that reason. In the past, I've seen the  
3 Commission where someone raises a new issue in surrebuttal,  
4 allow parties to respond to that.

5 JUDGE JACOBS: Okay. And I do apologize to  
6 everyone for needing to go back through this again. But  
7 Ms. Griffin, I believe one of the issues that I recall that you  
8 raised was the possibility of asking Mr. Ratermann questions  
9 about the proposed upgrades or system modifications that were  
10 identified in Missouri-American and Staff's surrebuttal; is that  
11 right?

12 MS. GRIFFIN: Yes.

13 JUDGE JACOBS: Okay. So just taking that single  
14 issue alone of these specific modifications or upgrades  
15 addressed in surrebuttal, I would consider that that is  
16 something that was elaborated on significantly in surrebuttal.  
17 And it seems to me that it would be appropriate to allow  
18 Mr. Ratermann to address that. In fact, I believe that the  
19 bench intended to ask Mr. Ratermann questions on those issues.

20 Would anyone like to argue a contrary position  
21 on that point?

22 Mr. Cooper?

23 MR. COOPER: Only what I said before. I mean I  
24 think we're -- we should have the last say on issues because it  
25 is our burden. So if we can have an additional opportunity to

1 file testimony on this issue, that would be appropriate, I  
2 think.

3 MR. PRINGLE: I guess I would add, Judge, if the  
4 bench had questions about those proposals for Mr. Ratermann, I  
5 think that allows Ms. Griffin to address it on redirect, but  
6 doing a direct right now I still think is kind of improper.

7 JUDGE JACOBS: Okay. So that's one issue that  
8 you have raised, Ms. Griffin. Would you remind me of the other  
9 matters so that I can -- so that I can weigh this all out?

10 MS. GRIFFIN: Yes. Well, the other issue is,  
11 obviously, Missouri-American has sought to add two new exhibits  
12 relating to this continuing authority issue, which also goes to  
13 the, just the authority in general of the District's that is  
14 being challenged by both -- or questioned by Staff and by  
15 Missouri-American. And I felt it was only fair for us to be  
16 able to respond with information, additional information,  
17 regarding what we believe the authority of the District is to  
18 fully make our record.

19 JUDGE JACOBS: So are you referring to two  
20 exhibits that appear on Missouri-American's proposed exhibit  
21 list, but have not been offered at this time?

22 MS. GRIFFIN: Yeah, I'm referring to those  
23 exhibits. I'm also referring to portions of exhibits that we  
24 did not go into detail with that were filed with the rebuttal  
25 testimony that, you know, as the continuing authority authority

1 is questioned in surrebuttal that I think it is only fair that  
2 the District have a chance to respond to that and give its  
3 position on what its authority is.

4 I mean we've said the whole time that we have  
5 been involved in this proceeding, that we believe we have  
6 long-term planning authority, legal authority, that poses an  
7 obstacle for this transaction. Obviously, the Staff and  
8 Missouri-American have a different position. But now that they  
9 have volleyed this back, we feel like we won't have a complete  
10 record if we aren't allowed to put some additional evidence into  
11 the record.

12 JUDGE JACOBS: Okay. We've got an issue with  
13 regard to what Mr. Ratermann might want to tell us about other  
14 proposals that were identified in surrebuttal to upgrade the  
15 system, and then now additional information that you would like  
16 to offer in regard to continuing authority which to some degree  
17 is prompted by some exhibits that the Company has identified but  
18 not yet offered.

19 MS. GRIFFIN: Judge, just to clarify, continuing  
20 authority as well as authority of the District under its own  
21 regulation, which is a part of the whole continuing authority.  
22 There is overlap on those issues, and those regulations are  
23 included in one of the schedules to Mr. Ratermann's testimony.

24 JUDGE JACOBS: Okay. And are those the only  
25 issues that you were hoping to ask Mr. Ratermann to address at

1 this time under questioning from you?

2 MS. GRIFFIN: I believe those topics, yes, are  
3 encompassed by that. It's the continuing authority, the  
4 authority under the regulations that are part of that schedule,  
5 the boundaries of the District which goes to our Exhibit 203,  
6 that was added to our exhibit list, and the treatment options  
7 that we discussed earlier.

8 JUDGE JACOBS: Is there a reason why all of the  
9 evidence that you wanted to present, as to continuing authority,  
10 was not included in your rebuttal filing?

11 MS. GRIFFIN: Yes. Because they raised it in  
12 their surrebuttal testimony and schedules. I mean we're in a  
13 proceeding today, and Missouri-American is being allowed to  
14 change a portion of its application and I feel that it's only  
15 fair that we be allowed to respond to issues, matters that were  
16 raised in surrebuttal.

17 MR. COOPER: You know, Judge, the continuing  
18 authority order -- continuing authority issue was raised in  
19 rebuttal of the Sewer District. So they certainly had an  
20 opportunity to discuss that issue. I believe treatment options  
21 to a great extent were addressed in our direct. So there was  
22 also the opportunity to address those in rebuttal testimony.

23 MR. PRINGLE: Yeah, Judge, we've had a  
24 continuing authority in our Staff recs, that was also in our  
25 direct. And I guess a lot of these I'm hearing it sounds more

1 like this is -- this relates more back to briefing than a need  
2 for direct as to interpretation of the authority. I guess I  
3 don't see a reason for the direct right now. And if  
4 Missouri-American Water were to use the exhibits they shared  
5 yesterday in a cross-examination of Mr. Ratermann, Ms. Griffin  
6 will have a chance to question him on redirect.

7 JUDGE JACOBS: So as far as proposed exhibits  
8 that have not been offered, I don't think that we can use those  
9 at this point as a basis to say that an issue has been opened  
10 up. It is a different story if those exhibits are, in fact,  
11 used, as Mr. Pringle has just said. So I'm not persuaded that  
12 identifying potential documents on an exhibit list, which is  
13 what the Commission asked these parties to do, should be relied  
14 upon to -- before those exhibits are even offered to bring in  
15 issues that may be new issues.

16 The District's contention, as to continuing  
17 authority, seems to me, to have been present at the very start  
18 of the District's intervention in this case. At the same time,  
19 I think the Commission should have the benefit of the  
20 information that is available to make a good decision. So I  
21 don't think that necessarily we should be overly concerned if  
22 every single thing wasn't identified at a certain point in the  
23 process is, in fact, that would help guide a good Commission  
24 decision.

25 I believe that what I would prefer to do is to

1 ask Ms. Griffin to proceed in the way that commission testimony  
2 typically proceeds. And to offer Mr. Ratermann's testimony and  
3 allow the other parties to engage in cross-examination, and as  
4 is always expected in commission proceedings, then questions  
5 come from the bench and those are responded to. And, although,  
6 this might be a little bit unconventional, I think what I would  
7 prefer to do is see where we end up at that point, after we have  
8 gone through the ordinary process, and everyone who has come to  
9 this hearing today prepared has asked all the questions that  
10 they are prepared to ask of Mr. Ratermann. I think it's  
11 possible that having done that, we make end up in a situation  
12 where the District has provided virtually all the information  
13 that they think they would like to put in front of the  
14 Commission.

15           So, essentially, what I'm asking the parties to  
16 do is table this issue for the moment. And I'm asking  
17 Ms. Griffin to proceed to offer Mr. Ratermann's testimony, as it  
18 was filed, and tender the witness for cross, and see where cross  
19 goes, and see where questions from the bench go. And then if we  
20 have a dispute at that point that has to be resolved about  
21 whether we need to use -- to allow some additional questions  
22 that go into other areas, then we can take that up at that  
23 point. I think I can make a better decision when I have more  
24 information about what Mr. Ratermann is going to say on cross  
25 and what answers he has for the bench.

1 Does anyone have any objection to that  
2 procedure? Okay.

3 So I think where we would be now is I believe  
4 Ms. Griffin would offer Mr. Ratermann's prefiled testimony.

5 MS. GRIFFIN: Yes, Judge.

6 BY MS. GRIFFIN:

7 Q. Mr. Ratermann, if I were to ask you questions  
8 contained in Exhibit 200, would your answers be the same today  
9 as they are in Exhibit 200?

10 A. Yes.

11 Q. And are those answers true and correct to the  
12 best of your knowledge and belief?

13 A. Yes.

14 Q. Thank you, Mr. Ratermann.

15 MS. GRIFFIN: At this time the District wish to  
16 enter Exhibit 200 into the record.

17 (WHEREIN; Exhibit 200 was offered into  
18 evidence.)

19 JUDGE JACOBS: Thank you very much, Ms. Griffin.  
20 Are there any objections to District's Exhibit 200, which is  
21 Mr. Ratermann's prefiled rebuttal testimony? All right.  
22 Hearing none, Exhibit 200 will be admitted to the record.

23 (WHEREIN; Exhibit 200 was received into  
24 evidence.)

25 JUDGE JACOBS: We can now proceed to any

1 cross-examination of Mr. Ratermann, and we would start with  
2 Staff.

3 MR. PRINGLE: Thank you, Judge.

4 CROSS-EXAMINATION BY MR. PRINGLE:

5 Q. Good afternoon, Mr. Ratermann.

6 A. Good afternoon.

7 Q. Now, how many sewer customers does the District  
8 currently serve?

9 A. About 7,200.

10 Q. And how many wastewater treatment facilities  
11 does the District operate?

12 A. Twenty-one.

13 Q. Now, if the Commission were to reject  
14 Missouri-American Water's application for a CCN, that wouldn't  
15 mean that the District will automatically get the City of  
16 Hallsville's system. Correct?

17 A. No.

18 Q. Hallsville would continue to operate the system  
19 on its own, as it has for years now. Correct?

20 A. -- offer it to Boone County Regional Sewer  
21 District.

22 JUDGE JACOBS: So we did not get that answer. I  
23 apologize for interrupting. It appears Mr. Ratermann's  
24 connection is not great. So what I'm going to do is ask  
25 Mr. Ratermann if he can hear me, could you disengage your video



1 for us and just try to rely on audio? Sometimes that helps.

2 And then I'm going to ask Mr. Pringle to repeat  
3 his question. I apologize for that. Thank you.

4 BY MR. PRINGLE:

5 Q. Mr. Ratermann, the question was: Hallsville  
6 could continue to operate the system on its own, as it has for  
7 years. Correct?

8 A. They could until they decided not to, in which  
9 case they would need to offer it to the Boone County Sewer  
10 District.

11 Q. And it's your position, Mr. Ratermann, that  
12 they'd have no choice but to offer it to the District if they do  
13 not want to run their system; is that correct?

14 A. Correct.

15 Q. Now, has the District never exercised its Level  
16 2 continuing authority to prevent the sale of municipally owned  
17 systems to a different service provider?

18 A. No.

19 Q. And the District also did enter a proposal to  
20 purchase the system from Hallsville. Correct?

21 A. Yes.

22 Q. But in the end, the City chose Missouri-American  
23 Water over the District; is that correct?

24 A. It appears that way.

25 Q. Thank you. Mr. Ratermann. I have no further

1 questions.

2 JUDGE JACOBS: Thank you. We can proceed to any  
3 cross-examination from Missouri-American.

4 MR. COOPER: Thank you, Judge.

5 CROSS-EXAMINATION BY MR. COOPER:

6 Q. Sir, could you pull up Schedule TR-1 Part 4 from  
7 your rebuttal testimony?

8 A. Schedule TR1, Part 4?

9 Q. Correct.

10 A. Yes. I have it.

11 Q. Okay. And the first page is marked Page 161 of  
12 213. Correct?

13 A. Yes.

14 Q. And is that a listing of, I guess, both past  
15 actual and projected future rates for the District?

16 A. It is an excerpt from the user rates study.  
17 You're talking about the very first page, 16--

18 Q. One-six-one?

19 A. Yes, it is an excerpt from a --

20 Q. So if I look at the top bar, I guess there is a  
21 Rate A Actual that starts in 2018. Does that mean that those  
22 were the District's actual rates in 2017 and 2018?

23 A. I would have to go back and verify that.

24 Q. Okay. Well, look at the year 2021. There is a  
25 total charge listed of \$65.91. Is that current District rate?

1 A. It is, yes.

2 Q. Would you also turn to Schedule TR-5, and then  
3 Page 2 of two. Let me know when you are there.

4 A. I'm there.

5 Q. Okay. At the top of that --- near the top --  
6 well, first off, there is a yellow line across that page.

7 Correct?

8 A. Correct.

9 Q. And at the top of that line it is marked Cedar  
10 Gate WWTF. Correct?

11 A. Correct.

12 Q. And at the other end of that yellow line, it  
13 says, Gravity sewer connection; is that correct?

14 A. Correct.

15 Q. And is the gravity sewer connection close to  
16 the, I guess, what's been referred to as the Rocky Fork  
17 wastewater treatment facility?

18 A. I would say it's about two miles away, but the  
19 red dot labeled, Gravity sewer connection, from that red dot  
20 there is a gravity sewer all the way to the Rocky Fork  
21 wastewater treatment plant.

22 Q. Okay. And that is in existence today, I take  
23 it. Right?

24 A. Correct.

25 Q. If I go back up to the top of that -- that

1 sheet, and I look at the portion of the line from Cedar Gate to  
2 Richardson Acres, is that line in service and in use today?

3 A. It is not.

4 Q. Was that line contemplated in the District's  
5 facility plan prior to the December 10, 2020 amendment?

6 A. No, it was not. It was prompted by permit  
7 negotiations with DNR on Cedar Gate.

8 Q. So you have -- you, being the District, the  
9 District has a problem with the Cedar Gate wastewater facility  
10 that it needs to address; is that accurate?

11 A. I would not call it a problem, but we have a  
12 compliance schedule to come into compliance with ammonia and  
13 E. Coli -- we have a compliance schedule in our permit.

14 Q. Now, I mentioned the December 10, 2020 amendment  
15 to the facility plant. Has that amendment been approved by the  
16 Clean Water Commission as of today?

17 A. No.

18 Q. Now, also looking at --

19 A. Let me go back to that a second.

20 Q. Go ahead.

21 A. You asked if it has been approved by the Clean  
22 Water Commission. The facility plans, the approval is by the  
23 Department, itself, usually in the form of a -- finding of no  
24 significant impact or categorical exclusion.

25 Q. Which would be different than approval by the

1 Clean Water Commission?

2 A. If my memory serves me, what we get is a letter  
3 from the Department of Natural Resources reviewing the facility  
4 plan and including usually that it's a finding of no significant  
5 impact.

6 Q. But, again -- I guess my question is: Is that  
7 something different than approval by the Clean Water Commission?

8 A. I don't know that I'm qualified to answer that.  
9 If an approval by DNR staff is different than an approval by the  
10 DNR Clean Water Commission, I don't know that I'm qualified to  
11 answer that.

12 Q. Yeah. So I think that you just don't know the  
13 answer to my question; is that accurate?

14 A. Okay. Yeah.

15 Q. Now, again, looking at our -- this map that is  
16 on the -- that we started in talking about, there is another  
17 section of this line that goes from about the Richardson Acres  
18 WWTF, down to the Brown Station booster pump station, or Brown  
19 Station WWTF. Is that portion of the line in service and in use  
20 today?

21 A. No, it is not.

22 Q. And then the same question, the portion of the  
23 line from Brown Station WWTF to the gravity sewer connection we  
24 talked about earlier, is that portion of the line in service and  
25 in use today?

1 A. No, it is not.

2 Q. We talked a little bit about the need to address  
3 some issues with Cedar Gate. Does the District also have a need  
4 to address issues with Richardson Acres -- Richardson Acres and  
5 the Brown Station WWTF?

6 A. We do. We have compliance schedule on the  
7 Richardson Acres permit that requires ammonia removal and  
8 E. Coli removal. We also have a compliance schedule on the  
9 Brown Station permit that requires a lower ammonia limit and  
10 E. Coli removal.

11 Q. And those problems or those issues need to be  
12 addressed one way or another, whether Hallsville sells its  
13 system to Missouri-American or not. Correct?

14 A. Yes.

15 Q. And do I understand from your amended facility  
16 plan that the means of financing improvements described in that  
17 document is proposed to be used with the state revolving fund?

18 A. That is one option.

19 Q. My memory is that is the option that was  
20 identified in the facility plan. Were there other options  
21 identified in the facility plan?

22 A. I would agree that probably -- that is the only  
23 option identified in the facility plan.

24 Q. Now, in looking at your resume it appears that  
25 -- well, I think you have been employed with the District since

1 about March of 2004; is that correct?

2 A. Yes.

3 Q. And were you the general manager of the District  
4 even prior to that March of 2004 date?

5 A. I was.

6 Q. How long before -- when did you start as general  
7 manager of the District?

8 A. It was either 1999 or 2000. 2000, I believe.

9 Q. And would you have been involved with the  
10 District's application for the Level 2 continuing authority  
11 that's been discussed here today?

12 A. Yes.

13 Q. And before seeking that authority, did the  
14 District first go to the Boone County Commission to get its  
15 support for that application?

16 A. I would say we did it simultaneously.

17 Q. And is it accurate that the Boone County  
18 Commission issued an Order providing support for that  
19 application?

20 A. Yes.

21 Q. And do you have with you Missouri-American  
22 Exhibit 5?

23 A. I do.

24 Q. And it's a document, correct, that is  
25 identified, Certified Copy of Order, at the top. Is that what

1 you're looking at?

2 A. I have it. It is Commission Order 353-2009.

3 Q. Great. Thank you. And is this the copy of the  
4 Order issued by the Boone County Commission in support of the  
5 Level 2 continuing authority application?

6 A. Yes.

7 Q. And if you would look near the bottom of Page 1  
8 of that document, there's a -- or the subheading that says,  
9 Resolution. Do you see that?

10 A. I do.

11 Q. Would you agree with me that it states: It is  
12 therefore resolved by the Boone County Commission to support the  
13 Boone County Regional Sewer District and the City of Columbia in  
14 filing a joint application for tier two continuing authority  
15 with the Clean Water Commission -- for the Clean Water  
16 Commission's approval. The application shall request that the  
17 Boone County Regional Sewer District be approved by the Clean  
18 Water Commission as the tier two's continuing authority in  
19 unincorporated Boone County, and that the City of Columbia be  
20 approved by the Clean Water Commission as the tier two  
21 continuing authority inside the corporate limits of the City of  
22 Columbia?

23 A. I would agree that that is what it says.

24 Q. Okay. Are you familiar with a person by the  
25 name of Leslie Oswald?



1 A. I am.

2 Q. And who would that be?

3 A. She retired as the finance manager of the Boone  
4 County Regional Sewer District on March 31st of this year.

5 Q. Would she have been involved in the effort to  
6 get the Boone County Commission's support for the tier two  
7 authority application?

8 A. Yes.

9 Q. And I assume there would have been a meeting  
10 before the Boone County Commission where that request for  
11 support was discussed by the Commission. Would that be  
12 accurate?

13 A. Yeah.

14 Q. Did you attend that meeting?

15 A. I don't know.

16 Q. Okay.

17 A. That was a long time ago.

18 Q. Would you look at Exhibit 6, if you have that  
19 before you?

20 A. I do. I've got it.

21 Q. And on Page 2, there at the very top, it starts:  
22 Leslie Oswald, Boone County Regional Sewer District. Do you see  
23 that?

24 A. I do.

25 Q. Have you had a chance to read that -- that

1 portion of the document? Let me know after you've -- after  
2 you've read that.

3 A. I've read it.

4 Q. Okay. Does that refresh your recollection of  
5 that meeting or whether you were in attendance at that meeting?

6 A. I don't know if I was in attendance, but it --  
7 COURT REPORTER: I'm sorry, did he answer? I  
8 just heard, but it?

9 JUDGE JACOBS: I think that your line is cutting  
10 out, Mr. Ratermann. So if you want to start over and try to  
11 answer that again, please.

12 MR. RATERMANN: It does refresh my memory.

13 BY MR. COOPER:

14 Q. And would you say that the minutes -- well,  
15 let's back up just a second. Would you agree with me that these  
16 are Boone County Commission minutes from 30 July 2009?

17 A. Yes.

18 Q. And would that description of Ms. Oswald's  
19 presentation to the Commission be consistent with your memory?

20 A. Yes, but we used that term unincorporated area  
21 as a generic term. When we -- when people call in and ask us  
22 where we serve -- when a customer calls on the phone, it is easy  
23 to explain to them that we serve the unincorporated areas of the  
24 county. In that manner, it's a generic term.

25 Q. So looking again at that document, would you

1 agree with me that the first paragraph indicates that Ms. Oswald  
2 stated the BCRSD and the City are both going to the Clean Water  
3 Commission to ask for tier two continuing authority for specific  
4 territories? She's stated the City's territory would be the  
5 city limits and the BCRSD territory would be the entire county  
6 in the unincorporated areas. She stated, We would not have  
7 authority in the small municipalities; is that correct?

8 A. That's what the minutes say. Yes.

9 MR. COOPER: Judge, at this time I would offer  
10 Exhibit 5 and Exhibit 6 into evidence.

11 JUDGE JACOBS: Thank you. Is there any  
12 objection to the Company's Exhibits marked 5 and 6?

13 (WHEREIN; Exhibits 5 and 6 were offered into  
14 evidence.)

15 JUDGE JACOBS: Mr. Pringle indicated no  
16 objection.

17 And Ms. Griffin?

18 MS. GRIFFIN: No objection, Judge.

19 JUDGE JACOBS: Hearing no objection, those  
20 exhibits will be admitted to the record.

21 (WHEREIN; Exhibits 5 and 6 were received into  
22 evidence.)

23 MR. COOPER: Thank you, Judge. That is all the  
24 questions that I have at this time.

25 JUDGE JACOBS: Thank you.

1                   The floor would now be open for any questions  
2 from the bench. If we have questions from commissioners, they  
3 will speak up. If a commissioner has joined us by telephone, I  
4 apologize. I did have to silence or mute some of the phone  
5 connections. If you are having difficulty getting through, you  
6 might press star-6 to unmute yourselves and/or otherwise have  
7 someone send me a message and let me know you are trying to get  
8 through.

9 QUESTIONS BY JUDGE JACOBS:

10                 Q.           So Mr. Ratermann, I wanted to ask you about the  
11 District's agreements with the City of Hallsville concerning the  
12 Silver Creek and Sunnyslope subdivisions. Earlier in this  
13 hearing, the documents that I am referring to were admitted to  
14 the record. And if you have access to the file record in this  
15 case, you would find them in the August 31, 2020 filing by the  
16 Company. They were marked as Appendix E and Appendix F.

17                         Mr. Ratermann, can you confirm whether you're  
18 able to consult those documents?

19                 A.           Can you give me that day again, Judge?

20                 Q.           Yes. August 31, 2020, I believe was the filing  
21 date. And it is actually a Company filing, so it was a  
22 Missouri-American filing. Everything is all together in one  
23 document. So the Appendix -- the Appendices are not broken out  
24 into separate attachments. You'll just be opening one PDF.

25                 A.           Yes. I am there.

1 Q. Okay. It looks like Appendix E starts on Page  
2 13. So that's an ordinance. And then do you see the next  
3 document, the cooperative agreement?

4 A. I do.

5 Q. And to confirm that we're talking about the same  
6 thing, which subdivision does that agreement concern?

7 A. This one refers to Sunnyslope.

8 Q. Okay. And it appears if you scroll down to the  
9 signature page, this is not the agreement that you had signed,  
10 but I believe that you are a signatory or are you a signatory to  
11 the Silver Creek agreement?

12 A. Yes, I signed Silver Creek.

13 Q. Are you familiar with both of these agreements?

14 A. I am.

15 Q. Okay. Can you tell us if any District customers  
16 are currently receiving services from the City of Hallsville  
17 sewer system in Sunnyslope?

18 A. They are not. There are none.

19 Q. And in Silver Creek?

20 A. I believe it's three or four.

21 Q. Previous testimony had indicated that these  
22 agreements call for some payments to be made to the City by the  
23 District to connect customers. Have payments been made under  
24 these agreements?

25 A. I believe that if you look at Sunnyslope, I

1 think it was Paragraph 10 that we talked about earlier. I  
2 believe we paid this payment to Sunnyslope.

3 Q. So no customers are being served in Sunnyslope,  
4 but the \$5,100 one-time connection charge has been made, has  
5 been paid to the City?

6 A. I mean I would have to verify it, but Paragraph  
7 10 says this one-time connection charge shall be paid  
8 contemporaneously with the signing of this agreement. I believe  
9 we took care of this.

10 Q. Were there some actual modifications that needed  
11 to be made to put this agreement into effect so that customers  
12 could be served at Sunnyslope? So actual construction changes  
13 or changes in that sewer system for that subdivision?

14 A. Yes. I would refer you to Exhibit A of this  
15 agreement. We have labeled the approximate location of the  
16 existing Hallsville gravity sewer as Point C. We would have to  
17 build a sewer from Point C to Point E.

18 Q. And do you know if that has been done?

19 A. That has not been done.

20 Q. Okay. So your testimony as to whether a payment  
21 was made I didn't think was definitive. You believe it would  
22 have been taken care of contemporaneously, but are you confident  
23 that that happened?

24 A. Yes. I am confident that happened.

25 Q. And your testimony is also the actual physical

1 connection, the construction work that would have to be done,  
2 that has not been done?

3 A. Correct.

4 Q. And no District customers are currently being  
5 served in Sunnyslope with sewer connection to the City of  
6 Hallsville; is that correct?

7 A. That is correct.

8 Q. Okay. So moving over to Silver Creek, you  
9 previously testified you thought three or four customers are  
10 being served. Would that be three or four lots within that  
11 subdivision that have a connection to Hallsville and serviced  
12 through Hallsville?

13 A. Yes.

14 Q. Okay. And I would ask you if a payment has been  
15 made under the Silver Creek agreement to the City?

16 A. I don't know for certain.

17 Q. And do you know if any -- well, first of all, is  
18 any constriction work, modification of the sewer system or any  
19 new installation required for the Silver Creek agreement?

20 A. Yes.

21 Q. And is that also depicted on the map that is  
22 attached as Exhibit A to that agreement?

23 A. It is not.

24 Q. It is not. Can you describe it -- can you  
25 describe that work to us, potentially, with reference to the

1 agreement if you can find the location in the agreement?

2 A. Well, in Paragraph 2 and Paragraph 3 refer to  
3 it. Paragraph 2 refers to the connecting sewer. It's the sewer  
4 connecting the Silver Creek subdivision to the City of  
5 Hallsville collection system. And three says the developer  
6 shall prepare the plans and specifications for construction of  
7 the connecting sewer.

8 Q. Is it your understanding that that work has been  
9 completed?

10 A. Yes.

11 Q. Is the Silver Creek subdivision a new  
12 subdivision, such that new homes are being constructed on lots  
13 there?

14 A. Yes.

15 Q. I think we previously were told that the  
16 Sunnyslope subdivision, on the other hand, was an existing  
17 subdivision that already had homes and there wasn't new  
18 development taking place. Is that your understanding?

19 A. Yes. I would say Sunnyslope has been in  
20 existence for at least 40 years.

21 Q. Are these subdivisions residential subdivisions  
22 made up of single-family homes?

23 A. Yes.

24 Q. Are you able to give us a sense of the number of  
25 lots in the different subdivisions? Do you know the lots in



1 Sunnyslope?

2 A. I believe the agreement says 17. And I believe  
3 that is correct.

4 Q. Could you remind me of which paragraph we can  
5 find that reference in? Thank you.

6 A. It is also in Paragraph 10. There is a  
7 reference to 17 units.

8 Q. And then Sunny -- I'm sorry, Silver Creek, does  
9 that agreement also tell us how many lots are in that  
10 subdivision? Yes, I think it does. I counted in the -- do you  
11 see the, Whereas paragraph on the first page?

12 A. Yes.

13 Q. And what does that tell us?

14 A. It references seven single-family lots. It is  
15 also in Paragraph 2.

16 Q. Thank you. So why did the District enter into  
17 the agreement regarding Sunnyslope with the City?

18 A. We knew that there were regulations coming from  
19 DNR that would require disinfection and ammonia removal. And  
20 the current treatment facility, there is not sufficient land  
21 area there to improve the facility, and there was an existing  
22 gravity sewer owned, operated, and maintained by City of  
23 Hallsville. If you look at Exhibit A, that map is a scale. I  
24 would say we have to build about 400 feet of sewer to connect to  
25 the City of Hallsville, and we commissioned a facility plan by a

1 consulting engineer. We looked at all options and the  
2 connection to the City of Hallsville was best for the  
3 environment and best economically.

4 Q. So is Sunnyslope -- is it a lagoon system that's  
5 in place for Sunnyslope through the District?

6 A. Yes, it is.

7 Q. And is that lagoon system still operational?

8 A. Yes, it is.

9 Q. So it is being used at this time?

10 A. Yes, it is.

11 Q. And could it be used in the future for the  
12 homes?

13 A. It could, yes.

14 Q. Okay.

15 A. As I mentioned earlier, there's a compliance  
16 schedule on that Missouri state operating permit.

17 Q. So the performance of that system is going to  
18 have to change in the future and making that possible may be  
19 challenging under current conditions. So the desirable outcome  
20 was to just hook up to Hallsville. Do I understand you  
21 correctly?

22 A. Yes.

23 Q. And can you tell me about why the District  
24 entered into an agreement with Hallsville for the Silver Creek  
25 subdivision, which is a new -- a new development?

1           A.           Yes. It was proposed by a real estate developer  
2 and the real estate developer wanted these lots to be served  
3 with Public Sewer. This is not to contiguous to the city  
4 limits. Cities cannot provide sanitary sewer service outside  
5 their city limits without the consent of the Sewer District.  
6 And because of that, we worked out this connection agreement  
7 between the City of Hallsville and the Sewer District for this  
8 subdivision.

9           Q.           Is your understanding that as additional lots  
10 are developed in Silver Creek under this agreement, they will be  
11 able to connect and get service from the Hallsville system?

12           A.           Yes. That's that way I interpret this  
13 agreement.

14           Q.           And if those -- if the District had not agreed  
15 to consent to connection to the city sewer system, what would  
16 have been the options for that developer and the developer's,  
17 essentially, customers buying homes out there?

18           A.           That's a little more complicated answer. Boone  
19 County has a zoning ordinance and subdivision regulation. And  
20 Boone County Health Department also gets involved in these  
21 matters. And the best answer that I have is that it's a  
22 collaborative approach between County of Boone -- Boone County  
23 Research Management Department implementing the zoning ordinance  
24 and the subdivision regulation, and the Boone County Health  
25 Department, and the Boone County Regional Sewer District to

1 require developers to put in public sewers where it's -- where  
2 it is best.

3 Q. Does the District's status of the continuing  
4 authority in the County mean that those folks who bought homes  
5 in that development would have had to be District sewer  
6 customers or could they have put in a private sewer?

7 A. So the Sewer District has regulations to define  
8 four different classes of sewer systems; public sewer systems,  
9 private common collectors, private sewer systems, and private  
10 on-site wastewater systems.

11 Q. And I believe that you just told us that this  
12 development would have been required to put in a public sewer  
13 system; is that correct?

14 A. Yes.

15 Q. And is that because of the provisions of the  
16 District's own regulation?

17 A. That, and it was the developer's desire to serve  
18 these lots with public sewers.

19 Q. Okay. I think that is probably as detailed as  
20 we need to be of that particular point. Is there anything else  
21 you think the Commission needs to understand about that?

22 A. No, I don't think so.

23 Q. What are the consequences for the District's  
24 customers in Sunnyslope and Silver creek if Missouri-American  
25 does not assume the City's obligation under those agreements or

1 if the District and the Company are not able to reach new  
2 agreements?

3 A. Well -- what these agreements -- the way I read  
4 these agreements, the City of Hallsville has an obligation to  
5 provide service to these seven lots in Silver Creek and the 17  
6 lots in Sunnyslope. And if -- if the City of Hallsville does  
7 not honor its obligations, Sewer District Board of Trustees  
8 would have to decide how it's going to enforce these two  
9 contracts.

10 Q. So my question was actually a little bit more  
11 pragmatic than a legal question. So you've already told us that  
12 the Sunnyslope folks have a lagoon there that's in place, that  
13 although it isn't potentially going to comply with regulation  
14 here in the future, it's in place and has been used to serve  
15 those residences in that subdivision?

16 A. So if you are asking what the technical options  
17 are at Sunnyslope, the Sewer District does have the ability to  
18 acquire land and the Sewer District could acquire sufficient  
19 land to build some kind of treatment system to keep Sunnyslope  
20 into compliance with DNR regulations.

21 Q. And then is there a different situation for  
22 Silver Creek because it was built to connect with Hallsville?

23 A. I would think so. I mean there is a pipe  
24 running from these seven lots connecting to a pipe that is  
25 currently owned by the City of Hallsville. If the Sewer

1 District -- I would have no intention of disconnecting that  
2 pipe. If somebody else tries to disconnect that pipe, we'd have  
3 to have some kind of conversation about that.

4 Q. I have a question for you about Staff's  
5 recommendation in this case concerning a requirement that the  
6 company negotiate with the District in regard to Sunnyslope and  
7 Silver Creek. And my question is: Does it make sense to you  
8 that that negotiation process start after any permit is issued  
9 by DNR?

10 A. No. I think -- I think these agreements need to  
11 be worked out and resolved before conveyance is made between the  
12 City of Hallsville and Missouri-American, if that's what's going  
13 to happen.

14 Q. And could you explain why?

15 A. Because the business, the Sewer District needs  
16 certainty in its operations.

17 Q. Okay. I want to ask you about your testimony on  
18 Page 10 that indicates a major goal of the plan is to eliminate  
19 existing wastewater treatment facilities within Boone County.

20 A. Can you -- what plan -- is this a facility plan?

21 Q. So on Page 10 of your testimony, we can find  
22 that, and then you can -- part of my question is exactly the  
23 plan that you are talking about.

24 So it appears that you have referenced multiple  
25 facility plans for defined areas in Boone County. So this

1 appears to begin on Line 5 and runs through Line 12.

2 A. Hang on a second. Can you give me a date on  
3 that?

4 Q. Your rebuttal testimony was filed on February  
5 23rd, I believe.

6 A. Thank you.

7 Q. Sure. This appears on Page 10.

8 A. Okay. I'm on Page 10.

9 Q. Okay. So beginning on Line 5 through Page 12,  
10 that's the passage I was referring to. And I was focusing on  
11 your statement in regards to the goal of eliminating wastewater  
12 treatment facilities in the county.

13 A. Okay.

14 Q. So here, the plans that you are referencing are  
15 facility plans?

16 A. Correct. Facility plans and capital improvement  
17 plans that we have developed over the years.

18 Q. And I believe that attached as a schedule is one  
19 of these plans, as TR-1.

20 A. Yes.

21 Q. And it's the attachment that is very large so it  
22 was made in multiple parts.

23 A. Yes.

24 Q. Okay. So that's the Boone County Regional Sewer  
25 District facility plan for the Richardson Acres and Brown

1 Station wastewater improvement. It's indicated that it's an  
2 Amendment 1?

3 A. Yes.

4 Q. Okay. So your statement that -- once again, to  
5 go back to my question. You've indicated that a goal of the  
6 plan -- so when you are referring to the plan here, you are  
7 referring to all of the District's facility plans collectively?  
8 Or what are you referring to?

9 A. Yes, all of the facility plans the Sewer  
10 District commissioned over the years.

11 Q. Okay. And -- and I cut you off there. I  
12 believe you were saying all of the plans including this one?

13 A. Yes. That is correct.

14 Q. Okay. And so first, I just wanted to ask you  
15 what does this goal mean, elimination of wastewater treatment  
16 facilities? Your testimony indicates the District owns 21  
17 facilities. Does that mean the goal is to get rid of all of  
18 them and centralize wastewater treatment and disposal? Just  
19 explain that, please.

20 A. So the Sewer District has these 21 treatment  
21 facilities in the county. Prior to anti-degradation, prior to  
22 disinfection, real estate developers, if they were creating  
23 developments that were dense enough, were required to put in  
24 public sewers and treatment facilities. And between Boone  
25 County zoning ordinance, and the Boone County subdivision



1 regulations, and the Sewer District's own regulations, these  
2 facilities were required to be conveyed to the Sewer District in  
3 much the same way that roads are required to be conveyed to the  
4 county, and the water lines are required to be conveyed to rural  
5 water districts.

6           And as these facilities age and there's a need  
7 to modernize them, the Sewer District works to consolidate these  
8 treatment facilities in different locations. A good example is  
9 this Rocky Fork wastewater treatment facility that we are  
10 talking about. When we built that, we took out the Rayfield  
11 lagoon, Bon Gore lagoon, County Downs lagoon, Powell (ph)  
12 lagoon, Lenoir lagoon, and the Wagon Trail lagoon. And since  
13 that time, there's been private DNR permitted facilities that  
14 also connected. Some of these developments, like I mentioned  
15 before, Sunnyslope -- actually, I believe Sunnyslope was built  
16 in about 1971. So some of these are almost legacy issues from  
17 either before Boone County had planning and zoning or in the --  
18 right after Boone County had got planning and zoning and these  
19 things were still being created.

20           To give you a little more history about the  
21 Sewer District, some of these facilities, the developers  
22 conveyed them to neighborhood associations. And some of them,  
23 the developers convey them to a PSC regulated company that was  
24 called Mid-Missouri Sanitation. And in about the late '80s, the  
25 county commission conveyed about 15 of these facilities that

1 neighborhood associations had given to the county commission.  
2 The county commission conveyed them to the Sewer District, and  
3 the Sewer District bought out the old Mid-Missouri Sanitation  
4 company. And that's how the Sewer District became operational  
5 in the late '80s.

6 We acquired about 30 facilities all at one time  
7 and became operational. Since that time, our capital  
8 improvement plans have revolved around regionalization and  
9 either building treatment on our own and consolidating these  
10 facilities and serving new growth, or in some instances  
11 connecting them to the City of Columbia or the City of  
12 Hallsville.

13 Q. So trying to summarize what you just shared with  
14 us, it sounds as though the District's strategy has been to  
15 connect to municipal systems or establish treatment systems to  
16 centralize other smaller systems?

17 A. Yes. I think that is an accurate  
18 representation.

19 Q. So I have a question for you about the facility  
20 plan that is attached to your testimony, which we just went  
21 through the process of locating together. It's TR-1, and I  
22 believe it has a date of December 10, 2020 on it.

23 A. Yes.

24 Q. So -- and that plan talks about connecting  
25 Hallsville, essentially, to the Rocky Fork treatment facility;

1 is that right?

2 A. Yes.

3 Q. Okay. So is there a previous draft of the plan  
4 that does that or was that introduced in the December 2020  
5 draft?

6 A. It was introduced in December 2020 draft.

7 Q. So at the point when the -- we've heard  
8 testimony that the District also made an offer to the City of  
9 Hallsville to acquire that system?

10 A. Yes.

11 Q. At that time was the District proposing to  
12 transport Hallsville waste to Rocky Fork?

13 A. Yes.

14 Q. But that plan did not appear in a facility plan  
15 yet?

16 A. Correct.

17 Q. And is there a reason why it did not?

18 A. Well, two reasons. One is that City of  
19 Hallsville issued a request for proposal to sell their  
20 wastewater system. And as part of our developing our proposal  
21 to the City of Hallsville, we wanted to develop a plan to solve  
22 the problem, and so we commissioned our consulting engineer to  
23 make this amendment.

24 The second reason is -- so we've talked about  
25 these 21 wastewater treatment facilities that Boone County owns

1 and operates. At one time, not too long ago, all of the  
2 operating permits with one or two exceptions were expired. And  
3 we were in the process -- we were in a lengthy negotiation with  
4 Missouri Department of Natural Resources to renegotiate these --  
5 to get these permits issued so that we would have some certainty  
6 in our business operation. And Cedar Gate was re-issued and it  
7 had a compliance schedule for coming into compliance with  
8 ammonia and E. Coli.

9 Our original plan for Brown Station and  
10 Richardson Acres was to connect to the City of Columbia, but our  
11 connection agreement with the City of Columbia did not include  
12 Cedar Gate. So it became apparent we weren't going to be able  
13 to connect Cedar Gate to Hallsville. So we revised this plan to  
14 connect Cedar Gate to Richardson Acres, Brown Station to Rocky  
15 Fork and serve Hallsville.

16 And I might add, we also have another treatment  
17 facility. If you look at -- got back to Schedule TR-5, first  
18 page, if you look to the west of the Hallsville city limits, you  
19 will see another sewer district facility called Quarter Mile  
20 Hill. It too has a compliance schedule for ammonia and E. Coli.  
21 So the vision of this plan served many purposes.

22 Q. Okay. And I want to clarify something, because  
23 I believe that a previous draft of the facility plan was  
24 attached to a District filing in September. And so I want to  
25 make sure that that is consistent with what you have just told

1 us so that if a clarification is needed, we could take care of  
2 that right now.

3 So it looks like September 8th of 2020, the  
4 District filed a reply to the Company's opposition to  
5 intervention, and that included as Appendix A, a draft facility  
6 plan dated August 10th of 2020.

7 Will you let me know when you can find that,  
8 Mr. Ratermann? I can give you dates again if it's helpful.

9 A. Yes, if you can give me the date again, that  
10 would be helpful, please.

11 Q. It's September 8, 2020. And this is a District  
12 filing and you'll be looking at Appendix A.

13 A. Okay. I'm looking at that. So -- Okay. I'm  
14 ready for your question.

15 Q. Okay. So this particular plan is dated August  
16 10, 2020. Can you tell me what the difference is between this  
17 plan and the one that was attached to your testimony?

18 A. Yes. So the August 10, 2020 version just  
19 included Richardson Acres, Brown Station, Cedar Gate, and the  
20 private DNR permitted facilities along the route. December 10,  
21 2020 version included Hallsville.

22 Q. So included the proposal to take Hallsville  
23 waste, I guess, from Cedar Gate, then all the way down to Rocky  
24 Flats. Am I understanding that correctly?

25 A. Yes.

1 JUDGE JACOBS: Okay. So this particular  
2 attachment that I have identified, everyone, I will propose that  
3 it be admitted to the record as Commission's Exhibit 307, to  
4 help me understand Mr. Ratermann's testimony. Does anyone have  
5 an objection?

6 (WHEREIN; Exhibit 307 was offered into  
7 evidence.)

8 JUDGE JACOBS: That would be Appendix A to the  
9 District's filing on September 8, 2020. I'm hearing no  
10 objection. So that will be admitted to the record as  
11 Commission's Exhibit 307.

12 (WHEREIN; Exhibit 307 was received into  
13 evidence.)

14 BY JUDGE JACOBS:

15 Q. Okay. I wanted to ask you, Mr. Ratermann, about  
16 how these facilities plans are reviewed, if at all. So your  
17 testimony attaches a facility plan with the date of December  
18 2020. You were previously asked about whether it's been  
19 approved by the Clean Water Commission, which developed into  
20 your testimony that, in fact, it would be the Department of  
21 Natural Resources that would approve it, in your understanding.

22 So my question for you is: In regard to the  
23 December facility plan that's attached to your testimony, has  
24 that been submitted to DNR for review of any kind?

25 A. It has. Yes.

1 Q. Okay. And how long does that review typically  
2 take and when do you know if you have a problem?

3 A. You know, that schedule is somewhat DNR's and  
4 somewhat the Sewer District's. I have been meeting with DNR on  
5 this project and others. One of the things we are working on is  
6 phasing. I had a meeting with DNR, where we talked about  
7 whether they approve this plan in phases. And I got an email  
8 back from one of the review engineers that they were amendable  
9 to approving this in phases.

10 Q. So it sounds like there is no rule or regulation  
11 that provides that it needs to be reviewed and approved within a  
12 specific period of time?

13 A. Not that I'm aware of.

14 Q. Okay. It's more of a consultation process with  
15 DNR?

16 A. Yeah, I think that is an accurate  
17 representation.

18 Q. Okay. So I wanted to ask you what is the  
19 relationship between the facility plans that we've been looking  
20 at and what DNR's regulations refer to as an area-wide  
21 management plan? And there's reference to area-wide management  
22 plans in 10 CSR 6.010. So I guess I'll make this -- I'll  
23 simplify this a little bit, Mr. Ratermann.

24 Are you familiar with the term area-wide  
25 management plan?

1 A. Yes.

2 Q. What does that mean to you?

3 A. So you just cited some of the code of state  
4 regulations. Correct?

5 Q. Yes. I did. I was coding the -- I was citing  
6 the state regulation. That's right.

7 A. And is that the code of state regulation that --

8 COURT REPORTER: Hello? I have lost you.

9 JUDGE JACOBS: Okay. Court reporter?

10 COURT REPORTER: Yes. I was trying to get  
11 someone's attention, but if I can't make noise the screen  
12 doesn't come up for me.

13 I got where he -- you asked -- or he asked you,  
14 is that the code of state regulations; is that right? And you  
15 said, yes, that is. And then nothing after that.

16 JUDGE JACOBS: Okay. So where that left off.  
17 And I clarified that I'm looking at 10 CSR 20-6.010. And I had  
18 asked Mr. Ratermann if he recognizes the term area-wide  
19 management plan and if that means anything to him. And he may  
20 now answer that question. Thank you.

21 THE WITNESS: So my recollection when the Sewer  
22 District and the City of Columbia made application to the Clean  
23 Water Commission for Level 2 continuing authority, that we both  
24 had capital improvement plans. Those are more of a sketch plan  
25 than a facility plan. A facility plan gets into three or four



1 alternatives and lots of narrative, and such things.

2           The capital improvement plan is usually a  
3 summation of projects and a cost estimate for each project based  
4 on judgment as to what is the most likely project. My  
5 recollection is that those capital improvement plans were part  
6 of the application to the Clean Water Commission when we applied  
7 for Level 2 authority. And we had to show that we had a plan  
8 for all of Boone County, and it's that the Sewer District  
9 collaborates with the Boone County Commission and the Boone  
10 County Resource Management Department in the implementation of  
11 the zoning ordinance and the subdivision regulations. And we  
12 did -- the other --

13 BY JUDGE JACOBS:

14           Q.       I'm sorry, you cut out after, and we.

15           A.       At the other municipalities of Boone County were  
16 not included because -- in part, because there are so many of  
17 them.

18           Q.       I think we are going off course of what my  
19 question was. So is there a document that you are aware of that  
20 has been provided to the Commission in this case that  
21 constitutes an area-wide management plan that has been prepared  
22 by the District?

23           A.       You're talking about the Clean Water Commission  
24 now. Right?

25           Q.       I'm talking about that Commission that you are

1 before right now. Is there a document that has been provided  
2 that constitutes an area-wide management plan that has been  
3 provided in this case?

4 A. No, I do not believe so.

5 Q. Okay. I'm going to ask you about another  
6 feature of your testimony on Pages 11 and 12. You talk about  
7 how Hallsville's sewer system is upstream from the District's  
8 facilities, and that its operation and management impacts the  
9 District's plans for wastewater treatment and the rates charged  
10 to District ratepayers. I wanted to ask you to explain your  
11 testimony in further detail.

12 A. Okay. So if you look at the City of  
13 Hallsville's operating permit, there are several permitted  
14 features and some of those permitted features are in the Varnon  
15 Branch watershed. The Cedar Gate facility is also in the Varnon  
16 Branch Watershed. And Varnon Branch is tributary to the Hinkson  
17 Creek. And the Hinkson Creek is listed on what's known as the  
18 303D list. It is on the 303D list because it's an impaired  
19 water.

20 The 303D is the list of impaired waters in the  
21 state of Missouri. And if the Sewer District has to make  
22 improvements to facilities in the Hinkson Creek watershed, that  
23 affects our customers and our customers' rates. And if the  
24 Hallsville's facility is contributing to the impairment in the  
25 Varnon Branch and the Hinkson Creek, that affects Sewer District

1 customers and Sewer District rates.

2 Q. Okay. Thank you. I also wanted to ask you  
3 about the opinion you provide in your testimony on Page 14, in  
4 which you say that adding treatment to the Hallsville system is  
5 not adequate. That is a paraphrase. Because, quote, it will  
6 not resolve the capacity issue or ongoing violations.

7 So my question for you is: Why would adding  
8 treatment not address ongoing violations in the Hallsville's  
9 system?

10 A. When I read the City of Hallsville's RFP, and I  
11 read their permit, and the design flow of their permit, and the  
12 actual flow listed on their permit, and the number of  
13 subdivisions, and the number of lots that they've approved in  
14 the City of Hallsville, the load from what they have approved  
15 exceeds their design flow. So just making an improvement  
16 without an expansion does not solve their problem.

17 Q. And this raises another question I have for you.  
18 When an operator goes to DNR for a permit, is the need for  
19 expansion something that DNR considers in granting a permit?

20 A. Well, it's good engineering practice when you  
21 are proposing to a make capital expenditure and you consider the  
22 design life of the facility. And you know what the existing  
23 load is to the facility and you can project a 20-year load on  
24 the facility. Whether you project -- you project the -- you're  
25 forced to project the population 20 years into the future and

1 build a facility and expend capital funds that meet the 20-year  
2 design life of the facility.

3 Q. So if that is good engineering practice is that  
4 the kind of thing that the Department of Natural Resources  
5 expects to see in permit applications?

6 A. Well, I don't really know what the DNR expects,  
7 but I would say yes.

8 Q. Okay. I wanted to ask you about a cost estimate  
9 that is included in your rebuttal testimony on Pages 15 through  
10 16. And I believe here you are summarizing a \$3.5 million cost  
11 for a force main and an associated pump stations, and this is to  
12 go -- I'm sorry, excuse me -- from Cedar Gate wastewater  
13 treatment facility to Rocky Fork. And I just had a question  
14 about one element of that estimate so that it wouldn't  
15 potentially be stated incorrectly.

16 The \$694,500, I wasn't clear from the way that  
17 was written, whether that is an ongoing cost or a construction  
18 cost. It indicates it is associated with pumping the flow from  
19 Hallsville's storage lagoon to Cedar Gate.

20 A. I'm sorry, I'm new to this Public Service  
21 Commission. Can you help me and tell me where this is --

22 Q. Yes. And I'm sorry if I went to quickly for  
23 you. This is your testimony. I believe it runs from Pages 15  
24 to 16. It is your rebuttal testimony.

25 A. I lost it on EFIS. Could you give me --

1 Q. That's okay. Yes. It's February 23rd, sir.

2 A. Of --

3 Q. February 23, 2021.

4 A. Thank you.

5 Q. And Pages 15 to 16 is what by notes indicate.  
6 So it starts at the bottom of 15.

7 A. Can you repeat your question, please?

8 Q. Yes, I can. My question concerns the statement  
9 about the \$694,500 part of the estimate. That is in Line 1 on  
10 Page 16. And the testimony states that amount is associated  
11 with pumping the flow from Hallsville storage lagoon to Cedar  
12 Gate. So I couldn't tell from that if that is construction cost  
13 or what kind of cost that is.

14 A. That is a capital expenditure construction  
15 engineering planned acquisition.

16 Q. Okay. Thank you. I think because of the  
17 terminology, pumping the flow, I did not know if it was an  
18 ongoing cost. It seemed pretty high, but I'm just clarifying  
19 that. Thank you.

20 Okay. You've also indicated on Page 15 of your  
21 testimony -- and let's see if I could find this -- yes. You  
22 have stated you have some concern about the company,  
23 Missouri-American, adopting the rates charged in the Hallsville  
24 system initially. I just wondered if you could elaborate on  
25 what your concern is there with the adoption of the current

1 rates that Hallsville is charging?

2 A. Well, that there would be losses to  
3 Missouri-American. I don't understand how it could be in the  
4 best interest of the public to not have a plan and not know what  
5 it's going to cost, and not know what it's going to cost to the  
6 ratepayers.

7 Q. We have learned today in testimony that there is  
8 a proposal to increase Hallsville's rates, and if I understand  
9 the Company correctly at this time, the Company is asking to  
10 apply whatever Hallsville's current rates are if a certificate  
11 is granted. Do you have any response in that regard? It would  
12 apparently mean an increase for some of Hallsville's customers  
13 and would overall, according to Mayor Carter, bring in more  
14 money for the system?

15 A. Well, I think what I heard in previous testimony  
16 today was they are proposing a flat rate as opposed to a  
17 volumetric rate. And to me, volumetric rates are much more  
18 equitable to a customer, especially the low income customer that  
19 may use 1,000 gallons or 2,000 gallons or 3,000 gallons a month.  
20 The Sewer District uses volumetric rates.

21 Q. So I think earlier we heard testimony from you  
22 about a -- a rate -- your base rate, apparently, in the District  
23 currently?

24 A. Yeah.

25 Q. I believe it was -- can you remind me what that

1 was?

2 A. Yes. Our base rate right now is \$26.65.

3 Q. What was the \$65.91 that I heard? Or maybe I  
4 wrote that down wrong.

5 A. No, you heard that right.

6 Q. What is that?

7 A. That is normalized to a 5,000 gallon-a-month  
8 user. Our rates -- our base service fee is \$26.65. Our water  
9 usage charge is \$7.85 per thousand.

10 Q. Is that information included in any attachments  
11 to your testimony, do you happen to know?

12 A. I don't. I'm sorry.

13 Q. Okay. I know that the initial testimony that  
14 was drawn out of with Mr. Cooper, was in reference to something  
15 attached. So perhaps Mr. Cooper knows where that is.

16 A. It was in a --

17 MR. COOPER: Judge --

18 THE WITNESS: It was in a user rate study.

19 JUDGE JACOBS: Okay. And Mr. Cooper, please go  
20 ahead.

21 MR. COOPER: Yeah. We can pull it. It's in a  
22 schedule to Mr. Ratermann's testimony.

23 JUDGE JACOBS: I'm sorry. I just hadn't noticed  
24 -- noted that before and I missed making the notations when you  
25 went through it the first time.

1 MR. COOPER: It's in TR-1 Part 4.

2 JUDGE JACOBS: Okay. Thank you.

3 BY JUDGE JACOBS:

4 Q. So, Mr. Ratermann, I am getting very close to my  
5 last few questions.

6 JUDGE JACOBS: Is everyone able to proceed  
7 through these questions now or do we need a quick break? All  
8 right. Nobody is begging so we will keep going. I think that  
9 applies to our court reporter as well. Okay.

10 BY JUDGE JACOBS:

11 Q. I have a question for you about the proposed  
12 conditions that the District has asked for in the alternative if  
13 the Commission were to approve a certificate. So is there a  
14 reason why the District would request that Missouri-American be  
15 required to actually acquire land to be used for the application  
16 of wastewater?

17 A. Yes. From my study of the system, when  
18 Hallsville issued its request for proposal, it became apparent  
19 to me that part of their problem is their farmer partner doesn't  
20 irrigate during wet years and they are not be able -- so when  
21 you have a spray irrigation system like that, it's not supposed  
22 to irrigate about six months out of the year. So they have to  
23 have enough storage to hold it for six months. And that means  
24 they have to draw down their storage lagoon in the fall and hold  
25 the water until spring and summer, when they can start



1 irrigating again. And if they can't irrigate enough in the late  
2 spring, summer, and early fall, and they can't hold it through  
3 fall and winter and early spring and they start discharging.  
4 And that's -- it's a no-discharge facility. You're not supposed  
5 to discharge, and that's one of their compliance problems. If  
6 they owned the land and controlled the irrigation, it would be  
7 better situated to get rid of the water before winter.

8 Q. Can you tell us why the District has requested  
9 that if the Commission were to grant a certificate, the  
10 Commission prohibit the Company from converting the Hallsville  
11 system to a discharge system?

12 A. It goes exactly to the Sewer District's planning  
13 authority. The Sewer District is the wastewater planning  
14 authority for all of Boone County. And, you know, Mr. Williams  
15 referred to anti-degradation earlier. And in one of the  
16 concepts in anti-degradation is that streams have an  
17 assimilative capacity to assimilate waste. And if Hallsville is  
18 discharging, they are using the assimilative capacity of the  
19 streams of Boone County. That's under the purview of the Sewer  
20 District to manage and make sure that it is there for all of the  
21 residents and ratepayers of Boone County.

22 Q. Does the District have agreements at this time  
23 with any other private sewer operators in the county that  
24 require District approval for DNR applications?

25 A. Well, that's not really the way it works. We

1 have been asked by DNR to work with private owner/operators of  
2 wastewater systems to get them to connect to us. I have an  
3 email the last two months from the permit writer in the Macon,  
4 Missouri office inquiring about three different private  
5 wastewater facilities in Boone County that are regulated by the  
6 Missouri Department of Natural Resources. And it's a  
7 collaborative effort between DNR and the Sewer District to get  
8 these -- to eliminate these private discharges of wastewater.

9 Q. Okay. Mr. Ratermann, I thank you very much for  
10 your patience with my many questions this afternoon.

11 Those are all the questions from the bench  
12 unless we have anything coming in from commissioners. So I  
13 believe we can go ahead to recross, if there's any recross from  
14 Staff.

15 MR. PRINGLE: Nothing from staff, Judge.  
16 Thanks.

17 JUDGE JACOBS: Does Missouri-American have any  
18 recross?

19 MR. COOPER: No, I don't believe so, Judge.

20 JUDGE JACOBS: Thank you very much.

21 Any redirect by the District, Ms. Griffin?

22 MS. GRIFFIN: Yes, Judge, thank you.

23 REDIRECT EXAMINATION BY MS. GRIFFIN:

24 Q. As I started, Mr. Ratermann, you were just  
25 explaining a response to a question about the collaborative

1 effort between DNR and the District to eliminate private plants.  
2 Is the authority for that effort, for lack of a better way to  
3 express it, predicated on multiple sets of regulations? And by  
4 that I mean state regulations, the District's regulations, and  
5 this grant of Level 2 continuing authority?

6 A. Yes.

7 Q. And under the District's regulations, are  
8 private plants allowed within the boundaries of the District?

9 A. No, they are prohibited.

10 Q. Okay. And are municipally-owned facilities  
11 subject to the District's regulations?

12 A. No, they are not.

13 Q. And so, if I understand your testimony  
14 correctly, right now the Hallsville system, because it is owned  
15 and operated by a municipality, would not be subject to the  
16 District's regulations?

17 A. That is correct.

18 Q. What is the impact of this sale of that system  
19 to Missouri-American under the District's regulations?

20 A. Well, the impact is it would be converted from a  
21 public system to a private facility, subject to the District's  
22 regulations.

23 Q. And is that regulation and regulatory authority  
24 outside of the Level 2 continuing authority?

25 A. Yes, it is.

1 Q. And when you were asked about the District's  
2 planning authority, does that authority include authority under  
3 the District's regulations as well as the state regulation?

4 A. I'm sorry, could you repeat that?

5 Q. Yes. You were asked some questions about the  
6 District's planning authority and my question is: Is it the  
7 District's position that that authority is derived from both the  
8 District's own regulations as well as DNR regulations?

9 A. Yes.

10 Q. And you were asked -- one of the first questions  
11 you were asked was about authority, and I don't remember exactly  
12 how Mr. Pringle posed the question, but it had to do whether  
13 there was authority for Hallsville to sell its system to  
14 Missouri-American or for Missouri-American to purchase that  
15 system from Hallsville. The response you gave to that question  
16 was Hallsville must offer the system to the District. And I  
17 would like for the Commission to understand the basis for the  
18 District's position that that is the case. Can you explain  
19 that?

20 A. Yes. It goes to the classes of sewer systems.  
21 Private sewer systems in Boone County are prohibited. And when  
22 municipal governments transfer something to -- when they  
23 privatize -- before they can privatize, they have to offer it to  
24 the Sewer District. And if the Sewer District is willing and  
25 able to own, operate, and maintain it, then the Sewer District

1 well, own, operate, and maintain it.

2 So if a municipality ceases to own and operate  
3 their own system, before they could privatize they have to offer  
4 it to the Sewer District.

5 Q. And has this happened before? Does the -- does  
6 the District currently own or operate any wastewater treatment  
7 systems that were previously municipal systems?

8 A. The City of Rocheport conveyed its wastewater  
9 treatment collection system to the Boone County Regional Sewer  
10 District.

11 Q. And does the District own and operate any other  
12 systems that are owned by a municipalities?

13 A. We operate the village of Hartsburg, the village  
14 of Hartsburg's wastewater treatment collection system.

15 Q. And is -- is this the first time that this  
16 situation of the prospective purchase of the Hallsville system  
17 by Missouri-American, a sewer company that is regulated by this  
18 Commission that we are in front of here today, is this the first  
19 time that type of a situation has arisen in Boone County?

20 A. To my knowledge, yes.

21 Q. And if a situation like this had come up before,  
22 would the District have taken the same position and same action  
23 for that situation that it is taking now in this situation?

24 A. Yes.

25 Q. And the Judge asked you whether we had an

1 area-wide management plan that was included in the record of  
2 this case here, and you responded in the negative. My question  
3 is: Is the facility plan that's provided in this case, we have  
4 the most recent version dated December 10th, that is labeled  
5 TR-1, and then we have now Commission Exhibit 307, which is an  
6 earlier iteration of the same facility plan. Is that facility  
7 plan part of the District's overall area-wide management plan  
8 for Boone County?

9 A. Yes, I would say so.

10 Q. And I believe you already testified that you are  
11 involved in the process of the District obtaining approval as a  
12 Level 2 continuing authority. Correct?

13 A. Yes, that's correct.

14 Q. And -- how heavily were you involved in that?

15 A. I was at the Clean Water Commission meetings and  
16 I would say that I was pretty heavily involved in it. I know I  
17 attended some of the Clean Water Commission meetings. I may  
18 have testified at some of them. I was involved in putting  
19 together our capital improvement plan that was the basis for our  
20 Level 2 continuing authority.

21 And, you know, it is my belief that for Level 2  
22 continuing authority that the Clean Water Commission granted to  
23 the Sewer District, included municipal facilities, in a  
24 situation where a city chooses to cease owning and operating its  
25 system. In this type of situation, the city must offer the

1 District the option to own and operate its system. The District  
2 must decide if it's willing and able to do so.

3 Q. Let me ask you this. You've already testified  
4 that there a requirement in the regulations of the District that  
5 would require -- or prohibit a private -- private system in a  
6 situation where the District was willing and able to provide  
7 services. Is -- were those regulations which sound consistent  
8 with the testimony about the Level 2 continuing authority. Were  
9 those regulations on the District's books promulgated by the  
10 District, before the continuing authority approval was sought  
11 from the Clean Water Commission?

12 A. Yes. Those classes of sanitary sewers were --  
13 those regulations were developed and were last revived in '05  
14 and '07. Yeah, they were last revised in 2005 and 2007.

15 Q. And which -- just so we know and our record is  
16 clear, what -- first of all, are you referencing a particular  
17 page of TR-1?

18 A. I am. It begins on Page 189.

19 Q. And what page does it end on?

20 A. References to classes of sewer systems ends on  
21 Page 191. The regulations for an entire chapter actually.

22 Q. Okay. And you testified that the District was  
23 created by voters under the statutes. What is the -- what is  
24 the voter-approved territory of the District?

25 A. It is all of Boone County.

1 MS. GRIFFIN: I don't have anything further at  
2 this time.

3 JUDGE JACOBS: Thank you very much.

4 Okay. I don't believe I have additional  
5 questions for Mr. Ratermann. Thank you very much for appearing  
6 today. You will remain present for the hearing in case we need  
7 to recall you. I would appreciate that. We are going to take a  
8 break until 4:45, and then we will come back and hear from  
9 Mr. Connelly. So we're in recess now until 4:45. Thank you.

10 (OFF THE RECORD.)

11 JUDGE JACOBS: Okay. It's 4:45. We are back on  
12 the record in SA-2021-0017. And I believe I had excused  
13 Mr. Ratermann and thanked him for his testimony. It is unlikely  
14 we would need to recall him, but there's always that  
15 possibility.

16 We have two remaining witnesses for the  
17 District. So unless anyone has anything to discuss before we  
18 get going, I believe we could take Mr. Connelly's testimony.

19 If Mr. Connelly just wants to say hello, he will  
20 pop over to my main screen. There we go.

21 MR. CONNELLY: Hello.

22 JUDGE JACOBS: Hello. Are you able to hear us?

23 MR. CONNELLY: Yes.

24 JUDGE JACOBS: We can hear and see you. So if  
25 you'll raise your right hand for me, sir?



1 (Witness sworn.)

2 JUDGE JACOBS: Thank you very much, sir.

3 THE WITNESS: Thank you.

4 JUDGE JACOBS: Ms. Griffin, you may proceed with  
5 your witness. Thank you.

6 MS. GRIFFIN: Thank you.

7 STEPHEN CONNELLY, being first duly sworn, testifies as follows:

8 DIRECT EXAMINATION BY MS. GRIFFIN:

9 Q. Good afternoon, Connelly. Could you please  
10 state and spell your name for the court reporter?

11 A. Sure. Stephen -- excuse me, Stephen Connelly,  
12 S-T-E-P-H-E-N, C-O-N-N-E-L-L-Y.

13 JUDGE JACOBS: I think the court reporter has  
14 raised her finger for some reason. I'm not sure if she didn't  
15 catch something. Perhaps Mr. Connelly can start over.

16 COURT REPORTER: I got that, but his voice is  
17 very low. Is there any audio that he could speak up or get  
18 closer to the mic?

19 JUDGE JACOBS: It looks like you're using your  
20 computer mic. So you may simply just have to speak up and  
21 project your voice in that room a little bit and irritate the  
22 people in your house. Okay? Thank you.

23 THE WITNESS: Okay. Can you hear me?

24 MS. GRIFFIN: Yes.

25 THE WITNESS: Okay.

1 BY MS. GRIFFIN:

2 Q. Mr. Connelly, could you tell us by whom you are  
3 employed and in what capacity, please?

4 A. Yes. I'm president of Stephen M. Connelly, CPA,  
5 PC. It's a public accounting firm in Kansas City.

6 Q. And are you the same individual who caused to be  
7 prepared the rebuttal testimony of Stephen Connelly that we have  
8 premarked as Exhibit 201?

9 A. Yes, I am.

10 Q. And do you have any additions or corrections to  
11 your rebuttal testimony?

12 A. No.

13 Q. If I were to ask you the questions contained in  
14 Exhibit 201, would your answers be the same today as they are in  
15 Exhibit 201?

16 A. Yes.

17 Q. And are those answers in Exhibit 201 true and  
18 correct, to the best of your knowledge and belief?

19 A. Yes.

20 Q. Thank you, Mr. Connelly.

21 MS. GRIFFIN: At this time the District moves to  
22 admit Exhibit 201 into the record.

23 (WHEREIN; Exhibit 201 was offered into  
24 evidence.)

25 JUDGE JACOBS: Thank you.

1 Is there any objection to the District's Exhibit  
2 201, which is Mr. Connelly's rebuttal testimony?

3 Hearing no objection, that exhibit will be  
4 admitted.

5 (WHEREIN; Exhibit 201 was received into  
6 evidence.)

7 JUDGE JACOBS: We can now proceed to any  
8 cross-examination, and we can start with Staff.

9 MR. PRINGLE: Thank you, Judge. Staff has no  
10 questions at this time.

11 JUDGE JACOBS: Thank you.

12 Do we have any questions from Missouri-American?

13 MR. COOPER: No questions, Your Honor.

14 JUDGE JACOBS: Okay. Thank you.

15 It doesn't appear that I have any questions from  
16 the bench at this time for Mr. Connelly. Just taking a beat  
17 here to make sure that nobody speaks up on the Commission's side  
18 to let me know that there are questions.

19 Mr. Connelly, it appears that after waiting all  
20 day, your job is now complete and your testimony has been  
21 received. Thank you very much for being here today. You are  
22 excused. Very unlikely you would be recalled, but you never  
23 know. So as I asked other witnesses, please remain with us.

24 We can proceed now -- yes. I heard a Judge, so  
25 I thought someone was trying to get my attention.

1 THE WITNESS: I just said thank you.

2 JUDGE JACOBS: Thank you, sir. I'm sorry for  
3 speaking over you. Thank you very much.

4 I believe the next witness would be Mr. Stith.

5 MR. STITH: I'm here.

6 JUDGE JACOBS: Okay, Mr. Stith, I can see you.  
7 If you could raise your right hand.

8 (Witness sworn.)

9 JUDGE JACOBS: Thank you very much, sir.

10 And Ms. Griffin, you may proceed with your  
11 witness.

12 MS. GRIFFIN: Thank you.

13 DENNIS STITH, having been first duly sworn, testifies as  
14 follows:

15 DIRECT EXAMINATION BY MS. GRIFFIN:

16 Q. Good afternoon, Mr. Stith. Could you please  
17 state and spell your name for the court reporter?

18 A. My name is Dennis Stith. The first name is  
19 D-E-N-N-I-S, last name is S-T-I-T-H.

20 Q. And could you tell us by whom you are employed  
21 and in what capacity?

22 A. I'm employed by McClure Engineering Company, and  
23 I am a project manager.

24 Q. Are you the same individual who caused to be  
25 prepared the rebuttal testimony of Dennis Stith that we have

1 premarked as Exhibit 202?

2 A. I am.

3 Q. And if I were to ask you the questions contained  
4 in Exhibit 202, would your answers in that document be the same  
5 today as they are in the document?

6 A. They are.

7 Q. And are those answers in Exhibit 202 true and  
8 correct, to the best of your knowledge and belief?

9 A. They are.

10 Q. Thank you, Mr. Stith.

11 MS. GRIFFIN: At this time, Boone County Sewer  
12 District moves to enter and admit Exhibit 202 into the record.

13 (WHEREIN; Exhibit 202 was offered into  
14 evidence.)

15 JUDGE JACOBS: Thank you. Are there any  
16 objections to admission of Exhibit 202, which is Mr. Stith's  
17 rebuttal testimony?

18 Hearing no objections, Exhibit 202 will be  
19 admitted. Thank you very much.

20 (WHEREIN; Exhibit 202 was received into  
21 evidence.)

22 JUDGE JACOBS: We can proceed now from any  
23 cross-examination from Staff.

24 MR. COOPER: No cross from Staff, Judge. Thank  
25 you.

1 JUDGE JACOBS: And any cross-examination from  
2 Missouri-American.

3 MR. COOPER: No, Judge.

4 JUDGE JACOBS: Thank you very much.

5 There will be one question from the bench at  
6 this point for Mr. Stith.

7 QUESTIONS BY JUDGE JACOBS:

8 Q. Sir, it appears that in your testimony, one of  
9 your criticisms of Missouri-American's application is that it  
10 doesn't include a specific proposal to upgrade or expand the  
11 system. Would you agree with that characterization?

12 A. Yes.

13 Q. So are you familiar with the permitting  
14 processes before the Department of Natural Resources?

15 A. Yes.

16 Q. Is the need for expansion of the system  
17 something that would be expected to be considered by DNR in  
18 reviewing a construction or operation permit application?

19 A. My experience is that it has been expected to  
20 look at the expansion that may be needed.

21 Q. Okay. Thank you. And what about upgrades, is  
22 that something that is going to be considered by DNR?

23 A. Yes, upgrades will be considered.

24 Q. Okay. Thank you very much.

25 JUDGE JACOBS: I'm going to pause here for a

1 minute and see if there are any questions from commissioners.

2                   Based on that single question that I asked, did  
3 Staff have any questions they would like to ask of Mr. Stith?

4                   MR. PRINGLE: No, Judge. Thank you.

5                   JUDGE JACOBS: And the Company?  
6 Missouri-American?

7                   MR. COOPER: Yeah, I'm sorry. Judge, I'm a  
8 little slow getting to the unmute button there. One question.

9 CROSS-EXAMINATION BY MR. COOPER:

10                  Q.       Mr. Stith, would you agree that Hallsville has  
11 no current plan to address its issues, no estimated costs of  
12 addressing them, no financing, and no idea of what impact any of  
13 would have on its customer rates?

14                  A.       I have not seen any information along those  
15 lines that would indicate what Hallsville would have in mind  
16 going forward, if it was their system.

17                  MR. COOPER: Okay. Thank you.

18                  JUDGE JACOBS: Okay. Thank you.  
19 Do we have any redirect by the District for  
20 Mr. Stith?

21                  MS. GRIFFIN: No, Judge.

22                  JUDGE JACOBS: Okay. Thank you very much.  
23 Mr. Stith, thank you for appearing here today. It seems that  
24 you are our final witness. And, so, you are truly and genuinely  
25 excused, along with all of our other witnesses. Thank you so

1 much for being with us today and providing testimony.

2           Okay. It appears that we have arrived at the  
3 final matters portion of our hearing. There is one issue I  
4 wanted to bring up, and this concerns the Missouri-American's  
5 exhibit list, and just something that is going to help when the  
6 adjudication staff gets around to filing those marked exhibits.

7           I believe that the Company's exhibit list,  
8 because there was a problem with the page numbering when  
9 Mr. Horan's surrebuttal was filed, the Company was directed to  
10 file that again. And then your exhibit list actually refers to  
11 the schedules that were attached when that was initially filed.  
12 My understanding, however, is that those schedules should be  
13 perfectly identical in every way.

14           So is there any reason that they wouldn't be  
15 just for the simplicity of instructing the adjudication staff  
16 and how those documents are gathered and then refiled as a  
17 marked exhibit.

18           Do you understand what I'm asking, Mr. Cooper?

19           MR. COOPER: Not necessarily. When I did this  
20 list it looked to be like under Item 41, we'd just had the  
21 corrected pieces of Mr. Horan's testimony. Subsequently, when I  
22 looked at Item 41, it looked like the schedules for his  
23 testimony had been included in 41. And if that is the case, I  
24 think we can just refer to 41.

25           JUDGE JACOBS: Okay. Maybe there was something



1 that happened behind the curtain with that filing. Who knows?  
2 But as long as you haven't filed any new schedules that would  
3 have changed anything. I just want to be able to treat those as  
4 the same and to just simplify that. And so it doesn't sound  
5 like you have any reason to believe those schedules are any  
6 different.

7 MR. COOPER: No, they should not be. They are  
8 not.

9 JUDGE JACOBS: And does any other party have any  
10 concerns about that or questions what we're talking about?

11 MS. HERNANDEZ: And, Judge, this is Jennifer  
12 Hernandez. I filed that, according to the Commission's Order  
13 and all I did was put page numbers on the testimony. I didn't  
14 change anything else.

15 JUDGE JACOBS: Okay. So perhaps what happened  
16 is someone in the data center and looked at that and thought,  
17 Oh, that's not very helpful. We better put those schedules on  
18 there. I can't say that's what happened and we always  
19 appreciate their help. So but perhaps that is what happened.  
20 So thank you.

21 I will know how to handle that going forward.  
22 As far as Commission exhibits go, I just want to make sure that  
23 I've clarified that Exhibit Commission 306 is going to be that  
24 April 7 Order the Commission just issued in WR-2020-0344. There  
25 are going to be some kind of gaps in our exhibit numbers, but

1 that is okay. It is not a big deal.

2 And then the only other comment I would have  
3 would have to do with briefing. So, but before we get to that,  
4 we are going to be seeing from the Company an Exhibit 8 by the  
5 12th, that is going to give us that vote tally. And transcripts  
6 should be available in this case by April 22nd. And we have  
7 post-hearing briefs ordered for initial briefs on May 4th.  
8 Reply briefs are May 11th.

9 Are those dates still acceptable for the  
10 parties? Okay. So --

11 Mr. Pringle, I saw you move. Are you needing to  
12 say something?

13 MR. PRINGLE: Just double checking because I  
14 knew I had a few extra hearings scheduled, but I think that  
15 still works. I'm just going to check my calendar real fast.

16 JUDGE JACOBS: I'm happy to let you check your  
17 calendar.

18 MR. PRINGLE: Yep, we're all good.

19 JUDGE JACOBS: Okay. So no concerns about  
20 shifting those dates?

21 One mention that I wanted to make when it comes  
22 to briefing is that in regard to the District, Ms. Griffin, we  
23 did hear some testimony today about the District's planning  
24 authority and about District regulations. And I have not seen  
25 that articulated in the case to this point, perhaps in a way

1 that I have really been able to understand that. I think that  
2 is something that would be helpful if the briefs addressed.

3 So that's just a request as far as something  
4 that may be isn't as clear coming into hearing as it could have  
5 been that I'm going to need some help with.

6 MS. GRIFFIN: Sure. I'm happy to address it.  
7 That was part of the reason I wanted to ask him some additional  
8 questions to lay that out better. But it came in the way it  
9 came in and I will do the best I can to clarify in the briefing.

10 JUDGE JACOBS: Okay. I do think to great -- to  
11 the very great extent it seems to be legal questions, and so  
12 hopefully they can be handled effectively in a brief.

13 Okay. So those are the only things that I had  
14 to talk about before we wrapped up. Did anyone have anything  
15 else?

16 Okay. Well, it's 4:59. So thank you all so  
17 much for being here. I really appreciate it. It was a  
18 beautiful day for a hearing. So I hope you all have a good  
19 evening.

20 We are off the record.

21 (OFF THE RECORD.)  
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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



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Lisa M. Banks, CCR No. 1081

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