

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

October 13, 2006  
Jefferson City, Missouri  
Volume 2

DIONE C. JOYNER, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. WC-2006-0345  
 )  
MISSOURI-AMERICAN WATER COMPANY, )  
 )  
Respondent. )

HAROLD STEARLEY, Presiding  
REGULATORY LAW JUDGE

LINWARD "LIN"APPLING,  
COMMISSIONER

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

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

2 JUDGE STEARLEY: Okay. Let us bring this  
3 hearing to order. Good morning. Today is Friday, October  
4 13th, 2006. We're here for an evidentiary hearing in Case  
5 No. WC-2006-0345, Dione C. Joyner, Complainant, versus  
6 Missouri American Water Company, Respondent.

7 My name is Harold Stearley. I will be the  
8 Regulatory Law Judge presiding over this hearing. Kennard  
9 Jones is the Regulatory Law Judge assigned to this case,  
10 but he is unable to be here today, so I'm sitting in in  
11 his place.

12 Let's begin by taking entries of appearance,  
13 beginning with Ms. Joyner.

14 Excuse me for just a moment.

15 (Off the record while technical difficulties  
16 were taken care of.)

17 JUDGE STEARLEY: I don't know where that came  
18 from. Okay. Mrs. Joyner, are you still with us?

19 MS. JOYNER: Yeah.

20 JUDGE STEARLEY: Okay. Sorry for that. We seem  
21 to have picked up a sales call to our phone bridge, which  
22 I'm not sure how that's happened. I muted the sound for  
23 that, although our witnesses may very well be watching us  
24 all sitting quietly here in the room, so I'm going to put  
25 us back on. Sorry for that momentary interruption in our

1 sound.

2 Ms. Joyner, we were taking entries of appearance  
3 beginning with you. If you will, please state your name  
4 for the record for us.

5 MS. JOYNER: Dione Joyner.

6 JUDGE STEARLEY: And could you spell that for  
7 the court reporter, please?

8 MS. JOYNER: Dione, D-i-o-n-e, Joyner,  
9 J-o-y-n-e-r.

10 JUDGE STEARLEY: And if you could state your  
11 address for us, please?

12 MS. JOYNER: 1422 Sheridan Drive,  
13 S-h-e-r-i-d-a-n, Drive, St. Louis, Missouri, 63132.

14 JUDGE STEARLEY: Thank you, Ms. Joyner. For  
15 Missouri American Water Company?

16 MS. SULLIVAN: Yes. On behalf of Missouri  
17 American Water Company, Mary Sullivan, S-u-l-l-i-v-a-n.  
18 My address is 727 Craig Road, St. Louis, Missouri, 63141.

19 JUDGE STEARLEY: Thank you, Ms. Sullivan. And  
20 for Staff?

21 MS. HEINTZ: Assistant General Counsel, Jennifer  
22 Heintz for the Staff of the Missouri Public Service  
23 Commission. My address is P.O. Box 360, Jefferson City,  
24 Missouri, 65102.

25 And, Ms. Joyner, just so you're aware because

1     you're not in the room, I have with me here also from  
2     staff Contessa Poole-King, Jim Merciel, Martin Hammel, and  
3     Keith Krueger and Gay Fred are present as well.

4             JUDGE STEARLEY: Thank you, Ms. Heintz. The  
5     procedure we'll be following this morning is that we're  
6     going to begin with direct testimony from Ms. Joyner, the  
7     Complainant, followed by witnesses from Missouri American  
8     Water Company and then from Staff.

9             Each party will have an opportunity to  
10    cross-examine the witnesses, and the Commissioners may  
11    have questions for the witnesses.

12            Are there any preliminary matters that we need  
13    to resolve at this time? Well, hearing none, we will now  
14    take a short recess while I see if we have any of the  
15    Commissioners that will be joining us this morning.

16            (Break in proceedings.)

17            JUDGE STEARLEY: Okay. We're -- we're back on  
18    the record here. And we are back on the record now. And  
19    we're going to begin with testimony from Ms. Joyner.  
20    Ms. Joyner, if you'd please state your name again for the  
21    court reporter? Are you still with us, Ms. Joyner?

22            MS. JOYNER: Yes.

23            JUDGE STEARLEY: Okay. We're beginning with  
24    your testimony. If you'll please state your name again  
25    for the court reporter, and I will swear you in.

1 MS. JOYNER: Dione Joyner, J-o-y-n-e-r.

2 JUDGE STEARLEY: All right.

3 DIONE JOYNER,

4 being first duly sworn to testify the truth, the whole  
5 truth, and nothing but the truth, testified as follows:

6 TESTIMONY OF MS. DIONE JOYNER

7 JUDGE STEARLEY: All right. You may proceed.

8 MS. JOYNER: Starting from the beginning or --

9 JUDGE STEARLEY: Wherever you would like to  
10 start.

11 MS. JOYNER: Okay. It was this time last year  
12 when Missouri American Water came into my yard and dug up  
13 my yard and left a gaping hole for me to resolve the  
14 issue.

15 I had to spend my work hours during the day to  
16 go down to figure out what was going on and what needed to  
17 be done. I was told that Missouri County had a program  
18 that fixes the problems that Missouri Water creates when  
19 they dig up people's yards.

20 So Missouri County set me up with a -- a plumber  
21 to come out to my yard to -- but -- to my yard to get the  
22 problem resolved after they dug up my yard. They were  
23 told -- I was told that they would take bids on plumbers  
24 so it was not something that was going to happen  
25 overnight. I was without water for a week after -- after

1 the fact of this whole mess that they created.

2 And I'm at the point now of questioning whether  
3 or not they actually had the hours or the man -- or the  
4 people they did that -- questioning whether or not I  
5 should have to pay for something that -- the mess that  
6 they created that's caused me more problems in having than  
7 the 292 that they are trying to have me pay at this point.  
8 That's pretty much it at this point.

9 JUDGE STEARLEY: Okay. If you have no further  
10 direct testimony at this point, we will open this up for  
11 cross-examination with Missouri American first.

12 CROSS-EXAMINATION

13 BY MS. SULLIVAN:

14 Q Ms. Joyner -- Ms. Joyner, this is Mary Sullivan  
15 on behalf of Missouri American. Is this your -- the  
16 location that you're talking about, was this at 1422  
17 Sheridan in St. Louis?

18 A Yes.

19 Q And had you received notices that you were going  
20 to be disconnected for non-pay?

21 A And I sent my payments in to Missouri Water.  
22 They rejected me twice. So you guys didn't want your  
23 money. I went down to the offices and paid, and they sent  
24 back the two checks that I had tried to pay you  
25 individuals.

1           You want me to inconvenience myself to get  
2 charged an extra \$12 because that's what you charge to do  
3 a payment over the telephone and then pay extra money when  
4 you go to the grocery stores when I can mail a check.

5           I attempted to try to pay you individuals. I  
6 have two letters here in front of me that I could possibly  
7 send over to the Commission saying that they didn't want  
8 that. So you didn't want any money.

9           So at that point, I had all that I needed.  
10 That's why when you guys disconnected me right then and  
11 that day, I had the money because I paid it right then and  
12 there. So when your guy came out to reconnect services,  
13 and he said the -- the first thing he said -- and this is  
14 your guy from your company says, Well, they broke your  
15 bow. He said, We have a problem here. They broke the  
16 bow. They broke it.

17           And I said, How did you -- what do you mean they  
18 broke it? He said, Well, in order for them to do what  
19 they need to do, they broke it, so you're going to have to  
20 call them back.

21           I mean, I was like, How did do you break it? He  
22 goes, Well, I can't restore your services right here  
23 because they had to really break the bow to get it -- to  
24 turn off the water. So that -- that's where I'm at with  
25 that.



1                   So there was attempts to pay, so don't -- I  
2   won't say there was not never an attempt to pay the  
3   organization.

4           Q     But there was an outstanding balance?

5           A     I'm sorry?

6           Q     But there was an outstanding balance?

7           A     There would be if you're not taking the money.  
8   I can't -- I can't force money on you and you guys won't  
9   accept it. Any time -- any time a company spends money to  
10  send back -- I've never known a company to send money  
11  back. It's just insane to me. But they sent -- sent it  
12  back in a letter. So you wasted a stamp to send my money  
13  back.

14                   MS. SULLIVAN: No further questions.

15                   JUDGE STEARLEY: Okay. Thank you, Ms.  
16  Sullivan. Ms. Heintz, any cross-examination from Staff?

17                   MS. HEINTZ: No, thank you.

18                   JUDGE STEARLEY: Well, questions from the  
19  Commissioners? Mr. Appling -- or Commissioner Appling, do  
20  you have questions for Ms. Joyner?

21                               CROSS-EXAMINATION

22   BY COMMISSIONER APPLING:

23           Q     Ma'am, this is Lin Appling, one of the  
24  Commissioners. Just a couple of questions about -- about  
25  your delinquent pay. I understand and you don't need to

1 repeat to me again about the stamps and all that stuff. I  
2 understand that they didn't take your money.

3 But first question, how many months were you  
4 behind in your payments?

5 A I can't say.

6 Q Huh?

7 A I can't say.

8 Q You don't what?

9 A I cannot say. That was a year ago, sir.

10 Q You cannot say?

11 A Yes. I do not know. It was up to -- when all  
12 this was going on, it was \$533.21.

13 Q Okay. \$532, right?

14 A 532 -- \$533.21.

15 Q Okay. And how many months were you behind?

16 A I don't know what that was built up to.

17 Q Okay. But you agree that you were several  
18 months behind?

19 A Yeah. I'm not disagreeing with the payments. I  
20 am not.

21 Q Okay.

22 A But when someone does not come -- when you  
23 attempt to try to pay and do what you need to do as a  
24 customer, they did not accept the payment. So what am I  
25 supposed to do at that point?

1           Q     Well, you're supposed --

2           A     Even -- even when before the man even came into  
3 my yard, no one bothered to knock on my door because that  
4 was my -- my brother was here when all this happened. So  
5 that's why I'm really arguing this question because they  
6 said that they spent four hours in my yard, and they did  
7 not because my brother was here the whole time. And I  
8 came back home and they were gone within 30 minutes.

9           Q     Ma'am, the only thing I'm trying to do this  
10 morning is resolve this issue. Okay? So let's try to  
11 back up so I can either give you some assistance if we can  
12 this morning or either tell you that we're not going to  
13 give you assistance this morning. Okay?

14          A     Okay.

15          Q     So the first question, again, going back to the  
16 beginning, what is it that you're seeking here? How about  
17 explaining to me, what do you want American Water to do,  
18 or what do you want this Commission to do for you this  
19 morning? How about explaining --

20          A     The Commission -- the Commission needs to  
21 recognize the need to make -- to make Missouri American  
22 Water understand that when they go digging into people's  
23 yards, it is not -- it's more than an inconvenience of a  
24 day's service.

25                   Any utility companies when they disconnect any

1 individual, they can get you back on within a day or two.  
2 Missouri American Water does not know what the  
3 ramifications are when they go and break an item, a valve,  
4 because they broke a valve and to have the County -- that  
5 means they have to have the taxpayers pay for their --  
6 their mess-up and to go through that, it means a customer  
7 is out -- without water for a week.

8 Q Well, I read your testimony. It's all in  
9 writing.

10 A Right.

11 Q I'm not trying to stop you here.

12 A Right.

13 Q But in one clear sentence, just explain to me  
14 what it is that you're asking for them to do this morning.

15 A I am asking for them -- I don't want to have to  
16 pay for the two-man crew -- the charges that they have  
17 incurred, the \$292.

18 Q What else beyond the \$292?

19 A That's it. Because I'm -- at this point, I'm up  
20 to date with my bill.

21 Q Okay. Are up to -- up to date --

22 A Yes.

23 Q -- on your bills?

24 A Yes, I am. Yes. And if they take that 292 off,  
25 yeah.

1 Q What else are you seeking?

2 A That's it.

3 COMMISSIONER APPLING: Okay. That's all I have.

4 Okay. Thank you.

5 MS. JOYNER: Uh-huh.

6 CROSS-EXAMINATION

7 BY JUDGE STEARLEY:

8 Q Ms. Joyner, I have one question from -- for you  
9 from the Bench. You -- you had stated that you had  
10 received notices from Missouri American Water Company  
11 about the potential disconnecting of service; is that  
12 correct?

13 A Uh-huh.

14 Q And when you received those notices, did you  
15 read the notices thoroughly?

16 A You read the notices. That's why you go and  
17 pay. And that's what I did.

18 Q All right. And did you read on those notices  
19 remarks about if service had to be disconnected that there  
20 would need to be -- or could possibly need to be  
21 excavation?

22 A No. It does not explain, sir, that they're  
23 going to come in and break your valve, put a 2-inch hole  
24 in your yard and you will be without water for a week. It  
25 does not say it like that, sir. So no customer would ever

1 know that they would be without water for a week from the  
2 mess that they have created.

3 JUDGE STEARLEY: All right. Thank you, Ms.  
4 Joyner.

5 MS. JOYNER: Uh-huh.

6 JUDGE STEARLEY: Is there any  
7 Recross-Examination from any of the parties based upon  
8 questions from the Commissioners and the Bench? All  
9 right.

10 COMMISSIONER APPLING: Anyone from the Staff --  
11 nobody from the Staff has any comments? Mr. Krueger,  
12 anybody have any concerns or questions while we are here  
13 this morning? Gay, any comments?

14 Okay. I'm not trying to pry anything out of you  
15 this morning. I'm just trying to make sure we clarify it.  
16 Anything from Water?

17 MS. HEINTZ: We will be presenting two witnesses  
18 from -- who connect -- from Staff who have conducted the  
19 investigation, but we'll do that later.

20 COMMISSIONER APPLING: Thank you very much.  
21 That's all I have at this time. Okay?

22 JUDGE STEARLEY: Okay. Thank you, Commissioner  
23 Appling.

24 Ms. Joyner, at this point, we thank you for your  
25 testimony. You will not be fully excused at a witness at

1 this point in case the Commissioners would have any  
2 additional questions after the completion of Respondent's  
3 case. And we will now go to Missouri American to present  
4 its witness.

5 MS. SULLIVAN: Yes, your Honor. I would like to  
6 call Mr. Murphy. Do you want him to move up to there or  
7 stay at the table?

8 JUDGE STEARLEY: No. He can remain at the table  
9 there. And please speak into the microphone.

10 MS. SULLIVAN: And for the convenience of Ms.  
11 Joyner who is on the phone, all of the exhibits that I'm  
12 going to be referring to were attached to our Answer, and  
13 she should have received a copy of them so she'll know  
14 what we're -- they're exactly the same. Just that's for  
15 her convenience so she'll know what we're talk about and  
16 looking at.

17 JUDGE STEARLEY: Thank you, Ms. Sullivan.

18 DIRECT EXAMINATION

19 BY MS. SULLIVAN:

20 Q Sir, would you please state your name for the  
21 record and spell your last name for the court reporter?

22 A David Murphy, M-u-r-p-h-y.

23 Q And, Mr. Murphy, where are you presently  
24 employed?

25 A At Missouri American Water Company.

1 JUDGE STEARLEY: Pardon me. Ms. Sullivan, I  
2 need to swear Mr. Murphy in.

3 MS. SULLIVAN: Sorry. Sorry.

4 JUDGE STEARLEY: That's quite all right.

5 DAVID MURPHY,  
6 being first duly sworn to testify the truth, the whole  
7 truth, and nothing but the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SULLIVAN:

10 Q Again, you're presently employed with Missouri  
11 American as --

12 A As an Operations Manager.

13 Q Okay. And can you briefly summarize what are  
14 your responsibilities or job duties in that position?

15 A Yes. I'm the manager of two departments. One  
16 is meter reading where they read the meters that generate  
17 a bill, and the second one is the Customer Service  
18 department where they are charged with maintaining the  
19 meters and turning water on and off as the case requires.

20 Q Mr. Murphy, could you give us a very brief kind  
21 of overview of how long you've been at Missouri American  
22 and what jobs you've held with Missouri American?

23 A I've been employed with Missouri American Water  
24 almost 12 years. I started out as a meter reader, worked  
25 in our Maintenance Department for almost ten years, which



1 is where we fix the pipes when they break. And for the  
2 last two years, I have been a supervisor.

3 Q And are you familiar with the allegations in the  
4 formal complaint filed by Dione Joyner?

5 A Yes.

6 Q Could you again, very briefly, describe what is  
7 Missouri American? What's its business?

8 A Our business is to provide water service to St.  
9 Louis County.

10 Q Do we also provide water to other locations in  
11 the state of Missouri?

12 A Yeah. We sure do.

13 Q But you're responsible for St. Louis County?

14 A St. Louis County.

15 Q And is it a public utility?

16 A Yes.

17 Q And is it subject to the jurisdiction of the  
18 Missouri Public Service Commission?

19 A Yes, it is.

20 Q And as a regulated utility, does Missouri  
21 American maintain tariffs which set forth its rules,  
22 regulations and conditions for service for its customers?

23 A Yes, we do.

24 Q Are you familiar with the tariffs that are  
25 applicable to customers in St. Louis County?

1           A     Yes.

2           Q     Do you know, is Ms. Joyner a customer of  
3   Missouri American?

4           A     Yes.

5           Q     Do you know where she has an account?

6           A     Yes. 1422 Sheridan Drive.

7           Q     I'm going to hand you a series of exhibits, and  
8   I'm going to ask you to identify what they are. I'm going  
9   to hand you what has been labeled Exhibit 1 consisting of  
10  two pages. could you take a look at that, please?

11          A     Yes.

12          Q     Do you recognize what that is?

13          A     Yes. It is a copy of our tariff.

14          Q     And, specifically, it's -- do you know what  
15  sheet numbers it is for --

16          A     Yes. Tariff No. 6, page 19.1 --

17                JUDGE STEARLEY: Excuse me, Mr. Murphy. Could  
18  you please speak more directly into the microphone?

19          A     Yes. It's Tariff No. 6, and it's pages 19.1 and  
20  19.1A.

21          Q     (By Ms. Sullivan) And do you know what those  
22  two tariff sheets, 19.1 and 19.1A, what generally they  
23  relate to?

24          A     Yes. They relate to the customer obligations as  
25  far as maintaining a water service line.

1 MS. SULLIVAN: At this time, I'd move for the  
2 admission of Missouri Exhibit -- Missouri American's  
3 Exhibit 1.

4 JUDGE STEARLEY: Okay. Are there any objections  
5 to the admission of Exhibit 1?

6 MS. JOYNER: There is an objection because I  
7 don't have that.

8 JUDGE STEARLEY: Ms. Joyner, I know you can't  
9 see the exhibit as it's being displayed here in --

10 MS. JOYNER: No one bothered to send me any  
11 information that they were going to present that today.

12 JUDGE STEARLEY: Ms. Sullivan stated earlier  
13 that you had received a copy of all the exhibits.

14 MS. JOYNER: I'd like to know where she faxed it  
15 to or where she overnighted it to. I have not received  
16 those.

17 JUDGE STEARLEY: It was included in the Answer  
18 that you received a copy of.

19 MS. JOYNER: I've got seven pages. Is that the  
20 seven pages she's talking about?

21 MS. SULLIVAN: It would be substantially more  
22 than seven pages.

23 MS. JOYNER: And I never received anything from  
24 Ms. Mary Sullivan. The only thing I received was a  
25 response back which Sally Krueger which gave me seven

1 pages of the information that I requested.

2 MS. SULLIVAN: This document would have been  
3 verified by Sally Krueger. It would be labeled Answer --  
4 let me see quickly what it says. Answer of Missouri  
5 American to the Formal Complaint. And then attached to it  
6 was various documents labeled as --

7 MS. JOYNER: I object. I never received them.

8 MS. SULLIVAN: Your Honor, I mailed them, I  
9 know, to the address 1422 Sheridan Drive. Certificate of  
10 service shows that it was mailed the 6th day of April  
11 2006. It's also available on E docket -- or EFIS.

12 JUDGE STEARLEY: Right. Thank you, Ms.  
13 Sullivan. We will admit Exhibit 1.

14 If -- Ms. Joyner, if you cannot find the copy  
15 that I has already been mailed to you, we will be sure you  
16 get another copy mailed to you following the hearing.

17 MS. JOYNER: Please do so.

18 MS. SULLIVAN: Your Honor, we will send another  
19 set of the Answer -- complete Answer and all the exhibits  
20 to Ms. Joyner's address at 1422 Sheridan Drive.

21 JUDGE STEARLEY: Okay. Thank you, Ms.  
22 Sullivan.

23 Q (By Ms. Sullivan) Now, turning to Exhibit 1, is  
24 there anything in that exhibit that specifically addresses  
25 who owns or is responsible for the stop cock?

1           A     Yes.

2           Q     Okay.  And what is the -- who is responsible for  
3     maintaining and operating -- or preparing the stop cock?

4           A     The customer owns it.

5           Q     Is sometimes the stock cock also called a  
6     T-head?

7           A     Yes.

8           Q     And are you familiar with an ordinance by the  
9     St. Louis County regarding repairs to the -- a customer's  
10    water service line, including their stop cock?

11          A     Yes.

12          Q     Is that separate and independent from Missouri  
13    American's business?

14          A     Yes.

15          Q     Does Missouri American have any control over the  
16    scheduling of work, who is employed to make repairs to a  
17    customer service line or stop cock?

18          A     No.

19          Q     Are you aware, is there any sort of regulation  
20    that prevents a utility worker from repairing a customer's  
21    service line or stop cock?

22          A     Yes.  We are -- utility workers are not allowed  
23    to fix things they do not own.  So we're only allowed to  
24    fix our water pipes.  Plumbers fix the service lines.

25          Q     I'm going to hand you what has been labeled

1 Missouri Exhibit No. 2. It's consists of five pages.

2 Could you take a look at that, please? Do you recognize  
3 this five pages?

4 A Yes.

5 Q Looking at just the first three pages of that  
6 Exhibit 2, can you identify what those three pages are?

7 A Yeah. These are Chapter 13 of the Public  
8 Service Commission's regulation of utilities.

9 Q And, generally, what does Chapter 13 -- these  
10 particular pages -- look at it again. I guess it's, what,  
11 240.13. Generally, what are those -- what is that  
12 covering?

13 A This is covering what happens in the event of a  
14 discontinuance of water.

15 Q Generally, it's sort of the billing  
16 procedures --

17 A Yes. Yeah.

18 Q -- that utilities must follow?

19 A Uh-huh.

20 Q And did -- does Missouri American have tariffs  
21 that at that time tailor basically what is provided for in  
22 Chapter 13?

23 A Yes.

24 Q And if you'll look at pages 4 and 5 of Exhibit  
25 2, are those Missouri American's tariffs that are related

1 to the same issues?

2 A Yes.

3 JUDGE STEARLEY: Excuse me, Ms. Sullivan. Mr.  
4 Murphy, if you all -- I hate to keep reminding you, but  
5 please keep speaking into the microphone. It helps our  
6 web casting and also our recording of the proceedings.

7 MS. SULLIVAN: At this time, we would move for  
8 the admission of Missouri Exhibit No. 2.

9 JUDGE STEARLEY: Okay. Are there any objections  
10 to the admission of Exhibit No. 2? Hearing none, Exhibit  
11 No. 2 is admitted.

12 Q (By Ms. Sullivan) Just very briefly, when you  
13 look at the documents, Exhibit 2, both the Commission's  
14 regulations as well as the company's tariffs, what happens  
15 if a customer fails to pay for water service?

16 A First, they are sent a letter notifying them of  
17 the possibility that they can be -- their water can be  
18 turned off. And then we send someone out to turn it off.

19 Q Can you describe -- physically, what does the  
20 company employee have to do if they've gone out to shut  
21 off water service for non-pay?

22 A Okay. What they would do is they would, first  
23 off, find the address where they're at. They go there out  
24 in the front yard. They locate what's called a stop box.  
25 And that is basically an access pipe to the stop cock or

1 the T-head.

2           They take the lid off. They have a key, a water  
3 shut-off key about 6-foot long, and they place it down  
4 into the ground on top of the T-head or stop cock and turn  
5 the water off.

6           Q    I think you told us earlier that the stop cock  
7 is actually owned by the customer?

8           A    Yes.

9           Q    So what happens if for some reason that stop  
10 cock is inoperable or is broken?

11          A    Then at that time, we are unable to turn it off.  
12 And so the way we would turn -- have to do that, then, is  
13 we would have to dig it up, physically dig it up in order  
14 to turn the water service off.

15          Q    And -- and you're turning it off because you're  
16 digging down. What does the employee have to do to turn  
17 it off at that point?

18          A    At that point, they have to make an attempt to  
19 -- the same thing that a key would do, turn it off. They  
20 have to try to turn it off by hand with a pair of pliers,  
21 a vice grip, a wrench, various methods depending on what  
22 the situation is.

23          Q    Does the company have any tariffs related to  
24 what happens when a customer's stop cock is broken or  
25 inoperable?



1           A     Yes, we do.

2           Q     I'm going to hand you what has been identified  
3     as Missouri Exhibit No. 3 consisting of two pages.  Could  
4     you take a look at that, please?  Do you recognize what  
5     that is?

6           A     Yes.  This is Tariff No. 6 again, page 2.2 and  
7     2.2A.

8           Q     What generally does this portion of the tariff  
9     pertain to?

10          A     This pertains to actually the charge associated  
11     with turning someone's water off.

12          Q     Including possible costs for excavation?

13          A     Correct.

14                 MS. SULLIVAN:  At this time, we'd move for the  
15     admission of Missouri Exhibit No. 3.

16                 JUDGE STEARLEY:  Any objections to the admission  
17     of Exhibit No. 3?  Hearing none, Exhibit No. 3 is admitted  
18     into evidence.

19                 (Exhibit No. 3 was admitted into evidence.)

20          Q     (By Ms. Sullivan)  Do you know if -- if the  
21     company has to dig down, excavate to be able to shut off  
22     water, the tariff provides, as you just told us, that that  
23     cost can be attributed back to the consumer.  How is --  
24     how does the company collect that charge?

25          A     We put -- we place that charge on their water

1 bill.

2 Q Does those -- do the costs that are put on the  
3 consumer's bill, does that include the labor costs  
4 necessary to -- to excavate?

5 A Yes. The actual cost associated with making  
6 that turn-off.

7 Q If you'll look back at what was previously  
8 admitted as Missouri Exhibit No. 2, Sheets 4 and 5, does  
9 it specifically set out that the cost can include the  
10 actual costs of labor, material, transportation?

11 A Yes, it does, on page 2.3A.

12 Q Okay. And you yourself have been involved with  
13 shut-offs?

14 A Yes.

15 Q And are you familiar with sort of generally how  
16 long it would take to excavate a stop cock such as this?

17 A Yes.

18 Q And on average, what would you say -- how much  
19 time does it take?

20 A I would say the four-hour time frame.

21 Q And does that include the time driving from  
22 wherever that crew was coming from to the location?

23 A Yes.

24 Q Okay. Okay. Now, we've talked generally sort  
25 of the Missouri American's business and how we -- how

1 tariffs regulate our service to our customers.

2 Now, I want you to look -- turn specifically to  
3 Ms. Joyner's account. Did Missouri American provide  
4 service consistent with its terms for service that are  
5 contained in these tariffs to Ms. Joyner?

6 A Yes.

7 Q And was the service -- this account disconnected  
8 for failure to pay on or about October 13th, 2005?

9 A Yes.

10 Q Do you know -- prior to disconnection, when was  
11 the last payment Ms. Joyner made on the account?

12 A I think it was a year prior to that.

13 Q And in that year, did Missouri American make any  
14 attempts to notify her that her account was in arrears?

15 A Yes.

16 Q I'm going to hand you what has been identified  
17 as Missouri American No. 4 consisting of two pages. Will  
18 you take a look at that? Can you identify what Exhibit 4  
19 is?

20 A Yes. These are a screen shot off of our billing  
21 records.

22 Q And is it the normal practice of Missouri  
23 American to maintain customer account information in this  
24 format?

25 A Yes.

1           Q     And are the entries made into the system by  
2     someone with knowledge of the information?

3           A     Yes.

4           MS. SULLIVAN:  At this time, we'd move for the  
5     admission of Exhibit 4.

6           JUDGE STEARLEY:  Are there any objections to the  
7     admission of Exhibit 4?

8           MS. JOYNER:  I would be in objection to that.  
9     Is that in the packet that she said she sent?

10          MS. SULLIVAN:  Yes, it would be.

11          JUDGE STEARLEY:  Yes, Ms. Joyner.

12          MS. JOYNER:  Okay.

13          JUDGE STEARLEY:  Any other objections?

14          MS. JOYNER:  No.

15          JUDGE STEARLEY:  Okay.  Hearing one, Exhibit 4  
16     will be admitted into evidence.

17                 (Exhibit No. 4 was admitted into evidence.)

18          Q     (By Ms. Sullivan)  I think you briefly touched  
19     on the fact that prior to disconnect, notices would be  
20     sent to the consumer advising them that they're subject to  
21     disconnection?

22          A     Yes.

23          Q     And was that procedure followed with regard to  
24     Ms. Joyner?

25          A     Yes, it was.

1           Q     Do you know how many disconnect notices were  
2     issued prior to the actual disconnection?

3           A     I believe 12.

4           Q     I'm going to hand you what has been -- or  
5     previously identified as Missouri American Exhibit 5. It  
6     consists of 12 pages. Will you take a look at those and  
7     let me know if you recognize them?

8           A     Yes, I do.

9           Q     Okay. And what are these?

10          A     These are copies of an overdue notice and a  
11     service discontinuance notice, which the first one we  
12     would send out as a regular overdue notice. And then they  
13     to kind of give you a grace period. And then they send  
14     out a service discontinuous notice with a date of when  
15     we're going to come out and turn that off.

16          Q     Is it the regular business of Missouri American  
17     to send such notices to its customers?

18          A     Yes, it is.

19                MS. SULLIVAN: At this time, we'd move for the  
20     admission of Missouri Exhibit No. 5.

21                JUDGE STEARLEY: Are there any objections to the  
22     admission of Exhibit No. 5? Okay. Hearing none, Exhibit  
23     No. 5 will be admitted into evidence.

24                (Exhibit No. 5 was admitted into evidence.)

25          Q     (By Ms. Sullivan) Looking at the disconnect

1 notices that are contained in Exhibit 5, is there any  
2 reference in that notice that advises the consumer they're  
3 going to be responsible if the stop cock is inoperable or  
4 breaks during disconnection?

5 A Yes, there is.

6 Q Is there any notice that they may be responsible  
7 for the cost of excavation if excavation is necessary?

8 A Yes, there is.

9 Q Do you know, when Ms. Joyner's service was  
10 disconnected in October of 2005, was the stop cock  
11 operable?

12 A No, it was not.

13 Q I'm going to hand you what has been previously  
14 identified as Missouri American No. 6. Can you take a  
15 look at that, please?

16 A Yes.

17 Q Do you recognize what that is?

18 A Yes, I do.

19 Q And what is it?

20 A It is a copy of a service order for Missouri  
21 American Water Company.

22 Q And for what residence was the service order  
23 for?

24 A 1422 Sheridan Drive.

25 Q Okay. And, again, is this a document that is

1 maintained regularly by Missouri American its ordinary  
2 course of business?

3 A Yes.

4 MS. SULLIVAN: We'd move for the admission of  
5 Missouri Exhibit No. 6.

6 JUDGE STEARLEY: Okay. Are there any objections  
7 to the admission of Missouri Exhibit No. 6? Okay.  
8 Hearing none, Exhibit No. 6 will be received into  
9 evidence.

10 (Exhibit No. 6 was admitted into evidence.)

11 Q (By Ms. Sullivan) Is there any reference on  
12 Exhibit 6 with regard to the stop cock or T-head at Ms.  
13 Joyner's residence?

14 A Yes, there is.

15 Q And what is that?

16 A At the bottom, it's written, T-head feels  
17 broken.

18 Q And who would have made that notation?

19 A The customer service rep. who went out there  
20 would have tried to shut it off in the manner I described  
21 previously with a key. And he was unable to get it on the  
22 T-head. So they write down the T-head feels broken.

23 Q And, again, is it standard practice for Missouri  
24 American persons to make such entries into their service  
25 orders?

1           A     Yes, it is.

2           Q     After this service order, then was a separate  
3 person sent to do the excavation?

4           A     Yes, they were.

5           Q     And do you know what the actual cost for the  
6 excavation of that stop cock was?

7           A     No, I don't.

8           Q     If I hand you has been marked Exhibit No. 7,  
9 could you take a look at that?

10          A     Yes.

11          Q     Do you recognize what that is?

12          A     Yes. This is a billing form.

13          Q     Okay. And a billing form for what?

14          A     For 1422 Sheridan Drive for the day, October  
15 13th.

16          Q     And, again, is this a record that is created and  
17 maintained by Missouri American in the normal course of  
18 business?

19          A     Yes.

20                 MS. SULLIVAN: I'd move for the admission of  
21 Exhibit No. 7.

22                 JUDGE STEARLEY: Okay. Are there any objections  
23 to the admission of Exhibit No. 7? Okay. Hearing none,  
24 Exhibit No. 7 shall be admitted into evidence.

25                 (Exhibit No. 7 was admitted into evidence.)



1           Q     (By Ms. Sullivan) By looking at this document,  
2 are you able to answer the question of how much the costs  
3 were for excavation?

4           A     Yes. \$284.66.

5           Q     Very quickly, turning back to Exhibit No. 5, I  
6 forgot to ask you, where were these -- this is -- No. 5  
7 was the overdue notice as well as the discontinuous  
8 notice. Where were those letters mailed to?

9           A     They were mailed to 1422 Sheridan Drive.

10          Q     And I think I asked you, that Exhibit 6, where  
11 that one was for?

12          A     Uh-huh. Exhibit No. 6, the service order, is  
13 also for 1422 Sheridan Drive.

14          Q     Do you know after the excavation occurred, was  
15 the water shut off that day?

16          A     Yes, it was.

17          Q     Do you know, was water service ever reconnected  
18 to 1422 Sheridan?

19          A     Yes, it was.

20          Q     Do you know when?

21          A     Approximately seven days later.

22          Q     Do you know why there was a -- the delay of  
23 seven days?

24          A     Yes. The service line protection program was  
25 making a repair, and we couldn't turn it back on until the

1 repair had been made.

2 Q And, again, the service line program that you're  
3 talking about, that's the one that St. Louis County  
4 provides?

5 A Yes. That's administered by the County.

6 Q After the service was reconnected, in addition  
7 to the costs that were itemized on Exhibit 7, were there  
8 other charges attached to Commission -- Sheridan -- or  
9 pardon me -- Ms. Joyner's account?

10 A Yes, there was.

11 Q And after service was reconnected, did Missouri  
12 American ever discuss the account and charges with Ms.  
13 Joyner?

14 A Yes, we did.

15 Q At any time, were any given -- credits given to  
16 Ms. Joyner?

17 A Yes, they were.

18 Q Do you know what those credits were?

19 A Yes. I believe it was \$51.10 was the credit.  
20 Yes. \$51.10.

21 Q Okay. Do you happen to know what that credit  
22 was for?

23 A Yes. That was -- there was a charge on there  
24 for turning the water back on, and she was credited back  
25 for that. And then there was a -- a small portion of that

1 is for taxes and a small portion of that was for a labor  
2 charge that was mis-added.

3 Q Do you know why the company did not accept  
4 payment by check from Ms. Joyner?

5 A No, I do not.

6 Q Okay. Is it the practice of the company,  
7 Missouri American, not to accept payment by check if a  
8 check has been dishonored?

9 A Yes.

10 Q What is the company's policy regarding restoring  
11 property after an excavation in order to shut off water?

12 A In this case, the public -- the service line  
13 protection program is the one that finalized the hole.  
14 They would be responsible for putting the yard back in the  
15 condition that it was found.

16 MS. SULLIVAN: I believe that I've already moved  
17 for the admission of Missouri Exhibits 1 through 7 and  
18 they have all been admitted. But on the off chance that I  
19 missed one within, I would ask that any of the exhibits  
20 that we've identified during Mr. Murphy's testimony be  
21 admitted into evidence.

22 JUDGE STEARLEY: I do believe we have them all  
23 admitted into the record. Is there any objection, though,  
24 to -- should we have overlooked one to the admission of  
25 Exhibits 1 through 7?

1                   Okay. Hearing none, they -- they are all to be  
2 admitted and received.

3                   MS. SULLIVAN: We have no further testimony.

4                   JUDGE STEARLEY: Okay. Thank you, Ms.  
5 Sullivan. We will now have cross-examination of  
6 Mr. Murphy, beginning with Ms. Joyner.

7                                   CROSS-EXAMINATION

8 BY MS. JOYNER:

9           Q     I'm sorry. Can I get his title?

10          A     Yes. Operations Manager.

11          Q     And have I ever had a conversation with you?

12          A     No, ma'am, I do not believe.

13          Q     Okay. So how are you familiar with my account,  
14 then?

15          A     I took over the position from Sally Krueger.

16          Q     Did you attempt to try to call me to -- to  
17 rectify any information?

18          A     No.

19          Q     So are you basing your information just on notes  
20 that were presented from Sally Krueger?

21          A     Yes. And all the documents that we admitted  
22 today.

23          Q     So just documentation. So, again, you never  
24 attempted to try to talk to me to get any direct  
25 information?

1           A     Correct.

2           Q     Are you aware that in University City they have  
3     to have a permit met to dig into someone's yard?

4           A     Yes.

5           Q     Do you -- does a customer, when they sign up for  
6     your services, do they get copies of the tariffs and all  
7     that?

8           A     I would say no, you don't get a copy of it.  It  
9     is on file and it is accessible to you.

10          Q     But a customer does not get a copy of that so  
11     they will not be aware of your policies and procedures  
12     unless they get into a situation such as this?

13          A     I --

14          Q     I mean, I'll reword the question.  How is a  
15     customer supposed to be aware of your company's procedures  
16     if they don't get copies of -- have never seen any  
17     contract or know what the policies would be, what your  
18     policy says?

19          A     Other than when we sent the letters out of the  
20     discontinuation of service, the possible discontinuation  
21     of service, that clearly states the policy.

22          Q     Is there copies of tariffs when you send out  
23     your disconnection notices?

24          A     No.

25          Q     Is it not stated on your service disconnection

1 notice that it indicates that -- it only indicates if a  
2 stop cock is found inoperable or breaks in the process of  
3 disconnection, is it continuing or it is service you'll be  
4 required to repair or replace the stop cock prior to  
5 services being restored. It does not say that you would,  
6 -- it does not say that you would be subject to paying for  
7 charges.

8 A It does say that on the same notice that you --  
9 that you just quoted to me from -- up in the first  
10 paragraph, it states, If service is discontinued for  
11 non-payment of this bill, the full amount due, plus the  
12 restoration charge and excavation charge, if required,  
13 must be paid in our office before service will be  
14 restored.

15 Q Does your note state that they did break the  
16 valve in order for you to disconnect your services?

17 A It states that it was broken.

18 Q Is it stated that it was -- they broke it,  
19 Missouri American Water broke it?

20 A It does not state that. But it just states that  
21 -- on our service order, T-head feels broken.

22 Q Did Missouri American Water get any information  
23 from the plumber on how the valve was fixed?

24 A No.

25 Q Why not?

1           A     Because -- I don't know why not.

2           Q     Well, how would Missouri American Water know  
3     what has happened with a customer to make sure everything  
4     was in order?

5           A     Well, there -- we make sure that it's in order,  
6     but the stop -- the stop cock is operable. The plumbers  
7     have to repair stuff -- repair any item to a certain code.  
8     And those plumbers aren't allowed to work for the County  
9     unless they adhere to those codes.

10          Q     I don't understand. When -- are you aware that  
11     when Missouri American Water came out to turn services  
12     back on that they explained that they had -- they have to  
13     break a valve in order to turn off water?

14          A     No. No, I'm not aware of that. We -- we don't  
15     have to break a valve.

16          Q     Okay. Does Missouri American Water care what  
17     happens to a customer after they do what they need to do  
18     or disconnect -- are they not aware that it takes a  
19     customer any time to excavate a yard that it takes a  
20     customer a week to turn their services back on?

21          A     Well, I wouldn't say that we don't care. I  
22     would say that we're not in control.

23          Q     But are you aware of that?

24          A     Am I aware of it? Yes. But I'm not aware -- it  
25     doesn't always take a week.

1           Q     It takes more than three days. Does it take  
2 more than three days?

3           A     Not in all cases.

4           Q     Depends on what county an individual lives in?

5           A     No. It depends on -- something that I can't  
6 speak to, really. It depends on the availability of the  
7 County program. I don't have any control over that  
8 program.

9           Q     And is it not documented that I attempted to try  
10 to pay two times and it was rejected back to me in a  
11 letter format?

12          A     I don't have that.

13          Q     Is it -- is it your customer service practice  
14 that if a customer is attempting to pay, regardless of the  
15 history, and you know a customer needs to get something  
16 credited on an account, would it not be in your best  
17 interest to go ahead and take the payment?

18          A     The only restriction we would have on that is,  
19 as we stated earlier, if there was a bounced check, then  
20 we no longer accept checks as a form of payment.

21          Q     So you would actually reject it completely back,  
22 waste time in the mail instead of accepting the payment  
23 and knowing that it was going to go through and dealing  
24 with the situation that --

25          A     I would say yes.



1           Q     I have not -- I have not had a dishonored check  
2     with Missouri American Water, so that's what is weird  
3     about the whole thing. Is it common practice for Missouri  
4     American Water to -- is it common practice for you guys to  
5     knock on the door before you excavate to make sure that  
6     you could possibly get a payment out of the customer  
7     before you dig up the yard?

8           A     Yes. We make an attempt.

9           Q     Okay. Did they make an attempt on that day?

10          A     Yes.

11          Q     No, they did not.

12                JUDGE STEARLEY: Pardon me, Ms. Joyner. Excuse  
13     me, Ms. Joyner.

14                MS. JOYNER: I know. I'm making a statement. I  
15     apologize.

16                JUDGE STEARLEY: Yeah. Please -- please  
17     restrict your remarks to just parties at this time. You  
18     will have an opportunity to make a closing argument at the  
19     end.

20          Q     (By Ms. Joyner) Okay. Are you saying that they  
21     attempted to knock on my door to get a payment?

22          A     Yes.

23          Q     And does a customer receive the billing form  
24     after the four hours -- after the -- the excavation is  
25     done?

1           A     No. A charge is applied to your water bill.

2           Q     Okay. So how is a customer aware of -- of what  
3 was done at the time?

4           A     You can if you request it.

5           Q     If you were forcing the customer to pay for  
6 something of that stature out, why would you not  
7 automatically give the customer a billing form?

8           A     The normal process would be we would not turn  
9 the water back on until that account was paid in full with  
10 the excavation charge that was stated in the letter that  
11 we sent to you.

12                     However, in certain cases, they make an  
13 exception, and they may go ahead and set up a payment plan  
14 where we'll go ahead and turn the water back on right  
15 away, knowing and you'll agree to make a payment plan so  
16 we can get you back in service.

17          Q     Was there a payment plan made with me?

18          A     I believe there was.

19          Q     The only thing -- you're saying that my account  
20 was credited \$51. Are you aware of the letter that Sally  
21 Krueger wrote out that says my account was only credited  
22 \$26.50 -- \$26.50 as of January 15th?

23          A     No, I'm not aware. However, I am aware of when  
24 that was credited to you. The credit was applied to your  
25 account. On January 20th, 2006, a \$51.10 credit was

1 applied to your account.

2 MS. JOYNER: No further questions.

3 JUDGE STEARLEY: Thank you, Ms. Joyner. Is  
4 there any cross-examination from staff?

5 MS. HEINTZ: No, thank you.

6 JUDGE STEARLEY: Thank you, Ms. Heintz. Any  
7 questions from Commissioner Appling?

8 CROSS-EXAMINATION

9 BY COMMISSIONER APPLING:

10 Q Mr. Murphy, I think I had a couple of questions  
11 just -- just for clarification. I think I have all -- all  
12 of the -- the procedures that took place. They went to  
13 cut the water off. The valve broke at that time, right?

14 A That -- that is hard to say.

15 Q When it broke?

16 A When it broke. I'd say when they went  
17 originally, it was broken.

18 Q Okay. And then you had to go back to get the  
19 County -- get your company do the excavation?

20 A Not -- not in that order.

21 Q Okay. Well, how about just explaining to me  
22 again so I understand exactly what took place here?

23 A Okay. Okay. In the normal process of a  
24 turn-off, first, a single customer service worker would go  
25 out to the field. They write on the ticket whether they

1 can do it or not.

2 In this case, they could not do it because he  
3 wrote, It feels broken. That generates a two-man crew,  
4 what we call it. And they go out there. That's their  
5 explicit purpose is to hand dig up the valve and shut it  
6 off.

7 So once they shut it off, you know, the only way  
8 -- that stop cock has to be fixed. And we're not allowed  
9 to fix that. So we send that to the County program. We  
10 give the paperwork -- and the County is only allowed to  
11 work off that paperwork that we give them.

12 So we give that to them. And then the process  
13 starts.

14 Q Do you have, by chance, have any other people  
15 complaining about a repair of their yard from the County?

16 A No.

17 Q This is the first case you've ever heard -- had?

18 A I wouldn't say that. This is the first one  
19 I've heard of.

20 Q Okay. When you sent out -- a new customer takes  
21 water from your company, is it your custom to send a  
22 notice of what the customer is responsible for? Is that  
23 included?

24 A Yes. Yes. And there's kind of like a schematic  
25 drawing of a real basic house and what -- what the

1 customer owns and what the water company owns.

2 Q And that is sent to the customer at the  
3 beginning of their -- their hook-up when they're first  
4 hooked up?

5 A Yes.

6 Q Any services that needed to be done, that's  
7 mailed to them. I've received several of them myself at  
8 home.

9 A It's more a pamphlet form, a couple questions  
10 and schematic along those lines.

11 Q But it does explain what the home owner is  
12 responsible for?

13 A Yes, it does.

14 COMMISSIONER APPLING: Okay. I think that's all  
15 the questions I have, Judge.

16 JUDGE STEARLEY: All right. I have one question  
17 for you, Mr. Murphy.

18 CROSS-EXAMINATION

19 BY JUDGE STEARLEY:

20 Q On the last notice that Ms. Joyner received  
21 about discontinuation, can you tell me how many days  
22 elapsed between when that notice was sent and when the  
23 disconnection actually occurred?

24 A The last notice that I have was sent on October  
25 10th, 2005. And the water was shut off October 13th,

1 2005. So thee days -- I'm sorry. I apologize. On  
2 Exhibit 5, page 12, the -- it was mailed on the 6th, the  
3 6th of October 2005 with a discontinuance date of October  
4 10th.

5 Q Okay. So was it disconnected on the 10th?

6 A No. That was just the final date.

7 Q That was the final date. When was -- when was  
8 service actually disconnected?

9 A The 13th of October, 2005.

10 Q All right. Thank you, Mr. Murphy.

11 JUDGE STEARLEY: Ms. Joyner, do you have any  
12 additional questions based upon the questions that were  
13 asked by the other parties in front of the Bench?

14 MS. JOYNER: No.

15 JUDGE STEARLEY: All right. May this witness be  
16 finally excused? All right. Thank you, Mr. Murphy, for  
17 your testimony today.

18 MR. MURPHY: You're welcome.

19 JUDGE STEARLEY: Ms. Sullivan, I don't believe  
20 you have any other witnesses, do you?

21 MS. SULLIVAN: No other witnesses.

22 JUDGE STEARLEY: All right. Thank you. Staff,  
23 Ms. Heintz, do you have any witnesses for us?

24 MS. HEINTZ: I do. And before we begin with the  
25 Commission, I'll approach the Bench to give you the

1 exhibit Staff's going to be referring to.

2 JUDGE STEARLEY: All right. You may approach.

3 MS. HEINTZ: Staff's first witness will be Jim  
4 Merciel.

5 JAMES MERCIEL,  
6 being first duly sworn to testify the truth, the whole  
7 truth, and nothing but the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HEINTZ:

10 JUDGE STEARLEY: Thank you. You may proceed,  
11 Ms. Heintz.

12 Q Thank you. Stay right here, I guess? Stay  
13 right here. Okay. Could you please state your name and  
14 spell it for the court reporter, please?

15 A James A. Merciel, Jr. Merciel is spelled  
16 M-e-r-c-i-e-l.

17 Q And what is your current occupation?

18 A My title is Assistant Manager of Engineering.  
19 I'm an Engineer in the Water & Sewer Department of the  
20 Commission's staff.

21 Q And how long have you been in this position?

22 A In this position, probably 27 or 28 years. I've  
23 been working here 29 years.

24 Q And did you participate in the investigation of  
25 a formal complaint filed by Ms. Joyner?

1           A     Yes, I did.

2           Q     And did you participate in the preparation of a  
3     report at the conclusion of the investigation?

4           A     Yes. I co-authored the report.

5                   MS. HEINTZ: Okay. And now, Ms. Joyner, I'm  
6     going to be giving the witness a copy of that report.  
7     This report was filed with the Commission on August 11,  
8     2006, and you would have been mailed a copy on that same  
9     date. Do you remember receiving this report from the  
10    Staff?

11                  MS. JOYNER: Yes, I do.

12                  MS. HEINTZ: Okay. Thank you.

13          Q     (By Ms. Heintz) And is that the report you  
14     assisted in the preparation of?

15          A     Yes.

16          Q     Okay. And at the time you submitted the report  
17     to the Commission, did you execute an affidavit stating  
18     that what was contained in the report was correct and true  
19     to the best of your knowledge and belief?

20          A     Yes, I did.

21          Q     Okay. And could you just briefly state the  
22     conclusion that Staff reached in that report?

23          A     Well, the conclusion is the Staff could find no  
24     evidence of any violation of any tariff or any regulation  
25     on the company's part. That was really the conclusion of



1 the report.

2 I also want to comment about the -- the time  
3 spent by the crew on site. The staff really cannot make a  
4 determination. You know, the company says they logged  
5 four hours crew time. The Complainant says there was not  
6 that much time spent. And, you know, we don't know. So I  
7 just wanted to point that out.

8 I -- it's -- four hours is not -- is not a time  
9 that jumps out at me as a -- as a particularly lengthy  
10 time for a job like this, however.

11 Q Okay. But you found no evidence of a violation  
12 of the tariff or a Commission rule by Missouri American  
13 Water?

14 A Correct. We did not determine that there was  
15 any violation.

16 Q Okay. And has anything occurred since that  
17 affidavit and report were submitted that would change  
18 Staff's position?

19 A No.

20 MS. HEINTZ: Okay. Thank you. I don't have any  
21 further questions.

22 JUDGE STEARLEY: Ms. Heintz, do you wish to  
23 offer your exhibit into evidence?

24 MS. HEINTZ: Since there are two affidavits  
25 attached and the second witness has not testified yet, I

1 was going to offer it at the end of her testimony. But I  
2 can offer it now if you'd like.

3 JUDGE STEARLEY: We can wait then. That would  
4 be fine.

5 MS. HEINTZ: Thank you.

6 JUDGE STEARLEY: Thank you. Is there any  
7 cross-examination from Ms. Joyner of Mr. Merciel? Ms.  
8 Joyner?

9 MS. JOYNER: Oh, no. I'm sorry.

10 JUDGE STEARLEY: From Missouri American?

11 MS. SULLIVAN: No, your Honor.

12 JUDGE STEARLEY: Any questions from the Bench?  
13 Commissioner Appling?

14 MS. JOYNER: I do -- I do have a question, Judge  
15 I'm sorry.

16 JUDGE STEARLEY: All right. Ms. Joyner, please  
17 go ahead.

18 CROSS-EXAMINATION

19 BY MS. JOYNER:

20 Q Mr. Merciel, do you find that it's common for a  
21 company to have to break a valve in order to -- for it not  
22 to be inoperable?

23 A Well, my -- my answer to that is we find that  
24 valves do break. To say the company breaks it, it is  
25 true, they do break when they're operated. And although

1 it could be a plumber, but often it is the company people  
2 who are operating it.

3           So to say they break it is somewhat accurate. I  
4 don't believe -- I'm sure there are exceptions, but I  
5 don't believe that companies go out intentionally and  
6 break the valves. But they do get stiff with age and  
7 corrosion and sometimes they're hard to operate. Maybe if  
8 the tool was not on exactly right, you know, it's down in  
9 the valve box, it's hard for the operator to see.

10           There are some factors where, frankly, we get  
11 complaints about these valves, you know, failing and  
12 breaking and getting hard to operate. So, you know, what  
13 happened to you is -- is not really that uncommon.  
14 Obviously, it doesn't happen in all disconnects, but it  
15 does happen.

16           Q     So in order for the valve to be completely shut  
17 off, observation there has to be some tampering with it on  
18 their part to be able to get it completely shut off?

19           A     Well, I could call it operation. You have to  
20 operate the valve. That's what it's there for. It is  
21 there to be a shut-off. And -- and you have to have a  
22 person with the tool to operate the valve.

23           So that's -- it's supposed to be there and  
24 available for purpose. I think the breakage and the wear,  
25 unfortunately, is -- is, well, somewhat normal. My

1 experience in handling complaints is when we get a  
2 complaint about a valve being broken or inoperable, in  
3 most cases -- and I don't know the history about your  
4 house and, you know, the house is probably older that --  
5 I'm sure you haven't lived there since it was new. But we  
6 found that a lot of times it's when a valve has been  
7 operated a number of times, maybe a customer's been there  
8 that's been disconnected a numbers of times over the  
9 years, and it's had a lot of activity. And those seem to  
10 be the ones that tend to, you know, break off and get hard  
11 to operate.

12 On the other hand, if you have a valve that's  
13 been sitting there not operated for, you know, 50 years or  
14 something, you know, you could have corrosion to where  
15 they'd be hard to turn and, you know, you might -- you  
16 might shear offer the part that the tool sits on. So --

17 Q A customer would never be aware of that  
18 situation when something like this happens. Am I correct  
19 about that?

20 A I can see where most customers are probably not  
21 aware, probably don't even know the valve exists, to be  
22 honest. You know, it's just not -- you know, it's not  
23 something you deal with every day, and I'm sure customers  
24 probably aren't aware of it.

25 MS. JOYNER: Thank you.

1 JUDGE STEARLEY: Thank you, Ms. Joyner. We'll  
2 come back to the Bench. Commissioner Appling, any  
3 questions for this witness?

4 CROSS-EXAMINATION

5 BY COMMISSIONER APPLING:

6 Q James, in your investigation -- and I'm reading  
7 this Staff Conclusion and Recommendation here. So you  
8 found that American Water has to -- didn't violate the  
9 tariff, policy or procedures in what they've done to turn  
10 the water off?

11 A That's correct. That's our determination. And  
12 that's, you know, based on what we -- what we can see that  
13 happened. That the notice was sent.

14 You know, it appears the procedures were  
15 followed. It was for a legitimate reason. So we could  
16 determine there was no violation.

17 Q In your investigation, did you find that the  
18 proper notices to the customer was done and on time and  
19 all that?

20 A The answer is yes. I didn't really work on that  
21 part of it myself. Contessa Poole-King did most of that  
22 work. But what I saw in the case, it's obvious there was  
23 notice sent. That's all in the record. And so I believe  
24 the answer is yes.

25 COMMISSIONER APPLING: Okay. No further

1 questions, Judge.

2 JUDGE STEARLEY: I have no questions for this  
3 witness. Ms. Joyner, did you have any additional  
4 questions based upon the questions asked from the Bench?

5 MS. JOYNER: No.

6 JUDGE STEARLEY: All right. May this witness be  
7 finally excused?

8 MS. HEINTZ: Yes.

9 JUDGE STEARLEY: All right. Thank you,  
10 Mr. Merciel. Next witness, Ms. Heintz?

11 MS. HEINTZ: Staff's next witness will be  
12 Contessa Poole-King. And could I ask you to switch seats  
13 with con Contessa so I'm not talking to someone behind me?

14 MR. MERCIEL: Sure.

15 MS. HEINTZ: Thank you.

16 CONTESSA POOLE-KING,  
17 being first duly sworn to testify the truth, the whole  
18 truth, and nothing but the truth, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. HEINTZ:

21 JUDGE STEARLEY: Thank you. You may proceed,  
22 Ms. Heintz.

23 MS. HEINTZ: Thank you.

24 Q (By Ms. Heintz) Could you please state your  
25 name and spell it for the court reporter?

1           A     Contessa Poole-King. Contessa is

2     C-o-n-t-e-s-s-a, Poole, P-o-o-l-e-King, K-i-n-g.

3           Q     Thank you. And what is your present occupation?

4           A     My title is Consumer Services Specialist II. I

5     have been employed in that position for one year.

6     However, I have worked for the Commission for four and a

7     half years.

8           Q     Thank you. Did you participate in the

9     investigation of a formal complaint filed by Ms. Joyner?

10          A     Yes, I did.

11          Q     And did you participate in the preparation of a

12     report at the conclusion of the investigation?

13          A     Yes, I did.

14          Q     And is this the report you assisted in

15     preparing?

16          A     Yes, it is.

17          Q     Okay. And did you execute an affidavit with

18     that report stating that the contents were true and

19     correct to the best of your knowledge and belief?

20          A     Yes, I did.

21          Q     Okay. And in the course of your investigation,

22     could you find any indication of a tariff or Commission

23     rule violation by Missouri American Water?

24          A     No, I could not.

25          Q     Okay. And has your opinion or position changed

1     since this report was filed and submitted to the  
2     Commission on August 11th of this year?

3             A     No, it has not.

4             MS. HEINTZ:   Okay.   Thank you.   I have no other  
5     questions.

6             JUDGE STEARLEY:   Cross-examination?   Ms. Joyner,  
7     do you have any questions for this witness?

8             MS. JOYNER:   No.

9             JUDGE STEARLEY:   Missouri American?

10            MS. SULLIVAN:   No questions, your Honor.

11            JUDGE STEARLEY:   Questions from the Bench?

12                         Commissioner Appling?

13                                 CROSS-EXAMINATION

14     BY COMMISSIONER APPLING:

15            Q     Good morning, Ms. King.

16            A     Good morning, Commissioner Appling.

17            Q     How are you doing?

18            A     Fine, sir.

19            Q     Did you by any chance -- through your  
20     investigation -- I'm looking at all the reports and  
21     everything that you looked at in this case.   Is it your  
22     feeling that -- that the customer was given ample enough  
23     notice, time and all that in order for her to respond to  
24     the turn-off notice?

25            A     Yes, sir.   I felt that the phone calls that the



1 company made in addition to 12 letters was ample time for  
2 the customer to make some sort of payment that the company  
3 would accept.

4 Q Did you -- did you find anything in there that  
5 -- that there was attempts made by the customer to -- to  
6 resolve this issue long before it got to cutting the water  
7 off?

8 A Yes, sir. I think she had ample time to, as I  
9 stated, make some sort of cash payment, perhaps since the  
10 company continued to send back her checks.

11 Q Did you have any conversation with the customer?

12 A Yes, sir.

13 Q And it's still your assessment that she had  
14 enough notice and time in order to respond to this?

15 A Yes, sir. That is my assessment.

16 COMMISSIONER APPLING: Judge, that's all the  
17 questions I have.

18 JUDGE STEARLEY: Thank you, Commissioner  
19 Appling. Are there any re-cross questions, Ms. Joyner,  
20 based upon the questions asked by Commissioner Appling?

21 MS. JOYNER: No.

22 JUDGE STEARLEY: Okay. May this witness be  
23 finally excused?

24 MS. HEINTZ: Before we do that, could we --  
25 could Staff please move for the admission of Exhibit A?

1 JUDGE STEARLEY: Are there any objections to the  
2 of Exhibit A?

3 MS. SULLIVAN: No objections.

4 MS. JOYNER: What is that?

5 COMMISSIONER APPLING: Is it A or 8?

6 MS. HEINTZ: It's A. And Exhibit A is a copy  
7 of the Staff report and the investigation and the  
8 affidavit that were mailed to you on August 11ths, Ms.  
9 Joyner.

10 MS. JOYNER: Okay.

11 JUDGE STEARLEY: Okay. Hearing none, Exhibit A  
12 from Staff will be admitted into evidence.

13 (Exhibit A was admitted into evidence.)

14 JUDGE STEARLEY: And, Ms. King, you are excused  
15 as a witness. Thank you for your testimony.

16 MS. POOLE-KING: Thank you.

17 JUDGE STEARLEY: Are there any other witnesses  
18 from any of the parties?

19 All right. At the beginning of our proceedings,  
20 I asked if the parties would like to make brief closing  
21 arguments. Ms. Joyner, you indicated that you would like  
22 to make a brief closing argument for the Commissioners.  
23 Would you like to proceed?

24 MS. JOYNER: Yes.

25 JUDGE STEARLEY: All right. You may proceed.

1 CLOSING ARGUMENT

2 BY MS. JOYNER:

3 MS. JOYNER: At this point when you feel like  
4 everyone's against you in the room, I just want it to be  
5 documented or noted that -- that the bill was paid, and no  
6 one wants to address the issue of the fact of the  
7 inconvenience it takes for it to come back on.

8 It costs more in money for me as a customer and  
9 American Water did not care as a customer what happens to  
10 the customer after their services get disconnected and  
11 after I've paid the bill up to what it needs to.

12 That was what my total argument was with the  
13 company. It cost me more money for that week of having my  
14 services shut off and from the problem it's created.

15 I also want it to be noted that no one attempted  
16 to knock on the door to -- to try to get any more money at  
17 the time because my brother was here at my home who called  
18 me and said, There's some man just digging a hole in the  
19 yard.

20 At that point, that's when I was able to call  
21 and get the ball rolling as quickly as I did with Missouri  
22 American Water for them to be back at my house by 4:00  
23 that afternoon.

24 So that's why I'm saying to the Commission that  
25 I know they did not take them four hours to excavate my

1 yard and to do what they needed to do. So in order for me  
2 to call the company to get the information, to make a  
3 payment and to be sitting in my house by 4:00 for the guy  
4 to tell me that the -- the services -- he cannot restore  
5 on that day because the valve was broke, that, to me,  
6 leads me to believe that the company is trying to make me  
7 pay for more than what needs to be paid.

8           No one can give me a true time line on exactly  
9 what time they left the building, what time did they leave  
10 my home, what time did they get back into Missouri  
11 American. Nobody can give me that time. Somebody's just  
12 estimating hours, and I don't like that. And for  
13 something that I have to pay for, I need a little bit more  
14 information.

15           And Missouri American Water cannot give me that  
16 information for me to want to have to pay \$292 for labor  
17 for their services. And so I'm asking the Commission at  
18 this point to make a note or maybe change tariffs to have  
19 something in there that they have to make sure that they  
20 give a customer the complete billing information from  
21 beginning to end.

22           Someone needs to be aware that Missouri American  
23 Water is trying to get over on its customers. And if it  
24 takes me to stand up for all the others that don't want to  
25 speak for the problems that they're doing, so let it be.

1 JUDGE STEARLEY: All right. Thank you, Ms.  
2 Joyner. Do any of the other parties wish to make a  
3 closing argument or statement?

4 MS. SULLIVAN: No, your Honor.

5 MS. HEINTZ: No, thank you.

6 JUDGE STEARLEY: All right.

7 COMMISSIONER APPLING: Can I make --

8 JUDGE STEARLEY: Yes, Commissioner Appling. Go  
9 right ahead.

10 COMMISSIONER APPLING: Missouri American Water,  
11 I would request that you all go back and take a look at  
12 the start time and the end time on this project and let me  
13 know exactly how much time it took. And was it that your  
14 policy is just to bill for four hours, or is it just they  
15 actually spent four hours on the -- on the customer's  
16 property? So would you check that out?

17 And if it is four hours, that's -- that's okay,  
18 but I would like to know the answer to that question if  
19 you can go back and find that out for me. And if it's  
20 less than four hours, my request is that you bill them for  
21 what time it took. And if it's four hours, that's fine  
22 with me also. Okay?

23 But I would appreciate that, if you would do  
24 that for the record.

25 MS. SULLIVAN: Just for clarification, how would

1     you like us to submit that information to you?

2                 COMMISSIONER APPLING:   Well, I don't know  
3     exactly what the procedure -- which we'd do it to.  James,  
4     what would be the proper -- if I'm wrong here, James, tell  
5     me, you know, what -- what procedure we should use here.  
6     Okay?

7                 MR. MERCIEL:   Well, I'd be happy to review  
8     specific times if they're available that the company has.

9                 COMMISSIONER APPLING:   Okay.

10                MR. MERCIEL:   Or if they file it in the record,  
11     I could review it either way.  I'd be happy to take a look  
12     at it and provide comment.

13                COMMISSIONER APPLING:   Whichever way, American  
14     Water, that you can find to get that information and send  
15     it to Marciel, and we'll get it into the record.  Is that  
16     okay?

17                MS. SULLIVAN:   Would it be all right if I filed  
18     it as a late filed Exhibit 8?

19                JUDGE STEARLEY:   That would be fine, Ms.  
20     Sullivan.  And you can file it as an investigative report.  
21     And if it could be filed within seven days from today by  
22     Friday, October 20th.

23                COMMISSIONER APPLING:   Well, the customer is  
24     making an accusation here that you all did not knock on  
25     the door and you didn't spend four hours in her yard, so

1 let's clarify that. Okay? Thank you very much.

2 JUDGE STEARLEY: All right. With the exception  
3 of Exhibit 8, which will be late filed, have all exhibits  
4 been entered into evidence today?

5 MS. HEINTZ: Yes.

6 JUDGE STEARLEY: Okay. There will not be post  
7 hearing briefs in this matter. Are there any other  
8 matters we need to address before we adjourn today?

9 MS. HEINTZ: No, your Honor.

10 JUDGE STEARLEY: Okay. Hearing none, I thank  
11 you all for your testimony today and for your patience.  
12 And we shall adjourn this hearing. The case in CW -- Case  
13 No. WC-2006-0345, Dione Joyner, Complainant, versus Mid --  
14 Missouri American Water Company, Respondent, is hereby  
15 adjourned. Thank you very much.

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## E X H I B I T S

2

3

MISSOURI  
AMERICAN

4

EXHIBIT

DESCRIPTION

IDENTIFIED ADMITTED

5

1

Tariff sheets

29

30

6

2

Missouri American  
Tarriffs

33

34

7

8

3

Tariff No. 6

36

36

9

4

Screen Shot of Billing

10

Record

38

39

11

5

Copies of Overdue  
Notices

40

40

12

13

6

Copy of Service Order

41

42

14

7

Billing Form

43

43

15

8

Late Filed Documents

74

74

16

17

STAFF  
EXHIBIT

DESCRIPTION

ADMITTED

18

A

Copy of Staff Report

69

19

20

21

(Original exhibits were attached to the original  
transcript.)

22

23

24

25



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