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BEFORE THE PUBLIC SERVICE COMMISSION

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STATE OF MISSOURI

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ERIC C. LARSON vs. WOODLAND MANOR WATER COMPANY, LLC

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CASE NO. WC-2011-0409

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EVIDENTIARY HEARING

15

VOLUME III

16

May 30, 2012

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Start Time: 9:00 a.m.

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BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

ERIC C. LARSON, )  
)  
Complainant, )  
vs. )  
)  
WOODLAND MANOR WATER )  
COMPANY, LLC, )  
)  
Respondent. )

Case No. WC-2011-0409

EVIDENTIARY HEARING, VOLUME III,  
held on May 30, 2012, commencing at 9:00 in the  
morning of that day, at the Blue Eye Lions Community  
Center, 138 State Highway EE, in the City of Blue Eye,  
County of Stone, State of Missouri, before Christine  
Richele, Certified Shorthand Reporter, Registered  
Professional Reporter, Certified Court Reporter #385,  
Certified Realtime Reporter (MO), and Notary Public,  
in a certain cause now pending Before the Public  
Service Commission for the State of Missouri, wherein  
the parties are as above set forth.

1 A P P E A R A N C E S

2 For Complainant: Mr. Eric C. Larson  
(pro se)

3  
4 For Respondent: Mr. Gregory R. Gibson  
Gibson Law Office  
5 344 Gibson Lane  
Blue Eye, Missouri 65611  
6 417-779-2226  
GRGibsonLaw@gmail.com

7  
8 For Public Service Commission:  
Ms. Rachel M. Lewis  
9 Ms. Amy Moore  
Public Service Commission  
10 Governor Office Building, Suite 800  
200 Madison Street, P.O. Box 360  
11 Jefferson City, Missouri 65102-0360  
573-526-6715  
12 Rachel.Lewis@psc.mo.gov  
13

14 Also Present: Mrs. Mona Fennema  
Woodland Manor Water Company  
15 Mrs. Debbie Larson  
Kimberling Oaks Resort

16 Staff Present: Mr. David Spratt  
17 Mr. Jim Merceil  
Mr. Jim Busch

18  
19 REPORTED BY: Christine Richele, CSR, RPR, CCR, CRR  
MIDWEST LITIGATION SERVICES  
20 2422 East Madrid Avenue  
Springfield, MO 65804  
21 Tel: 417-877-9700  
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23  
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25

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

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3 JUDGE JORDAN: Let's go on the record. The  
4 Missouri Public Service Commission is calling the  
5 action in file number WC-2011-0409. The action is  
6 styled "Eric C. Larson vs. Woodland Manor Water  
7 Company, LLC."

8 I'm Daniel Jordan. I am the Senior Regulatory Law  
9 Judge assigned to this action.

10 This is an evidentiary hearing on the merits of  
11 the complaint. It is being recorded by a reporter.  
12 There will be a transcript made of this hearing.

13 Let's begin with entries of appearances formally  
14 on the record. Mr. Larson?

15 MR. LARSON: I'm Eric Larson, Complainant.

16 JUDGE JORDAN: And for the Respondent?

17 MR. GIBSON: Judge, I'm Greg Gibson,  
18 Counsel for Woodland Manor.

19 JUDGE JORDAN: And the staff of the  
20 Missouri Public Service Commission?

21 MS. LEWIS: Rachel Lewis and Amy Moore on  
22 behalf of the staff of the Missouri Public Service  
23 Commission. Our address is P.O. Box 360, Jefferson  
24 City, Missouri 65102.

25 JUDGE JORDAN: Thank you.

1 Now, what we're doing today is taking evidence.

2 It is an evidentiary hearing. The law of evidence  
3 applies. It is relaxed, as discussed in an earlier  
4 prehearing conference. If there are evidentiary  
5 objections, I will rule on those. My job is to  
6 coordinate the hearing, run it in an orderly fashion,  
7 and I anticipate a high degree of civility from these  
8 parties.

9 I will also prepare a recommended decision for the  
10 Commission. The Commission will be the final  
11 decisionmaker in this. They will examine my  
12 recommendation and they can adopt it unchanged, they  
13 can modify it, or they can come to a completely  
14 different result. They can even take more evidence if  
15 they want. I don't anticipate that happening.

16 When the transcript is in, the parties will also  
17 have the right to file written arguments, briefs that  
18 will show how their evidence applies under the  
19 applicable law and supports the conclusion that they  
20 seek.

21 Are there any questions about our procedure before  
22 we begin with evidence? Not hearing any, we had a  
23 discussion off the record about opening statements and  
24 all parties have waived that; is that correct,  
25 Mr. Larson?

1 MR. LARSON: Correct.

2 JUDGE JORDAN: Counsel?

3 MR. GIBSON: Correct, Judge.

4 JUDGE JORDAN: And Counsel for staff?

5 MS. LEWIS: Correct.

6 JUDGE JORDAN: All right. Then the

7 Complainant may begin with his case-in-chief.

8 Mr. Larson.

9 MR. LARSON: I'm not familiar with  
10 procedural ways in this, but I would just defer to the  
11 Joint Stipulated Facts, and I would call Mona to the  
12 stand --

13 JUDGE JORDAN: All right.

14 MR. LARSON: -- to ask the questions  
15 regarding that.

16 JUDGE JORDAN: Okay. Well, the stipulation  
17 is already on file.

18 MR. LARSON: Right.

19 JUDGE JORDAN: So the Commission will take  
20 official notice of that.

21 And, Ms. Fennema, please come up and take the  
22 stand. I'll administer an oath to you. Make sure  
23 that you speak loudly and clearly enough for our  
24 reporter. You may be seated. Raise your right hand,  
25 please.

1 MONA FREEMAN,  
2 being first duly sworn by the Judge, testified as  
3 follows:

4 JUDGE JORDAN: You may proceed.

5 EXAMINATION

6 BY MR. LARSON:

7 Q. In item 1, it indicates that the services  
8 provided by you, I understand that. And first off, as  
9 I've said all along, I never thought there was any  
10 malice on your part or my part, because I bought a  
11 sharp-edged piece of property and you bought kind of a  
12 plate of spaghetti underneath the ground.

13 It says that you're providing water service to me  
14 and that the repair -- a dispute has arisen regarding  
15 repair to a water line which is a part of that  
16 service; is that correct?

17 A. The water line that is part of your  
18 service, yes.

19 JUDGE JORDAN: Clarification. You're  
20 referring to the joint stipulation of facts; is that  
21 correct?

22 MR. LARSON: Correct.

23 JUDGE JORDAN: Thank you.

24 Q. (By Mr. Larson) Joint Stipulation of  
25 Facts. Number 1, it says: Complainant is provided

1 water service by Respondent, which is a Missouri  
2 public utility, and a dispute has arisen regarding  
3 repairs to a water line which is part of that service,  
4 the service that you provide me. Is that not read  
5 correctly?

6 A. It is part of his service after it -- I  
7 mean, that goes to his resort, yes.

8 Q. Okay. In item number 6, it explains that  
9 at my request in an effort to comply with the metering  
10 requirements that you connected -- so now we've  
11 changed it to: Woodland Manor set a  
12 one-and-a-half-inch meter on the north side of Holiday  
13 Drive in the City right-of-way. Where was that  
14 connected to? What -- what did that --

15 A. The meter was connected back to the main on  
16 the south side of the street.

17 Q. And how was that accomplished?

18 A. The line -- I cannot prove that I laid a  
19 new line to that inch-and-a-half meter. I looked back  
20 through my records and I cannot prove that, but the  
21 meter was set so that we could attach all lines that  
22 were providing service to your resort.

23 Q. And do you remember on that time my asking  
24 about the existing valve box?

25 A. No.



1           Q.    No.  Do you have any -- the line, by the  
2   way, and then I can provide proof, is -- was the  
3   existing line that was under the road.  When I called  
4   out, I asked you to put a new line at the new  
5   building.  And you chose not to cut across the brand  
6   newly paved street because they had just redone the  
7   street, and said, rather, you would connect it in this  
8   line that was running across the street.  And in order  
9   for me to trench 150 feet into the City right-of-way  
10  and connect into that line, you'd keep the meter close  
11  to the road.

12           Now, understand at that time I'm relying on the  
13  water company.  Okay.  That's okay.  So I T'd in  
14  there, and in the interim, picked up the one-inch line  
15  that was feeding the house, as well, so that you  
16  wouldn't have to worry about it being under the  
17  street, as well, because that brand new street was  
18  there.  So I T'd the line that fed the house.

19           JUDGE JORDAN:  Do you have a question for  
20  the witness?

21           MR. LARSON:  Yes.  I'm sorry.

22           Q.    (By Mr. Larson)  On the original 1992  
23  drawings that were submitted as an attachment, there  
24  were three lines crossing the street, two at  
25  one-and-a-half inch and one at one inch.  Do you have

1 any understanding of where those lines fed, what they  
2 were?

3 A. There were three lines, yes, crossing the  
4 road, because the -- it was one customer and we were  
5 required at that time to put in meters, because we  
6 didn't have meters to our -- all of our customers.

7 I was trying to consolidate to get down to just  
8 one meter to the customer, but it didn't work out. So  
9 we ended up with two at his place. So we did do away  
10 with one of the service lines crossing the road.

11 Q. The question was, where are those? Do you  
12 know where those three lines are? They show, and  
13 those three lines go directly to the two valve boxes  
14 and one directly into the original living quarters at  
15 the resort. A one-inch line and then the two  
16 one-and-a-half inch went directly to those valve boxes  
17 on the 1991 drawings.

18 A. Well, I'm sure they did, because you had  
19 service.

20 Q. Right. Now, do you have any idea, had I  
21 not paid my bill at any time during our relationship,  
22 how would you have turned my water off?

23 A. I wouldn't have been able to because there  
24 was no lockouts anywhere.

25 Q. There was two valve boxes right at the

1 property line connected to the three lines coming  
2 across the street.

3 A. I understand, but unless you can lock the  
4 service, you can't shut the water off and keep it off.

5 Q. Is it your understanding, then, that when  
6 the original water system was placed with those three  
7 lines, that the -- a truck came by, a team came by and  
8 they just dropped pipes into the ground and let them  
9 gush water, and it was the responsibility of the  
10 landowner to go and put a valve on that pipe, or do  
11 you think there might have been a valve to shut the  
12 water off at the property line?

13 A. Well, they would have put in a core stop on  
14 the service -- or on the main line when they tapped  
15 into it, probably.

16 Q. But there aren't any stops. There are just  
17 three pipes coming across, per the drawings.

18 MR. GIBSON: Judge, for the record, I think  
19 I'll object to this being -- getting a little  
20 speculative here. I'm not sure where --

21 MR. LARSON: It's per the drawing that was  
22 an exhibit attached to an earlier -- do I need to  
23 reference that?

24 JUDGE JORDAN: That's fine. It might be  
25 helpful if you refer to a drawing, because the one I

1 have -- the ones that I have, so far filed, depict  
2 two --

3 MR. LARSON: Two one-and-a-half inch and  
4 one one-inch.

5 JUDGE JORDAN: I see a one-and-a-half inch  
6 going from right to left, a one-and-a-half inch on the  
7 east side, and a two-inch on the west side.

8 MR. LARSON: Let me see what you've got.

9 JUDGE JORDAN: I've got this, two copies,  
10 and I've got this, which accompanied your complaint.

11 MR. LARSON: Yeah, that's my -- the  
12 original 1991 drawing from Connell Water was attached  
13 to one of these. Let me pull that out and see if we  
14 can --

15 JUDGE JORDAN: Please do. If you want the  
16 Commission to consider that, the reporter will --

17 MR. LARSON: If anyone would assist in  
18 this, if anyone has that. I know we've got a pile of  
19 paperwork. It's unfortunate that we've gone to this  
20 level with -- where it is. There was a -- with the  
21 first response --

22 JUDGE JORDAN: The witness has brought  
23 something that may be helpful to this discussion. And  
24 we have this. Let me look at that.

25 MR. LARSON: (Handing documentation to

1 Judge Jordan.)

2 JUDGE JORDAN: Now, I think I've seen that  
3 somewhere in our papers, as well.

4 MR. LARSON: And I'm simply going from  
5 memory. My apology in not having a simple  
6 clarification of everything I speak of, but my  
7 indication was that the original three lines that came  
8 across the street, two of them being --

9 JUDGE JORDAN: One, two, three.

10 MR. LARSON: Correct.

11 JUDGE JORDAN: Okay.

12 MR. LARSON: This one here was a one-inch  
13 line and --

14 JUDGE JORDAN: And that's the one on the  
15 very far --

16 MR. LARSON: On the furthest east.

17 JUDGE JORDAN: Furthest east.

18 MR. LARSON: And it went directly into what  
19 was the original living quarters. It was a one-inch  
20 line. There was a shutoff just inside the crawl space  
21 there.

22 JUDGE JORDAN: All right.

23 MR. LARSON: These two lines go directly to  
24 the valve boxes that are right in line. When the  
25 meter got installed, it was installed later in this

1 line that was across the street, right upstream of the  
2 valve box by twelve feet.

3 JUDGE JORDAN: Now, for the record,  
4 remember we're writing this down.

5 MR. LARSON: Yeah, my apologies.

6 JUDGE JORDAN: The -- first, this document,  
7 I'm going to identify this. This is already labeled  
8 Exhibit A, and it is headed "Existing Water System  
9 Layout." It has a seal on it, Registered Professional  
10 Engineer, State of Missouri, Wayne Diebold, Number  
11 E-22744. This accompanied your complaint, did it not?

12 MR. LARSON: No, this accompanied Mona's  
13 response to the complaint.

14 JUDGE JORDAN: Okay.

15 MRS. FENNEMA: That was an engineer's  
16 drawing that Mr. Connell had drawn up.

17 MR. LARSON: Yeah, when she purchased the  
18 system, this was what they had, this -- what it shows.

19 JUDGE JORDAN: Will you show that to staff  
20 counsel also.

21 MR. LARSON: Okay. That's a one-inch line  
22 there, and I believe it references somewhere these are  
23 two one-and-a-half-inch lines. This line is the line  
24 that the new meter is in, and it's also the line that  
25 the valve box is in -- well, this way.

1           So when that meter was put in, we cut it out, put  
2   a meter in, and put a T in right here so that I could  
3   tie in this from further east, bring it in and tie it  
4   to the meter. But that left this twelve feet outside  
5   the original valve box that was now on my side of the  
6   meter, unbeknownst to both of us. We didn't know what  
7   spaghetti was underneath the ground.

8                   JUDGE JORDAN: Right.

9                   MR. LARSON: And I understood at the time  
10   Mona was trying to say, Hey, it's going to cost, you  
11   know, if we put another meter. My intent originally  
12   was to separate that furthest east building and have  
13   its own electrical service. It's got its own power to  
14   it, and I wanted its own water. So if I separated it  
15   later, as a lot of the resorts do, that I would have  
16   that separate entity.

17           But when she explained, Well, it's going to be \$16  
18   a month. I'm not cutting across the street over  
19   there. I've already got a pipe. We'll put this in  
20   here. You're going to have to bring your line over  
21   here.

22           So now I have about 150 feet of inch-and-a-half  
23   line in the public right-of-way at the request of the  
24   City and Mona, both, said you have to find it right  
25   here, put it right here. So I put it all in there

1 with the right gravel, you know, so that you could  
2 find it.

3 JUDGE JORDAN: And you're referring to --  
4 you're going to have to point this out to me, which  
5 your 150 feet is.

6 MR. LARSON: From --

7 MRS. FENNEMA: It's not on that drawing.

8 JUDGE JORDAN: It's not on this drawing?

9 MRS. FENNEMA: I don't believe.

10 MR. LARSON: Here, it will be on this one.  
11 It's from right there at this corner over to here.

12 JUDGE JORDAN: Wait a minute. That's  
13 north. Okay.

14 MR. LARSON: Yeah, this is north up here.

15 JUDGE JORDAN: Okay. Yeah.

16 MR. LARSON: This is the east end of the  
17 property.

18 JUDGE JORDAN: Right.

19 MR. LARSON: This is the corner of that  
20 building where the water -- where I stubbed it out  
21 right there, thinking that we were going to pick up  
22 this two-inch main -- or four-inch main actually at  
23 that point on the other side of the road, and come  
24 right across with the meter.

25 She said she's not going to cut across that road.



1 There's already a line coming across right here. If I  
2 take my line from here and run it parallel to the  
3 road, I can pick it up over here just this side of the  
4 newly installed meter.

5 So we installed the meter right at the edge of the  
6 roadway so that I could attach to it. But that left,  
7 from the valve box to the roadway, about 15 feet that  
8 now became mine, unbeknownst to me. And so I've  
9 connected this piece in there, but I could have easily  
10 connected it right to the valve box, as well. I mean,  
11 it would have been an extra 45 bend.

12 MS. LEWIS: Judge, are we still looking at  
13 the same exhibit?

14 MR. LARSON: No. I'm sorry.

15 JUDGE JORDAN: No, this is a different one.  
16 Let's go back to Exhibit A. Let's go back to Exhibit  
17 A. Did you want the Commission to consider Exhibit A  
18 when --

19 MR. LARSON: Absolutely. I just want  
20 everybody to understand. There has been so much  
21 information here, and we want to understand where  
22 we're at just trying to establish a baseline.

23 JUDGE JORDAN: Right. Would you like to  
24 enter -- let's see, let's mark this --

25 MR. LARSON: I thought these were already

1 entered. See, I don't know the procedure. I thought  
2 those were part of this, and if I just brought them  
3 up --

4 JUDGE JORDAN: Refresh me. Your response  
5 to the complaint, that was not verified, was it?

6 MR. GIBSON: I don't believe so.

7 JUDGE JORDAN: I think it was not. So,  
8 these will have to be separately entered into the  
9 record.

10 MR. LARSON: Okay.

11 JUDGE JORDAN: We just have to make sure  
12 that they are.

13 MR. LARSON: I thought I had something from  
14 the Court saying that they were -- this is their  
15 response. I got a file number. Oh, that's this.

16 JUDGE JORDAN: Yes, it's filed, yes, but  
17 it's not in --

18 MR. LARSON: Entered.

19 JUDGE JORDAN: It's in the file, but it's  
20 not in the record.

21 MR. LARSON: Okay.

22 JUDGE JORDAN: Yeah. Okay. Let's see.  
23 We've got it --

24 MRS. FENNEMA: This separate drawing may  
25 show that.

1 JUDGE JORDAN: Okay. Hang on a second. I  
2 just want to get this into the record.

3 Can we consider that Exhibit A? It's already  
4 marked. It sure would be convenient if we did.

5 (EXHIBIT A WAS MARKED FOR IDENTIFICATION.)

6 JUDGE JORDAN: And is there any objection  
7 to Exhibit A coming into the record?

8 MR. GIBSON: I had not seen it before,  
9 Judge, but, no, I don't guess I have an objection.

10 MR. LARSON: That was submitted with her  
11 response by you.

12 JUDGE JORDAN: It's part of her response  
13 you incorporated. Take a look at it if you like and  
14 it may --

15 MR. GIBSON: No, that's fine.

16 JUDGE JORDAN: Okay. It may look familiar  
17 to you. All right.

18 MS. LEWIS: Staff has no objection.

19 JUDGE JORDAN: So Exhibit A is entered into  
20 the record.

21 (EXHIBIT A RECEIVED IN EVIDENCE.)

22 MR. LARSON: Can I show that to the Jims?  
23 Included in that -- have you guys seen that one?

24 JUDGE JORDAN: They can look at it. Why  
25 not?

1                   MR. LARSON: That just shows what the  
2 original -- when Mona bought the system, this is what  
3 it had.

4                   JUDGE JORDAN: Okay. That's helpful.

5                   Q.    (By Mr. Larson) And I was asking if the  
6 three lines that crossed the street, one of them, the  
7 shutoff is inside the house and a one-inch PVC just  
8 inside the crawl space. The other two, there are two  
9 valve boxes at the property line that are  
10 coincidentally in exactly the same point as those  
11 lines come across the street. And my intent is that  
12 those valves, those boxes were part of the Woodland  
13 Manor system right to -- well, the Connell system  
14 prior to your purchasing it.

15                  A.    They were existing evidently before we  
16 bought the system, but they were also prior to  
17 installing meters.

18                  MR. LARSON: Right.

19                  JUDGE JORDAN: Okay. Okay.

20                  MR. LARSON: Understood. Absolutely. All  
21 right. And then to carry on, when I -- I'm sorry.

22                  JUDGE JORDAN: Anything else you wanted to  
23 say about this?

24                  MR. LARSON: I guess I can't go back to  
25 that.

1 JUDGE JORDAN: You can if you want.

2 MR. LARSON: I might if something tickles  
3 my mind differently.

4 Q. (By Mr. Larson) When I called in 2000 to  
5 install a meter to the new building, at that point did  
6 you cut a new line across the street and put in a --

7 A. We did.

8 Q. You did. That's right. And it was within  
9 fifteen feet, maybe, of the other -- those valve boxes  
10 that are at the corner of cabin number 1, if you will?

11 JUDGE JORDAN: Can you illustrate this with  
12 the picture of your choice.

13 MR. LARSON: This would probably be --

14 JUDGE JORDAN: Okay. We have another  
15 document.

16 MR. LARSON: We already put Exhibit B in,  
17 didn't we, or did --

18 JUDGE JORDAN: We did not enter it into the  
19 record, no. I am looking at a document now for the  
20 record which is headed Exhibit B. It is an aerial  
21 photograph. It has some captions that include "New  
22 home/office November 2001." That is at the top.  
23 That's this document, for everybody. I'm showing it  
24 so that everybody can be coordinated here. Okay.

25 And this we are calling Exhibit B.

1 (EXHIBIT B WAS MARKED FOR IDENTIFICATION.)

2 JUDGE JORDAN: Does anyone have an  
3 objection to this?

4 You want the Commission to consider this when  
5 deciding your case, right?

6 MR. LARSON: Please. Yeah, my apology. I  
7 thought all of this was already inclusive in the deal.

8 JUDGE JORDAN: I understand. Well, that's  
9 part of why I'm here.

10 MR. GIBSON: No objection.

11 MS. LEWIS: No objection.

12 JUDGE JORDAN: Then we will admit Exhibit B  
13 into the record.

14 (EXHIBIT B RECEIVED IN EVIDENCE.)

15 JUDGE JORDAN: Now, you were asking the  
16 witness some questions based on this.

17 MR. LARSON: Yes.

18 JUDGE JORDAN: Go like that so everyone can  
19 see.

20 MR. LARSON: In actuality this line --

21 JUDGE JORDAN: And you're pointing to the  
22 one that's east-west or central --

23 MR. LARSON: The furthest west line, which  
24 is a new two-inch line that Mona cut across the street  
25 and installed, is actually not here. It's right here

1 at the corner of this existing cabin, not at the new  
2 cabin. I brought my water out here and brought it to  
3 the corner of this cabin.

4 Not knowing where -- see, this water comes,  
5 there's a valve box right there, and then there's a  
6 valve box right there. Terminations. When she  
7 brought this in, that meter is actually right there at  
8 the corner of this house.

9 JUDGE JORDAN: Is that what this is  
10 depicting?

11 MR. LARSON: Yeah, and actually that's a  
12 ten feet -- yeah, it's actually a little more at 15,  
13 but very close.

14 JUDGE JORDAN: Okay. Now, we're talking  
15 there about the westernmost lot --

16 MR. LARSON: Yeah, and at that point, I  
17 called, asked for a meter. Mona came out, cut across  
18 the street, put in a meter. I thought that was the  
19 procedure when I built this house. I called and asked  
20 to come across for a meter, brought mine to the  
21 property line.

22 And the street, in the interim, had been repaved  
23 completely. They cut a sewer ditch through there.  
24 And in cutting the ditch, they cut through some of  
25 that CTS pipe right up here at the corner. Actually,

1     yeah, right here.

2                   JUDGE JORDAN:   Okay.   Now, the CTS pipe is  
3     what?

4                   MR. LARSON:   Is the type in question where  
5     the leak occurred.

6                   JUDGE JORDAN:   That's the leaking line,  
7     correct?

8                   MR. LARSON:   Right.

9                   JUDGE JORDAN:   Got you.   Okay.

10                  MR. LARSON:   And at that point --

11                  MR. GIBSON:   Judge, if I can just -- all I  
12     was going to say is, I've noticed we're having a lot  
13     of testimony from Mr. Larson here.   I realize you're  
14     collecting evidence, so I'm not trying to hold up the  
15     procedure here.   But at the same time, I just would  
16     like to note for the Court that the -- I suppose for  
17     the record I could object to testimony by the -- to  
18     testimony being presented rather than questions, if  
19     it's going to cause me problems with questioning him  
20     later, is all I'm saying.

21                  JUDGE JORDAN:   Well, let's try this.

22                  MR. GIBSON:   I can't cross-examine him.

23                  JUDGE JORDAN:   Let's try this.   It sounds  
24     like you have a certain amount of story to tell,  
25     yourself.



1 MR. LARSON: Sure.

2 JUDGE JORDAN: You can certainly testify on  
3 your own behalf.

4 MR. LARSON: Well, in this instance I'm  
5 trying to clarify so that when I ask the question,  
6 it's related to here. It kind of requires some  
7 background to each one of the questions.

8 JUDGE JORDAN: Well, that's fine.

9 MR. LARSON: But, yeah, I can do it anyway  
10 that it suits the --

11 JUDGE JORDAN: But while she's sitting  
12 here, you need to get to a question for her.

13 MR. LARSON: Okay.

14 Q. (By Mr. Larson) When this CTS line was cut  
15 by the sewer installers and you came out and capped  
16 both ends of it, on whose authority was that?

17 A. We actually cut that when we installed the  
18 two-inch meter --

19 Q. That was the second cut that was cut, when  
20 you installed the two-inch meter. The first time it  
21 was cut -- or that was -- the first time it was cut  
22 was when you installed the two-inch meter. Then it  
23 got cut again when the sewer company came out.

24 JUDGE JORDAN: Let's try this. Hang on.  
25 There's no question there, so there's nothing to

1 answer.

2           Why don't we try it this way. Why don't you --  
3 you might want to try this. Take the oath. Give me  
4 the testimony. Tell me your version of the events.  
5 Then, if you think that there's something that she can  
6 contribute, then ask her those questions, having laid  
7 that background already.

8           MR. LARSON: Okay.

9           JUDGE JORDAN: Why don't we try that.

10           MR. LARSON: Okay. Well, I can eliminate  
11 that if I can try to do it in the right order first.  
12 If we run into a difficulty, then I -- I can try to go  
13 to questions first and do it in the way it was  
14 supposed to be. If I'm off base in how this is being  
15 conducted, I don't want to do that. My testimony will  
16 come as my testimony, correct?

17           JUDGE JORDAN: Right. Why don't we --

18           MR. LARSON: Whatever works best for you.

19           JUDGE JORDAN: We'll do that, then.

20           You may step down for a while. We'll recall you  
21 to the stand if necessary.

22           And why don't you just have a seat here. Take the  
23 oath and tell me your version of events.

24           MR. LARSON: Outstanding. I guess I should  
25 have made an opening statement.

1 MS. LEWIS: For clarification, when you're  
2 using the map, if you can just kind of hold the map  
3 and show us which one you're using and what you're  
4 pointing to.

5 MR. LARSON: Okay.

6 JUDGE JORDAN: That will be very helpful.

7 MR. LARSON: True.

8 JUDGE JORDAN: We'll do it this way. So,  
9 raise your right hand.

10 ERIC C. LARSON,  
11 being first duly sworn by the Judge, testified as  
12 follows:

13 EXAMINATION

14 BY JUDGE JORDAN:

15 Q. Then you may proceed. You have some  
16 information you'd like the Commission to consider in  
17 deciding your complaint; is that correct?

18 A. Sure.

19 Q. All right. For the record, this is Eric C.  
20 Larson.

21 A. I'm referring to Exhibit B which has  
22 already been included; is that correct?

23 Q. That is entered into the record. It wasn't  
24 before. It is now.

25 A. It is now. The -- when Woodland Manor

1 Water came out to put in the two-inch line that I  
2 requested --

3 Q. Which is the one on the --

4 A. The furthest east --

5 Q. Furthest east?

6 A. -- line prior to my purchase of the house  
7 next door, they cut through -- in crossing the road,  
8 they cut through a black CTS one-inch line, exactly  
9 the same type and size that was leaking later, and  
10 arbitrarily cut both sides of it and just abandoned  
11 it, capped it, finding that water was still to the  
12 cabins.

13 And later when the sewer company came through,  
14 they were -- they avoided the new line she had placed  
15 across the road, and cut into that same type and size  
16 of line further east from my property, at which point  
17 Woodland Manor came out and repaired, again, cut and  
18 capped both ends of that.

19 Q. Okay. Is there a map here where you can  
20 show me where these cuts occurred?

21 A. This same --

22 Q. Okay. This is Exhibit B. Does this show  
23 the leaking line?

24 A. No.

25 Q. Okay. So that's not really going to show

1 us where these cuts occurred.

2 A. This one, as my Exhibit A, if we could  
3 enter that into the record.

4 Q. Okay, let's talk about that a little it. I  
5 have before me a document which is also labeled  
6 "Exhibit A," but it was Exhibit A to the complaint?

7 A. To mine, right.

8 Q. Why don't we call this one Exhibit C, and  
9 you can mark it that way. And you'd like the  
10 Commission to consider this when deciding your  
11 complaint?

12 A. Please.

13 (EXHIBIT C WAS MARKED FOR IDENTIFICATION.)

14 JUDGE JORDAN: All right. Any objection to  
15 what we've marked as Exhibit C?

16 MR. GIBSON: No.

17 JUDGE JORDAN: Staff?

18 MS. LEWIS: No.

19 JUDGE JORDAN: Very good. Exhibit C will  
20 be entered into the record.

21 (EXHIBIT C RECEIVED IN EVIDENCE.)

22 Q. (By Judge Jordan) Now, on here, you wanted  
23 to tell me about where the line was cut.

24 A. Right there.

25 Q. And you're pointing to --

1           A.    The intersection of line 4 and line 3; 3  
2    being a part of the original system, 4 being the new  
3    main that was cut across, and in cutting across, it  
4    was capped on both sides.

5           Q.    Okay, and that is on the west side of the  
6    property, correct?

7           A.    Yeah, close to the west.

8           Q.    Okay.

9           A.    And 5, I think is an earlier point of  
10   abandonment, yeah, where they cut it. When the sewer  
11   was coming down the middle of the street here, they  
12   cut another of the same type and size of line there  
13   and Woodland was called out because water was gushing.

14           MR. GIBSON: Where is "there"?

15           JUDGE JORDAN: It's at point 5.

16           MR. LARSON: Over here at point 5.

17           MR. GIBSON: Okay.

18           Q.    (By Judge Jordan) Okay, so the City made a  
19   cut at point 5?

20           A.    The City made a cut all the way down the  
21   whole length of the street, straight down parallel  
22   with the roadway, right down the middle of it, and in  
23   doing so cut that line.

24           Q.    The line that later leaked, the City cut  
25   that at --

1 A. Well, an extension thereof --

2 Q. -- the point called 5?

3 A. Correct.

4 Q. At point 5, okay.

5 A. Correct.

6 Q. Just to clarify. Okay.

7 A. And on each occasion when that line was  
8 cut, Woodland Manor capped it, just came out and  
9 capped it, arbitrarily, and found, Well, there's still  
10 water to here so we must be okay.

11 Q. Okay.

12 A. My question, I guess, that led to, was if  
13 that was my line, you know, how can you start cutting  
14 and capping it arbitrarily? It was out under the  
15 road. It was clear to me at that point and to Mona at  
16 that point that that line was part of their system.

17 Q. I think I understand your argument. Let me  
18 just summarize, if I may.

19 A. Great.

20 Q. We'll call it the leaking line, the line  
21 that later experienced the leak, has been cut at least  
22 twice, once by the City, once by the company --

23 A. Correct.

24 Q. -- is that correct? On each occasion, your  
25 testimony is the company came out and capped the line

1 and stopped the water gushing from the cuts; is that  
2 correct?

3 A. Correct.

4 Q. Okay. And about what time frame are we  
5 talking about, just to give us some perspective?

6 A. Uh, November of -- no, let's see. Probably  
7 April of 2000, I would guess, would be when Woodland  
8 Manor cut it. And then shortly thereafter or if not  
9 within the same month, even, they were doing the  
10 street very close to the time we put that water main  
11 in. I would say within a two-month period between  
12 March and May of 2000.

13 JUDGE JORDAN: Okay.

14 MS. LEWIS: Can I ask a clarifying question  
15 now?

16 JUDGE JORDAN: Clarification is good.

17 MR. LARSON: Sure.

18 JUDGE JORDAN: Sure, that's fine.

19 EXAMINATION

20 BY MS. LEWIS:

21 Q. On this Exhibit C that's been admitted into  
22 evidence here, the line 3, is there any way you can  
23 compare that to this that was attached to staff's  
24 recommendation? Is that after this first dotted line  
25 on the left?



1           A.    It appears to be the red dotted line, the  
2    line 3, only there was an extension off of it to the  
3    west further.

4           Q.    But it's to the west of where the leak  
5    occurred --

6           A.    Correct.

7           Q.    -- this time?

8           A.    Correct.

9           Q.    Okay.

10          A.    Yeah. And to the -- it's to the east of  
11    the valve number 2, to the west of valve number 1. In  
12    the middle is where it leaked. And it shows on here  
13    where it says "break."

14          Q.    Right, it shows on what we attached, but on  
15    your Exhibit C, that we just admitted into the  
16    record --

17          A.    Right.

18          Q.    -- the 3 that you were talking about where  
19    it crosses 4 is to the west of --

20          A.    Is to the west of the second valve.

21          Q.    Is to the -- crosses 4, is to the west of  
22    where the leak in question for this case occurred.  
23    That was my question.

24          A.    Correct.

25

1 FURTHER EXAMINATION

2 BY JUDGE JORDAN:

3 Q. In other words, the color map, that we have  
4 in several places in the file, depicts an orange  
5 dashed line. The part where you're saying the cuts  
6 occurred, one by the company, one by the City, is not  
7 depicted on the color map, correct?

8 A. Correct.

9 Q. Okay.

10 A. They are both to the west of that.

11 Q. Okay. What more would you like to tell us?

12 A. Well, when -- subsequently I called out  
13 thinking this was the procedure. I build the house, I  
14 bring the water to the property line.

15 Q. Okay, this -- and we're talking about the  
16 new --

17 A. Newest building.

18 Q. -- building you intended to use as a  
19 residence?

20 A. Correct.

21 Q. Okay. When you built that, you did what?

22 A. I stubbed my inch-and-a-half line out. I  
23 had two large water heaters, three washing machines in  
24 there, and five bathrooms, so I had a pretty good size  
25 service. I brought out an inch-and-a-half line to the

1 property line, and I called Woodland and said, Could  
2 you come out and put a meter in?

3 Q. Okay. And this is -- out of all the maps,  
4 this is depicted as the furthest east --

5 A. Furthest east, correct.

6 Q. -- of your property?

7 A. Correct.

8 Q. Good. Okay.

9 A. And Mona came out. They had just repaved  
10 the street, all brand new black asphalt. Looking  
11 great. And she said, I'm not cutting across that, you  
12 know, there's no way. We've got a line over here we  
13 can use.

14 And I said, Oh, okay. I'm okay with that. I  
15 don't know anything about this. The water line comes  
16 in here. I'm good with that. At that time, although  
17 Mona may not recall, I asked, Who does that valve box  
18 belong to? She said --

19 Q. Mm-hmm.

20 A. -- That's yours.

21 Q. And we're talking about --

22 JUDGE JORDAN: I'm sorry, I did what I'm  
23 not supposed to do. I just talked over someone while  
24 the reporter was trying to record what we're saying.

25 MR. LARSON: Thank you very much.

1 Q. (By Judge Jordan) You had asked Mona --

2 A. To install a new meter at the property line  
3 of the furthest east building on my property.

4 Q. Okay.

5 A. And she determined that that wouldn't be  
6 prudent. We can use the line that's already across  
7 the street. And we went approximately 150 feet west  
8 and cut into an existing line that came from south to  
9 north under the roadway and put a meter right at the  
10 edge of the road surface.

11 Q. Okay. I need to do some clarification  
12 here. Which of these documents would you like to use  
13 to illustrate that? Which would be the best?

14 A. This one is probably the best because it's  
15 onto this existing line and shows the other one-inch  
16 that's there.

17 Q. Okay. And we're looking at Exhibit A.  
18 This is the one that shows the lines formerly in --

19 A. Woodland system.

20 Q. Yes. Okay.

21 A. And Mona has referenced the new two-inch  
22 that she put across there.

23 Q. Okay.

24 A. Which in actuality is over here, but that's  
25 close enough.

1 Q. And that is the -- that's the west side?

2 A. That's the new -- that's the west end.

3 Q. Now you're talking --

4 A. That's the line in question now. We  
5 brought it from here over to the middle of the three  
6 lines crossing the street.

7 Q. Okay. Now, on this map, we're going from  
8 the building on the east, this first easternmost  
9 line --

10 A. That went across into that building and in  
11 order to eliminate the need for Mona to have to deal  
12 with that being under the road later, while we had the  
13 service off, she capped here and I T'd it into my new  
14 line, so now it got picked up by my line.

15 Q. Okay. I'm not understanding this. She  
16 did -- the company did not -- okay, let's start at  
17 this --

18 A. That's a one-inch line.

19 Q. Okay. Let's start on the south side of the  
20 road at the easternmost line that heads north --

21 A. Okay.

22 Q. -- okay? Okay. You're saying that the  
23 company capped that intersection; is that correct?

24 A. Right. When I requested the meter for the  
25 easternmost property, she suggested that we use the

1     inch-and-a-half line that's already existing over  
2     here.

3             **Q.     And that is the center line that crosses**  
4     **the road --**

5             A.     That's the center of the three existing  
6     lines.

7             **Q.     Okay.**

8             A.     She put the meter in there, and while I was  
9     running mine through the public right-of-way over to  
10    meet that meter, we took that line out across to  
11    eliminate the burden of having to worry about that  
12    being under the street.

13            **Q.     So what is shown on Exhibit A as three**  
14    **lines, it is the center and westernmost that are**  
15    **depicted on the color map; is that correct?**

16            A.     Center and westernmost existing.   And  
17    then --

18            **Q.     Center and westernmost.**

19            A.     And then this is the westernmost.   Actually  
20    that's a new one that she put in.

21            **Q.     Okay.   So we really have four lines, we're**  
22    **talking about?**

23            A.     Now there are four.   In the 1991 drawing,  
24    there were three lines crossing the road.   This one  
25    she drew on here when she put on -- this is called out

1 in February of 2000, the meter was installed.

2 Q. Yeah, we need to coordinate these several  
3 maps so that everyone can understand.

4 A. That's what I tried to do there.

5 Q. Mm-hmm. And you're referring to Exhibit C  
6 which shows two lines headed north?

7 A. But I'm showing the current condition.

8 Q. Correct. Okay.

9 A. It's hard to get that, without overlays, to  
10 get the old and the new. And I understand, you know,  
11 Mona's got a spaghetti plate underneath the ground or  
12 multiple areas that she can't --

13 Q. Okay. So we had a line, we had a line on  
14 the very west edge, here, the westernmost as it --

15 A. East.

16 Q. That is the easternmost as depicted on  
17 Exhibit A, that one we're not talking about?

18 A. Has been eliminated.

19 Q. Okay.

20 A. In order to alleviate the burden of if  
21 anything ever happened under the road, we don't ever  
22 have to mess with that. It's not going under the road  
23 anymore.

24 Q. Then we have one over from that. That is  
25 the one that you connected your new building to; is

1     that correct?

2             A.     Correct.

3             Q.     Okay. Now, that one runs north; is that  
4     what you're saying --

5             A.     Correct.

6             Q.     -- to the north side of the road?

7             A.     It runs to the property line to a valve  
8     box --

9             Q.     Okay.

10            A.     -- in which there are two large valves.

11            Q.     Okay.

12            A.     And --

13            Q.     Is that north of the road or is that in the  
14     right-of-way --

15            A.     That's -- it's twelve feet north of the  
16     road.

17            Q.     Twelve feet north of the road?

18            A.     Maybe 13 feet north of the road.

19            Q.     Okay. Is it on your property at that  
20     point?

21            A.     Right at the property line.

22            Q.     It's right at the property line --

23            A.     There's a valve box right at the property  
24     line.

25            Q.     Okay. Which is depicted by this --



1 A. Correct. It says "valve."

2 Q. -- circle here on the color map, which is  
3 the western valve. That's what we're talking about?

4 A. Right.

5 Q. I think I'm oriented now.

6 A. Right. And then in order to allow me  
7 access to the line, she put the meter right up next to  
8 the edge of the road --

9 Q. Mm-hmm.

10 A. -- so that that would leave me this piece  
11 to connect to, rather than just going down to the  
12 valve box. And I said, Oh, okay. That -- that's  
13 nice. I'll connect to there. So I connected to  
14 there. And in that --

15 Q. I understand.

16 A. -- going across, I also disconnected her  
17 one-inch line and connected it to this line, so this  
18 line under the street --

19 Q. Whoa, whoa. In doing so, the westernmost  
20 line --

21 A. Eastern --

22 Q. -- depicted on -- easternmost line depicted  
23 on Exhibit A, thank you, you bypassed that?

24 A. Exactly. Eliminated the crossing under the  
25 road of it.

1           Q.    I understand. Thank you for that  
2 clarification.

3           A.    And my entire thought process, my entire  
4 concern is that, had this meter been placed in that  
5 valve box position, this line wouldn't be a part of my  
6 system.

7           The only reason it's on my side of the meter is  
8 because of the arbitrary placement of that meter not  
9 in the valve box that was existing in the existing  
10 water system, but, rather, twelve feet back from  
11 there. And that's all I actually have to say. That's  
12 what it is.

13          Q.    Okay.

14          A.    My whole case lays on that.

15          Q.    Right. All right.

16          A.    And I believe this came from here  
17 originally, fed this, fed this, and fed into my house.

18          Q.    And what you're depicting -- what you're  
19 describing there, for the record, is what's been  
20 called the old line, the old main, the leaking line?

21          A.    Correct.

22          Q.    And you're describing a course from the  
23 west to the east partly depicted on the color map,  
24 more fully depicted on what we have labeled Exhibit C?

25          A.    Correct.

1           Q.    Okay.  Anything else that you want to tell  
2   me right now that you know personally that will help  
3   the Commission figure out whether a violation of  
4   tariff or regulation or statute has occurred?

5           A.    No, and I would like to clarify.  I don't  
6   think that was a violation.  I think, again, it was  
7   completely malice free.  I don't think anybody was  
8   trying to sneak and get anybody.  I think there's just  
9   a bunch of spaghetti under the ground, and you're  
10   periodically going to run into some when you dig in  
11   and then cap it.

12          Q.    I understand and I'll clarify.  The purpose  
13   of the complaint is to determine whether -- when we  
14   use the term "violation," that means did not follow.  
15   It doesn't necessarily mean malice.  But what we do in  
16   these things is determine whether this company has  
17   followed the tariff, regulations, statutes that cover  
18   it.

19          A.    I believe they, to the best of their  
20   abilities, followed it and they were -- it was  
21   unknown.

22          Q.    Okay.  You will eventually be -- you may  
23   eventually be calling Ms. Fennema to the stand,  
24   recalling her.  Is there any more background that you  
25   feel you need to lay that you need to tell me and the

1 Commission for your questions for her, if you have  
2 any?

3 A. No, I don't believe so.

4 JUDGE JORDAN: Okay. Then we'll have  
5 cross-examination from the company.

6 MR. GIBSON: Thank you, Judge. I just had  
7 a couple questions of Mr. Larson.

8 MR. LARSON: Sure.

9 EXAMINATION

10 BY MR. GIBSON:

11 Q. Maybe to start with the first of your  
12 testimony, if I recall, there was some -- we were  
13 talking about the -- I'll call it the old black line,  
14 because that seems to be the easiest way to refer to  
15 it, the one that eventually developed a leak.

16 A. Right.

17 Q. The old black line that snaked up under the  
18 road and mostly on the north side of the road. Okay,  
19 I'm looking at your -- what we're calling Exhibit C  
20 because I think it kind of shows, maybe best, your  
21 drawing that you submitted with your complaint.

22 Okay. My understanding of your testimony is when  
23 you -- and he's holding it up. The Judge is holding  
24 it up if you need to see it.

25 Okay. You were saying that that old black line

1 was cut twice early in this process. Once was -- was  
2 actually when they were digging what's marked line 4  
3 here, I guess. It's the line that goes across to put  
4 the meter in; is that correct?

5 A. That's correct.

6 Q. My understanding. So it was actually part  
7 of setting the meter, the east -- wait -- I'm sorry,  
8 the west meter --

9 A. Correct.

10 Q. -- part of setting the west meter was when  
11 they ran that line under and they came across the old  
12 black line, they cut it and capped it --

13 A. Correct.

14 Q. -- on both sides? So you still had a  
15 portion that ran on west --

16 A. To the west and --

17 Q. -- to who knows what, other people, I  
18 presume, or, and then the portion that was left on  
19 your side?

20 A. Correct.

21 Q. Secondly you say, then, at some later date  
22 not too far later --

23 A. No, a couple months.

24 Q. But at some point, the sewer company had  
25 cut that, there again, further on the west side, west

1 of the meter, west of the new line, west of your  
2 property completely, cut it at what you've marked  
3 number 5 or right about where you put number 5, that  
4 little circle. So somewhere in there, let's say, it  
5 was cut again?

6 A. Correct.

7 Q. And at that time the water company came out  
8 and capped that. As far as you know --

9 A. Correct.

10 Q. -- they did that. But that was a line that  
11 was not -- I mean, that wasn't -- it had already been  
12 disconnected from your service, right? That was  
13 already off to the --

14 A. I just know that the length between in the  
15 portions of three with the "X" where the leak is, it's  
16 my understanding that that line originally fed from  
17 the west, where the water came from, went down into  
18 the first valve box, went out in the street, went down  
19 in the second valve box, and then went down to feed  
20 the home.

21 Later, when they installed the line on the  
22 north -- or the south side of the street, they came by  
23 and ran three new lines across the street there --

24 JUDGE JORDAN: I remind everyone to speak  
25 slowly for the reporter.

1 MR. GIBSON: I don't envy you.

2 All right, Judge. I guess so just to clarify  
3 then, my question was a little bit of chronology here.

4 THE WITNESS: Right.

5 Q. (By Mr. Gibson) So we're talking about  
6 there was a cut -- the two cuts you were talking  
7 about, first, the black line was cut as part of  
8 installing the meter?

9 A. Correct.

10 Q. So you got to the new meter on the west  
11 side and at that time, line 3, the old black line, was  
12 capped off, and in both directions basically --

13 A. Right.

14 Q. -- so it's no longer --

15 A. Not.

16 Q. Right. So your side is now isolated and  
17 then the other side is, as well, whatever was on west  
18 of you?

19 A. Correct.

20 Q. At some point later, it was after the  
21 meter, though, was put in and after that was capped,  
22 sometime the sewer company cut the line somewhere  
23 else. So it actually wasn't a part of your property,  
24 part of your --

25 A. Correct.

1           Q.    -- thing anymore? Okay. And from what I'm  
2   understanding, you're also saying that you -- moving  
3   now to the second -- I mean the 2001 meter, the  
4   westerly meter, you're saying that you were sort of in  
5   consultation with the water company as far as how  
6   to -- how to set a meter over there without causing  
7   yourself to have two meters -- the extra expense of  
8   multiple meters or something of that nature?

9           A.    No, that was brought to -- like to me. I  
10   just requested a meter right here at the property  
11   line, I requested one. And it was, No, we're not  
12   going to do that; here's why we can do it, and it will  
13   be better for you.

14          Q.    Okay. So you originally thought that the  
15   meter box would be set right -- very close to the  
16   meter -- or I'm sorry, the valve box, what's marked --

17          A.    No, no. I actually thought the meter I was  
18   requesting would be set all the way at the easternmost  
19   building. It was unbeknownst to me where the meter  
20   would be set, and my assumption would be that when  
21   meters got set that the PSC was requiring, she would  
22   have gone right into that existing valve box, dug it  
23   out, put a meter right there, and then been done.

24          Q.    Okay. So you thought --

25          A.    I thought she would bring it right to the



1 point where I terminated my line out of the  
2 easternmost house.

3 Q. So when you brought your line up from the  
4 easternmost house --

5 A. It was right to --

6 Q. -- it came right to basically where that  
7 valve box is?

8 A. No. It came right to the southern edge of  
9 my property, considerably -- um --

10 Q. Somewhere down in this area?

11 A. Yeah, it would have been in here somewhere.  
12 I thought those lines would come right across here and  
13 there would be a meter --

14 JUDGE JORDAN: What you've got to do, even  
15 though he's asking you questions, you need to make  
16 your answers to her.

17 THE WITNESS: Okay. Okay.

18 Q. (By Mr. Gibson) So for the record,  
19 Mr. Larson, and for the Court to see, on the -- I  
20 think it's Exhibit B, the one that has the colored  
21 markings --

22 JUDGE JORDAN: Hang on. This is --

23 MS. LEWIS: It's attachment B to staff's  
24 recommendation that was filed. It has not been  
25 admitted into evidence yet, although I will be

1 admitting it into evidence.

2 JUDGE JORDAN: Okay. Let's do this --

3 MR. GIBSON: If I could go ahead, then,  
4 Judge, and offer, since some of us are looking at the  
5 colored -- sometimes the colors are easier to follow.  
6 If I could offer as --

7 JUDGE JORDAN: I think that will be D.

8 MR. GIBSON: -- Respondent's Exhibit 1 or  
9 D -- however you'd like to -- would you like me to go  
10 with numbers or just mark it D? That's fine.

11 JUDGE JORDAN: Well, let's do this: First,  
12 let's get your stickers on A and B.

13 (EXHIBIT D WAS MARKED FOR IDENTIFICATION.)

14 JUDGE JORDAN: Now, Mr. Larson, you've  
15 referred to the color map more than once, and so have  
16 I, during your testimony.

17 MR. LARSON: Sure.

18 JUDGE JORDAN: Would you like the  
19 Commission to consider this?

20 MR. LARSON: Absolutely. That was already  
21 submitted. It was part of Mona's response, I believe.

22 JUDGE JORDAN: Correct. So it's in the  
23 file. And if there's no objection, I will put it into  
24 the record. My recollection is that there are two  
25 slightly different versions of this.

1 MR. GIBSON: Yes. Why don't we use the  
2 Commission's version. Would that be better? It's  
3 maybe a little more clear.

4 JUDGE JORDAN: And that one has -- we need  
5 to distinguish -- which one is theirs? Which one do  
6 you want to use?

7 MR. GIBSON: It was a Google map, I think.

8 JUDGE JORDAN: There's two of them. Which  
9 one do you like? One has a few more markings on it  
10 than the other.

11 MR. GIBSON: This was the one I was looking  
12 at but -- they're very --

13 MS. LEWIS: Yeah, this is the one that I  
14 had. I think this is the one that was previously  
15 filed, the one without these markings.

16 MR. LARSON: Squares on it.

17 MR. GIBSON: Right. I concur.

18 JUDGE JORDAN: So you want this one?

19 MR. GIBSON: Yes.

20 MS. LEWIS: Yes.

21 JUDGE JORDAN: Not this one? Okay. Put  
22 that aside. This is the Google map that accompanied  
23 staff's report; is that correct?

24 MS. LEWIS: Correct.

25 JUDGE JORDAN: Let's mark that

1 Complainant's Exhibit D. And is there any objection  
2 to entering this into the record?

3 MR. GIBSON: No, Judge.

4 JUDGE JORDAN: None from the Respondent.  
5 Any from staff?

6 MS. LEWIS: No, I have no objection. I'm  
7 sorry.

8 (EXHIBIT D RECEIVED IN EVIDENCE.)

9 JUDGE JORDAN: All right. Now, Counsel,  
10 you were --

11 MR. GIBSON: Thank you, Judge.

12 JUDGE JORDAN: -- examining using Exhibit  
13 D; is that correct?

14 MR. GIBSON: Yes. Mr. Larson and I had  
15 been referring to Exhibit D and we had, I think, if I  
16 understand right, on the west side there is a dashed  
17 purple line --

18 A. That's the east side.

19 Q. (By Mr. Gibson) Oh, sorry. Yes, the east  
20 side. A dashed purple line and then there's sort of a  
21 T, an intersection, and he was -- if I understood  
22 right, Mr. Larson, you were indicating you originally  
23 were thinking that the meter might be set down about  
24 where the purple dashed lines intersect?

25 A. Actually it's where it ends.

1           Q.    Oh, okay.

2           A.    Home, office, laundry, that's where I  
3    thought my meter would be.

4                   JUDGE JORDAN:  Oh, okay.

5           A.    That's where I brought -- you're seeing the  
6    corner of the road -- where it says home, office,  
7    laundry there --

8                   JUDGE JORDAN:  I see.

9           A.    -- that's the corner of the building.  I  
10   brought it right out at that corner and I thought,  
11   here, then she'll come straight across the street of  
12   the four-inch main and put in a meter.

13           Q.    (By Mr. Gibson)  Oh, okay.  And then did  
14   you have any plan, then, for getting service to the  
15   cabins?

16           A.    It was existing.  Cabins were all in  
17   service.  Everything was connected at the time.

18           Q.    Well, but not -- well, there was water  
19   service but not metered service, right?

20           A.    Correct.

21           Q.    So when they put in a meter, I mean, you  
22   knew that they were having to meter everyone; is that  
23   correct?

24           A.    I wasn't privy to that, but I understand  
25   that, in reading now, at some point that PSC required

1 her to have meters on it. I knew I was at a base  
2 rate.

3 Q. Sure. Okay. So, I'm just curious if you  
4 had thought -- if you had even thought ahead as to  
5 how, then, you would get the metered service on up to  
6 the cabins.

7 A. No. I thought they would just replace the  
8 valve boxes with meters. Like they had all the way  
9 down the street and everywhere else that I had seen  
10 metered areas, they just took out that valve and put  
11 in a new valve with a meter on it, right there in the  
12 valve box at the property line.

13 Q. And, I'm sorry, I'm just trying to get  
14 this --

15 A. Oh, I understand.

16 Q. -- clear in my own mind.

17 A. Well, it's underground. I mean, you can't  
18 see it, so we're trying to --

19 Q. Okay, sir. And then you had -- you said  
20 that, then, as part of your discussions, Mona had  
21 advised that they would prefer to put the meter  
22 further to the east, more -- where they eventually  
23 did. They would set the meter there because they  
24 thought it would be better for you as far as -- is  
25 that your -- was that what you said, that they

1 explained to you they thought that would be easier so  
2 they could only have one meter across the road?

3 A. That was one of the items. I understood  
4 the meter was placed there because there was already a  
5 line there. Across the street, there was an inch and  
6 a half that would be enough to provide for my  
7 building. And in order to make it easier for me to  
8 connect to, she'd pull it up close to the road so that  
9 I had a long shot of pipe to hit.

10 Q. Okay.

11 A. And, you know, I was listening to the  
12 public utility. I thought this is what I'm supposed  
13 to do. Okay.

14 Q. And so at that time, you didn't object  
15 to --

16 A. No. No.

17 Q. And that was in 2001 --

18 A. Yeah. No, I didn't --

19 Q. -- so ten years ago?

20 A. I didn't object to the placement of it. I  
21 didn't have any idea what existed in between there. I  
22 was doing what I was directed by the City and the  
23 water company.

24 Q. Okay.

25 A. I didn't like having to put 150 feet of

1 line under the road, under the easement, but I did it  
2 because that's what I was told to do.

3 Q. And now -- and there had been, then, two  
4 other lines under the road that were now abandoned?

5 A. There was one one-inch line --

6 Q. Oh, one, I'm sorry. Only one.

7 A. And I abandoned at Mona's request. Rather  
8 than leave that line feeding under the road, I cut  
9 that and tapped it into my new line so that we would  
10 eliminate that piece under the road so she wouldn't  
11 have to cut into the road if anything ever went wrong  
12 with it.

13 Q. Right. Well, and to avoid having to put  
14 yet another meter down there?

15 A. Yeah, I guess. That would have made sense  
16 too.

17 Q. So, we're left, and still to this day are,  
18 now with two lines under the road --

19 A. Three.

20 Q. -- which have been marked on every --

21 A. Three lines. Three lines.

22 MRS. FENNEMA: We left two service lines  
23 crossing the road.

24 Q. (By Mr. Gibson) I'm sorry, I was talking  
25 about servicing function -- functioning service lines;



1 at this time there are two. One goes to the east  
2 meter and one goes to the west meter; is that as far  
3 as you know?

4 A. I don't know where the third line went on  
5 Exhibit A. I believe it goes directly to this valve  
6 box, as well. Unless they've been cut and capped.

7 MRS. FENNEMA: No.

8 A. There was three lines shown on Exhibit A,  
9 two one-and-a-half-inch lines -- let's see, we're  
10 here. One was right here, an inch-and-a-half line;  
11 one was right here, inch-and-a-half line, and then  
12 one-inch line. That one-inch line we cut and capped  
13 so that it wouldn't run under the road. We installed  
14 the meter in this middle line --

15 Q. (By Mr. Gibson) Right.

16 A. -- and this third line, I believe, goes  
17 directly to valve box number 2, as well. So there's  
18 still water going to there through the whole -- it's  
19 all connected, unless it got capped at some point  
20 maybe when they were cutting trenches.

21 Q. So you don't --

22 A. I don't know where that third line is.

23 Q. So you don't know. But to the best of your  
24 knowledge, you are not receiving water that is  
25 unmetered?

1 A. I don't believe so, no.

2 Q. So you think that line was probably capped?

3 A. Yeah. I would guess at some point it was  
4 taken out.

5 Q. And did -- on the westerly -- what's marked  
6 on Exhibit D is valve box number 2, the easterly --  
7 the two-inch box --

8 JUDGE JORDAN: That's westerly.

9 MR. GIBSON: Golly, I keep doing that.  
10 Okay. Westerly.

11 Q. (By Mr. Gibson) The westerly valve number  
12 2, two-inch box, you did not ever connect that, that's  
13 marked here, that's approximately ten feet from that  
14 box to the new two-inch meter, you did not ever  
15 connect those; is that right?

16 A. That is correct.

17 Q. Okay. So the one-inch black pipe, that  
18 we're calling it, that eventually had a break, it  
19 feeds into valve box number 1, which is on the -- I'm  
20 going to have to write this down -- east side. And  
21 from that valve box, then, is connected to the  
22 one-and-a-half-inch meter, the meter that was set in  
23 2001?

24 A. I -- I believe that's -- that's -- I  
25 believe. I'm making an assumption there that that's

1 the case.

2 Q. And that's also the little service line  
3 between the meter and valve box number 1, is where you  
4 connected in; is that correct, with the line that you  
5 were just speaking that you ran up --

6 A. No. It's an inch and a half. Came out of  
7 the meter as an inch-and-a-half T. And I didn't make  
8 any of that connection from the valve box to the  
9 meter. All I did was connect into a T they placed  
10 with my one-and-a-half-inch line.

11 Q. Okay, so they placed a T right there at the  
12 meter?

13 A. Correct. Right. Just outside the meter,  
14 they put a T connection, left the rest of the water  
15 system intact, including twelve feet away, the  
16 existing valve box.

17 Q. Okay. And to the best of your knowledge,  
18 does the one-inch -- the black pipe -- so we know it  
19 runs from valve box number 1 to valve box number 2,  
20 and from valve box number 2, it runs on through  
21 your --

22 A. New two-inch meter line.

23 Q. Right. Runs through your resort; is that  
24 correct?

25 A. No. No, I don't believe it ever goes into

1 the resort at all. I believe it was the original  
2 looping line from the west to the east, with my house  
3 being -- original house being the last point of  
4 connection. And it's been cut several times, but this  
5 loop may still be left there.

6 It's entirely possible that this valve box is  
7 still fed by the other questionable line that's on  
8 Exhibit A, and that this was -- this is just hot by  
9 the fact that it's been capped before and it's in  
10 there.

11 Q. Well, and we'll -- we can have Mona clarify  
12 that because she's aware, I'm sure, but all I'm  
13 wanting to clarify for you is, so there is -- it looks  
14 like the valve box 1 and 2 are connected by the black  
15 pipe and then --

16 A. I believe -- I believe that to be the case.

17 Q. Okay. And your -- all the water that goes  
18 to the rest of your resort is also connected to  
19 valve -- well, I shouldn't say "the rest of the  
20 resort," but the western side of the resort is also  
21 tied into valve box number 2; is that right?

22 A. Yeah. The original resort is all tied to  
23 those two valve boxes.

24 Q. So, you're getting, essentially, all your  
25 water through that easterly meter?

1 A. Correct.

2 Q. Okay. Except for the one new cabin which  
3 is right up at the other valve box?

4 A. Correct.

5 Q. Okay. And you didn't install any of --

6 A. No.

7 Q. -- the black line, right?

8 A. No. And there's no black line anywhere in  
9 the resort that I've dug up anything, ever. I've  
10 never run into any of that type or size of pipe  
11 anywhere.

12 Q. And Woodland Manor did not install any of  
13 that black pipe?

14 A. I don't believe they did either. My guess  
15 is that they bought the system and it had that black  
16 line in it. That was part of the system.

17 Q. Lastly, I guess I'd just ask, is there a  
18 particular tariff or citation or anything that you are  
19 relying on to indicate that Woodland Manor should be  
20 responsible for any breakage on your side of the  
21 meter?

22 A. I'm relying on a combination of statements  
23 within the tariffs and statements within the  
24 stipulated facts that indicate the intent of the  
25 tariff. And the fact that we didn't know, by placing

1 that meter here, we would leave that abandoned line  
2 inside the meter, that had the meter been placed in  
3 the valve box, we wouldn't be having any of this  
4 discussion.

5 Q. Well, but you did not make any attempt to  
6 correct -- connect on the westerly side valve box  
7 number 2 to that new meter, the two-inch meter,  
8 correct?

9 A. Not at that point. I was told by Mona that  
10 you still had water to here when we fed this. Yeah,  
11 okay.

12 Q. So you knew it was through the southerly  
13 meter -- or the east -- easterly meter, the  
14 one-and-a-half-inch meter, the second one that was  
15 set, you knew you were getting water through that  
16 meter, correct?

17 A. I believe my job as the consumer is to know  
18 I have water when I turn on the faucet, not which  
19 meter it comes from or where. I wouldn't know that.  
20 I'm only learning this now. As I look at it from a  
21 logical perspective and overlaying things looking at  
22 it, it becomes evident what it is, but I didn't know  
23 at the time.

24 Q. I understand. I guess my point is, did  
25 you -- you un -- did you understand that the westerly

1     portion of your resort was getting water through that  
2     black pipe?

3             A.    No.   I did not.

4             Q.    And how did you think it was getting water?

5             A.    I had no idea.   It could have easily been  
6     somewhere inside the resort, but it wasn't.   Turned  
7     out it was outside.

8             Q.    So if it was inside the resort, you'd have  
9     thought --

10            A.    It would have been mine.

11            Q.    He said if it was inside the resort, it  
12     would have been his.   Did I state that right?

13            A.    Yeah.   If it was from somewhere in the  
14     middle of the resort, a T had gone off, or if it ran  
15     along the foundations of the buildings, somewhere  
16     inside the property line, I could have made an  
17     assumption that that was installed by somebody that  
18     owned this property, as opposed to it being from the  
19     property line out and back to the property line and  
20     back out again.

21            Q.    So you weren't thinking of the meter as the  
22     point at which something would become yours.   You were  
23     thinking of it as how far at this point it was --

24            A.    I was thinking of it as how much they  
25     charged me for the bill.   I didn't read the tariffs.

1 When they installed the meters, I didn't get the  
2 tariffs to read them and understand when this became  
3 my pipe. How would I know?

4 MR. GIBSON: Well, I think I'll stop there,  
5 Judge.

6 JUDGE JORDAN: Okay. Cross-examination  
7 from staff?

8 MS. LEWIS: I don't have any questions.  
9 Thank you, Mr. Larson, for your time.

10 MR. LARSON: Thank you.

11 JUDGE JORDAN: Okay. Hang on. I might  
12 have one or two.

13 THE WITNESS: Oh, okay.

14 JUDGE JORDAN: Give me a second, and I'll  
15 just make sure that I don't have anything for you  
16 before I send you back. Okay.

17 EXAMINATION

18 BY JUDGE JORDAN:

19 Q. Oh, I did have one, just one thing for you,  
20 and this is clarification with regard to what we've  
21 marked as Exhibit A. This has to do with the  
22 easternmost line, headed north on -- as depicted on  
23 Exhibit A. This shows that line as not reaching the  
24 north side of the street; is that correct? Does it  
25 stop under the road?



1 A. No. In actuality, now, it stops back here.

2 Q. Okay.

3 A. In 1991 or sometime thereafter, it  
4 definitely went into that house.

5 Q. It went into that house. Okay. This is  
6 what I'm not understanding. Why not just hook up to  
7 that line?

8 A. Because it was a one-inch line, and I have  
9 two 80-gallon water heaters, five washing machines,  
10 two in that house, three in this one, and I knew I was  
11 going to need more water. I assumed I was going to  
12 need more water. I didn't think that little line  
13 would do it.

14 Q. That line was inadequate?

15 A. I believe so.

16 JUDGE JORDAN: That's all the questions I  
17 have. So you may stand down. And you may call your  
18 next witness.

19 MR. LARSON: I don't have -- oh, I guess  
20 David --

21 JUDGE JORDAN: You could recall Mona if you  
22 wish.

23 MR. LARSON: Oh. Now is the time, okay.  
24 Yes, I would recall Mona Fennema again. I'll try to  
25 simplify this.

1 JUDGE JORDAN: And I've already  
2 administered the oath to you.

3 MRS. FENNEMA: Okay.

4 CONTINUED EXAMINATION

5 BY MR. LARSON:

6 Q. Now, I guess in simplification, when you --  
7 at each time that the black CTS pipe had been cut, on  
8 what authority was it that you were -- did you take it  
9 upon yourself to cap it and abandon it?

10 A. The first time that we cut the CTS pipe was  
11 when we put in the new two-inch meter on the west side  
12 of the property.

13 Q. Correct.

14 A. And when we started -- we actually were  
15 going to run a line and that was when we discovered  
16 the CTS pipe. So we cut it at that point because it  
17 was not going to be used any longer. This is the line  
18 on the west side.

19 JUDGE JORDAN: All right. I think I  
20 understand. Let me stop you there and clarify. You  
21 say this is the line on the west side. Now, I think  
22 what you're referring to might be illustrated by  
23 Exhibit C; is that correct?

24 MRS. FENNEMA: You can either pull it off  
25 of C or the staff one, either one, I believe.

1 JUDGE JORDAN: Okay. The portion that you  
2 cut when laying the --

3 MRS. FENNEMA: Number 4 line on this one.

4 JUDGE JORDAN: Right. On Exhibit C, that  
5 is the western line?

6 MRS. FENNEMA: Mm-hmm.

7 JUDGE JORDAN: Okay. When you were laying  
8 number 4 on the west side, you cut through line 3; is  
9 that correct?

10 MRS. FENNEMA: Correct. And at that point,  
11 when we cut it, we assumed that we would not have  
12 water anymore at that side of the resort. But after  
13 we cut it, there still was water, so we just went back  
14 as far as we could and capped it going both  
15 directions.

16 Q. (By Mr. Larson) My question was on whose  
17 authority did you cap that? Whose line was that?

18 A. At that point it was Woodland's line  
19 because it was serving another customer to the left.

20 MR. LARSON: Okay.

21 JUDGE JORDAN: Okay. Go ahead. Go ahead.

22 Q. (By Mr. Larson) So that line came out of a  
23 valve box at my property line?

24 A. I don't know if it went clear to the valve  
25 box or not. Because we did not go all the way to the

1 valve box.

2 Q. Right. So you just cut it and capped it.

3 But if the -- the innuendo at this point is that this  
4 line could be mine, wouldn't that line be mine?

5 A. No.

6 Q. Okay.

7 A. Because this no longer served your resort.  
8 We were setting the meters. So at that point you  
9 couldn't really determine which side of the meter was  
10 yours or mine, because there was no meter to determine  
11 it.

12 Q. Right.

13 A. But we set this meter with the assumption  
14 that you would hook the rest of the resort to that  
15 meter, because that's why we put in the two-inch  
16 meter. But that didn't happen, and so this line, when  
17 it got cut back here again later by the sewer, that  
18 wasn't -- didn't have anything to do with you anymore.

19 Q. Right. My point was that that water came  
20 from this direction. The fact that when this got cut  
21 down here and it started gushing water, it meant the  
22 water was coming this way.

23 JUDGE JORDAN: From the west?

24 Q. (By Mr. Larson) From the west to the east.

25 My property --

1           A.    It was coming -- it was coming from this  
2   main and coming across.

3           Q.    No, yeah, across to here.

4           A.    No.  Not anymore.

5           Q.    Because it had been cut and abandoned.  
6   Originally it was coming from that main and it went to  
7   here and moved to there, is my assertion.

8           JUDGE JORDAN:  Maybe I can clarify.

9           MR. LARSON:  Sure.

10          JUDGE JORDAN:  Let's go back to the time  
11   when you laid the western line 4 as depicted on  
12   Exhibit C.

13          MRS. FENNEMA:  Mm-hmm.

14          JUDGE JORDAN:  Exhibit C has a point marked  
15   "5."

16          MRS. FENNEMA:  Correct.

17          JUDGE JORDAN:  Was that connected to your  
18   system at that time?

19          MRS. FENNEMA:  It was connected to the main  
20   on the --

21          JUDGE JORDAN:  South of the road; is that  
22   correct?

23          MRS. FENNEMA:  South side of the road, yes.  
24   It was --

25          JUDGE JORDAN:  That's not depicted here.

1 Is that somewhere off the map?

2 MRS. FENNEMA: It was a T. There was a T  
3 in there and it went two directions.

4 JUDGE JORDAN: Okay.

5 THE WITNESS: It was servicing --

6 JUDGE JORDAN: So point 5 would have  
7 continued west off the map?

8 MRS. FENNEMA: Correct.

9 JUDGE JORDAN: Where it would have had a T  
10 intersection?

11 MRS. FENNEMA: Well, that's basically where  
12 the cap was put, was at the T.

13 JUDGE JORDAN: Ah, right here.

14 MRS. FENNEMA: Mm-hmm. And so that meant  
15 there was another -- that -- only thing that it was  
16 servicing after that point was the other customer to  
17 the west.

18 JUDGE JORDAN: Okay. So when you put in 4,  
19 you severed that portion of 3 that was to the west of  
20 the western line --

21 MRS. FENNEMA: Correct.

22 JUDGE JORDAN: -- 4? And you did that  
23 right about the spot marked 5?

24 MRS. FENNEMA: Mm-hmm. (Nodding head.)

25 JUDGE JORDAN: And that's where it also

1 branched to the other customer who's to the west; is  
2 that correct?

3 MRS. FENNEMA: Correct. And then it was  
4 capped on this other side of 4, also, so that it  
5 didn't go up to his meter box or valve box, whatever  
6 you want to call it there.

7 JUDGE JORDAN: And that other cap, did that  
8 happen when you cut through the line in laying western  
9 line 4 --

10 MRS. FENNEMA: Mm-hmm.

11 JUDGE JORDAN: -- or was that when the  
12 sewer come --

13 MRS. FENNEMA: No, we capped it --

14 JUDGE JORDAN: Okay, I understand.

15 MRS. FENNEMA: -- when we did line 4.

16 JUDGE JORDAN: Okay. Now, he asked you  
17 what authority you had to cut off and cap the line as  
18 you've described. I don't recall your answer. Can  
19 you repeat that?

20 MRS. FENNEMA: Just because at the time it  
21 was our water service and we were setting the meters  
22 and --

23 JUDGE JORDAN: Okay. In other words, you  
24 believed that line 3 was your line; is that --

25 MRS. FENNEMA: At that time, yes.

1 JUDGE JORDAN: At the time. Very good.

2 Thank you for that clarification.

3 MRS. FENNEMA: Or at least that portion of  
4 it.

5 JUDGE JORDAN: You may resume your  
6 questioning.

7 MR. LARSON: Is the Woodland Manor response  
8 part of the record or has it just been filed, but it  
9 needs to be included as part of the record as  
10 Exhibit E, then, I would assume?

11 JUDGE JORDAN: Okay. Well, that's a  
12 pleading that ought to be part of the record. Just to  
13 make -- oh, I see that it does have a verification on  
14 it.

15 Okay. Well, just to make sure, we'll go ahead and  
16 enter this into the record if that's what you want to  
17 do.

18 MR. LARSON: So I can ask questions off of  
19 it based on his statements then?

20 JUDGE JORDAN: Yes, you may.

21 Any objection to that?

22 MS. LEWIS: I would just ask that we would  
23 replace it with an unmarked copy. We may not have the  
24 ability to do that today, but --

25 MR. LARSON: Oh, sure.



1 MS. LEWIS: -- at least I think the court  
2 reporter said that the one that you have in your hand  
3 is highlighted and marked by Complainant --

4 JUDGE JORDAN: Right.

5 MS. LEWIS: -- and I think it would be best  
6 for the record if we entered a clear copy.

7 MR. LARSON: Yeah, I think you have -- you  
8 all should have this.

9 JUDGE JORDAN: Right. You can retain this  
10 marked version --

11 MR. LARSON: Right, right.

12 JUDGE JORDAN: -- for you to read your  
13 questions off of. The exhibit already on file is  
14 record of the Commission, so it just comes into  
15 evidence just by reference.

16 Unless -- I'm not hearing any objection.

17 MR. GIBSON: So this is just the original  
18 answer, the pleading is what he's --

19 JUDGE JORDAN: That's right, and that's  
20 really part of the record anyway.

21 MR. GIBSON: So that's -- yeah.

22 JUDGE JORDAN: And it's -- yeah. There's a  
23 couple ways that it's already part of the record, but  
24 it is part of the record. Okay.

25 Q. (By Mr. Larson) So in reference to the

1 response to Eric C. Larson complaint, I understand  
2 that's part of the record. In the fifth paragraph  
3 down, it says: December 2001, first billing based on  
4 usage. Throughout the system -- this is a quote:  
5 Throughout the system there are some lines and meters  
6 that are not located on the property owners' property  
7 which were already installed when we purchased the  
8 system in 1999.

9 Do you know what your intent was in including  
10 that?

11 A. That was in response to your statement that  
12 all the other meters were placed on the property or on  
13 the property line, and that was just to clarify that  
14 that was not the case throughout the system.

15 Q. And can you substantiate that in any way  
16 where there are extenuating circumstances, or what are  
17 the reasons why they're not -- that the meter boxes  
18 didn't get placed in the valve boxes or the original  
19 valve box was outside the property line? Are there --  
20 anything that you can recall?

21 A. Most of those were in place prior to our  
22 purchase. I have some meters that are on other  
23 people's property. They -- I think a lot of them --  
24 meters were placed during the subdivision development  
25 and then when they were hooked, they were just placed

1       wherever.

2               Q.     And do you know how many meters -- from the  
3       time you purchased Woodland Manor to the time the  
4       system was completely metered, how many meters did you  
5       put in?

6               A.     Hmm, um, it would be a guesstimate on my  
7       part --

8               Q.     Sure.

9               A.     -- but I'm going to say there was  
10      approximately twenty meters that we had to put in that  
11      hadn't been already installed.

12              Q.     And of those twenty meters, how many of  
13      them do you know were placed in a place other than the  
14      existing valve box?

15              A.     Most of them.

16              Q.     And were they brought to property lines or  
17      were they brought to points of easiest connection?  
18      What was the determining factor in placement of the  
19      meters for those twenty meters?

20              A.     The determining factor was based upon what  
21      was needed to best accommodate the customer --

22              Q.     Okay.

23              A.     -- at the time, because most of the meters  
24      that had not been installed were the ones that weren't  
25      easy.

1           Q.    And I'm going to make the assumption that  
2    in respect of your intent that you just didn't  
3    understand, maybe, what was under the ground and that  
4    it could have resulted in something like this, and so  
5    far it hadn't until -- until now.  So there are other  
6    areas that there are meters in place that could have  
7    put lines installed by the predecessor water company  
8    inside someone's meter?

9           A.    I'm not sure of your question.

10          Q.    I would not assume malice on your part that  
11   you would put it in specifically trying to leave pipe  
12   in somebody else's responsibility now, but there  
13   certainly could be other areas within the City that  
14   there is a meter installed and there is pipe that was  
15   actually previously installed by the predecessor water  
16   company, which was your pipe when you bought the  
17   system.  And is this the first time that we've had a  
18   pipe that came up and this situation has arisen?

19          A.    Yes.

20          Q.    And my -- I guess my point was to -- to  
21   commend your honor in that -- there would be -- I  
22   don't think you did this on purpose, but this could  
23   pre -- this might be precedent setting, that if these  
24   meters were placed either arbitrarily or in a  
25   condition I don't see that the tariffs address them,

1 to a degree that will cover this type of situation  
2 under the road, you know, out of the easement.

3 A. This is the only place we ran into CTS pipe  
4 in the whole system.

5 Q. Within my property, or except for that  
6 amount to the left that went to the T that fed another  
7 property?

8 A. That's the only time we've ever run into  
9 it.

10 Q. Okay. Now, let's see now. Do you have any  
11 idea what has happened to the third line depicted in  
12 the 1991 drawing crossing the street from south to  
13 north underneath what is now Holiday Drive?

14 A. Okay. On --

15 Q. On Exhibit A?

16 A. Is that the easterly line --

17 Q. The westernmost original line. Not your  
18 two-inch new line, but the westernmost of the three  
19 lines in the 1991 drawing. There's a third line  
20 depicted there that says it's an inch-and-a-half line,  
21 but we don't know where that is and --

22 A. It's been capped.

23 Q. At the main?

24 A. The -- no, the -- it was capped at the T  
25 going off to the other customer to the left. And it

1 was capped going to your property. There is no --  
2 there is no line servicing your property from the west  
3 other than that two-inch line.

4 Q. Okay. And when was that capped?

5 A. It was capped at the time we put in the  
6 two-inch line.

7 Q. Would there have been a simpler way to just  
8 take the two-inch line straight to the valve box and  
9 put the meter right there?

10 A. That was that CTS one-inch line, and we did  
11 away with it because it didn't run perpendicular to  
12 the main.

13 Q. So the CTS line, though, connected right  
14 into the main?

15 A. No. It connected into a T that went to  
16 the -- back to the main and to the other customer.  
17 And we did away with the CTS line going to you.

18 Q. And what other customer was that, since I'm  
19 now the next customer to the west?

20 A. That is your property.

21 Q. Okay. So that line when it was cut later,  
22 how is that being fed now? How is my property, my --  
23 my second -- the house I bought --

24 A. The house you bought is being fed by the  
25 CTS line that went from the other side of the T.

1           Q.    So that in the position of the easternmost  
2   one-and-a-half line shown on the original drawing, a T  
3   came off one, and one side went to the resort and one  
4   side went to 21 Holiday?

5           A.    Correct.

6           Q.    Okay.

7           A.    But the T was out in the middle of the  
8   street. It was not at the main. And we capped it so  
9   that that line goes off to your house, meter, and then  
10   that was capped on the other side. The two-inch line  
11   went to the new meter.

12          Q.    And what was the line that was cut even  
13   further west that was also a CTS line further west of  
14   21 Holiday, where did that connect to?

15          A.    That was the one to your house, the 21  
16   Holiday.

17          Q.    And it got capped and abandoned; how does  
18   my house get water now?

19          A.    Well, it wasn't capped, it was repaired.

20          Q.    Oh. Okay.

21          A.    It had already been capped off at the T  
22   going the other way.

23          Q.    So the Vista Haven Beach subdivision then,  
24   which is lots 1 through 9, which are now totally owned  
25   by me, was the only place where the CTS line was found

1 in your system?

2 A. Yes.

3 Q. And Bob Connell was the developer of the  
4 Vista Haven Beach subdivision. The original water was  
5 placed in there by Bob Connell?

6 A. I assume so.

7 Q. Yeah.

8 A. I don't -- I wasn't involved with the -- at  
9 that time.

10 Q. All right. And then -- I guess I would be  
11 testifying again so I won't do that.

12 JUDGE JORDAN: Well, I'll ask you to do so.  
13 You've mentioned Vista Haven. Is that property to the  
14 west of what's depicted on Exhibit C? Since you're  
15 still under oath, you can tell me that.

16 MR. LARSON: Yes, the Vista Haven Beach  
17 subdivision is on Exhibit A.

18 MS. LEWIS: Could you hold it up and show  
19 where, please.

20 MR. LARSON: This whole triangle, including  
21 that square the furthest to the west, that's the house  
22 I bought from my neighbor. When I bought the resort,  
23 I bought lots 2 through 9. When I bought the house  
24 from my neighbor, I bought lot 1. So I own the whole  
25 Vista Haven Beach subdivision.



1           That subdivision was purchased originally from Bob  
2     Connell, who was the water service provider and was  
3     the developer, and it's my assertion that the black  
4     CTS line fed -- they replaced the main line at some  
5     point on the north side of the street, but everything  
6     that fed under there came in from the west, looped  
7     into the yellow house, looped around there into my  
8     valve box, looped around into the other valve box, and  
9     then went into my house.

10           Later, when he put the main on the south side of  
11     the street, he came north across in three different  
12     spots. Three different spots. And that's how it's  
13     depicted there when Mona bought it.

14           So my -- my whole basis is that this was part of  
15     the original water system that was there. It wasn't  
16     anything that was installed by the resort. And  
17     although it has only served the resort, that wasn't  
18     its original intention, was just to serve the resort.  
19     It was just by a happenstance way of this working and  
20     that not, you know, losing water over here, that when  
21     we put that leader in, that got stuck on my side of  
22     the line. But it clearly wasn't anything that we  
23     installed --

24                   JUDGE JORDAN: Okay.

25                   MR. LARSON: -- or -- or maintained or

1 used. And, therefore, in the definition, as you  
2 asked, in the tariffs, by definition it wasn't  
3 something that was installed, maintained, and handled  
4 by me. It was never a part of the resort or Eric  
5 Larson. It was part of an original water system.

6 JUDGE JORDAN: Thank you for that  
7 clarification. Do you have any more questions for  
8 this witness?

9 MR. LARSON: I don't believe I do. I think  
10 that's all I have.

11 JUDGE JORDAN: Okay. Questions from staff?

12 EXAMINATION

13 BY MS. LEWIS:

14 Q. Ms. Fennema, I have just one. I think it's  
15 more of a clarifying question, and you might have  
16 explained it there at the end of your direct. But why  
17 did you install the two-inch meter?

18 A. Because he was putting in the new cabin,  
19 and it was my assumption that he was going to hook the  
20 whole resort up to it. Because, like I said, my  
21 tariff said that each customer got a meter and then if  
22 they wanted to meter it further, that they were  
23 responsible for doing so.

24 Q. So --

25 A. But it was my interpretation of the tariff.

1 Q. So because of the tariff, you went and  
2 installed the meters that we're talking about here?

3 A. Mm-hmm.

4 Q. And did you install meters elsewhere on any  
5 other service property? Are these the only two meters  
6 that the company installed because of the tariff?

7 A. I'm not sure I understand.

8 Q. These are the two meters that the company  
9 installed that are relevant to this case. Were there  
10 other meters that the company installed to other  
11 customers that aren't part of this case?

12 A. Yes. We had to install meters on all of  
13 our customers in order to meet the metering  
14 requirements that at that time Bill Nichol with the  
15 PSC said that we needed to start metering, because we  
16 had been currently just charging a base rate with no  
17 metered service.

18 MS. LEWIS: That's all I had. Thank you.

19 JUDGE JORDAN: Mr. Gibson?

20 MR. GIBSON: Yes, thank you, sir.

21 EXAMINATION

22 BY MR. GIBSON:

23 Q. Yes, I just had mainly one question, I  
24 think, and that's when Mr. Larson was testifying, he  
25 was basically saying he was uncertain whether he was

1 currently receiving any water from any source other  
2 than through the two meters that currently exist. Can  
3 you clarify every -- at this point, has everything  
4 been capped or abandoned, or whatever, such that the  
5 only places that Mr. Larson's business and -- home and  
6 business is connected to your system, to the main, is  
7 through those two water meters?

8 A. Yes. That's the only two lines that he's  
9 getting service from.

10 Q. And he mentioned he did not install the  
11 one-inch -- the black pipe that we've been talking  
12 about, but you also did not; is that correct?  
13 Woodland Manor did not install the black pipe?

14 A. No. No, we never have installed any black  
15 pipe.

16 Q. And can you maybe clarify just a little  
17 bit? He provided some testimony, but maybe from your  
18 point of view, why or how the easterly meter, the  
19 second meter that was set, why you set it as you did  
20 at that point.

21 A. When we set the second meter on the east  
22 side, he was wanting to pick up the newest house down  
23 the way. So by setting it where we did, this allowed  
24 him to run a pipe down and pick up that house, and it  
25 let us do away with another section of that black pipe

1 that would have been coming under the road. And that  
2 hooked his existing services up and kept water to his  
3 resort and that was our goal, was to cause the least  
4 disruption of service and get it metered.

5 Q. Is there a reason you did not -- you're  
6 fairly close to that, what's marked on Exhibit D as  
7 valve box number 1. You're fairly close. Is there  
8 any reason you didn't just go ahead and go to that  
9 valve box to set your meter in?

10 A. If we'd have gone to the valve box, it  
11 would have been a series of nineties to get the  
12 service back out to where he could go around the cabin  
13 to go down to the other cabin, and then the -- I  
14 don't -- we didn't know exactly how that all hooked  
15 together. And I think there's several valves in that  
16 valve box.

17 MR. LARSON: Two.

18 JUDGE JORDAN: I'm sorry, I didn't hear  
19 some of your testimony.

20 MRS. FENNEMA: I'm sorry.

21 JUDGE JORDAN: You said "a series of  
22 nineties."

23 MRS. FENNEMA: Right, because the cabin is  
24 here and the valve --

25 JUDGE JORDAN: What's a "ninety"?

1 MRS. FENNEMA: A 90-degree elbow. I'm  
2 sorry.

3 JUDGE JORDAN: Thank you.

4 Q. (By Mr. Gibson) So if I understand you  
5 correctly, you're saying you set the meter box a  
6 little to the south closer to the road to allow a  
7 longer piece of service connection to ease in the  
8 other -- all the other connections that were required  
9 for his -- for the customer's resort?

10 A. Correct. That -- that would be correct.

11 Q. And with this service and all the others,  
12 you've testified you've connected other customers, as  
13 well. Is it your understanding it's the customer's  
14 responsibility, basically, to bring their service to  
15 the meter or to connect to your meter?

16 A. It -- under normal circumstances, yes, that  
17 would be the case. As far as when we were setting  
18 meters on existing services, we would normally go  
19 ahead and hook those services up to the meter for the  
20 customer at that time, just because they were existing  
21 service.

22 Q. And what you -- your understanding -- I  
23 might as well ask. Under the tariffs, what is your  
24 understanding of what portion of line is your  
25 responsibility of Woodland Manor?

1           A.    It was always my understanding that once we  
2    set a meter, that anything on the customer's side was  
3    then their responsibility.

4           Q.    And when you installed the first meter, the  
5    one that was on the westerly side, the two-inch meter,  
6    when you went across the road there, set that meter,  
7    in the process of going across there, you cut -- you  
8    cut the black line and you capped it. At that point,  
9    was that your intent, was essentially that Woodland  
10   Manor was now abandoning that line, well, except for  
11   the part way to the west where it served another  
12   customer?

13          A.    Yes.

14               MR. GIBSON: I guess that's all I have,  
15   Your Honor.

16               JUDGE JORDAN: Okay. I have a few  
17   questions for you. What is CTS?

18               MRS. FENNEMA: Well, it's like a black pipe  
19   that is what they sometimes call a roll pipe or I  
20   refer to it sometimes as hula hoop material. It just  
21   comes on a big spool and they roll it out, and it  
22   doesn't have any glue joints or breaks in it.

23               JUDGE JORDAN: Oh, okay.

24               MRS. FENNEMA: It's a copper tubing size  
25   line and you put it together with special fittings.

1 The -- and it just -- you -- you just run it. And so  
2 it has the tendency -- it doesn't run necessarily  
3 straight like PVC would. It can curve, it can curl.

4 JUDGE JORDAN: Okay. I note on the exhibit  
5 marked D that the orange dashed line dips to the  
6 south.

7 MRS. FENNEMA: That probably is because of  
8 it being the CTS line and --

9 JUDGE JORDAN: I see --

10 MRS. FENNEMA: -- it can --

11 JUDGE JORDAN: Go ahead.

12 MRS. FENNEMA: Like I say, it can be run  
13 anywhere.

14 JUDGE JORDAN: Okay. I see that the dip  
15 occurs right under a tree. Would it be to -- do you  
16 know whether it was installed in that curve in order  
17 to avoid the tree?

18 MRS. FENNEMA: That's very possible.

19 JUDGE JORDAN: Okay. How old is that line?

20 MRS. FENNEMA: We bought the system ten  
21 years ago -- well, in '99, and from everything that I  
22 can tell, the resort was put in maybe --

23 MR. LARSON: 'Fifty-eight.

24 MRS. FENNEMA: Was in '58, so that line, I  
25 don't know when it was installed. But I'm going to



1     assume it was back then.

2                   JUDGE JORDAN:   Okay, so the resort was  
3     built in '58.  You believe that the line was laid  
4     right about that time.

5                   MRS. FENNEMA:   I'm assuming.  Like I said,  
6     we didn't even live here until '77, so --

7                   JUDGE JORDAN:   Okay.  So this line could be  
8     sixty years old almost?

9                   MR. LARSON:     Fifty.

10                  MRS. FENNEMA:   It very well could be.

11                  JUDGE JORDAN:   What's your experience --  
12     did you testify earlier that you had found no CTS line  
13     anywhere else in the system?

14                  MRS. FENNEMA:   Nowhere else in the system.

15                  JUDGE JORDAN:   Okay.  Do you have any  
16     knowledge about how CTS holds up?  You've had one leak  
17     at least.

18                  MRS. FENNEMA:   Um, the CTS -- to my  
19     knowledge, the only -- this is the only leak we've  
20     actually had.  The -- all the other times it's been  
21     cut.

22                  JUDGE JORDAN:   All right.  Okay, I have one  
23     other question for you in that regard.  It's in regard  
24     to your rate and how that's calculated.  Do you have  
25     an in -- does your rate include an infrastructure

1 system replacement charge? And it's called an ISRS.

2 MRS. FENNEMA: Not -- not to my knowledge.

3 JUDGE JORDAN: Okay.

4 MRS. FENNEMA: The rate was set in '99, or  
5 when the tariff was established.

6 JUDGE JORDAN: That's all the questions I  
7 have. I'll allow some redirect.

8 MR. LARSON: I had a couple of questions.

9 FURTHER EXAMINATION

10 BY MR. LARSON:

11 Q. In your earlier testimony, you indicated  
12 that you did know then that once you -- where you  
13 placed a meter, anything inside there became the  
14 customer's --

15 A. That was my assumption based upon the  
16 tariff.

17 Q. So you were aware of that?

18 A. I'm assuming I was. Because at the time,  
19 we were new too.

20 Q. And secondly you inferred that the CTS,  
21 because of its coiled nature, might be installed in a  
22 curve, when in actuality, that would suggest that they  
23 just throw the pipe out in a line and then cut a  
24 trench to put it in. When in actuality, if you cut a  
25 straight trench, you can put the pipe right in it.

1 That may have been laid before there was buildup for  
2 the road and it was only in six inches, and they just  
3 flopped it out to keep it out into the city  
4 right-of-way and bring it back in. Had they desired  
5 or served the resort, they could have easily trenched  
6 a straight line right along the footings of the front  
7 three buildings and tapped into that very easily.  
8 There was no need to loop it out and there's no way  
9 that you would just throw it out there and then cut a  
10 trench to match the shape of the pipe. The pipe would  
11 fit in a straight trench. It's flexible. So I --

12 JUDGE JORDAN: Is that a question for her?

13 Q. (By Mr. Larson) In clarification, are you  
14 suggesting that they cut the trench to match the curve  
15 of the CTS piping?

16 A. I'm suggesting that, not speaking ill of  
17 the dead, but Mr. Connell would go around a rock. He  
18 would go around somebody's property if he didn't like  
19 you. So it's very possible that he dug the simplest  
20 and easiest path to put a line.

21 Q. Sure, I can understand that.

22 A. As far as it being the city right-of-way,  
23 at that time with it being a subdivision down through  
24 there that his whole family owned, I would say the  
25 City had nothing to do with it at that time.

1 Q. Right, but he would have --

2 A. It was established.

3 Q. Would it be your understanding that  
4 normally as in your business, the lines are running in  
5 an area that is in your control rather than within the  
6 property lines of the customers and landowners,  
7 typically?

8 A. I'm not sure. I'm not sure exactly where  
9 you're indicating.

10 Q. Well, just that his normal procedure would  
11 be to run it out into -- whether it was city  
12 right-of-way at the time or not or if it was the  
13 roadway and the planned roadway within his subdivision  
14 or development, that would be the normal place to run  
15 that line, would be out there in the common area as  
16 opposed to on the private property of the individuals?

17 A. Most of the time a lot of the line was run  
18 down what would be considered alleyways. But in part  
19 of it, it -- like I say, it ran the easiest point of  
20 resistance.

21 MR. LARSON: Okay. Nothing further.

22 JUDGE JORDAN: Staff?

23 MS. LEWIS: I don't have any further  
24 questioning, but I have a clean copy of the response  
25 if we wanted to mark it as Exhibit E.

1 JUDGE JORDAN: We can do that if you like.

2 (EXHIBIT E WAS MARKED FOR IDENTIFICATION.)

3 JUDGE JORDAN: I have marked as Exhibit E  
4 the response to Eric C. Larson complaint. This is a  
5 document drafted by Ms. Fennema and filed with the  
6 Commission before the company retained counsel and was  
7 subsequently incorporated into counsel's answer; is  
8 that correct? I'm showing that now.

9 MRS. FENNEMA: Yes.

10 JUDGE JORDAN: Yes. Okay. Any objection  
11 to this document coming into the record?

12 MR. LARSON: No.

13 MS. LEWIS: No.

14 JUDGE JORDAN: Then Exhibit E is entered  
15 into the record.

16 (EXHIBIT E RECEIVED IN EVIDENCE.)

17 JUDGE JORDAN: Anything else from staff for  
18 this witness?

19 MS. LEWIS: No, thank you.

20 JUDGE JORDAN: Anything else for you?

21 MR. GIBSON: Just real quickly.

22 FURTHER EXAMINATION

23 BY MR. GIBSON:

24 Q. On our various maps and drawings, we're  
25 showing the black pipe between the two valve boxes

1 essentially curving, drooping to the south into the  
2 roadway. From what I'm hearing, you don't know that  
3 that -- you know that the break occurred in the  
4 roadway, but technically you don't know the path of  
5 that, since it is flexible, you don't really know the  
6 path of that line; is that correct?

7 A. Correct.

8 Q. Between the two valve --

9 A. Correct.

10 Q. In fact, you only know or you're assuming  
11 that it connects the two valve boxes simply because  
12 if -- when it had the break, you could cut -- turn it  
13 off at the valve box and it would stop the leak?

14 A. Yes. When we disconnected it from the  
15 meter or turned it off at the meter, yes, the leak  
16 stopped.

17 Q. So whatever the path of the black pipe, the  
18 leak was on the customer's side of the meter?

19 A. Yes.

20 MR. GIBSON: That's all I have, sir.

21 JUDGE JORDAN: I have one more pair of  
22 questions, perhaps, before I let you stand down.

23 MRS. FENNEMA: Okay.

24 JUDGE JORDAN: This real estate we're  
25 talking about, that is within the city of Blue Eye; is

1 that right?

2 MR. LARSON: Kimberling.

3 MRS. FENNEMA: No, it's in the City of  
4 Kimberling.

5 JUDGE JORDAN: Okay. Now, if you know, can  
6 you tell me when this was originally developed under  
7 your predecessor, when the subdivision was built, was  
8 it then in the City of Kimberling?

9 MRS. FENNEMA: I don't believe it was part  
10 of the city at that time. I can't really say that it  
11 was or it wasn't.

12 JUDGE JORDAN: Okay, that's fair enough.

13 MR. LARSON: It wasn't a city yet.

14 MRS. FENNEMA: Yeah, because I'm not sure  
15 when the city was incorporated.

16 MR. LARSON: '74, '3, something like that.

17 JUDGE JORDAN: Okay. That's all I have for  
18 you.

19 MRS. FENNEMA: Okay.

20 JUDGE JORDAN: You may stand down.

21 Mr. Larson, do you have any other witnesses that  
22 you wanted to call? Do you want to present any more  
23 testimony? I'm being informal about that since you  
24 are appearing pro se.

25 MR. LARSON: No, I think it's all been said

1 over and over and over. I appreciate the opportunity  
2 to get it clarified to this degree at least. I don't  
3 know that calling anyone else will help anything.

4 JUDGE JORDAN: Okay. Let me just clarify,  
5 then, something you were saying while this witness was  
6 on the stand. As far as when this property was  
7 developed, were you saying that there was no City of  
8 Kimberling --

9 MR. LARSON: Correct.

10 JUDGE JORDAN: -- in existence? Okay. It  
11 is now part of the City of Kimberling?

12 MR. LARSON: Correct.

13 JUDGE JORDAN: Any idea when that happened?

14 MR. LARSON: I believe it was in the mid  
15 '70s.

16 JUDGE JORDAN: Okay. And when I say "when  
17 that happened," it became part of the City.

18 MR. LARSON: Right. The City hadn't  
19 established its borders. It wasn't like there was a  
20 city and they annexed that part. There was no city  
21 and then everything that was within this line, this is  
22 the City.

23 JUDGE JORDAN: I understand. Oh, I wanted  
24 to ask you something about the yellow house. You  
25 mentioned a yellow house when we were talking about



1     how that CTS pipe extends to the west.

2                   MR. LARSON:   Mm-hmm.

3                   JUDGE JORDAN:   The yellow house is a house  
4     to the west of what's depicted on -- it's on the  
5     western edge of Exhibit A; is that correct?

6                   MR. LARSON:   Correct, that last square, and  
7     that's my house now.

8                   JUDGE JORDAN:   Okay.   You reside in that  
9     one, not the one on the east side that you got the --

10                  MR. LARSON:   Correct.

11                  JUDGE JORDAN:   -- pipe stubbed out for?

12                  MR. LARSON:   Lived in that one for --  
13     through our kids going off to colleges and leaving,  
14     and then we bought the neighbor's house and in  
15     actuality, now we live in a small portion of that  
16     house and rent the balance of it.

17                  JUDGE JORDAN:   Okay.   Okay.   In the  
18     development that you now call Kimberling Woods; is  
19     that correct?

20                  MR. LARSON:   It's Vista Haven Beach.

21                  JUDGE JORDAN:   Vista Haven Beach, okay.   I  
22     was confused as to former names and current names.  
23     Has the name ever changed?

24                  MR. LARSON:   No.   It was developed as Vista  
25     Haven Beach subdivision in 1958.

1 JUDGE JORDAN: Okay. The name "Kimberling  
2 Oaks" comes up in this document. Can you tell me  
3 about that?

4 MR. LARSON: That's a resort that in 1958,  
5 late '58, the property was purchased by a family who  
6 built these cabins on lots 2 through actually 7, at  
7 the time, of Vista Haven Beach. They owned lot 2, but  
8 didn't build on it. They built on 3, 4, 5, 6, and 7,  
9 and 8 and 9 were off to the right to the eastern edge.  
10 And I'm done. So when I came in, I built a unit on  
11 lot 2, and that's when I called Mona for the first  
12 water connection. And then I built a unit on lot 8,  
13 and that's when I called her the second time for the  
14 second meter.

15 JUDGE JORDAN: Okay. So Kimberling Oaks  
16 refers to what?

17 MR. LARSON: The resort which is occupying  
18 lots 1 through 8 now of Vista Haven Beach subdivision.  
19 It's cabins, you know, swimming pool.

20 JUDGE JORDAN: Is the name Kimberling Oaks  
21 still in use?

22 MR. LARSON: Yes.

23 JUDGE JORDAN: So you have Kimberling Oaks  
24 and then you also have Vista Haven?

25 MR. LARSON: No. Vista Haven Beach is the

1 name of the subdivision. Like if you bought in Golden  
2 Acres and then you put a business called Sam's  
3 Grocery, you know, Kimberling Oaks resort is the  
4 business. The city is Vista Haven --

5 JUDGE JORDAN: Vista Haven is the  
6 subdivision.

7 MR. LARSON: Correct.

8 JUDGE JORDAN: As platted.

9 MR. LARSON: As platted, right.

10 JUDGE JORDAN: I understand now. Thank you  
11 for that clarification.

12 Does that raise, my questions, raise any recross  
13 for Respondent?

14 MR. GIBSON: No. Thank you.

15 JUDGE JORDAN: And then for staff?

16 MS. LEWIS: No, thank you.

17 JUDGE JORDAN: All right. Well, then, that  
18 will conclude your case-in-chief. Very good. Why  
19 don't we take a break now for a while, and then we'll  
20 resume with Respondent's case-in-chief. And we can go  
21 off the record for that.

22 (Break in proceedings from 10:48 to 11:04 a.m.)

23 JUDGE JORDAN: Okay. We're back on the  
24 record. We've resumed the evidentiary hearing and  
25 we're going to continue with Respondent's

1 case-in-chief.

2 MR. GIBSON: Thank you, Judge. I guess  
3 I'll call Mona Fennema, recall her.

4 MRS. FENNEMA: Do you want me to come up?

5 JUDGE JORDAN: If you please. Come on up.  
6 I've already sworn you, so you don't have to take the  
7 oath again. You're still under oath.

8 RESPONDENT'S EVIDENCE

9 EXAMINATION

10 BY MR. GIBSON:

11 Q. Ms. Fennema, we've already discussed, I  
12 think, just about everything, but I did want to  
13 clarify a little bit. When was this water system made  
14 a public system?

15 A. The tariff went into effect in 1992 under  
16 Bob Connell.

17 Q. Okay. So that is when the tariff that  
18 you're operating under was established?

19 A. Yes.

20 Q. And so you just essentially inherited, when  
21 you purchased the water system, you inherited the  
22 tariff that was made or created when he established  
23 it?

24 A. Yes, that is correct.

25 Q. And the only other clarification, I think,

1 is -- I believe you testified earlier that it's your  
2 understanding by the tariff that when the meter is  
3 set -- well, strike that.

4 Let's clarify. At the time when you purchased the  
5 system, there were many customers that did not have  
6 individual meters; is that correct?

7 A. Yes, there were several that did not have  
8 meters.

9 Q. And as part of getting the water system up  
10 to speed and up to all the pertinent codes, you were  
11 trying to get everyone independently metered; is that  
12 right?

13 A. Yes, that is correct.

14 Q. And it's your understanding under the  
15 tariff that when you would set the meter, then  
16 essentially everything on the other side of the meter  
17 would become the customer's responsibility?

18 A. Yes.

19 Q. And what -- was there a rationale behind  
20 that or --

21 A. That was basically how the tariff stated,  
22 that from the meter on was the customer's  
23 responsibility.

24 Q. Okay. Just one little clarification. At  
25 the very beginning of our -- of the Complainant's

1 case, he had asked a question about the statement of  
 2 facts that -- asked a question about the meaning of  
 3 the word "service," when the parties had admitted that  
 4 a leak had occurred in the service line. Would you  
 5 like to clarify that -- did you -- did you mean that  
 6 in a general way, in other words, talking about the  
 7 entire service or were you claiming that that part of  
 8 the line was Woodland Manor's?

9 A. Well, my interpretation of the tariff is  
 10 that you have the main line, which is serving multiple  
 11 customers, and then you have a service line going from  
 12 that main to a customer's meter. And then anything  
 13 past that would be the customer's service line.

14 Q. Okay. So you were using the term "service"  
 15 in a general way?

16 A. Mm-hmm.

17 MR. GIBSON: Okay. I believe that's all I  
 18 have, Judge.

19 JUDGE JORDAN: Cross-examination?

20 MR. LARSON: Yeah.

21 EXAMINATION

22 BY MR. LARSON:

23 Q. You indicated just now that upon the  
 24 placement of a meter in an area that there wasn't an  
 25 existing meter, everything inboard of the meter

1 becomes the property of the customer. Are the  
2 customers made aware of this in some way? Do the  
3 customers get a copy of the tariff, or is that just  
4 public record and they're supposed to get it on their  
5 own?

6 A. I've never provided a copy of the tariff to  
7 a customer. I have it if anyone wanted it, and it's  
8 also available on the PSC site, but I've never had one  
9 requested.

10 Q. And, again, without any thought or intent  
11 on your part, you were aware that when you installed a  
12 meter, anything that could become a problem from that  
13 point in was now no longer your responsibility; is  
14 that correct?

15 A. That was my assumption based upon the  
16 tariff, and I think that's pretty much common  
17 throughout the industry.

18 Q. Now, when you purchased the system and  
19 inherited the tariffs, you also inherited the system,  
20 whether it was seen above ground or drawn on pictures  
21 or whatever, that until a meter was installed,  
22 changing some portion of the system to be somebody  
23 else's, anything that was underground connected to  
24 that system belonged to Woodland Manor Water?

25 A. Um --

1 Q. And I'm not saying you know everything  
2 that's under the ground. There are things that you  
3 don't know that exist, but generally.

4 A. Well, I don't know where -- without the  
5 meter being the stopping point, I don't know where  
6 you -- you know.

7 Q. Well, at the --

8 A. Where you would --

9 Q. Perhaps we can clarify that, then. Before  
10 the meters were in, the stopping point would have been  
11 the valve?

12 A. It could have been the valve or it could  
13 have been where it attached to the main. It would  
14 depend on the interpretation.

15 Q. I can understand that, and I guess that's  
16 the gist of my whole thought, the interpretation of --  
17 I -- so you believe to this point that the valve boxes  
18 that are at my property line, that were previously  
19 connected to the one-and-a-half-inch line and possibly  
20 another one-and-a-half-inch line that was abandoned  
21 and then to the CTS line, are my valves and not the  
22 original valves from Woodland Manor Water?

23 A. I would have assumed that those valves were  
24 so that you could shut off your resort to those  
25 sections of cabins.



1 Q. Each unit --

2 A. And so that if you had to make repairs, you  
3 could. That would have been my assumption on your  
4 valves. And according to the tariff, you're also  
5 supposed to have an additional shutoff besides the  
6 meter. So --

7 Q. The valve -- there's a valve in every  
8 single building in the resort to shut it off  
9 separately. Then it's your assertion here that the  
10 service that was originally provided by Connell Water  
11 system, when it became that, prior to it becoming  
12 Woodland Manor, terminated before the valve? It was  
13 brought to the property line and just left there, an  
14 open pipe?

15 A. I -- I can't answer that question because I  
16 did not install it. I don't know what -- that was  
17 the -- that was the purpose of having to set a meter,  
18 was to get a stopping point and starting point.

19 Q. And then I guess my point is that you got  
20 to choose the stopping point in any case there was.  
21 As the water company, you were able to make that  
22 choice as to how far you wanted to be responsible for  
23 the line. By placing that meter there, from there on,  
24 became someone else's responsibility, correct?

25 A. Well, it was to make sure you had service

1 to your resort and if we had placed it elsewhere, it  
2 wouldn't have given you that service, and done it with  
3 one meter.

4 Q. Additionally, it indicates that -- or you  
5 indicated that that Bill Nichol required you to go on  
6 to meters, to metering all the customers. Was there a  
7 time frame for that at the time; do you recall? Did  
8 he say they had to be by --

9 A. Bill had been encouraging Bob to put in  
10 meters for several years, and because we had taken  
11 over the system, Bob encouraged us to get it done. He  
12 did not give us a specific deadline, no. But, when we  
13 brought in the plumber and that to do it, it was more  
14 cost-effective to do all of them at one time. And so  
15 we basically put in all of the last meters within a  
16 six-month period.

17 Q. Was there any point at which you approached  
18 me about putting meters at the resort prior to me  
19 calling and requesting for a meter at two times,  
20 fifteen months, seventeen months apart?

21 A. No. You just happened to hit during the  
22 same installation period. Because we started charging  
23 by the meters in 2001, I believe it was, was when we  
24 finished having all of the meters installed.

25 Q. But at no point, with the desire of the

1 Public Service Commission for you to have meters  
2 installed, at no point did you come to me and say,  
3 Hey, let's get a meter on your lines?

4 A. We hadn't gotten to you yet.

5 Q. Each time, and then instead of placing them  
6 at the points where the original connections were,  
7 they were placed where I requested them or said okay.  
8 But there was no time at which you came to me or any  
9 other customer and said, Hey, it's time to put a meter  
10 on your property; I've got to get this done?

11 A. Well, as we put in the meters, we talked to  
12 those customers, yes. And I believe I sent out a  
13 letter with the CCR at one point saying that we were  
14 in the process of installing meters. I'd have to go  
15 back and look in my records, but we annually send out  
16 a letter that clarifies what we've done that year and  
17 what we are going to be doing, and I'm quite sure I  
18 addressed the fact that we were in the process of  
19 installing meters.

20 JUDGE JORDAN: CCR?

21 MRS. FENNEMA: The consumer confidence  
22 report that we're required to put out annually. I  
23 believe that may be a DNR, Department of Natural  
24 Resources item.

25 Q. (By Mr. Larson) Yeah, it's a water quality

1     **report.**

2             A.     I'm sorry, right. But I don't believe  
3     that's a Public Service requirement. That's a DNR  
4     requirement.

5             JUDGE JORDAN: That's why I haven't heard  
6     of it.

7             MR. LARSON: I have nothing further.

8             JUDGE JORDAN: Staff?

9             MS. LEWIS: I have nothing. Thank you.

10            JUDGE JORDAN: Redirect?

11            MR. GIBSON: Just briefly, yes, Your Honor.

12                         FURTHER EXAMINATION

13     BY MR. GIBSON:

14            Q.     Did you request that Mr. Larson use the old  
15     black pipe to go -- to service any part of his  
16     property?

17            A.     Hmm, no.

18            Q.     So essentially once you set the meter, you  
19     were leaving it up to him as far as how he ran his  
20     service or how he serviced his various cabins?

21            A.     Yes.

22            Q.     And that was partly because it was already  
23     a functioning, existing service; I mean, it worked,  
24     so --

25            A.     Correct.

1           Q.    So you weren't terribly concerned about  
2 exactly how the lines lay or how he had them run; is  
3 that correct?

4           A.    Correct.

5           Q.    And if you had -- if you had set the  
6 meters, the two new meters, if you had, in fact, set  
7 them where valve box 1 and valve box 2 are, you still  
8 would have had -- there still -- that would have been  
9 the end of your service; is that right, or the end of  
10 the company's portion of the service line?

11          A.    Yes.

12          Q.    And so all these lines, then, going on to  
13 his various properties, including the black pipe  
14 that's running from valve 1 to valve 2 -- valve box 1  
15 to valve box 2, it would have now been meter box 1 to  
16 meter box 2, but that still would have been past the  
17 meter so it still would have been his line; is that  
18 correct?

19          A.    As far as I know.

20               MR. GIBSON:  I think that's all I have.

21               JUDGE JORDAN:  I might have a question for  
22 you here.  Just give me a second.

23               I have nothing further.

24               MS. FENNELMA:  Okay.

25               JUDGE JORDAN:  And you may stand down.

1 MS. LEWIS: Judge?

2 MR. LARSON: Yeah, I had one more question.

3 FURTHER EXAMINATION

4 BY MR. LARSON:

5 Q. If you removed the valve boxes and replaced  
6 them with a meter, would that line -- it would no  
7 longer connect one to the other and would not be  
8 necessary?

9 A. I don't believe you would have service to  
10 valve box 1 if we had --

11 Q. Right, but if a meter --

12 A. You would not have --

13 Q. -- was placed in valve box 2 --

14 A. You would not have had service to your new  
15 cabin or you would have had to have run a line from  
16 that back to it --

17 Q. Had the original --

18 A. But it -- the problem with that was that  
19 because it was the CTS that was in there and it  
20 curved, the line wasn't perpendicular to the main, and  
21 that's the other reason for doing away with that  
22 section of line.

23 Q. So it's possible we were doing away with a  
24 section of line that was mine?

25 A. No. We did away with a service line going

1 across to your property.

2 MR. LARSON: Okay. I have nothing further.

3 JUDGE JORDAN: Okay. Did staff have  
4 redirect?

5 MS. LEWIS: No, he was trying to get your  
6 attention. No.

7 JUDGE JORDAN: And that's all. We can  
8 break for lunch or staff may begin its case-in-chief.  
9 I don't have a preference.

10 MS. LEWIS: I think if we put staff's case  
11 on now, we might be able to conclude this before  
12 lunch.

13 JUDGE JORDAN: Splendid.

14 MR. GIBSON: That sounds good.

15 JUDGE JORDAN: Is that okay with the  
16 Complainant?

17 MR. LARSON: Yeah, fine.

18 MR. GIBSON: We would rest. We have  
19 nothing further.

20 MS. LEWIS: Staff would like to call David  
21 Spratt to the stand.

22 JUDGE JORDAN: Would you raise your right  
23 hand.

24 DAVID SPRATT,  
25 being first duly sworn by the Judge, testified as

1 follows:

2 JUDGE JORDAN: You may proceed.

3 STAFF'S EVIDENCE

4 EXAMINATION

5 BY MS. LEWIS:

6 Q. Would you state your name and spell your  
7 name for the record, please.

8 A. David Spratt, D-A-V-I-D, S-P-R-A-T-T.

9 Q. And what is your position of employment?

10 A. I'm a Utility Operations Technical  
11 Specialist II in the water and sewer department.

12 Q. And how long have you been in that  
13 position?

14 A. Four years.

15 Q. And have you had any education past high  
16 school?

17 A. Yes, I have.

18 Q. What is that education?

19 A. I've got my undergraduate in history and  
20 I've got a master's in public administration from the  
21 University of Missouri, Columbia.

22 Q. In your position with the Public Service  
23 Commission, have you undergone any special  
24 training that qualifies you as an expert --

25 A. Yes, I have.



1 Q. -- in water and sewer?

2 A. Yes, I have. I have a D Level water  
3 operator's license and a D Level wastewater operator's  
4 license.

5 Q. And where did you obtain your water license  
6 from?

7 A. Water license, it was a class put on by  
8 Department of Natural Resources that I attended and  
9 took a test that is written by and administered by the  
10 Department of Natural Resources. I passed the test  
11 and received a license.

12 Q. And what about for your sewer license?

13 A. Sewer license, I took a class in Neosho,  
14 Crowder College down in Neosho, for a week and also  
15 took a test written and administered by Department of  
16 Natural Resources to receive that license.

17 Q. And are those licenses current?

18 A. Yes, they are.

19 Q. Did you assist in making staff's  
20 recommendation in this case?

21 A. Yes, I did.

22 Q. I'm going to provide you with what is a  
23 copy and ask you whether or not this is a copy of what  
24 we've previously filed in this case. Does that look  
25 familiar?

1 A. Yes, it is.

2 Q. And do any changes need to be made to this  
3 document today?

4 A. No, there's none.

5 MS. LEWIS: Staff would mark this as -- I  
6 believe we're on Exhibit F.

7 JUDGE JORDAN: This will be F.

8 (EXHIBIT F WAS MARKED FOR IDENTIFICATION.)

9 MS. LEWIS: Okay. We'd ask that Exhibit F  
10 be admitted.

11 JUDGE JORDAN: Any objection?

12 MR. GIBSON: No.

13 JUDGE JORDAN: Exhibit F will be admitted  
14 into the record.

15 (EXHIBIT F RECEIVED IN EVIDENCE.)

16 Q. (By Ms. Lewis) And what was your  
17 conclusion and the staff recommendation?

18 A. That the leak occurred beyond the meter and  
19 that it was the customer's responsibility, based on  
20 the tariffs, to repair the leak.

21 Q. In your work with water companies and in  
22 your work with Missouri Public Service Commission, in  
23 general who typically is responsible for meter  
24 placement?

25 A. The company.

1           Q.    And who's typically responsible for the  
2   water service line placement?

3           A.    Beyond the meter, the customer.

4           Q.    Okay.  And who's responsible for valve  
5   placement, typically?

6           A.    Typically it would be the customer because  
7   it would be beyond the meter.

8           Q.    How did you first learn of the conflict in  
9   this case?

10          A.    I was in Kimberling City doing an annual  
11   inspection, met with Mrs. Fennema and -- discussing  
12   the system in general, and asked if there had been any  
13   problems, and she mentioned there had been a leak at  
14   Kimberling Oaks Resort.

15          Q.    And what did you understand about the leak  
16   at that time?

17          A.    It occurred underneath the roadbed and it  
18   was beyond the meter; that Mrs. Fennema had visited  
19   the site and spoke with Mr. Larson, and she had  
20   explained to him that it was beyond the meter and it  
21   was his responsibility to fix.

22          Q.    How did she determine that it was beyond  
23   the meter?  Did she tell you that or inform you of  
24   that?

25          A.    She did.  She said she turned off the meter

1 and the leak stopped.

2 Q. What did you do upon learning of the leak?

3 A. I took Mr. Larson's name, address, phone  
4 number, and told her after my inspection, I would go  
5 visit him. I got copies of service records, meter  
6 cards, things that would help to determine when meters  
7 were set, how they were set, where they were set.

8 And then after our inspection, I went over to  
9 Kimberling Oaks and met with Mr. Larson to look at the  
10 situation.

11 Q. Did you contact the City at all to make any  
12 determination as to whether there had been any work on  
13 the road?

14 A. Uh, not so much on work on the road but on  
15 the actual repairs afterwards.

16 Q. And when you went to visit the site, what  
17 did you find?

18 A. Mr. Larson had dug a hole in the asphalt to  
19 expose the line and was attempting to repair it.

20 Q. What did you observe as you walked up to  
21 the scene?

22 A. I believe at that time, Mr. Larson was  
23 laying on the street with his hand in there cleaning  
24 out the rain and rock to get to the line.

25 Q. What did you do at the site that day?

1           A.    Took some pictures, took some measurements,  
2 spoke to Mr. Larson to get his side of the story to  
3 determine how things had happened.

4           Q.    How long were you at the site of the leak?

5           A.    Approximately an hour.

6           Q.    Did you have conversations with anyone  
7 other than Mr. Larson?

8           A.    His wife, Debbie, was also there, had  
9 stopped by.

10          Q.    What did they inform you about the  
11 situation?

12          A.    I think just curious about how it was their  
13 responsibility.

14          Q.    Can you describe the property that you went  
15 to visit that day?

16          A.    It's a resort made up of cabins. There  
17 were nine lots and approximately ten cabins with some  
18 other larger buildings there, homes.

19          Q.    Is there also a pool at this resort?

20          A.    Yes, there is.

21          Q.    And the resort, is it called Kimberling  
22 Oaks Resort?

23          A.    Yes, it is.

24          Q.    What did you do after you left the site?

25          A.    I went back to the office to review the

1 company's tariffs and look at maps, review the service  
2 cards, meter cards that I had taken with me to begin  
3 writing a report on what I'd found.

4 Q. And was that at any time part of an  
5 informal complaint with the Commission?

6 A. Yes, it was. Yeah, Mr. Larson filed an  
7 informal complaint about the leak.

8 Q. And what was your conclusion at the end of  
9 the informal complaint?

10 A. That the leak occurred beyond the meter and  
11 that it was the customer's responsibility to repair.

12 Q. Okay. So what happened next?

13 A. I wrote a report stating the facts and what  
14 had happened and sent a copy to Mr. Larson and  
15 Mrs. Fennema to let them know our conclusion.

16 Q. And what happened after they received the  
17 conclusion; did you hear from either one of them  
18 again?

19 A. Yes. Mr. Larson filed a formal complaint.

20 Q. Okay. So were you part of the  
21 investigation of the formal complaint?

22 A. Yes, I was.

23 Q. What did you do as part of that  
24 investigation?

25 A. Revisited the site to take a look at the

1 valves, trying to see how the thing laid out, the  
2 whole system laid out, to see if maybe I had missed  
3 something the first time or see if I had a different  
4 conclusion.

5 Q. Did you find anything that changed your  
6 observations or conclusions --

7 A. No, I did not.

8 Q. -- from the first visit?

9 A. No, I did not.

10 Q. Okay. What did the street look like when  
11 you went back as part of the formal investigation?  
12 Was there still a hole in the street?

13 A. The hole had been filled with gravel, but  
14 the asphalt had not been replaced yet. And the City  
15 informed Mr. Larson it would be his responsibility to  
16 re-asphalt the street, the hole.

17 Q. Did you discuss the situation with anyone  
18 at that time on your second visit?

19 A. Just spoke to Mr. Larson.

20 Q. Did you go back to the water company during  
21 that visit?

22 A. No, I did not.

23 Q. Why not?

24 A. I didn't think it was necessary.

25 Q. What else did you do as part of the

1 investigation for the formal complaint?

2 A. Um, again, reviewed the tariffs, looked  
3 over the language. The Google map that we've  
4 presented, I drew that to get a better depiction of  
5 the area.

6 Q. And that Google map is what we have marked  
7 already as Exhibit D today at hearing, correct?

8 A. That's correct.

9 Q. Okay. And let's take a look at Exhibit D.  
10 There might be a copy there. I have an extra copy --

11 A. I've got one too.

12 JUDGE JORDAN: Very good.

13 Q. (By Ms. Lewis) I know we've sort of gone  
14 it, but I'd kind of like to go through and have you  
15 explain to the Commission and the parties what this  
16 map actually entails. Obviously you got it from  
17 Google Maps and we attached it to our recommendation,  
18 correct?

19 A. Yes.

20 Q. Okay. Can you describe the map for me?

21 A. To the best of my understanding, there are  
22 two meters on the property. The meter on the west  
23 side was set in 2000. It was set first to serve one  
24 building to the northwest of it. The second meter was  
25 later installed east of that, and it was installed



1 south of the valve to allow more lines to be  
2 connected. Had the meter been set in place of the  
3 valve, there would have only been one connection off  
4 of it or a new valve box would have needed to have  
5 been established to have made it easier.

6 Q. Okay. So if the meter would have been  
7 placed where the current valve number 1 is that's  
8 marked on this Exhibit D, would there have been  
9 service -- first of all, there's a yellow line coming  
10 from that circle indicating valve number 1?

11 A. Right, those are services to the cabins,  
12 yes.

13 Q. Okay. So if the meter had been placed  
14 where valve number 1 is on Exhibit D, would those  
15 cabins still have received water service?

16 A. The cabins on the east side possibly had to  
17 have been tied into the meter itself, but the orange  
18 line that goes over to serve valve number 2 would not  
19 have been able to have been connected unless another  
20 valve box would have been placed.

21 Q. Okay. And what about the area to the right  
22 of the valve number 1 on Exhibit D?

23 A. It wouldn't have been able to come off the  
24 meter. It would have had to have been set after the  
25 meter, as well.

1           Q.    Okay.  So what does the purple line  
2    indicate?

3           A.    The purple line is a T that came off  
4    between the meter and the valve, valve number 1 on the  
5    east side, going east to serve a new home that was  
6    built.

7           Q.    Is that purple line relevant to the  
8    situation at hand?

9           A.    Not particularly, no.

10          Q.    Okay.  Who installed that purple line?

11          A.    Mr. Larson did.

12          Q.    And how would you define that purple line?

13          A.    It would be a customer water service line.

14          Q.    Okay.  And what area does the meter that  
15   was installed in 2000 serve on this map?  Is there a  
16   line indicating where that meter serves?

17          A.    There's not a line, but it just serves the  
18   one home to the northwest of it, here.

19          Q.    So there's a tree right to the left and  
20   then there's a square behind the tree; is that --

21          A.    Correct.

22          Q.    -- the building you're talking about?

23          A.    Yes, that's correct.

24          Q.    Okay.  And what area does the meter  
25   installed in 2001 serve?

1           A.    It serves all the cabins. It ties into the  
2 first valve box, valve number 1. Yellow lines going  
3 north serve these cabins. It flows through the orange  
4 pipe over to valve number 2. Out of valve number 2,  
5 the next yellow line comes out to serve the remaining  
6 cabins.

7           Q.    Was there another way to connect the  
8 service line to avoid running water through the pipe  
9 under the street?

10          A.    Yeah, the meters themselves could have been  
11 attached to the valve boxes nearest them, and then  
12 this line in the street could have been abandoned.

13          Q.    Okay. And who is responsible -- who  
14 chooses where the meters go?

15          A.    The company would determine where the meter  
16 goes.

17          Q.    And you testified earlier that if you moved  
18 the meter to the valve box, you would still have to  
19 add things so that there would be service to the whole  
20 area, correct?

21          A.    To be able to get that many connections off  
22 it, yes.

23          Q.    Add connections. Okay. Do the options  
24 still exist to do it without -- to do it the way that  
25 you suggested first?

1           A.    Yes.  The customer could dig a line from  
2   the meter box to the valve box and connect those, and  
3   then bypass the line going out in the street.

4           Q.    And what is the red line on this map?

5           A.    That's the one-inch CTS line that connects  
6   valve number 1 to valve number 2.

7           Q.    And what way does the water flow in that  
8   red line?

9           A.    From valve number 1 to valve number 2, from  
10  east to west.

11          Q.    And then Mr. Larson testified that he  
12  thought the meter could be placed where the valves  
13  are.  Would this allow service to all the cabins?

14          A.    No, it would not.

15          Q.    What else would have to occur in order for  
16  those cabins to get service?

17          A.    A new valve box would have needed to have  
18  been installed to tie everything in.

19          Q.    And who would be responsible for that valve  
20  box?

21          A.    The customer would.

22          Q.    I think you mentioned that you also looked  
23  at the tariff?

24          A.    Yes, I did.

25          Q.    What is a tariff?

1           A.    It's the rules and regulations the company  
2 operates under.

3           Q.    Okay. Was there a specific tariff rule or  
4 rules that you relied on this in this situation?

5           A.    There were two in particular.

6           Q.    What were those two?

7           A.    Sheet 6, Rule 1(e) and Sheet 11, Rule 5(b).

8           Q.    I have printed off and stapled together  
9 Rule 1, Sheet 6, and Rule 5, Sheet 11, from the  
10 company's tariffs. I would like to have this marked  
11 as Exhibit G. I'll have you look at it.

12           (EXHIBIT G WAS MARKED FOR IDENTIFICATION.)

13           JUDGE JORDAN: Would these be --

14           Q.    (By Ms. Lewis) Is that an accurate  
15 description or depiction of what the tariff is?

16           A.    Yes, it is.

17           JUDGE JORDAN: These pages were attached to  
18 the staff recommendation, were they not?

19           MS. LEWIS: They were, yes. I'd ask that  
20 it be admitted into the record.

21           JUDGE JORDAN: Objection from the  
22 Complainant?

23           MR. LARSON: No.

24           JUDGE JORDAN: Anything from the  
25 Respondent?

1 MR. GIBSON: No.

2 JUDGE JORDAN: Then Exhibit G is admitted  
3 into the record.

4 Do you have a copy?

5 MR. SPRATT: I do, yes, sir.

6 (EXHIBIT G RECEIVED IN EVIDENCE.)

7 Q. (By Ms. Lewis) The first tariff sheet you  
8 indicated you looked at was Sheet 6, Rule 1. Does the  
9 tariff define who a customer is?

10 A. Yes, it does.

11 Q. And where does it define what a customer  
12 is?

13 A. Sheet 6, Rule 1, paragraph (b).

14 Q. And can you read what defines a customer,  
15 please.

16 A. Sure. The customer is any person, firm,  
17 corporation, or governmental body which has contracted  
18 with the company for water service or is receiving  
19 service from the company, or whose facilities are  
20 connected for utilizing such service.

21 Q. By that definition is Mr. Larson a  
22 customer?

23 A. Yes, he is.

24 Q. What other part of Rule 1, sheet number 6  
25 did you rely on?

1           A.    Paragraph (e), the customer's water service  
2    line.

3           **Q.    Can you read that definition.**

4           A.    A customer's water service line is a pipe  
5    with appurtenances installed, owned, and maintained by  
6    the customer, used to conduct water to the customer's  
7    unit from the property line or outdoor meter setting,  
8    including the connection to the meter setting.  If the  
9    property line is in a street, then the said customer's  
10   water service line shall be deemed to begin at the  
11   edge of the street abutting the customer's property.

12          **Q.    Why did you rely on this particular rule in**  
13   **this case?**

14          A.    It explains where the customer's  
15   responsibility begins after the meter.

16          **Q.    Okay.  And it says that the customer's**  
17   **water service line is a pipe with appurtenances**  
18   **installed, owned, and maintained by the customer,**  
19   **correct?**

20          A.    Correct.

21          **Q.    Okay.  Do you know whether or not**  
22   **Mr. Larson installed this line?**

23          A.    No, he did not.

24          **Q.    And then there was some mention in the**  
25   **record in the filings about the second sentence of**

1     that definition: If the property line is in a street,  
2     then the said customer's water service line shall be  
3     deemed to begin at the edge of the street abutting the  
4     customer's property.

5             How does -- because the service line we've  
6     established kind of went out in the road, how does  
7     that sentence not apply in this situation?

8             A. It's still after the meter. I believe that  
9     the way this reads is if the meter were placed on the  
10    south side of the road, then the responsibility would  
11    not be his under the road until it reached the  
12    property line. This began at the property line and  
13    then came outside the property line. Who installed it  
14    or why they installed it that way, I don't know  
15    exactly, but because it's beyond the meter, it's still  
16    the customer's responsibility.

17            Q. Okay. You also indicated that you relied  
18    on Sheet 11, Rule 5; is that correct?

19            A. Yes.

20            Q. What portion of this rule did you rely on?

21            A. Paragraph (b).

22            Q. And why -- what does that paragraph say?

23            A. The service connection from the water main  
24    to the customer's property line, the meter  
25    installation and setting shall be constructed, owned,



1 and maintained by the company. Service line  
2 construction and maintenance from the property line or  
3 meter setting, including the connection to the meter  
4 setting, to the building shall be the responsibility  
5 of the customer, and is subject to inspection by the  
6 company. Customers shall be responsible for the cost  
7 of repairing any damage to the company's lines,  
8 meters, and meter installations caused by the  
9 customer, his agent, or tenant. Customer shall be  
10 responsible for a fee to the company for inspection of  
11 the initial connection of service.

12 Q. And how does this particular paragraph  
13 relate to the situation at hand?

14 A. Again, it explains that the customer's  
15 service begins after the meter.

16 Q. And what does it say about the  
17 responsibility of repair?

18 A. That it's the customer's.

19 Q. And who does it indicate is responsible for  
20 the service line construction and maintenance?

21 A. The customer is.

22 Q. What is your conclusion and recommendation  
23 in this matter?

24 A. In this case, the customer did not have to  
25 install the service line because it was already

1 installed. He was able to use something that was  
2 already installed for him. At one time it may have  
3 been installed as a main to serve Kimberling Oaks  
4 Resort, but now it's in use as a water service line  
5 because it's beyond the meter.

6 Q. Therefore, who is responsible for that?

7 A. The customer.

8 MS. LEWIS: Thank you. That's all I have.

9 JUDGE JORDAN: Cross-examination from the  
10 Complainant?

11 MR. LARSON: I hesitate to cross-examine,  
12 in that your initial indications were that you can  
13 make a decision and it's ultimately going to be back  
14 in Dave's hands.

15 JUDGE JORDAN: No. No. No, I'll explain  
16 that.

17 MR. LARSON: Okay.

18 JUDGE JORDAN: Staff is not the Commission.  
19 The Commission is currently three persons appointed by  
20 the governor.

21 MR. LARSON: Okay.

22 JUDGE JORDAN: The witness, me, staff  
23 counsel, the rest of the staff are merely employees.

24 MR. LARSON: Okay.

25 JUDGE JORDAN: What the Commission does is

1 it employs staff as experts to give it advice on how  
2 to deal with these things. Sometimes the Commission  
3 goes with that and sometimes it does not. Sometimes  
4 I'll see things their way, and sometimes I'll see  
5 things another way. I'll make a recommendation to the  
6 Commissioners, and they'll make the decision.

7 MR. LARSON: Appreciate that. Based on  
8 meeting all the people involved and understanding the  
9 integrity of each and every person, I will proceed  
10 with a few questions.

11 EXAMINATION

12 BY MR. LARSON:

13 Q. Did you at the time you visited Kimberling  
14 Oaks Resort, after the formal complaint, do a test as  
15 to determine what the direction of flow was in the  
16 pipe under the ground or what would shut it off, or  
17 whether or not it was indeed connected to the other  
18 valve at the other end?

19 A. No, I did not.

20 Q. Do you understand the intent of the tariffs  
21 to be that the meter can be placed arbitrarily and not  
22 that it is to be essentially at the property line of  
23 the customer?

24 A. The tariffs say at or near the property  
25 line.

1           Q.    Is there typically something that would  
2           determine the placement of the meter that would be an  
3           extenuating circumstance or something that would cause  
4           the meter not to physically be able to be placed at  
5           the property line?

6           A.    I'm not sure I understand the question.

7           Q.    Have you seen examples of when a meter is  
8           placed in a position other than at the property line,  
9           in your experience?

10          A.    Some, yes.

11          Q.    And have there been circumstances requiring  
12          the meter to be at that position other than arbitrary  
13          choice or suggested simplicity for the customer?

14          A.    I'm not sure.

15          Q.    Like a cliff, you know, like up here is  
16          where the property is and down here is where the meter  
17          is? I can understand -- I guess I'm wondering if you  
18          read the tariffs for intent or simply for what is  
19          stated in it. Is there -- your understanding of the  
20          intent would be that wherever the water company  
21          determines they decide to put their meter, anything  
22          inboard there is now the customer's and that's cut and  
23          dried, there's no --

24          A.    In this case, yes. And I believe they set  
25          it there actually to benefit you. I think in the time

1 it was set, anything beyond that, they didn't know  
 2 exactly how it was connected, but they knew there were  
 3 two valves there that went in different directions.  
 4 If the meter had been placed where the valve box was,  
 5 it would have required you to dig new lines and put in  
 6 new valve boxes and do more installation.

7 Q. Which meter are you talking about?

8 A. The second one.

9 Q. I dug 150 feet --

10 JUDGE JORDAN: East or west?

11 MR. LARSON: East.

12 JUDGE JORDAN: Valve number 1.

13 A. Right. The line that was tied in by  
 14 putting the meter twelve feet approximately from the  
 15 valve box, it gave you an ability to tie in there.  
 16 Instead of having to install a new valve, to tie the  
 17 purple line east here into the new home.

18 Q. (By Mr. Larson) In the stipulated facts,  
 19 item 7 indicates that the water line was placed by a  
 20 predecessor water company --

21 A. Yes.

22 Q. -- as a fact. In item (d) of the  
 23 definitions in Rule 1, it says: A main is a pipeline  
 24 which is owned and maintained by the company, located  
 25 on public property or private easements, and used to

1 transport water throughout the company's service  
2 areas.

3 That line would qualify as that?

4 A. (Nodding head.)

5 Q. Item (e), which you referred to, indicates  
6 it's a pipe with appurtenances installed, owned, and  
7 maintained by the customer.

8 At no point, we've made it clear, did I install  
9 that. At no point did I maintain it until I was  
10 forced to after requesting the water company to do so,  
11 and it's never been owned. There has never been any  
12 transfer of ownership, nothing that told me, other  
13 than an interpretation of the tariff, that that line  
14 became mine.

15 JUDGE JORDAN: Is that a question for the  
16 witness?

17 MR. LARSON: Oh, I'm sorry.

18 Q. (By Mr. Larson) Is there something in  
19 there that still indicates to you that that line  
20 belongs to the resort, other than the fact that the  
21 meter was placed in that spot?

22 A. I believe they did it for a benefit for  
23 you. If they had taken that line out, you wouldn't  
24 have been able to serve the cabins on the east -- west  
25 side. The two valves flowed together. If they had

1 taken this line out or capped it off, you would have  
2 had the responsibility of now finding a way to connect  
3 service to get the western cabins water.

4 Q. Absolutely correct.

5 A. Yes.

6 Q. I would have been told at that point,  
7 You're going to have to connect that two-inch meter  
8 that you requested in 2000 to this valve box. If  
9 indeed -- do you have something to substantiate that  
10 that red line connects those two valve boxes? Is  
11 there any --

12 A. Not myself, no.

13 Q. -- substantive evidence that says, for  
14 sure, this is what it is? There could be other lines,  
15 then, connecting over to the other side of the  
16 resort --

17 A. When I had spoken with Mona about the leak,  
18 she mentioned that -- and she actually mentioned here  
19 again today that when the meter was turned off, the  
20 leak stopped --

21 Q. Right.

22 A. -- in the middle of the street.

23 JUDGE JORDAN: Okay. Let's clarify which  
24 meter was turned off. Where did the leak stop?

25 MR. SPRATT: The eastern meter and the leak

1 stopped in the middle of the road where the "X" is in  
2 the red line.

3 JUDGE JORDAN: Okay. Do we know what  
4 happened with the cabins on the west side when that  
5 happened?

6 MR. SPRATT: When the valve was turned off,  
7 they were out of water also.

8 Q. (By Mr. Larson) How do we know that?

9 A. Just based on what I've heard from  
10 listening to the two parties.

11 Q. From what, for instance? How do we know  
12 that, for one, that line does connect from there to  
13 there, for sure, and that there would be water off in  
14 the other buildings and, for two, that there are not  
15 other connections within the resort that connect the  
16 west to the east side?

17 A. I was just basing it on what the company  
18 told me, then when the valve 1 was turned off, the  
19 leak stopped here in the middle.

20 Q. So what we don't know, then, if indeed that  
21 line that broke actually even goes over to the other  
22 valve box, that other valve box could still be being  
23 served by the third line going across the street?

24 A. I guess it's a possibility.

25 Q. In that case, it would be unmetered. We



1 might want to look at that. But we don't know for a  
2 fact that that's it. We've made all kinds of  
3 assumptions, but we're making assumptions --

4 MR. GIBSON: I'm sorry, I'm going to  
5 object, Your Honor. He keeps testifying and it's  
6 actually --

7 JUDGE JORDAN: Sustained.

8 MR. GIBSON: -- contrary to testimony  
9 that's been provided.

10 JUDGE JORDAN: Sustained.

11 Q. (By Mr. Larson) Do you have any  
12 substantiation that I would have to install another  
13 valve box -- you indicated that I couldn't get water  
14 to the bounds -- if she had put the meters in the  
15 valve boxes, I couldn't get water to the -- to the  
16 other units. Why was that?

17 A. You could have, but on the eastern side, it  
18 would have required you to install another valve to  
19 connect these lines. Outside of the meter, you're  
20 only going to be able to have one connection. So  
21 after the meter, you would have had to have installed  
22 a valve box which then would have tied in at least  
23 this one and this one.

24 Q. So if when I called and asked for a  
25 meter --

1 A. Yes.

2 Q. -- she had placed one right there where I  
3 had my stuff stubbed out, ready for a meter, and then  
4 replaced these two valve boxes with meters --

5 A. Yes.

6 Q. -- there would have been cost to me?

7 A. Mm-hmm.

8 Q. No doubt about it?

9 A. Sure.

10 Q. At no point was it -- I'm trying to ask a  
11 question. Is there any reason for me to have  
12 understood, without it being stated, that I would own  
13 pipe that was previously installed by a predecessor  
14 water company because of the placement of those  
15 meters?

16 A. I don't think anybody knew where the pipe  
17 was, was part of the problem.

18 MR. LARSON: I have nothing further.

19 JUDGE JORDAN: Cross-examination from  
20 Respondent?

21 MR. GIBSON: Just a couple of questions.

22 EXAMINATION

23 BY MR. GIBSON:

24 Q. I believe you stated previously that these  
25 tariffs and this system of doing things where a meter

1 is placed on an operating system and kind of becomes  
2 the new demarcation point, this is fairly common in  
3 the industry; is that correct?

4 A. It happens, yes.

5 Q. So these are not unusual tariffs or  
6 anything?

7 A. No. We have several companies where the  
8 system is installed before the meters.

9 Q. And as part of your investigation, did you  
10 check to see if there had been any prior complaints  
11 involving this property or these parties, especially  
12 if there had been any complaints about the meter boxes  
13 in the past or anything?

14 A. No, I did not.

15 Q. You didn't check or there were no  
16 complaints?

17 A. I didn't check.

18 MR. GIBSON: Okay. I think that's all I  
19 have.

20 JUDGE JORDAN: I have a few questions for  
21 you.

22 THE WITNESS: Okay.

23 EXAMINATION

24 BY JUDGE JORDAN:

25 Q. You've worked with water systems and their

1     tariffs for how long?

2             A.     Four years.

3             Q.     Four years. I want to ask you a few things  
4     about, first, the types of line that are involved  
5     in -- first of all, I'll ask you as defined in the  
6     tariffs, is there a -- do you read the tariffs as --  
7     and this -- and this system as including a service  
8     connection as defined in the tariffs?

9             A.     Yes.

10            Q.     Okay. Where do you see the service  
11     connection being?

12            A.     The service connection would be after the  
13     meter.

14            Q.     Okay. From the meter to where? I'm not  
15     talking about customer service line. I'm talking  
16     about service connection as defined in the tariff on  
17     sheet --

18            A.     Sheet 6, 1(f).

19            Q.     Service connection, yes, 1(f). Okay.

20            A.     This one, the service connection would be  
21     where the black line begins on the blue main.

22            Q.     Okay. So it runs from the main to the  
23     meter?

24            A.     To the meter, yes.

25            Q.     Okay. Now, let's look at that service

1 connection definition. I don't usually like doing  
2 this, but I'll ask you to read that Rule 1(f) into the  
3 record, please.

4 A. Okay. A service connection is the pipeline  
5 connecting the main to the customer's water service  
6 line at the property line, or outdoor meter setting,  
7 including all necessary appurtenances.

8 Q. Okay. Just that paragraph will do.

9 Now, you've picked the meter as the stopping  
10 point. Why not the property line?

11 A. I believe the meters are on the property  
12 line. The definitions say at or near the property  
13 line.

14 Q. That's where the meter may be stopped --

15 A. Yes.

16 Q. -- but the definition of service  
17 connection, like the customer's water service line,  
18 might go either to the property line or to the meter.  
19 Was there any particular reason you chose one or the  
20 other in viewing this situation?

21 A. Why I chose it as a stopping point?

22 Q. Yes.

23 A. Just the -- based on the definition, Sheet  
24 6, Rule 1(e).

25 Q. Rule 1(e), and that's the customer's water

1 service line?

2 A. Yes, it says it begins after the meter.

3 Q. Let's take a look. Can you point to that?

4 What line is that language on?

5 A. It's in the middle, fifth line down,

6 "including the connection to the meter setting."

7 Q. Okay. Why don't we just read that first --

8 we'll just read Rule 1(e) into the record.

9 A. A customer's water service line is a pipe  
10 with appurtenances installed, owned, and maintained by  
11 the customer --

12 Q. Slowly, please.

13 A. -- used to conduct water to the customer's  
14 unit from the property line or outdoor meter setting.

15 Q. Okay. And you're picking outdoor meter  
16 setting?

17 A. Yes.

18 Q. Okay. Rather than property line?

19 A. I believe they're on the property line.

20 Q. Okay. Let's take a look at the main. I  
21 think this may have been asked already, but I want to  
22 get clarification on it. The definition of "main,"  
23 will you read that into the record, please.

24 A. A main is a pipeline which is owned and  
25 maintained by the company, located on public property

1 or private easements, and used to transport water  
2 throughout the company's service areas.

3 Q. Okay. Now, referring to our Exhibit D, we  
4 have a mark where the break occurred --

5 A. Yes.

6 Q. -- in the orange dashed line labeled  
7 "one-inch black pipe." And beneath whose property is  
8 that?

9 A. Mr. Larson's.

10 Q. That's beneath Mr. Larson's property.  
11 Okay. Now, would it change your view of these  
12 segments of pipeline if that were beneath the city  
13 easement?

14 A. No, it would not.

15 Q. Okay. So if this dashed line were beneath  
16 the city easement for utilities, that does not change  
17 how you think the tariff applies to these facts?

18 A. No.

19 Q. Okay.

20 A. No, it would still be on the meter, so it  
21 would still be the customer's water line.

22 Q. Okay. Now, service line, if I'm correct,  
23 starts at the unit, customer service line?

24 A. Begins at the meter.

25 Q. And where else? Where does it end?

1           A.    When it enters the home.

2           Q.    Okay.  Let's take a look at the language of  
3   the tariff.  Let's see, okay.  All right, I won't go  
4   further into that.

5           Of the types of pipeline here, the main large  
6   service line and the service connection, customer's  
7   water line is the only one that touches the units; is  
8   that correct?

9           A.    That's correct.

10          Q.    Okay.  Okay.  Let's go back to this  
11   one-inch black pipe.  Do you have experience with the  
12   material called "CTS"?

13          A.    No, I do not.

14          Q.    Okay.  Where I'm headed with that, not to  
15   be mysterious, is that this thing is 55 years old.  Do  
16   you have any sense of how these systems hold up after  
17   55 years?  In other words, we've had one leak; does  
18   that tell us anything about the future?

19          A.    The systems get old, the pipe deteriorates,  
20   yes.

21          Q.    Okay.  Okay.  And I think the testimony was  
22   that the "C" in "CTS" stands for "copper."

23          A.    Yes.

24          Q.    Does copper, in your experience, beneath  
25   the ground, does that tend to corrode?



1 A. Well, this is plastic.

2 Q. Oh, this is plastic. Okay.

3 A. It's copper tubing sized --

4 Q. Oh, copper tubing --

5 A. -- to match up with copper.

6 Q. -- sized, but not made of copper?

7 A. No.

8 Q. It's plastic that's copper tube size.

9 Okay. But this main did break -- I mean, this line  
10 did break?

11 A. Yes.

12 Q. Okay. Okay.

13 A. I assume that its location under a road --

14 Q. Mm-hmm.

15 A. -- with a lot of driving over it, probably  
16 not bedded properly, rock -- it caused rock to shift  
17 and cut the pipe.

18 Q. Okay. I thought he said that this was  
19 under Mr. Larson's property.

20 A. It's under the road. It's -- it's -- I was  
21 looking at the drawing under being -- the depiction.  
22 No, it's -- it's in the road.

23 Q. Okay. Yeah, I'll clarify that and I'll ask  
24 the question again. "Under" not meaning south.

25 A. Right.

1 Q. "Under" meaning below the surface of the  
2 earth.

3 A. Yes.

4 Q. Who owns the earth beneath which this black  
5 pipe is?

6 A. It's under the street.

7 Q. Thank you. And do you have any knowledge  
8 as to who installed that --

9 A. No, I do not.

10 Q. -- black pipe? Okay. And let's see,  
11 Mr. Larson asked you some questions about transfer of  
12 property. Let me clarify it this way: Your view of  
13 how the tariff applies to these facts is that the  
14 placement of the meter determines where company and  
15 customer responsibility begin and end; is that  
16 correct?

17 A. Yes.

18 Q. Okay. Do you know of any -- did you even  
19 look at it this way, as to whether the tariff actually  
20 created some kind of a transfer of property, real,  
21 personal, easement?

22 A. Nothing I saw in writing, no.

23 Q. Okay. That's fine. That answers my  
24 question. I didn't know if that was your perspective,  
25 but you've answered that question. Yeah.

1           Let me ask you this: As someone who works with  
2 water systems all the time, looking towards the future  
3 and in view of the Public Service Commission's  
4 authority to order improvements to water systems, do  
5 you have an opinion as to how the customer and the  
6 company could both avoid problems with that dashed  
7 line labeled as the one-inch black pipe, where the  
8 leak occurred, do you have a recommendation for  
9 engineering?

10           A. The westernmost valve, valve number 2, if  
11 it were connected to the meter set there, this line  
12 could be abandoned.

13           Q. So -- okay. So, if I understand this, this  
14 is just a little more clarification, under what you're  
15 recommending, the eastern meter would serve the  
16 eastern cabins and the western meter would serve the  
17 western cabins?

18           A. Correct.

19           Q. Okay. And depending on how the Commission  
20 determines the responsibility determines who would pay  
21 for that; is that not correct?

22           A. Correct. But beyond the meter, typically  
23 it's the customer's responsibility.

24           Q. Right, right. Though that, of course, is  
25 an issue for the tariff -- you base that on the

1     **tariffs?**

2             A.     Yes.

3             **Q.     Right. That's not just staff saying this**  
4     **is a good idea. That's staff reading the tariff and**  
5     **applying it as best they can; is that correct?**

6             A.     Correct.

7             JUDGE JORDAN:   Okay.   Just a second while I  
8     have a look at these exhibits and make sure I don't  
9     have anything else for you.   I think that's all I have  
10    on cross-examination from the bench.   So I guess we'll  
11    see if there's any redirect?

12            MS. LEWIS:   Yes.   I have a few extra  
13    questions.

14            First, just to clarify in the record, and I  
15    apologize, I didn't copy the full part of Rule 1, and  
16    so paragraph (f) that was read, there are two  
17    additional sentences to it.   So I can provide the  
18    Commission with the rest of that for the record if  
19    necessary.

20            JUDGE JORDAN:   You can if you want.   Here's  
21    the way I view these things, documents that are  
22    already on file with the Commission:   Tariffs that  
23    have been made effective, copies of those are really  
24    demonstrative exhibits.

25            MS. LEWIS:   Okay.

1 JUDGE JORDAN: The Commission will  
2 ultimately -- these are -- they are for our reference,  
3 in other words, here today. What the Commission will  
4 do ultimately is look at its own copy to determine  
5 what the tariff says. So you can certainly provide  
6 one if you wish, but you don't have to.

7 MS. LEWIS: Okay. I just wanted to note  
8 for the record that the whole thing wasn't read into  
9 the record.

10 JUDGE JORDAN: Very good.

11 FURTHER EXAMINATION

12 BY MS. LEWIS:

13 Q. The next thing, the reason for using the  
14 meter as a crucial part of the equation is because the  
15 water becomes the customer's at that point, not at the  
16 property line, correct?

17 A. Correct.

18 Q. And in your experience with water systems,  
19 if a meter is turned off, then any property access or  
20 provided water by that meter will not have service,  
21 correct?

22 A. Correct.

23 JUDGE JORDAN: I'm sorry. Please repeat  
24 that question. It was a little quick for me.

25 Q. (By Ms. Lewis) In your experience with

1 water systems if you turn a meter off, all properties  
2 that receive water from that meter will not have  
3 service because the meter is turned off?

4 A. Correct.

5 Q. That's essentially what I'm asking. And so  
6 in your experience and when you go on these  
7 investigations, do you check each property that is  
8 accessed by that meter, or do you just kind of focus  
9 in and do the problem-solving portion?

10 A. Just kind of focus in and do the  
11 problem-solving portion.

12 Q. And then, so your statements are  
13 substantiated by your four years of experience and  
14 your additional training at the Commission, right?

15 A. Yes.

16 Q. And then Counsel for the company questioned  
17 you as to whether or not you checked for prior  
18 complaints. Are you aware of any prior complaints  
19 between -- at this property or between the customer  
20 and the company?

21 A. No, I'm not.

22 MS. LEWIS: That's all I have for redirect.  
23 Thank you.

24 JUDGE JORDAN: Recross from the  
25 Complainant?

1 MR. LARSON: I have nothing.

2 JUDGE JORDAN: Recross from the Respondent?

3 MR. GIBSON: Perhaps one, Judge.

4 FURTHER EXAMINATION

5 BY MR. GIBSON:

6 Q. The Judge had asked you with regard to Rule  
7 1, sub (e) where it had spoken about the -- well, the  
8 alternately speaks of the metered customer's water  
9 service beginning at the meter and then it also  
10 mentions a property line as a demarcation point.

11 Is it correct that these -- that these tariffs  
12 were covering a system that was partially metered and  
13 partially not metered?

14 A. These are kind of a generic tariff that  
15 covers many of our companies.

16 Q. But when this system was commenced, is it  
17 your understanding that part of these properties were  
18 metered and part were not?

19 A. Yes.

20 Q. And so is the reason why standardized  
21 tariffs such as this mention two different kinds of  
22 demarcation points, or whatever you want to call it,  
23 because some may be metered, in which case you would  
24 use the meter, or some may have no meter so there is  
25 no meter, at which case it would be the property line;

1 is that your understanding of the reason that that is  
2 written that way?

3 A. Yeah, that would be correct.

4 MR. GIBSON: I think that's all I have.

5 MR. LARSON: I do have one, if that's okay.

6 JUDGE JORDAN: Go ahead.

7 FURTHER EXAMINATION

8 BY MR. LARSON:

9 Q. And in this situation, would it be your  
10 understanding that the valve boxes that are at the  
11 property line would be the original point of service  
12 connection to the resort?

13 A. I would assume, yes.

14 MR. LARSON: That's all I have.

15 JUDGE JORDAN: Okay. I have nothing  
16 further. You may stand down.

17 Do we need to say anything about briefs or written  
18 arguments? Because they're the same thing.

19 MS. LEWIS: I don't -- I haven't looked at  
20 the date that they're due. I assume that's been  
21 clarified.

22 JUDGE JORDAN: Well, the regulation sets  
23 that forth, and I've got to refresh myself on that.  
24 We can also pick dates and they probably ought to  
25 start with the filing of the transcript, which would



1 be about when? The transcript should be in not later  
 2 than June 8th. And the regulations of the Commission  
 3 provide that -- provide for simultaneous briefs to be  
 4 filed twenty days after the transcript, and then reply  
 5 briefs also simultaneously ten days later. That's  
 6 what we'll operate under unless somebody else has a  
 7 different idea. We can talk about that now, somebody  
 8 could file a proposal later. Okay?

9 MR. LARSON: Does this mean after this is  
 10 all said and done and the transcript comes out, we can  
 11 provide an additional written statement to summarize,  
 12 essentially?

13 JUDGE JORDAN: Yes. That's exactly what it  
 14 means. What it means is that when we have a  
 15 transcript of the hearing, then you can go through the  
 16 hearing transcript and the exhibits that we've  
 17 admitted, because that transcript shows where these  
 18 things were admitted into the record, and say that,  
 19 you know, For the claim that I'm making, I have to  
 20 prove these different things. Here's where I showed  
 21 this, here's where I showed that, here's where I  
 22 showed the other thing, and you can cite the  
 23 transcript and say, This is where I nailed that down.  
 24 That's what the brief is for --

25 MR. LARSON: Like a bigger version of the

1 stipulated facts?

2 JUDGE JORDAN: Yeah, much like that. It  
3 will look like that and what it will do is it will  
4 cite the transcript, page 21, line 3, to say, This is  
5 where I showed the Commission evidence of this element  
6 of my claim or defense. That's what that is.

7 MR. LARSON: Okay.

8 JUDGE JORDAN: So that's the schedule as  
9 laid out in the regulations. We can depart from that  
10 if those dates don't work for someone or anyone, or  
11 something like that.

12 MR. GIBSON: We have June 8 expecting, or,  
13 well, may even be sooner, I guess, but -- and then  
14 twenty days for briefs and then what on the replies  
15 did you say?

16 JUDGE JORDAN: Ten. It's twenty and ten  
17 and they're simultaneous. And you may like that, you  
18 may like alternating, you might like different  
19 times --

20 MR. GIBSON: Probably the less of that the  
21 better, I expect.

22 JUDGE JORDAN: You may be right. I will  
23 leave that to the parties, because I don't think I'm  
24 going to put out an order on that unless somebody asks  
25 me to. And any other matters before we go off the

1 record?

2 MS. LEWIS: None from staff.

3 JUDGE JORDAN: All right. Anything from  
4 Respondent?

5 MR. GIBSON: Nothing.

6 JUDGE JORDAN: Anything from Claimant?

7 MR. LARSON: No closing statement or --

8 JUDGE JORDAN: You may if you wish, but,  
9 you know, pretty much your brief is going to do that.

10 MR. LARSON: Okay. Then I'm good with  
11 that.

12 JUDGE JORDAN: If you're okay with no  
13 closing statement -- you don't have to file a brief,  
14 of course, but you have the right to file it.

15 MR. LARSON: Right.

16 JUDGE JORDAN: And you have the right to  
17 have the Commissioners read it.

18 MR. LARSON: Okay.

19 JUDGE JORDAN: Anything else, then? Very  
20 well. Then I thank you very much for your efforts and  
21 your attention and your civility in this proceeding.

22 And with that, we will adjourn and we will go off  
23 the record. Thank you, everyone.

24 (Proceedings concluded at 12:08 p.m.)

25

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(Exhibits attached to Original transcript.)

\* \* \*

Phonetic spelling: (ph.)  
Exactly as stated: (sic)

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REPORTER'S CERTIFICATE

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF GREENE )

I, Christine Richele, Certified Shorthand  
Reporter, Registered Professional Reporter, Certified  
Court Reporter #385, Certified Realtime Reporter (Mo),  
and Notary Public within and for the State of  
Missouri, do hereby certify that I was personally  
present at the proceedings as set forth in the caption  
sheet hereof; that I then and there took down in  
stenotype the proceedings had at said time, which were  
thereafter transcribed by me and is a true and  
accurate reproduction of the proceedings, set forth in  
the preceding pages.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal on June 5, 2012.

Christine Richele, CSR, CRR, CCR #385  
Registered Professional Reporter  
Notary Public  
My commission expires: December 7, 2013

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