

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3 VOLUME 2
4 TRANSCRIPT OF PROCEEDINGS
5 HEARING
6 NOVEMBER 15, 2010
7 St. Louis, MO
8 ROMAN DZURINSKIY)
9 Complai nant)
10) File No. WC-2010-0215
11 Vs.)
12 MISSOURI AMERICAN WATER COMPANY,)
13 Respondent.)
14
15 Daniel Jordan, Regulatory Law Judge
16
17 Rachel Lewis, Staff Attorney
18 Jennifer Hernandez, Staff Attorney
19 Kenneth Jones, Counsel for Missouri
20 American Water
21
22
23 Reported by:
24 Jeanne M. Pedrotty, CCR/CSR
25 Midwest Li ti gati on Servi ces

1 JUDGE JORDAN: The commission calls file
2 WC-20100215, Roman Dzuri nski y versus Mi ssouri Ameri can
3 Water Company case. I am Dani el Jordan, seni or
4 regulatory law judge assigned to thi s case. And we
5 are here for an evi denti ary hearing thi s morni ng.
6 I'll begin wi th entri es of appearance. Mr.
7 Dzuri nski y, wi ll you state your name and spell i t for
8 the court reporter.

9 MR. DZURI NSKI Y: My name i s Roman;
10 R-o-m-a-n; D-z-u-r-i -n-s-k-i -y.

11 JUDGE JORDAN: Thank you. And for Mi ssouri
12 Ameri can Water Company.

13 MR. JONES: Kenneth Jones, attorney for
14 Mi ssouri Ameri can, 727 Crai g Road, St. Loui s, Mi ssouri
15 63141.

16 JUDGE JORDAN: Thank you. I appreciate
17 everyone's pati ence today wi th our techni cal i ssues.
18 There i s one other i ssue that I want to raise before
19 we go on. Si nce thi s case started, two new
20 regul ati ons have gone i nto effect. One of whi ch
21 you're al most certai nly fami li ar wi th, I know, Mr.
22 Dzuri nski y. That has to do wi th ex parte contact and
23 thi ngs that I can and cannot say to the parti es where
24 other parti es aren't around. That li mi ts our abi li ty
25 to communi cate even as to procedural i ssues

1 unfortunately. The other one is an amendment to our
2 complaints regulation. And a new subsection has gone
3 into effect; subsection 14, which adds a little bit of
4 procedure to a case when less than \$3000 is at issue.
5 And what that procedure is is not really going to
6 affect anything we've done so far nor today. It does
7 require me to inquire and develop facts a little more,
8 but I would be doing that anyway to make sure we have
9 a good record. And with that, I will -- my plan is to
10 begin with opening statements. Then Mr. Dzurinskiy
11 will present his case in chief. Then Missouri
12 American Water Company and then staff. And the order
13 of cross examination --

14 MS. HERNANDEZ: Your Honor, I'm sorry to
15 interrupt. I believe I need to enter our appearance
16 on behalf of staff.

17 JUDGE JORDAN: I'm sorry. Please.

18 MS. HERNANDEZ: Good morning. My name is
19 Jennifer Hernandez and also Rachel Lewis is appearing
20 on behalf of the staff of Missouri Public Service
21 Commission. Our address is P. O. Box 360, Jefferson
22 City, Missouri, 65102.

23 JUDGE JORDAN: Thank you. Staff is a party
24 to this and I look forward to their testimony, but
25 it's generally helpful to me. That doesn't mean I

1 believe everything staff says. Sometimes I disagree
2 with staff and sometimes the commission disagrees with
3 staff. Our experience is they have technical
4 expertise which helps resolve these issues. Will
5 staff also want an opening statement.

6 MS. HERNANDEZ: We have prepared a short
7 statement so we will give one if the other parties are
8 offering.

9 JUDGE JORDAN: Any questions before we
10 begin. Any procedural --

11 MR. DZURINSKIY: How much time am I allowed
12 to present?

13 JUDGE JORDAN: For an opening statement
14 you're not going to need that much because you're just
15 going to give our listeners in Jefferson City who are
16 unfamiliar with the complaint a little background what
17 you want and why you want to have it. And that's what
18 your opening statement is going to be. As far as
19 presentation of evidence goes, I'm not going to put a
20 hard and fast time limit on your testimony and
21 documents and things like that. But it will be
22 helpful for your case if you stick to those things
23 that help you prove your case. That is everything you
24 do should go towards the relief that you are seeking.
25 And I may ask you, there may be objections. I'll rule

1 on objections. I may ask you how this gets you where
2 you're going. And that I way we'll stay on track
3 because I don't want to use any more of anyone's time
4 than I have to. I want to have respect for everyone's
5 time today. Any other questions of procedural nature
6 before we begin with our opening statement. Then we
7 will begin with Mr. Dzurinskiy's opening statement.
8 Mr. Dzurinskiy, will you tell us what it is you want
9 and why you believe you should have it from the
10 Commission?

11 MR. DZURINSKIY: I will try to express
12 myself louder. Yes, at this point, I am complainant
13 and at the same time I'm a consumer like all of us.
14 We just enjoy American Water Company water. So, what
15 I expect I was asked what's happened actually
16 generally last year in November I just discovered that
17 my water meter began ratcheting forward and backward.
18 Actually, I didn't know what it exactly was because I
19 contacted the customer service as they could not
20 present me exactly the situation what has happened.
21 After a couple of days, I tried to reach somebody at
22 headquarters. I contacted the company each day for
23 about a week and they promised me somebody will call
24 me back. Since then I have never ever received a call
25 from the water company. So later on they just simply

1 said that I had a leak. And I tried to have somebody
2 on my property, the water company sent -- first it
3 seems in December on my property. They check
4 everything inside of my house, outside. They could
5 not find anything wrong with that. 20 minutes later
6 that person contacted a second crew to come on my
7 property. They checked everything and what exactly
8 happened. This is a very frustrating moment because
9 water company just. We had months ago we have a
10 meeting with these people.

11 JUDGE JORDAN: Hang on a second. I don't
12 like interrupting you, but I want to stay focused.
13 What would you like to happen when the commission
14 makes its decision. What do you want it to say?

15 MR. DZURINSKIY: My main complaint was
16 about why is water meter does is the register water in
17 back flow. If it's actually back flow water because
18 there is some question about is it water or air.
19 Because sometimes when I pointed to investigator at
20 that time at my home to explain to me why when I open
21 my faucet every time the air comes out of faucet.

22 JUDGE JORDAN: Okay. So there is an issue
23 with your meter?

24 MR. DZURINSKIY: Meter.

25 JUDGE JORDAN: The accuracy?

1 MR. DZURINSKIY: Accuracy; exactly.

2 JUDGE JORDAN: Possible back flow maybe
3 airflow.

4 MR. DZURINSKIY: Maybe air flow. I was
5 told it's possible that air can rotate or whatever
6 it's called inside of this.

7 JUDGE JORDAN: Now, do I understand that
8 there is an issue with your bill? Do you believe your
9 bill is inaccurate?

10 MR. DZURINSKIY: Right. I think my bill
11 exceeds what water I usually use the water, or if the
12 company cannot prove as it seems to me dropped
13 evidence that I have a leak in my home. So my
14 understanding is if any customer doesn't use the water
15 or have a leak, he or she is not supposed to pay his
16 bill what he or she doesn't use.

17 JUDGE JORDAN: Okay. In regard to your
18 bill, do you have a rough amount as to how much it
19 might be off?

20 MR. DZURINSKIY: My estimate in comparison
21 with the previous years plus what company employee
22 made a test on my property and show on the dial how
23 much, it's about two cubic feet per quarter. So this
24 is a small amount.

25 JUDGE JORDAN: But it's some amount of

1 money.

2 MR. DZURINSKIY: This is why the issue
3 raises much more. It will cause me much more in the
4 long term because the water company sends our data to
5 the sewer company. And my estimate it will be in the
6 next couple of years cost me \$200 more per year. And
7 I don't know I didn't need to pay for that if I try to
8 prove that I have nothing to do with it.

9 JUDGE JORDAN: So you think your bill --
10 let me clarify this. You mentioned the number \$200,
11 is that your sewer or is that your water?

12 MR. DZURINSKIY: It's together with water,
13 at this time water could be costing me. I cannot be
14 sure exact. Not too much, but \$20 or \$40 per year,
15 but the rest could be sewer because sewer each year
16 they just raise now with St. Louis County or St.
17 Louis. Yeah, county, just 100 percent.

18 JUDGE JORDAN: So you think that your bill
19 is off, would you say \$30 or \$40?

20 MR. DZURINSKIY: \$40 it could be.

21 JUDGE JORDAN: \$40 per year?

22 MR. DZURINSKIY: Yes, not too much.

23 JUDGE JORDAN: But some?

24 MR. DZURINSKIY: It depends if the
25 commission approves higher rates. It could be

1 different. I don't know exactly right now.

2 JUDGE JORDAN: I understand. I appreciate
3 that clarification. Okay. You have sited in your
4 filings some tariff provision as well. Okay. Those
5 have to do with metering and accuracy.

6 MR. DZURINSKIY: Accuracy, right. And
7 there is an issue about how the water meter just reads
8 water coming forward and backward. And I try to
9 resolve this issue with the water company. That is
10 why I try to bring this detail a little bit more clear
11 about the people who are on my property. The
12 employees they believe they represent the company,
13 they tell you you have no leak, you don't have any
14 problems, more over everything was installed legally.
15 It was inspected by St. Louis County inspector. The
16 water company web site clearly says who is responsible
17 for everything in the plumbing system. It seems to me
18 St. Louis County inspector is who just makes a law,
19 everything, licensed plumbers. They are responsible
20 for that and I believe this is government authority
21 and I need to comply with the law as they did not find
22 anything wrong. Plus, I brought my own plumbers just
23 not special people I want to represent me and just say
24 something on my behalf. I just simply called about 20
25 plumbers from the Yellow Pages. None of them could

1 compute exactly what's wrong with my plumbing. They
2 installed a hundred or thousand of water heaters,
3 everything. They couldn't find anything wrong. They
4 couldn't explain. Just some plumbers on my property
5 clearly said we cannot find anything wrong with your
6 plumbing, but it's our opinion it could be a lot of
7 cracks in the main pipe and they are sucking water in.

8 MR. JONES: I'll object. In a pro se
9 case --

10 JUDGE JORDAN: Hang on a second.

11 MR. JONES: This is an opening statement.
12 It's supposed to be setting forth fact and not
13 arguments. It's supposed to set forth admissible
14 facts and a lot of this he is talking about is not
15 admissible. I'd like to register that objection.

16 JUDGE JORDAN: Okay. I'm not going to --
17 I'll overrule the objection. But I'll ask you to go
18 back to our road map, our outline. And I'll try to
19 keep you on track also. You're going to show us that
20 you had some plumbers inspect your plumbing and they
21 found no leaks; is that what I'm getting?

22 MR. DZURINSKIY: Yes.

23 JUDGE JORDAN: Will you be able to show me
24 what the source of the ratcheting, whatever that is,
25 is, will you be able --

1 MR. DZURINSKIY: The source of the
2 ratcheting in my opinion what I have in my hands from
3 the staff, it shows water flow fluctuation.

4 JUDGE JORDAN: You believe it's water
5 fluctuation that's causing back flow, and that's all
6 your meter reading and thus causing overbilling; is
7 that correct?

8 MR. DZURINSKIY: Yes. It's my
9 understanding because I had inspected that -- checked
10 my property, everything around who didn't find
11 anything wrong, never cited me for anything and it was
12 installed by the licensed plumber company everything.

13 JUDGE JORDAN: That will do for now. I
14 think I have an idea what your case is going to be.
15 Thank you. I'll get an opening statement from
16 Missouri American Water Company now.

17 MR. JONES: Thank you, Your Honor. Thank
18 you, Mr. Dzurinskiy. Just to start off, it's not
19 exactly clear what the claim is because it's evolving
20 over time, but it appears to be this, Mr. Dzurinskiy
21 claims he is being overbilled based on his belief that
22 when the flow indicator on his meter moves in a
23 clockwise direction, that is -- we'll see a
24 demonstration, it moves in a clockwise direction when
25 there is reverse movement of water back through this

1 meter, he claims that his usage is not being removed
2 from the meter register. And that is incorrect in the
3 facts. The evidence will show whenever the flow
4 indicator is moving in either direction, the sweep
5 hand on the register -- the sweep hand is the larger
6 hand that register usage, the sweep hand is recording
7 usage or removing usage as the case may be. So on the
8 fact, Dr. Dzuri nski y's claim is erroneous. You'll
9 hear testimony from Mr. Peter Matschi ner who is
10 operation superintendent in the St. Louis district,
11 who himself was a meter reader and meter reading
12 manager for ten years. He will describe how the test
13 of Dr. Dzuri nski y's meter confirmed that the meter
14 performs properly within the accuracy requirement of
15 Missouri American tari ff and commi ssi on regul ati ons.
16 The tari ff, which is Missouri American Water Tari ff
17 R7.0 says that a meter is accurate when it is not more
18 than five percent defective or incorrect to the
19 prejudice of the customer or the company when
20 inspected and tested using the company's intermediate
21 and maxi mum flow rate testing procedure. You will see
22 the test results to say showing that the meter is
23 within a five percent intermediate and maxi mum flow
24 rates both with forward flow and reverse flow. And by
25 the way, I know of no rule or regul ati on that requires

1 reverse flow at all to be registered accurately, but
2 it is registered accurately according to tariff. Also
3 commission regulation 4 CSR240-10(37) regarding
4 testing requires accuracy within five percent when
5 registering water at stream flow equivalent to
6 approximately 1/10th and full normal testing, full
7 normal rating under average service pressure. Again,
8 the meter testing will show that it was within five
9 percent, approximately 1/10th at full normal rate both
10 forward and reverse flow. As a result, the inquiry
11 must stop there. The meter tested accurately
12 according to tariff and according to commission
13 regulations. And, therefore, there is no overbilling
14 as a matter of fact and as a matter of law. And you
15 will also hear commission regulation 4
16 CSR240-13-02(1)(D) which says wherein test and error
17 in measurement is found within the limit prescribed by
18 commission rules no billing adjustment will be made.
19 So if the meter tests accurately there can be no
20 adjustment as a matter of law. You will also hear
21 testimony from Mr. Derek Linam, Missouri American
22 engineer, about pressure in American Missouri water
23 distribution. Mr. Linam is a licensed professional
24 engineer with 19 years experience in the water
25 industry at Missouri American Water and St. Louis

1 County water. Mr. Linam is currently operations
2 manager for distribution. He was operations manager
3 for distribution in St. Louis County District. He
4 will tell you there is only one rule or regulation
5 regarding required pressure levels for water
6 distribution systems in Missouri. That's DNR
7 regulation that says pressure in the system must be at
8 least 20 PSI. There are no rules or regulations about
9 maximum pressure or rule or regulation saying pressure
10 can not fluctuate. In fact, Mr. Linam will tell you
11 in a water system, especially one the size of St.
12 Louis County which has 4200 miles of pipe, pressure
13 levels must necessarily fluctuate. And there are
14 differences in pressure and different geographic
15 locations of the system mainly due to changes in
16 elevation and there are also differences in pressure
17 at the same location at different times due to factors
18 such as system usage, filling and backing up of
19 storage tanks, fire department use of hydrants, main
20 breaks, that type of thing. Mr. Linam will testify
21 Missouri American monitors and maintains pressure
22 through its system, through its distribution load
23 control center of which Mr. Linam was senior
24 production engineer at one point in his career. He
25 will tell you that the DLCC has electronic and manual

1 controls with the target of keeping the system at
2 highest elevation at least at 30 PSI in order to
3 ensure that the entire system stays above at least 20
4 PSI per the DNR requirement. Mr. Linam will testify
5 the pressure cannot be too low at the top of the
6 system at higher elevation because then it would be
7 extremely high at the bottom. Mr. Linam will tell you
8 that the typical pressure inside a customer's home is
9 generally between 30 and 80 PSI depending also on
10 whether the home has a pressure regulating valve and
11 what that pressure set to maintain. He will tell you
12 that pressure in a home is usually affected by whether
13 water is being used inside the house and whether a hot
14 water heater is on because water pressure rises as
15 temperature rises. He will discuss what can happen
16 with pressure inside the customer home rises above
17 the -- water can go back through the meter if home
18 doesn't not have back flow preventer on service line
19 and reverse flow he will tell you is not necessarily
20 caused by changes in the pressure in the water main.
21 It can be caused by changes in pressure in the home
22 because even if the pressure is a constant level, it
23 never fluctuated in the main, an increase in pressure
24 in the home can have an effect on the flow of water
25 from the home; to the home and from the home. You

1 will also hear testimony that the responsibility to
2 prevent back flow is on the customer. The DNR
3 regulation concerning back flow prevention, if there
4 is back flow hazard is 10 CSR 60-11.010. That
5 regulation says in a number of spots that the customer
6 or customer's authorized representative shall install
7 back flow prevention assembly on the customer's
8 service line. Similarly, Missouri American's tariff
9 states if there is cross connection has order on
10 customer's plumbing, the customer has a duty to
11 install back flow prevention. And also if the
12 customer does not install back flow prevention,
13 Missouri American has a duty to shut off water at the
14 premises. Also Missouri American tariff R 19.1 says
15 that back flow preventers are the property of the
16 customer. And by the way, it's ironic that this is a
17 high bill complaint because the evidence will show Mr.
18 Dzurnski's average usage is about one quarter of the
19 average St. Louis County customer's usage and his
20 bills are in general one half the average bill of St.
21 Louis County customers. He does not in fact have high
22 usage. I understand that he is a conservationist, but
23 his usage is about one quarter of the average St.
24 Louis County customer.

25 So in summary, the evidence will show Mr.

1 Dzuri nski y tested wi thi n all regul atory and tari ff
2 per ameters both forward and back. And, therefore,
3 there was no overbi lling and there cannot be any
4 adj ustment. In addi ti on, there are no rules or
5 regul ation as to pressure in the water system other
6 than that it must be above 20 PSI. And si nce there is
7 no evi dence that pressure ever dropped below 20 PSI at
8 Mr. Dzuri nski y's house, there is no basi s for hi s
9 compl aints. And fi nally, i f Mr. Dzuri nski y wants a
10 back flow preventer at hi s resi dence, that is hi s
11 responsi bi lity accordi ng to law to i nstall.

12 JUDGE JORDAN: Thank you. I wanted to
13 cl ari fy and summa ri ze a few thi ngs for my
14 understanding. I heard a few thi ngs wi th regard to
15 the al legati on that fl uctuati ons in water pressure are
16 causing back flow and possi bly ai rflow. First, do I
17 understand that your evi dence wi ll be that pressure
18 must al ways fl uctuate to some degree i n Mi ssouri
19 Ameri can's pi pe? Do I have that?

20 MR. JONES: Yes, Your Honor.

21 JUDGE JORDAN: Do I understand that such
22 pressure fl uctuati on does not necessari ly cause
23 backfl ow?

24 MR. JONES: Yes, Your Honor.

25 JUDGE JORDAN: It can cause back flow; i s

1 that in the evidence?

2 MR. JONES: Whether it causes it or not
3 there are differences in pressure and it depends what
4 that pressure is in comparison to the customer's
5 pressure.

6 JUDGE JORDAN: If there is back flow, I
7 understand you'RE prepared to, you have authority that
8 Missouri American is not -- has no liability for back
9 flow; is that correct?

10 MR. JONES: When you say liability -- -

11 JUDGE JORDAN: When I say liability, I mean
12 if back flow occurs, would that violate any provision
13 of the statute or regulation or Missouri American
14 tariff.

15 MR. JONES: No. In fact, tariff requires
16 meter accuracy at full flow, full normal flow and
17 intermediate flow. And Mr. Dzurinskiy tested both
18 backwards and forwards within meter accuracy
19 requirement. That's even assuming there is legal
20 liability for reverse flow, which we reject.

21 JUDGE JORDAN: Now that gets me to the
22 meter issue. You will be showing me that the meter
23 reads accurately number one; is that correct?

24 MR. JONES: Reads accurately according to
25 tariff and regulation.

1 JUDGE JORDAN: Accuracy is defined in
2 tariff and regulation?

3 MR. JONES: Right.

4 JUDGE JORDAN: I thought I heard you say
5 something else which was of interest to me. And that
6 is even if there is back flow, that Mr. Dzuriński's
7 meter reads the back flow. And it sounded like you
8 said it undid the volume that he was using and then
9 when it flowed back.

10 MR. JONES: Yes. If the flow indicator is
11 showing backwards movement, the register is removing
12 the usage.

13 JUDGE JORDAN: That's what I thought you
14 said. So, your evidence will be that if the water is
15 flowing backwards, the meter is running backwards and
16 the bill is running backwards.

17 MR. JONES: The evidence will be if the
18 water is flowing backwards and flow indicator is
19 moving, the meter is registering -- is taking off
20 usage, correct.

21 JUDGE JORDAN: That's what I thought you
22 said. And then finally -- and then finally, your
23 evidence and argument on back flow prevention will be
24 that is not Missouri American's responsibility. Do I
25 have that understood?

1 MR. JONES: Correct.

2 JUDGE JORDAN: Okay. Thank you. Mr.
3 Dzuri nski y, do you want to keep those points in mind
4 when you present evidence. And staff, opening
5 statement please.

6 MS. HERNANDEZ: Sure. Good morni ng. May
7 it please the Commission, in this matter the
8 Commission has before it several issues for its
9 decision. In summary, was the complainant overbilled,
10 was there backward movement on the flow indicator at
11 the company meter at the complainant's address and if
12 so what is the cause. Who has the responsibility to
13 install a device to prevent water from leaving the
14 customer's service line backward through the meter,
15 and did Missouri American violate any provision of its
16 tariff, law, or any commission rule in respect to the
17 allegations contained in the complaint.

18 Now, to prevail on the complaint, the
19 complainant has the burden to prove that each
20 allegation in the complaint is more likely true than
21 not true. On March 12th, 2010, the staff filed its
22 investigation and recommendation in this matter. A
23 few facts of that investigation; as part of the
24 investigation the staff visited the Plaintiff's
25 premise . The staff did observe the leak indicator

1 moving in both directions as indicated in the
2 complaint. But when the complainant shut off the
3 water valve in the home, the staff observed
4 no movement in the leak indicator. Mr. Steve Loethen
5 is here to testify and present testimony as in his
6 report and recommendation that was previously filed
7 with the commission.

8 As far conclusions, I'll leave that for
9 closing argument, but will state that while
10 sympathetic to the complainant's issue, the staff can
11 only recommend relief as appropriate as found in its
12 experts' investigation and that which the Commission
13 has the authority to grant. The staff will move for
14 its recommendation to be entered into the record today
15 and recommends that the Commission adopt its finding
16 in any report and order that's issued by the
17 Commission. Thank you.

18 JUDGE JORDAN: Thank you. Now, Mr.
19 Dzuriński, the time is coming for you to present your
20 evidence and I'll be administering an oath so the
21 Commission may consider what you have to say. I
22 understand you will be presenting testimony from
23 yourself.

24 MR. DZURINSKIY: Yes.

25 JUDGE JORDAN: And you will also be

1 presenting testimony from Zena Dzuri nski y?

2 MR. DZURI NSKI Y: She is not here.

3 JUDGE JORDAN: So she won' t be wi th us
4 today?

5 MR. DZURI NSKI Y: Yes.

6 JUDGE JORDAN: That' s up to you. The new
7 regulati on places an affi rmative duty on me to help
8 devel op the clai ms and defense here. So I' d l ike to
9 gi ve you a few pointers to keep in mi nd as you present
10 your testi mony so that you may be more clear to the
11 Commi ssi on because your \$30 or \$40 a year is important
12 to the Commi ssi on. Okay. So we want to get to your
13 clai m. We want to understand your clai m. Wi th thi s
14 in mi nd, I' d l ike to you focus on what you want. It
15 seems to be adjus tment of your bi ll. Why you want it
16 because you beli eve there is back flow. You want to
17 tel l us the thi ngs that show that there is back flow
18 and that the meter is not doing what Counsel says
19 okay. So that' s what you want to focus on.

20 MR. DZURI NSKI Y: Okay.

21 JUDGE JORDAN: All ri ght then. I wi ll
22 admi ni ster the oath. Please raise your hand. Very
23 good. Do you solem nly swear to the testi mony that you
24 are able to gi ve wi ll be the truth --

25 MR. DZURI NSKI Y: Yes.

1 JUDGE JORDAN: The whole truth and nothing
2 but the truth.

3 MR. DZURINSKIY: Yes.

4 JUDGE JORDAN: All right then. Please tell
5 the Commission what you want the Commission to know
6 about your claim.

7 MR. DZURINSKIY: My claim -- actually
8 generally like I said I was overbilled and it shows
9 that water meter on my property, the flow indicator
10 runs in the opposite direction. It does not deduct
11 the water properly or not deduct it at all. It's --
12 matter of fact, you can just watch the water meter
13 under the precondition not in the condition what is in
14 the water company manufactures, in the shop how they
15 test it, it doesn't retain. It just not confirmed but
16 not just only me. It was confirmed by their employees
17 and confirm by their staff.

18 MR. JONES: I'll object.

19 JUDGE JORDAN: Hang on just a second.
20 Speak to your objection please.

21 MR. JONES: I object. It's hearsay about
22 what other people observed or where or might have
23 testified to.

24 JUDGE JORDAN: I understand. I'll sustain
25 that objection. What the Commission needs to hear is

1 what, you know, remember than what someone else knows
2 because when you tell me what someone else said it's
3 like that witness is trying to testify, but they are
4 not here for cross examination.

5 MR. DZURINSKIY: I want the Commission --

6 JUDGE JORDAN: Hang on. I'll also ask you
7 to slow down and speak up for our court reporter and
8 speak up.

9 MR. DZURINSKIY: I've never been in this
10 situation before.

11 JUDGE JORDAN: I understand. But we want
12 to make it possible for your claim to get to the
13 Commission as clearly as possible. So, speak slowly,
14 speak clearly as if you were giving a speech on stage,
15 for example, so that everyone can hear you. Okay.

16 MR. DZURINSKIY: Okay.

17 JUDGE JORDAN: Focus on your knowledge and
18 continue from there. Thank you.

19 MR. DZURINSKIY: May I continue.

20 JUDGE JORDAN: Please do.

21 MR. DZURINSKIY: Yes. Just the water
22 company made an objection about what I just said about
23 the water meter not performing directly is they are
24 going to make testimony about it's performed
25 correctly. I would not argue with the water company

1 about yes, I look at the law. It's completely says
2 how the water meter should be tested. I couldn't find
3 anything wrong with that. But the water company still
4 did not submit any kind of information what I request
5 about how the water meter performed in the back flow
6 in the low flow movement of water. And I decided to
7 compare the Neptune Company which manufactured to
8 clear out they told me --

9 MR. JONES: I'll object. I stated
10 objection on hearsay.

11 MR. DZURINSKIY: They told me exactly what
12 happened.

13 JUDGE JORDAN: I have to sustain that
14 objection because Neptune Water Company is not here.

15 MR. DZURINSKIY: They are not here.

16 JUDGE JORDAN: Let me try this. Have you
17 seen the water meter registering backwards.

18 MR. DZURINSKIY: No.

19 JUDGE JORDAN: Have you seen the dial turn?

20 MR. DZURINSKIY: No. The water indicating
21 back flow I have never seen that it deducts the water
22 from the water meter.

23 JUDGE JORDAN: Okay. Now, I have in your
24 complaint you mention some that you observed the
25 meter.

1 MR. DZURINSKIY: Yes.

2 JUDGE JORDAN: And you saw some unusual
3 movement in one of the dials.

4 MR. DZURINSKIY: Right.

5 JUDGE JORDAN: This does not refer to the
6 dial going backwards.

7 MR. DZURINSKIY: No.

8 JUDGE JORDAN: Okay.

9 MR. DZURINSKIY: It never happened for ten
10 months that they have been coming to that water meter
11 almost each day and I notice like I indicated in my
12 complaint, it just rotates different. Different days
13 it's like different times are different. For example,
14 like I stated company never answers my question, they
15 never answers my question. It still was in February I
16 asked both of them the question why it does not rotate
17 over the night. What is the cause? If I have just
18 only problem during the day. How my appliance or
19 whatever can have this problem. There is in my pump
20 or just -- I don't know what kind of device that can
21 push the water backward. That is issue and again
22 different times particularly like it was yesterday,
23 sun, I just again can present this information that
24 usually on Sunday, I spend much more water. Everybody
25 is home, laundry and everything, sometimes it happens

1 it's same amount to be about the water. What is the
2 usual working day when no one is home. That is why I
3 can watch. I write down everything about the water
4 when most it performs. I never seen water meter
5 deduct, the big dial not deducting the water back.

6 JUDGE JORDAN: Okay. That's addressing
7 the issue, I appreciate that. I want to get to this
8 movement that kind of started the whole complaint, the
9 unusual movement. It's not backwards movement; am I
10 correct?

11 MR. DZURINSKIY: I would like to clarify
12 what exactly happens.

13 JUDGE JORDAN: Please.

14 MR. DZURINSKIY: See the water meter, I saw
15 his water meter over there. There is indicator that's
16 a small triangle. Usually if you use water it goes in
17 opposite direction with the big dial like around it.

18 JUDGE JORDAN: Is there a meter here that
19 will help you explain what you're talking about?

20 MR. DZURINSKIY: Yes.

21 JUDGE JORDAN: That would be a good place
22 to start. And who can tell me what that is.

23 MR. JONES: This is Neptune T10 meter,
24 which we actually have Mr. Dzuri nski y's meter here.

25 MR. DZURINSKIY: This is the same.

1 MR. JONES: With the name with the register
2 on the top.

3 JUDGE JORDAN: Okay. And will the parties
4 stipulate this is like Mr. Dzuri nski y's meter.

5 MR. DZURI NSKI Y: Yes.

6 MR. JONES: Yes.

7 MS. HERNANDEZ: That's fine.

8 JUDGE JORDAN: Thank you.

9 MR. DZURI NSKI Y: There is water inside. Is
10 that okay.

11 MR. JONES: It's an added bonus.

12 JUDGE JORDAN: It's mineral oil. Do you
13 agree with that, Counsel.

14 MR. JONES: Yes. And it wouldn't be in
15 there on active meter at the customer's premises or is
16 it. It's in the dial to keep the gears --

17 JUDGE JORDAN: So what we have in here is
18 mineral oil that helps the thing function. Will
19 everyone agree to that.

20 MR. DZURI NSKI Y: I don't know.

21 JUDGE JORDAN: We'll get some more
22 testimony on that later. For now, Mr. Dzuri nski y,
23 tell me what you want me to know about this.

24 MR. DZURI NSKI Y: Well, the water flows
25 backward. See this is the dial that shows how much

1 water I use. This is run both opposite direction if
2 you use water this small one is the opposite
3 direction. It shows when you use the water in reality
4 in your home.

5 JUDGE JORDAN: Okay. So you're telling me
6 a couple things. Number one, the red needle on the
7 dial, when it spins clockwise --

8 MR. DZURINSKIY: Clockwise.

9 JUDGE JORDAN: That shows the water.

10 MR. DZURINSKIY: The usage.

11 JUDGE JORDAN: Hang on. That shows water
12 coming into your house; is that correct?

13 MR. DZURINSKIY: Yes. Correct.

14 JUDGE JORDAN: Now tell me about this
15 little triangle. It doesn't look like it moves around
16 the numbers it stays in place.

17 MR. DZURINSKIY: It's simple like company
18 calls it leak indicator. It means water flow goes
19 through the water meter. It doesn't mean anything.
20 It doesn't make any calculation. It only shows flow.

21 JUDGE JORDAN: That something is happening
22 but not how much; is that accurate.

23 MR. DZURINSKIY: Right. It just rotates
24 some kind of strange, sometimes it shows me when it
25 goes in opposite direction backward it hit something,

1 there is pressure.

2 MR. JONES: Let me object. Mr. Dzuri nski y
3 is not qual i fied to testi fy how a water meter works he
4 is got no foundation to show that's fami liar with or
5 has techni cal expertise to describe how water meter
6 works.

7 JUDGE JORDAN: Okay. Let me hold on to
8 that obje ction and ask Mr. Dzuri nski y a few questi ons.
9 Where did you learn about water meters?

10 MR. DZURI NSKI Y: General ly, only from web
11 site from Neptune and from the water company -- not
12 too much.

13 JUDGE JORDAN: Okay. But you have done
14 some research on line?

15 MR. DZURI NSKI Y: Yes.

16 JUDGE JORDAN: To learn about water meters.

17 MR. DZURI NSKI Y: Yes. Right.

18 JUDGE JORDAN: Okay. And that is more
19 knowl edge than I have, so I'm going to go ahead.

20 MR. JONES: Continue my objection to that.

21 MR. DZURI NSKI Y: At least I have been
22 watching since I discovered this how it works. It's
23 just simple, if you use the water there is a big dial
24 goes to the right. This small one goes to the left.

25 JUDGE JORDAN: So the little red triangle

1 there?

2 MR. DZURINSKIY: Yes.

3 JUDGE JORDAN: Spins in place
4 counter-clockwise to show that there is some water
5 moving?

6 MR. DZURINSKIY: Moving, right.

7 JUDGE JORDAN: No. You saw something
8 unusual on this meter?

9 MR. DZURINSKIY: Yes.

10 JUDGE JORDAN: Tell me what that was?

11 MR. DZURINSKIY: This dial goes now in
12 opposite direction, to the right, clockwise.

13 JUDGE JORDAN: I see?

14 MR. DZURINSKIY: So this one is supposed to
15 go to the left.

16 JUDGE JORDAN: Okay.

17 MR. DZURINSKIY: It doesn't -- it stays
18 idle, but when it moves -- again, no one uses the
19 water, this dial moving to the right.

20 JUDGE JORDAN: I think I understand what
21 you're saying and I'm going to clarify it just for the
22 record. Ordinarily the triangle moves in a certain
23 direction. You observed it moving in the opposite
24 direction?

25 MR. DZURINSKIY: Yes.

1 JUDGE JORDAN: But at that time you did not
2 see the needle --

3 MR. DZURINSKIY: In my understanding --

4 JUDGE JORDAN: Moving.

5 MR. DZURINSKIY: How much it goes to the
6 right, it's supposed to go to the left the same amount
7 because it's the same water.

8 JUDGE JORDAN: Okay.

9 MR. DZURINSKIY: It was not explanation
10 from the water company why it's happening. And that
11 is why I try to obtain information from the water
12 company. I sent them request about how the water
13 meter performs in back flow. I never received this
14 information. They never supplied information. I
15 cannot understand why. They are supposed to know
16 about. Because I receive information I will tell from
17 manufacturer they don't want to talk to me. They said
18 water company --

19 MR. JONES: Objection.

20 MR. DZURINSKIY: What?

21 JUDGE JORDAN: Sustained.

22 MR. DZURINSKIY: Water company is the
23 customer. I am not their direct customer. They
24 refuse to talk to me, but they provided information
25 and I would like to present information that water

1 company and company know about it, why the water meter
2 doesn't show this.

3 JUDGE JORDAN: Okay.

4 MR. DZURINSKIY: It's indicated in the
5 staff report about that; why it does not show data
6 recording correctly.

7 JUDGE JORDAN: Thank you. That's helpful
8 for understanding your claim.

9 MR. DZURINSKIY: This is the company to
10 raise this objection about this. It's important. It
11 doesn't affect just only me, it affects thousands of
12 St. Louis County residents, believe me.

13 JUDGE JORDAN: Okay. I'm going to suggest
14 that we pause here, take a break for a little while.
15 There are some things that I need to check. Maybe
16 during this the parties can discuss this metering
17 issue and maybe get some clarification on that. And I
18 think we'll take a ten minutes break right now.

19 (Whereupon, a short break was taken.)

20 JUDGE JORDAN: We're back on the record.
21 We're in Mr. Dzuri nski y' S case in chief. Mr.
22 Dzuri nski y testi fied to hi s understanding how the
23 meter works. And to clari fy my rul ing, Mi ssouri
24 Ameri can has a runni ng objecti on as to that testi mony.
25 My readi ng of the statute regardi ng expert testi mony

1 is that the threshold is pretty low. I think his
2 understanding will help me understand his claim so I'm
3 admitting that testimony. And of course, the other
4 parties are free to introduce testimony on the same
5 subject. That's my ruling with regard to that. We
6 discussed the working of the meter and your
7 observation of this meter, Mr. Dzuriński?

8 MR. DZURINSKIY: Right.

9 JUDGE JORDAN: Now, you believe this meter
10 is inaccurate; is that correct?

11 MR. DZURINSKIY: Yes. To some point.

12 JUDGE JORDAN: Okay. Fair enough. Please
13 tell us what you want the Commission to know about
14 that part of your claim?

15 MR. DZURINSKIY: I would like the
16 Commission to know about the water meter, how it
17 performs, exactly why it doesn't read the water in
18 back flow.

19 JUDGE JORDAN: Your belief is that it is
20 not recording back flow?

21 MR. DZURINSKIY: Yes, and I know why.

22 JUDGE JORDAN: Please tell us.

23 MR. DZURINSKIY: I want to present
24 information. I just expected from the water company
25 submit information to me because I consulted, like I

1 said, I don't want water company objection using
2 Neptune in August. I provided this information to
3 Mrs. Hernandez about that; who I was talking to -- the
4 person who is responsible for performing on the water
5 meter for the company. Plus last week I was on the
6 phone all week long I was contacting them because I
7 couldn't obtain information from the water company and
8 I wanted the manufacturer to present this information
9 in writing what they told me in August. They
10 completely refused to do that because I mention the is
11 case under investigation by Public Service Commission.
12 That is why they have a lot of litigation right now.

13 MR. JONES: I'll object here. It is
14 hearsay, continuing objection to conversation.

15 JUDGE JORDAN: I'll sustain that. Let's
16 focus on what you know about the accuracy of the
17 meter.

18 MR. DZURINSKIY: In August I received
19 information from Neptune. It cannot register water up
20 to one gallon per minute.

21 MR. JONES: Objection; here again, it's
22 hearsay. And there is no documentary evidence that's
23 been presented for admission.

24 JUDGE JORDAN: I'll sustain that objection.
25 Let's back up a little bit. You talked about getting

1 information from the manufacturer. Am I correct they
2 did not give you documents?

3 MR. DZURINSKIY: Right.

4 JUDGE JORDAN: Hang on. You sought
5 documentation from them, but you're not going to have
6 that today?

7 MR. DZURINSKIY: Yes.

8 JUDGE JORDAN: Hang on just a second now.
9 What we need to hear from you is what you have
10 personal knowledge of, not what someone else tells
11 you?

12 MR. DZURINSKIY: Personal knowledge is
13 everything was based on the staff recommendation and
14 his report that he contacted the manufacturer about
15 the same issue. And so I couldn't find anything of
16 information what exactly because his report says there
17 is a possibility the manufacturer told him that it
18 cannot catch the back flow small.

19 MR. JONES: Objection; again.

20 JUDGE JORDAN: I'll sustain that. Are you
21 telling me Mr. Loethen sitting at this table has
22 knowledge about the function of the meter?

23 MR. DZURINSKIY: Generally, yes.

24 JUDGE JORDAN: Okay.

25 MR. DZURINSKIY: It was in his report.

1 JUDGE JORDAN: Okay. Do you intend to
2 call him as a witness?

3 MR. DZURINSKIY: Yes, later.

4 JUDGE JORDAN: Okay. Is there anything
5 else that you know about the functioning of this
6 meter?

7 MR. DZURINSKIY: I'd like to finish because
8 last week I called them again to receive this
9 paperwork about the water meter; how it reflects the
10 flow.

11 JUDGE JORDAN: Who is them?

12 MR. DZURINSKIY: I called Neptune and his
13 supervisor they refused to send me any e-mail
14 information. And they told me --

15 MR. JONES: Same objection.

16 MR. DZURINSKIY: That's okay. You are
17 supposed to know because the law in Missouri does not
18 testify anything, why it does not perform. They told
19 me that you're supposed to know about that. This is
20 American Waterworking Association does not require --
21 has not any requirement to test meter meter in back
22 flow under any pressure. So that is why they said
23 this water meter is not tested at all in back flow.
24 This is information what I receive. I'm not lying.

25 JUDGE JORDAN: No one is accusing you of

1 l y i n g.

2 MR. DZURINSKIY: Ri g h t.

3 JUDGE JORDAN: Just to clari fy --

4 MR. DZURINSKIY: They refuse -- I asked
5 them to sent me e-mail , any kind of information and
6 they refused.

7 JUDGE JORDAN: I don't think that's
8 actually hearsay. I think that's a description. I'm
9 not going to use that for truth of --

10 MR. DZURINSKIY: The bottom point is the
11 water meter will not catch the water flow, low water
12 flow in the backward.

13 JUDGE JORDAN: Okay.

14 MR. DZURINSKIY: Because they are not
15 tested, they are not required to do that.

16 JUDGE JORDAN: You believe your water meter
17 which is similar to that one --

18 MR. DZURINSKIY: Exactly.

19 JUDGE JORDAN: -- does not do.

20 MR. DZURINSKIY: Yes.

21 JUDGE JORDAN: -- what Missouri American is
22 saying it will do which is back off the bill when the
23 water flow backs off?

24 MR. DZURINSKIY: The manufacturer told me.

25 JUDGE JORDAN: Is that correct?

1 MR. DZURINSKIY: Yes.

2 JUDGE JORDAN: Good. That's what I need to
3 hear. That's what I needed to know. I appreciate
4 that clarification, and I appreciate your patience and
5 everyone. Okay. I think we've got everything from
6 you that you can tell us personally about what you
7 observed about your meter?

8 MR. DZURINSKIY: I don't think I can add
9 any more.

10 JUDGE JORDAN: Okay. Thank you. I
11 appreciate that. Let's move on to the next issue, as
12 I see it, which is amount. You believe you're able to
13 quantify the inaccuracy of your meter at between \$30
14 to \$40 per year; is that correct?

15 MR. DZURINSKIY: Yes. The price is based
16 only on the rates of maybe future.

17 JUDGE JORDAN: Understand.

18 MR. DZURINSKIY: Just shows quantity.

19 JUDGE JORDAN: Okay. Do you have
20 something -- do you have a document or can you tell us
21 about how you arrived at that number?

22 MR. DZURINSKIY: I have documents. This is
23 what American Water Company employees made
24 measurements on my property. I can give everybody.
25 It shows in 15 minutes how much the dial, what they

1 performed.

2 JUDGE JORDAN: All right. I see that this
3 has a lot of -- okay. For the record, I'm looking at
4 a document which is headed Missouri American Water
5 high bill inspection. And I have a date of Number 32
6 Crabapple Court; is that your address?

7 MR. DZURINSKIY: Yes.

8 JUDGE JORDAN: Date 12-4-09. Associate
9 number 2823. Would you like the Commission to
10 consider this?

11 MR. DZURINSKIY: Yes.

12 JUDGE JORDAN: Any objection? You can
13 review it? Please do.

14 MR. DZURINSKIY: This is all my presence in
15 my house. This is what company gave me.

16 JUDGE JORDAN: Hang on a second.

17 MR. JONES: Can I ask a question?

18 JUDGE JORDAN: Sure.

19 MR. JONES: Mr. Dzurinskiy, how much of the
20 handwriting is yours and how much is Missouri
21 American?

22 MR. DZURINSKIY: He made this, and this is
23 my handwriting. This is people who I was calling to
24 your company, just talking to me because I couldn't
25 even --

1 JUDGE JORDAN: For the record, you're
2 referring to the handwritten notation at the top of
3 the form?

4 MR. DZURINSKIY: Yes. That's my
5 handwriting, but everything down is yours.

6 JUDGE JORDAN: And everything, other than
7 little notes at the top everything else is as it
8 originally was?

9 MR. DZURINSKIY: Yes.

10 MR. JONES: I have no objection.

11 JUDGE JORDAN: Will you hand that to staff
12 also.

13 MS. HERNANDEZ: I believe this was attached
14 to the original complaint.

15 MR. DZURINSKIY: Yes.

16 MS. HERNANDEZ: We don't object.

17 JUDGE JORDAN: Okay. Thank you now let's
18 call this Exhibit A.

19 (Whereupon, Exhibit A was marked for
20 identification.)

21 JUDGE JORDAN: Thank you very much. That's
22 complainant's Exhibit A, Missouri American water high
23 bill inspection. Now, I have a copy of this, Mr.
24 Dzurinskiy, you have a copy. You wanted to tell me
25 what this shows.

1 MR. DZURINSKIY: It shows up in 15 minutes
2 how dial moved. It shows the usage of the water at
3 the same time no one was using the water.

4 JUDGE JORDAN: Okay. Let me make sure. I
5 know I'm repeating a lot of what you say, but I need
6 to clarify so I understand. I'm going at some boxes,
7 a few from bottom where it reads, "During our
8 inspection we examined (timed meter for signs of
9 movement for handwritten 15 minutes.) The meter did
10 show registration." That is unscored. "This
11 indicates you may have a leak, although we cannot find
12 the cause of the registration. You may want to hire a
13 plumbing contractor and further investigate a possible
14 leak." And I see handwritten 7/100 of cubic feet.
15 And your understanding is that there is this means
16 some unaccounted for usage of 7/100th in 15 minutes.
17 That's your understanding?

18 MR. DZURINSKIY: Yes.

19 JUDGE JORDAN: Anything else you want to
20 tell me about this document?

21 MR. DZURINSKIY: No. It shows at the
22 bottom exactly. I cannot find leak. Sent crew to
23 pump out box.

24 JUDGE JORDAN: Okay. Anything else on this
25 document?

1 MR. DZURINSKIY: I don't think so.

2 JUDGE JORDAN: Okay. Thank you. Now you
3 also handed me another document which has case number
4 handwritten at the top and says Exhibit 3. Let's have
5 this marked as complainant's Exhibit B.

6 (Whereupon, Exhibit B was marked for
7 identification.)

8 JUDGE JORDAN: This looks like a photo
9 copy.

10 MR. DZURINSKIY: Yes, it's a copy.

11 JUDGE JORDAN: And I see there is in
12 addition to the handwriting at the top there is a
13 little bit of handwriting about the middle between the
14 last two columns.

15 MR. DZURINSKIY: Yes.

16 JUDGE JORDAN: Other than that, is this as
17 you received it.

18 MR. DZURINSKIY: Yes.

19 JUDGE JORDAN: Give me a brief description
20 of what this document is. What is this?

21 MR. DZURINSKIY: This document is a
22 document the water company sent to me to show that I
23 had spent water 10 cubic feet or 9 cubic feet; that is
24 why I don't have excessive water. Like in my
25 understanding, like I was punished for what I just

1 used five or six cubic feet, not 10 like it was many
2 years ago.

3 JUDGE JORDAN: This document says premises
4 usage transaction report.

5 MR. DZURINSKIY: Right.

6 JUDGE JORDAN: Does this show how much
7 water you use?

8 MR. DZURINSKIY: Yes. It's water from --
9 you can look at it. For many years.

10 JUDGE JORDAN: The earliest date I have is
11 8-14-2000.

12 MR. DZURINSKIY: Yes.

13 JUDGE JORDAN: And then the latest I have
14 is 8-17-2009.

15 MR. DZURINSKIY: Uh-huh.

16 JUDGE JORDAN: And you're giving us that to
17 show what your usage is over this course of time?

18 MR. DZURINSKIY: Yes. And I have one more
19 bill to show.

20 JUDGE JORDAN: That's fine. Let's take
21 care of this first?

22 MR. DZURINSKIY: Uh-huh.

23 JUDGE JORDAN: You'd like the Commission to
24 consider this document?

25 MR. DZURINSKIY: I'd like you to look at it

1 because it's effect how I calculate how much I spend
2 in water.

3 JUDGE JORDAN: I'm showing this to counsel
4 for Missouri American Water Company.

5 MR. DZURINSKIY: Actually, it's their paper
6 not mine.

7 JUDGE JORDAN: Of course, but they have a
8 right to look at it just to make sure. And to staff.

9 MS. HERNANDEZ: May we review it?

10 JUDGE JORDAN: Please. Are there any
11 objections to complainant's Exhibit B.

12 MR. JONES: No objection, Your Honor.

13 JUDGE JORDAN: Staff?

14 MS. HERNANDEZ: No objection, but we would
15 like a copy.

16 JUDGE JORDAN: Is there anything else you
17 want to tell us about this complainant's Exhibit B
18 before we move?

19 MR. DZURINSKIY: Maybe it's not important
20 but because of this complaint, if you saw my
21 handwriting you indicated over there.

22 JUDGE JORDAN: Uh-huh.

23 MR. DZURINSKIY: It seems to me 2006 about
24 that one the company just, I still at that time I
25 still have old water meter not this one. The water

1 company overcharged me four times more. And I called
2 water company and said how this happens because I just
3 it was indication how much I sent and they argue with
4 me. And said do you want to refund money, you file a
5 complaint with Public Service Commission. After one
6 month, they paid because I was right. C.

7 JUDGE JORDAN: In 2006?

8 MR. DZURINSKIY: Yes.

9 JUDGE JORDAN: You describe an action in
10 2006 where you claimed to be overcharged and they
11 fixed this?

12 MR. DZURINSKIY: Yes. It was human
13 mistake.

14 JUDGE JORDAN: Do you have something else
15 you'd like the Commission to consider?

16 MR. DZURINSKIY: Yes, the bill. It was
17 first one.

18 JUDGE JORDAN: This one also has
19 handwriting at top, file number for this case, and
20 it's marked as -- Mr. Dzurinskiy's mark it as Exhibit
21 2 in handwriting. This has notation of customer
22 account information. Do you have copies to show other
23 parties?

24 MR. DZURINSKIY: Yes.

25 JUDGE JORDAN: Please do that.

1 MS. HERNANDEZ: We have it.

2 JUDGE JORDAN: Good. Let's have the
3 reporter mark this as complainant's Exhibit C.

4 (Whereupon, Exhibit C was marked for
5 identification.)

6 JUDGE JORDAN: And Mr. Dzurinskiy, what is
7 this going to tell the Commission about your bill?

8 MR. DZURINSKIY: It will show the
9 difference how much I spent. It will indicate the
10 water company claims my water goes backward. It
11 easily can prove that my water pollutes their mains
12 and everything. It shows how much water I use at my
13 home. It appears all my water completely goes -- I
14 have usage at my home, it's only six cubic feet. How
15 much water can go in the main system in comparison
16 with previous years.

17 JUDGE JORDAN: Okay. Let's me make sure I
18 understand. This document will tell the Commission
19 that if there is back flow, that your bill ought to be
20 zero?

21 MR. DZURINSKIY: It appears by the company
22 account.

23 JUDGE JORDAN: Okay. All right.

24 MR. DZURINSKIY: It means at this point I'm
25 supplier of the water.

1 JUDGE JORDAN: All right. And you'd like
2 the Commission to consider this document?

3 MR. DZURINSKIY: Yeah, sure.

4 JUDGE JORDAN: Any objection, .

5 MR. JONES: I have no objection to the
6 admission of that document?

7 JUDGE JORDAN: Staff?

8 MS. HERNANDEZ: No objection.

9 JUDGE JORDAN: Then I'm going to enter into
10 the record Plaintiff's Exhibits A, B, and C. Is there
11 anything more that you'd like to tell us about this
12 Exhibit C?

13 MR. DZURINSKIY: Yes. It's same everything
14 what I give additional to this one. It's at the very
15 beginning water company claims I had a leak, so it
16 indicates if I have a leak they need to prove how much
17 leak I could have. If they papers indicate it should
18 be much more than six cubic feet. It should be ten or
19 15.

20 JUDGE JORDAN: And do you have some more
21 documents you'd like the Commission to consider?

22 MR. DZURINSKIY: Right. This is --

23 JUDGE JORDAN: Copies for the other
24 parties?

25 MR. DZURINSKIY: Yes.

1 JUDGE JORDAN: Very good. While you're
2 doing that, I'll know we have -- Mr. Dzuri nski y, how
3 would you describe this document that you just handed
4 me?

5 MR. DZURINSKIY: This is my Laclede gas for
6 the summer use. Yeah. You're surprised why it was
7 connection, but I'll try to explain exactly. It's
8 much easier to estimate what kind of water -- if the
9 company claimed I had a leak during the summer time
10 how much I had my water heater replaced because they
11 just raised an issue about my water heater was the
12 problem. And then I had a leak, how much gas I used
13 at my home in the previous year before I replaced it.

14 JUDGE JORDAN: What is the difference in
15 the amount of gas used? Tell us about the water bill.

16 MR. DZURINSKIY: I'll show you why it's
17 less.

18 JUDGE JORDAN: What does it show.

19 MR. DZURINSKIY: Twice less before I had my
20 water heater leaking. Before September when I
21 replaced my water heater I had this for previous two
22 bills, my gas bill and I replaced it this year, 2009.
23 This is another one, so it indicates that I have no
24 problem with leak with my hot water because we will
25 see testimony about what because it's important.

1 JUDGE JORDAN: Let me note this for the
2 record. I have two documents in my hands. They are
3 Laclède Gas, and make sure everyone else has a copy of
4 that document. And these bills have dates on them of
5 2009?

6 MR. DZURINSKIY: And 2010.

7 JUDGE JORDAN: One of the documents is 2009
8 and the other is 2010?

9 MR. DZURINSKIY: Yes.

10 JUDGE JORDAN: I'll go ahead and have the
11 reporter mark these and see if I understand what your
12 theory is here. Your theory is because your gas bill
13 went down you must be using no more water; is that
14 correct?

15 MR. DZURINSKIY: Yes. Everything was based
16 the beginning the water company charged me that I had
17 a leak. They couldn't find which leak, cold or hot
18 water. I was suspicious maybe because their employee
19 checked everything and said I had not any leak, but I
20 was suspicious to check if I had hot water heater line
21 leak.

22 JUDGE JORDAN: If I understand it, if you
23 had a leak -- your theory is if you had a leak in your
24 hot water heater, then you would be spending more on
25 gas?

1 MR. DZURINSKIY: Yes.

2 JUDGE JORDAN: Okay. I understand your
3 theory. I understand your theory. I'll have the
4 reporter mark those as complainant's Exhibits D and E.

5 MS. HERNANDEZ: Can you identify which is D
6 and which is E?

7 JUDGE JORDAN: D is earlier one in 2009 and
8 E will be 2010.

9 (Whereupon, Exhibits D and E were marked
10 for identification.)

11 JUDGE JORDAN: All right. I have before me
12 the exhibits marked complainant's D and E, which are
13 the bills from Laclede Gas Company for 2009 and 2010
14 respectively, a couple of each on those. Is there any
15 objection to the admission of these exhibits into
16 evidence?

17 MR. JONES: Yes. We object to the
18 admission on D and E on hearsay and lack of
19 foundation. There is no authentication of these
20 documents and also relevance. There is no relevance
21 between gas bills and Mr. Dzuriński's complaint about
22 his water bill.

23 JUDGE JORDAN: Anything from the staff?

24 MS. HERNANDEZ: Our objection would be on
25 relevance, but if I could voir dire the Exhibit?

1 JUDGE JORDAN: Please do.

2 MS. HERNANDEZ: Is your account with
3 Laclède -- do you only use gas for your water heater
4 or do you have any other purposes in the home?

5 MR. DZURINSKIY: Yes. Only natural gas.

6 JUDGE JORDAN: Only for your water heater?

7 MR. DZURINSKIY: Water heater.

8 JUDGE JORDAN: You don't heat your home
9 with natural gas?

10 MR. DZURINSKIY: But I brought this in the
11 summer time when I don't use this.

12 MS. HERNANDEZ: Okay.

13 MR. DZURINSKIY: Especially in June and
14 July. That is why I want to show because you don't
15 use heat when it's 90 degree outside.

16 MS. HERNANDEZ: Is your service still on
17 during the summer?

18 MR. DZURINSKIY: I mean if I have my gas
19 disconnected.

20 MS. HERNANDEZ: Correct.

21 MR. DZURINSKIY: No. What is reason to be
22 disconnected. I pay my bills on time.

23 JUDGE JORDAN: When the answers is yes,
24 just say yes.

25 MR. DZURINSKIY: Yes.

1 MS. HERNANDEZ: Do you know the efficiency
2 of your old water heater to the water heater that you
3 installed in November 2009.

4 MR. DZURINSKIY: Well, I know the brand
5 water heater, but efficiency, I don't know. C.

6 JUDGE JORDAN: If you don't know, that's
7 okay. You can say you don't know. That's fine.

8 MR. DZURINSKIY: It seems to me I have some
9 manual from that if the company requested me I
10 submitted complete manuals. They didn't question me
11 about that.

12 JUDGE JORDAN: Okay. That's fine.
13 Anything further from staff.

14 MS. HERNANDEZ: I have no further
15 questions, but we would still like to objection on
16 relevance.

17 JUDGE JORDAN: You have objected to
18 relevance and Missouri American has an objection based
19 on also hearsay. I'm going to overrule this objection
20 because it appears to me to be a document that's kept
21 in the ordinary course of business, and so I will
22 admit this as a record. What else would you like the
23 Commission to see, Mr. Dzuriński y?

24 MR. DZURINSKIY: The last exhibit, this is
25 about digital water. C.

1 JUDGE JORDAN: Will you show some copies to
2 the other parties please for the record? I have
3 before us a document, it looks like a photo copy of a
4 graphic reading. It's some sort of spiral
5 configuration. There are handwritten notes at the
6 top. Mr. Dzuri nski y, these notes are your
7 handwriting, otherwise is this as you received it from
8 somewhere?

9 MR. DZURINSKIY: It's my handwriting. So I
10 would like everybody to know when it was taken because
11 it did not indicate a date and time. So I just
12 obtained information from the staff.

13 JUDGE JORDAN: And I'm going to hand this
14 to the reporter to mark as complainant's Exhibit F.
15 Tell us a little bit of this Exhibit while that's
16 getting mark if you would please?

17 MR. DZURINSKIY: This indicates the water
18 fluctuates in the plumbing system. C.

19 JUDGE JORDAN: Okay.

20 MR. DZURINSKIY: And what is the worst part
21 of this is I just cannot understand it was not
22 presented to me why it was installed about four p.m.
23 and removed in the morning at about nine a.m.. Why it
24 was not stayed for 24 hours mostly during the day when
25 this indicator just rotates.

1 JUDGE JORDAN: Okay. There is a lot in
2 there you have just given us. First, you're saying
3 this is a graph of water pressure? C.

4 MR. DZURINSKIY: Water pressure in plumbing
5 system.

6 JUDGE JORDAN: Okay. And the notes at the
7 top tells us relevant date and time of that?

8 MR. DZURINSKIY: Correct.

9 JUDGE JORDAN: Okay. And the reporter has
10 my --

11 (Whereupon, Exhibit F was marked for
12 identification.)

13 JUDGE JORDAN: All right. Mr. Dzurinsky,
14 I see your handwritten notes say taken March 9th
15 through 10th, 2010 between four p.m. and nine a.m. by
16 the staff MPSC. And what do you want the Commission
17 to gather from this document? What does this tell the
18 Commission?

19 MR. DZURINSKIY: It tells the water in the
20 system fluctuates. Water usually try to it causes
21 water meter ratchet.

22 JUDGE JORDAN: So this reflects
23 fluctuation --

24 MR. DZURINSKIY: -- in water.

25 JUDGE JORDAN: In pressure, water pressure

1 in the American system?

2 MR. DZURINSKIY: It was connected to my
3 system. That's why I try to request some document
4 from the water company what pressure they have before
5 enter my line system. And they said they are not
6 require to maintained this.

7 JUDGE JORDAN: I remember that discussion.
8 Which side of the meter is this pressure? C.

9 MR. DZURINSKIY: In my home.

10 JUDGE JORDAN: This is your water pressure
11 for your home?

12 MR. DZURINSKIY: Yes.

13 JUDGE JORDAN: Okay. And you would like
14 the Commission to consider this?

15 MR. DZURINSKIY: Yes. I would like the
16 Commission to consider this one more detail. I
17 received this document in May. We had some water
18 company presented it on my property before that I made
19 the claim. So I did not have this document claiming
20 during the night the water meter does not rotate. So
21 it means now it was confirmation. I cannot make
22 something like this and especially tell I relied on
23 this rapid recording to confirm the rotation. C.

24 JUDGE JORDAN: So this document --

25 MR. DZURINSKIY: Confirms --

1 JUDGE JORDAN: Confirms?

2 MR. DZURINSKIY: -- my allegations. C.

3 JUDGE JORDAN: That there are fluctuates on
4 this meter?

5 MR. DZURINSKIY: It's not good.

6 JUDGE JORDAN: So this shows the water
7 pressure in your house fluctuates?

8 MR. DZURINSKIY: Yes.

9 JUDGE JORDAN: And that is unreflected on
10 this meter -- not reflected on this meter?

11 MR. DZURINSKIY: Correct.

12 JUDGE JORDAN: On your meter?

13 MR. DZURINSKIY: Yes. It reflects that
14 during the night my confirmation that it does not
15 rotate because the line on recording is flat between
16 11 and six in the morning.

17 JUDGE JORDAN: So this -- I'm going to try
18 to summarize to clarify to make sure I understand what
19 you want the Commission to get from this. This shows
20 that there is fluctuation in the water pressure in
21 your pipes and this also shows that your meter is not
22 reflecting that?

23 MR. DZURINSKIY: Well, it does not show the
24 water meter reflecting that. It only shows water
25 fluctuation in the line.

1 JUDGE JORDAN: Okay. C.

2 MR. DZURINSKIY: In fact, you can see.
3 When you look at that it doesn't reflect it.

4 JUDGE JORDAN: So this just shows that
5 water pressure in your pipe fluctuates? C.

6 MR. DZURINSKIY: Fluctuates. C.

7 JUDGE JORDAN: Okay.

8 MR. DZURINSKIY: Some period of time and
9 some does not.

10 JUDGE JORDAN: Any objection to this
11 document from Missouri American.

12 MR. JONES: To the extent Mr. Loethen can
13 authenticate and confirm what it is, I have no
14 objection.

15 JUDGE JORDAN: Why don't you hold on to
16 your objection then until we get some testimony on it.
17 You may reserve that. Anything from staff.

18 MS. HERNANDEZ: We will just have same
19 objection. Once Mr. Loethen identifies the document
20 that he actually took the recording and that it is the
21 same as what's on the Exhibit, then we would have no
22 objection at that point.

23 JUDGE JORDAN: Then I'll reserve ruling on
24 that. I'll tell you what I will do. I will not
25 reserve ruling on that. I will rule it admitted into

1 the record subject to later objections based on
2 foundation. Okay. Mr. Dzuri nski y, what else do you
3 have?

4 MR. DZURI NSKI Y: Unfortunately, I just
5 found these papers a couple days ago, and I did not
6 make copies. It just shows a connection between the
7 main pipe and service pipe. This is from the water
8 company. Everybody is getting this. It's the kind of
9 documentation. You can look at it where the usual
10 connection. It's on top of that. It tells me if the
11 fluctuation in the main pipes fall down it could be
12 air pockets.

13 JUDGE JORDAN: Okay. Let's begin at the
14 beginni ng. I am looking at a document of several
15 pages.

16 MR. DZURI NSKI Y: Right. It's completely
17 given to any customer who just opens the service with
18 the water company. It explains how much we can
19 expect.

20 JUDGE JORDAN: I have a cover page that
21 states information for residential customers.

22 MR. DZURI NSKI Y: It's not dated of course
23 because that could be for a long time at the house.

24 JUDGE JORDAN: I will ask our reporter to
25 mark this as complainant's Exhibit G please. And we

1 don't have copies of that; is that correct?

2 MR. DZURINSKIY: Yeah. No copies.

3 JUDGE JORDAN: I'll have the other parties
4 look through it for objections that we may have.

5 (Whereupon, Exhibit G was marked for
6 identification.)

7 JUDGE JORDAN: Please take a look at that.
8 And Mr. Dzurinskiy, while counsel for Missouri
9 American is examining that document, do I understand
10 that this will show the Commission how air pockets may
11 form?

12 MR. DZURINSKIY: Possibly.

13 JUDGE JORDAN: Okay.

14 MR. JONES: There is a loose paper inside.

15 MR. DZURINSKIY: I don't know what that is.
16 It's probably from your company to explain how to
17 convert cubic feet into gallons of water.

18 JUDGE JORDAN: Do you want that to be part
19 of this Exhibit?

20 MR. DZURINSKIY: It's not important.

21 JUDGE JORDAN: Okay.

22 MR. JONES: If you'd like me to proceed,
23 Your Honor. I have no objection to the admission of
24 this document with the date it appears of September 31
25 (sic), 2000. I have no objection to the admission. I

1 do have objection to the characterization of it
2 obviously. But its mere admission, I'm fine?

3 JUDGE JORDAN: You may present testimony as
4 to that. Staff is now examining it.

5 MS. HERNANDEZ: We don't object to its
6 admission.

7 JUDGE JORDAN: Okay. Then I will enter
8 complainant's Exhibit G into the record. Is there
9 anything else you wanted to say about this document
10 before we move on?

11 MR. DZURINSKIY: No.

12 JUDGE JORDAN: Thank you. That's fine.
13 And you have another document for the Commission?

14 MR. DZURINSKIY: One document because I
15 couldn't reproduce more because it's a color printer.
16 I couldn't make. This is from water company.

17 JUDGE JORDAN: This is a two-page document.
18 Each page is headed DLCC Stratmann area pressures and
19 building temperature. And it's T-e-m-p-a-t-u-r-e.
20 And I will have the reporter mark this as
21 complainant's Exhibit H. And we have no copies of
22 this. Will staff be able to make copies of these
23 documents.

24 MR. JONES: I have copies of that document.

25 MS. HERNANDEZ: I believe we have copies in

1 our records here too if they are exact.

2 JUDGE JORDAN: I will hand this to the
3 reporter. And what would you like the Commission to
4 know about that document while the reporter is marking
5 it?

6 MR. DZURINSKIY: It just shows water
7 pressure at main station, how it fluctuates, but it
8 does not reveal anything was going on in the main
9 pipes in our subdivision because it's not measuring,
10 was my understanding. My understanding is the company
11 was not require to keep.

12 JUDGE JORDAN: I recall that discussion.

13 MR. DZURINSKIY: It's obvious because it's
14 unclear what the pressure in main pipe before it
15 entered my service pipe and what it was measured on
16 the digital recording it could be quite different.
17 Because if the company is claiming it's their
18 responsibility that how much pressure could be there
19 main pipe. I need to add six or eight PSI to their
20 station where it's coming from, but it doesn't mention
21 on the graphic recording show.

22 JUDGE JORDAN: Let me have --

23 (Whereupon, Exhibit H was marked for
24 identification.)

25 MR. JONES: I'd like to register an

1 objection to relevance regarding pressure at these
2 various locations on December 4th, 2009.

3 JUDGE JORDAN: Will you pass that to staff
4 so they may set forth any objection as well also?

5 MR. DZURINSKIY: That's what the company
6 indicated, but I have doubts about that.

7 MS. HERNANDEZ: Staff will object as well
8 on relevance due to the documents being over a year
9 old when it showed what the pressure is at this point
10 in time during the complaint period.

11 JUDGE JORDAN: Thank you. Missouri
12 American objection was also as to relevance?

13 MR. JONES: Correct, Your Honor?

14 JUDGE JORDAN: Do you want to speak to that
15 a little bit?

16 MR. JONES: Yes. That document shows
17 pressure recording on various locations on December
18 4th, 2009. There is no indication in the record why
19 that date of December 4, 2009 is relevant for which we
20 need a reading of pressure at the sites.

21 JUDGE JORDAN: Mr. Dzuri nski y, do you want
22 to tell us?

23 MR. DZURINSKIY: Well --

24 JUDGE JORDAN: You can't answer my question
25 until you have heard my question.

1 MR. DZURINSKIY: All right.

2 JUDGE JORDAN: What does this prove about
3 your claim or disprove about this defense?

4 MR. DZURINSKIY: It proves that I had
5 employees on my property from the water company and
6 they told me I have nothing to do with my plumbing
7 system as a leak. They couldn't indicate why the
8 water goes backward through the water meter so at the
9 same time company claims that my water goes backwards
10 in their pipes. So I wanted to see how much pressure
11 they required, like I said, to keep at least 20 PSI in
12 their pipes. I wanted to find out how much water can
13 go into the main system.

14 JUDGE JORDAN: What do these lines tell me
15 about that?

16 MR. DZURINSKIY: This indicates that my
17 water cannot enter the main pipe because the pressure
18 isn't enough.

19 JUDGE JORDAN: Does this show that it's
20 impossible for you to have back flow? Is that what
21 you're saying?

22 MR. DZURINSKIY: Yes.

23 JUDGE JORDAN: So this proves there is no
24 back flow.

25 MR. JONES: Then I will withdraw my

1 objection, Your Honor.

2 JUDGE JORDAN: Staff?

3 MS. HERNANDEZ: I'll withdraw the
4 objection.

5 JUDGE JORDAN: Then Exhibit H is admitted
6 into the record. Mr. Dzuri nski y, what else would you
7 like the Commission to know.

8 MR. DZURINSKIY: I have no more at this
9 point. No more documentation.

10 JUDGE JORDAN: Okay. I see it is five
11 minutes until noon. I can go all day without eating
12 and drinking sleeping or anything else. But the
13 parties may want to break for a while and may want to
14 take a lunch break. Off the record.

15 (Whereupon, a short break was taken.)

16 JUDGE JORDAN: And we're back on the
17 record. We're going to take up with cross examination
18 of Mr. Dzuri nski y by Missouri American Water Company.

19 MR. JONES: Thank you, Your Honor, Mr.
20 Dzuri nski y, what's your occupation?

21 MR. DZURINSKIY: My occupation, I work as
22 support staff in a retirement community.

23 MR. JONES: What are your duties as support
24 staff?

25 MR. DZURINSKIY: My duties is actually to

1 perform some jobs after office is closed, everything
2 including maintenance, service, any service, any
3 claims that happens on the premises.

4 MR. JONES: You're not an engineer?

5 MR. DZURINSKIY: Well, I am engineer. I'm
6 construction engineer but I don't practice.

7 MR. JONES: Are you a licensed engineer?

8 MR. DZURINSKIY: I am not licensed in this
9 country.

10 MR. JONES: And you're not a water industry
11 professional?

12 MR. DZURINSKIY: No. But I am --

13 MR. JONES: You're not claiming that
14 Missouri American has to maintain constant pressure
15 throughout its system, are you?

16 MR. DZURINSKIY: Yes.

17 MR. JONES: And you realize that your bill
18 usage is about one quarter of the average St. Louis
19 County customer's usage?

20 MR. DZURINSKIY: Yeah. Yes. I realize
21 about that. It should be about that. I'm not sure
22 because I never check everybody's bills. Different
23 families -- everybody's usage is different. It
24 depends.

25 MR. JONES: And you realize you are able to

1 install a backfiller on your service line; is that
2 correct.

3 MR. DZURINSKIY: I am able by myself?

4 MR. JONES: Yes.

5 MR. DZURINSKIY: If you mean physically by
6 myself, I cannot do that. I need to hire a licensed
7 plumber.

8 MR. JONES: If you hired a license plumber,
9 it is physically possible to install a back flow
10 device on your premises?

11 MR. DZURINSKIY: It depends where I need to
12 install that device. That is a problem. Like I was
13 suggested even by your employees when we had
14 discussion in May and we hear from the report from the
15 staff, the best place to install in the water meter
16 pit on the side of the main.

17 MR. JONES: You're saying the back flow
18 device would be installed in the water main pit?

19 MR. DZURINSKIY: That's the best place.

20 MR. JONES: So you're not saying -- denying
21 it's possible to install a back flow prevention device
22 on your property? You're not denying that?

23 MR. DZURINSKIY: I don't deny that because
24 it's basic in your papers also. Like I say, it's
25 possible, but not practical.

1 MR. JONES: You're saying the water company
2 said that you have a leak on your premises?

3 MR. DZURINSKIY: At the beginning. I
4 received papers from the people who never been on my
5 property a position whose papers said --

6 MR. JONES: Let me show you your Exhibit A.
7 What is this exhibit again? In general what does it
8 describe? Is this exhibit a report from a water
9 company representative.

10 MR. DZURINSKIY: Yes.

11 MR. JONES: That was at your property.

12 MR. DZURINSKIY: I cannot find a leak and I
13 cannot find a leak, and I will send a crew to pump out
14 box.

15 MR. JONES: So the water company
16 representative when he actually went to your property
17 said there wasn't a leak?

18 MR. DZURINSKIY: Didn't find a leak.

19 MR. JONES: Are you claiming that Missouri
20 American is obligated to measure pressure at every
21 water main in its system?

22 MR. DZURINSKIY: It was my understanding
23 from the law what I understand, yes. In my
24 understanding it says you're supposed to because the
25 water company never presented me evidence how much

1 pressure in their main pipe.

2 MR. JONES: My question is --

3 MR. DZURINSKIY: Yes.

4 MR. JONES: You're not saying, are you,
5 that Missouri American has to measure pressure in
6 every main in its over 4200 miles of main in its
7 system?

8 MR. DZURINSKIY: Yes. It's my
9 understanding it supposed to, yes.

10 MR. JONES: And you filed a previous
11 complaint against Missouri American Water?

12 MR. DZURINSKIY: Previous, four years ago
13 for a different reason.

14 MR. JONES: Can I see, Your Honor, the one
15 Exhibit that we didn't have copies. I believe it's G.
16 Can you tell me where in Exhibit G that you provided
17 -- it says that there are pressure differences. Let
18 me back up. Did you say that air pockets can cause
19 pressure difference --

20 MR. DZURINSKIY: Right.

21 MR. JONES: -- in your system?

22 MR. DZURINSKIY: Yes.

23 MR. JONES: Where does it say that?

24 MR. DZURINSKIY: It doesn't say this. It
25 says in the report of the staff. It's my

1 understanding how the water connected to the main
2 pipe, if it's precise -- because I just rely on your
3 company's drawing.

4 MR. JONES: You're just pointing at the
5 drawing?

6 MR. DZURINSKIY: Water drops in the main
7 pipe.

8 MR. JONES: Let me finish my question.
9 You're not talking about any of the text in that
10 exhibit, just the back.

11 MR. DZURINSKIY: Only what the drawing
12 shows me and just my opinion.

13 MR. JONES: Okay. Just your opinion.

14 MR. DZURINSKIY: My opinion.

15 MR. JONES: The drawing doesn't say
16 anything about pressure?

17 MR. DZURINSKIY: Not about pressure.

18 MR. JONES: Okay. And if I could show you
19 again your Exhibit C, and if you have that in front of
20 you, I'd like to keep mine so I can speak to it. It's
21 the water bill.

22 MR. DZURINSKIY: Yeah. I know. I'm
23 looking for it.

24 MR. JONES: And this is a copy of your
25 water bill dated June 3rd, 2010.

1 MR. DZURINSKIY: It's not June. It's
2 between February 19 to May 19th.

3 MR. JONES: Measuring usage between
4 February 19th and May 19th, 2010.

5 MR. DZURINSKIY: Yes.

6 MR. JONES: And the due date typed on right
7 hand is June 3rd, 2010?

8 MR. DZURINSKIY: It says when I suppose to
9 pay, yes. When I supposed to pay.

10 MR. JONES: An if you look at customer
11 charge?

12 MR. DZURINSKIY: Uh-huh.

13 MR. JONES: On the right side the middle of
14 the page, and you see usage charge underneath there.
15 What is the total usage charge on the quarterly bill?

16 MR. DZURINSKIY: By itself for the water?

17 MR. JONES: For the water you used, what is
18 the price?

19 MR. DZURINSKIY: If you combine -- if
20 you're talking about only -- that's only for the
21 water.

22 MR. JONES: Just for water used; this
23 includes customer charge?

24 MR. DZURINSKIY: It seems to me \$12.40 or
25 \$.50.

1 MR. JONES: So \$12.50 was your quarterly
2 bill due June 3, 2010.

3 MR. DZURINSKIY: Yes. For water by itself.

4 MR. JONES: The water by itself. That's
5 the amount that you actually used?

6 MR. DZURINSKIY: Yes.

7 MR. JONES: And are you claiming that this
8 June 3rd, 2010 bill is higher than an average bill?

9 MR. DZURINSKIY: Well, it could be, right.

10 MR. JONES: So the total usage charge for
11 that quarter, those three months is \$12.50. If you
12 multiply that by four for a whole year, that is
13 \$49.

14 MR. DZURINSKIY: Yes. That's about right.

15 MR. JONES: That's \$50.

16 MR. DZURINSKIY: Yes. Something about
17 that.

18 MR. JONES: So an average bill for your
19 usage for the whole year is about \$50. Yet you're
20 telling the Commission that your water bill this year
21 is overstated by as much as \$40 because of --

22 MR. DZURINSKIY: \$40 dollars, yes.

23 MR. JONES: So you're only using \$10 worth
24 of water each year?

25 MR. DZURINSKIY: \$10 of water.

1 MR. JONES: Is that correct?

2 MR. DZURINSKIY: Uh-huh.

3 MR. JONES: That's your testimony?

4 MR. DZURINSKIY: Yeah.

5 MR. JONES: I don't have any further
6 questions at this time your Honor?

7 JUDGE JORDAN: Okay. Cross examination
8 from staff.

9 MS. HERNANDEZ: I don't have any questions.

10 JUDGE JORDAN: Okay. I don't have any
11 questions. So that concludes the cross examination of
12 Mr. Dzuri nski y. Do the parties want to take a break?

13 MR. JONES: That's fine with me.

14 JUDGE JORDAN: Let's do that and we'll come
15 back and resume.

16 (Whereupon, a lunch break was taken.)

17 JUDGE JORDAN: We're back on the record.

18 We have concluded the cross examination of Mr.
19 Dzuri nski y. Mr. Dzuri nski y, you now have the chance
20 for redirect. That is if some of this cross
21 examination brought up some issues that you want to
22 clarify you may do that now. If there is anything.

23 MR. DZURINSKIY: I will just discuss about
24 maybe how much it will cost and think about. I said
25 it would cost \$40 or \$50. Well, I would like the

1 company to understand my complaint originally was
2 about not just about the price of the water, how many
3 cubic feet it could be difference in the company
4 disagrees with me what I make calculation about. They
5 could make their comment about that how much I spent.
6 As a price I was thinking about the future. I cannot
7 exactly know. The prices change. The rates are
8 changing. So my estimate of \$40 or \$50 could be not
9 exactly precise. I would like -- I mean I was asking
10 that I just exceeded the price or wanted to rip off
11 the company.

12 JUDGE JORDAN: Okay. I understand your
13 number is an estimate.

14 MR. DZURINSKIY: Right.

15 JUDGE JORDAN: But the issue that you would
16 like the commissioners to know about is cubic feet.

17 MR. DZURINSKIY: Right.

18 JUDGE JORDAN: Is there anything else?

19 MR. DZURINSKIY: No.

20 JUDGE JORDAN: Very good. Recross from
21 Missouri American.

22 MR. DZURINSKIY: No, Your Honor.

23 JUDGE JORDAN: Recross from staff?

24 MS. HERNANDEZ: No. Thank you.

25 JUDGE JORDAN: Mr. Dzuri nski y, do you have

1 anything else for your case in chief? Are you going
2 to have any more witness or have any more documents?

3 MR. DZURINSKIY: I don't have any more
4 document but I would like to question Steve Loethen
5 about everything -- about the case. I have a lot of
6 questions.

7 JUDGE JORDAN: Okay. So you would like to
8 call Steve Loethen; is that correct?

9 MR. DZURINSKIY: Is it my turn right now?

10 JUDGE JORDAN: Hang on a second.

11 MS. HERNANDEZ: I would just like to object
12 on the calling of Steve Loethen because the staff will
13 be calling him momentarily. I believe that any
14 question you might have can be addressed at that time
15 because the report will be offered. It's my
16 understanding any questioning that Mr. Dzurinskiy will
17 have will be based on that report or his working with
18 Steve in the investigation?

19 JUDGE JORDAN: I note too that Steve
20 Loethen does not appear on Mr. Dzurinskiy's witness
21 list.

22 MS. HERNANDEZ: That's correct. So we
23 didn't have any opportunity to prepare for more a
24 direct versus from another party versus staff's
25 direct?

1 JUDGE JORDAN: Okay, Mr. Dzuri nski y. They
2 are proposing to call Steve Loethen then as their
3 witness, and you can do cross examination?

4 MR. DZURI NSKI Y: Okay. I di dn' t -- that's
5 fine wi th me.

6 JUDGE JORDAN: If that's okay by you,
7 that's what we'll do. I recall that you said Zena
8 Dzuri nski y would not be appearing today?

9 MR. DZURI NSKI Y: Right.

10 JUDGE JORDAN: Then that sounds like it
11 concludes your presentation of your case in chief?

12 MR. DZURI NSKI Y: Yes.

13 JUDGE JORDAN: All right. Then we will
14 move to the case in chief of Missouri American Water
15 Company.

16 MR. JONES: Yes, Your Honor. Before that,
17 I'd like to make a motion for directed judgment at the
18 close of the compl ai nant's case. The compl ai nant's
19 complaint is that he has a high bill based on a
20 alleged reverse flow through the meter he alleges is
21 not being recorded. In addi ti on to hi s recent
22 admi ssion during hi s testimony that there is no
23 reverse flow in hi s meter for a number of reasons. He
24 does not state a cl ai m upon whi ch hi s compl ai nt can be
25 granted. The ul ti mate issue as the present hearing

1 order points out is that the Plaintiff bears the
2 burden of proving Missouri American has violated any
3 rule, regulation, or charge heretofore established or
4 fixed by or for Missouri American Water Company, any
5 provision of law, or any rule or order or decision of
6 the Commission. Mr. Dzurnski y has failed to carry
7 his burden to do that. He has no evidence beyond his
8 speculation that there is reverse flow on his meter.
9 He has no evidence beyond his own speculation that
10 there is reverse flow that is not being recorded. He
11 has no evidence of relative pressures at the same time
12 regarding pressure in the water system of the company
13 as opposed to water pressure inside his house that
14 could lead to reverse pressure. His knowledge of what
15 his own water pressure has not been established in the
16 record. His lack of knowledge about his own water
17 system and billings is shown by the outrageous high
18 overstatement of at least \$40 per year of overbilling
19 when his yearly usage bill is only \$50 a year. He is
20 saying 80 percent of his water bill is due to reverse
21 flow. That's outrageous and shows lack of evidence on
22 his complaint. He has no evidence to support his
23 claim that there is any violation of any tariff,
24 regulation, statute, or any other rule as applies to
25 Missouri American Water Company?

1 JUDGE JORDAN: Okay. I'm going to save
2 everyone a lot of time and not ask for responses to
3 that argument for the simple reason I cannot give
4 directed verdict. One, we don't do verdicts, we do
5 decisions. Number two, I don't really do the decision
6 in a case like this. I make a recommendation which
7 then is subject to review by the Commission. And
8 third reason that occurs is everyone has the right to
9 submit written arguments which any decision maker must
10 read before making a decision. So procedurally, we
11 don't do that. So I will deny your motion.

12 MR. JONES: My first witness is Peter
13 Matschiner. It's my understanding you would like him
14 to sit here?

15 JUDGE JORDAN: Please raise your right
16 hand. Do you solemnly swear that the testimony that
17 you are about to give will be the truth, the whole
18 truth, and nothing but the truth?

19 MR. MATSCHINER: I do.

20 JUDGE JORDAN: You may proceed.

21 EXAMINATION

22 QUESTIONS BY MR. JONES:

23 Q. Mr. Matschiner, could you please spell your
24 name for the record?

25 A. M-a-t-s-c-h-i-n-e-r.

1 Q. And that's Peter Matschiner?

2 A. Correct.

3 Q. What is your present position and your
4 present employer?

5 A. I'm the operations superintendent for
6 field customer service. I oversee length of meter
7 change, length of service meter change department,
8 locating department, and some system records
9 department?

10 Q. And your employer is Missouri American
11 Water Company?

12 A. That's correct.

13 Q. Did you start at Missouri American Water
14 in 1996?

15 A. I did?

16 Q. What was your position then?

17 A. At that time I started as substitute
18 operations operator and that would entail helping out
19 with mechanics on the equipment at the plants. And
20 then when an operator would be needing time off, I
21 would fill in for that vacancy?

22 Q. In 1997, did you become a meter reader?

23 A. I did. I read water meters for
24 approximately six and a half or seven years before
25 moving into the field of customer service side of it?

1 Q. So let me ask you as meter reader, about
2 how many meters would you read a month?

3 A. A month, wow. A couple routes were right
4 around 400 and your route every day for the most part,
5 so maybe -- is that 2000 a week, 400 times five, about
6 2000 a week, so maybe 8000 a month.

7 Q. And then in 2004, did you change your
8 position?

9 A. I did. I went, as I eluded to a moment
10 ago, I moved into field customer service operations
11 and worked on what they called two-man crew?

12 Q. And what does a two-man crew do?

13 A. They typically work on meters, larger
14 meters in vaults. They assist FSR, which field
15 service representatives, on things they are having
16 difficulty with. If they need additional
17 investigation where you may, you know, somebody inside
18 a building or somebody outside to manipulate a shutoff
19 valve, that sort of thing. A lot of different things
20 related to customer water service?

21 Q. And in 2007 did you become a meter reader
22 supervisor?

23 A. I did.

24 Q. Basically what was your position there?

25 A. My responsibilities were to oversee the

1 meter reading department. Create meter reading
2 schedules annually. Help assure that the meter
3 readers were doing their job directly and that they
4 are being trained properly to perform their duties as
5 a meter reader.

6 Q. In 2008 you assumed your present position
7 as operations superintendent?

8 A. That is correct?

9 Q. So you had a lot of experience with water
10 meters; correct?

11 A. Correct. Going back to around 2007. I'm
12 sorry. '97 to around 2007 when I was promoted from
13 meter reader to superintendent?

14 Q. I want to walk through quickly if you can
15 explain to me how a water meter works?

16 A. Sure.

17 Q. And I'm setting before you a water meter
18 register that you brought with you to this hearing?

19 A. Correct.

20 Q. Can you identify what type of meter that
21 is?

22 A. It's a Neptune meter. It's solid. It's
23 called rotating disk?

24 Q. What's the product number that Neptune?

25 A. T10 meter, residential T10 meter?

1 Q. Is this the same type of meter and
2 register that Mr. Dzurinskiy has at his house?

3 A. That's the type of residential meter we are
4 installing in all residences in the county.

5 Q. Is it a cut-away meter to show the
6 operation of the meter?

7 A. It's cut away. It has a disk that spins
8 all the gears train inside the register.

9 Q. Can you show us, just point out quickly
10 where the water enters and how it registers water on
11 the register at the top?

12 A. This would be on one end they stamp an
13 arrow to show the direction of water. And actually
14 this has "in" for inlet side. The water would enter
15 the meter through the inlet side, go through the
16 chamber, and move the disk in a fashion that spins a
17 magnet that is picked up. There is a magnet inside
18 the register that picks up here. And as that magnet
19 is picked up by the register, it spins the gear train
20 inside the register. And as that gear train is
21 turned, in a forward motion, that what we called flow
22 indicator or sometimes it's called leak indicator will
23 also move. That is the, I'll say, the smallest gear
24 on the train. And if that's moving it moves all the
25 other wheels in succession.

1 Q. Which is the hand that registers usage?

2 A. Well --

3 Q. Actually records the usage of the
4 customer?

5 A. Well, they all, I guess, they all record
6 usage of the customer. The flow indicator is the
7 first thing that moves indicating that water is being
8 consumed through the meter. And it drives the next
9 gear that gets driven is the sweep hand. And that's
10 what looks like the second hand or minute hand on a
11 clock. And that will rotate around and then in turn
12 will cause the odometer to turn over?

13 Q. Now, water is coming in from the water main
14 and into the customer's premises, which direction is
15 the leak indicator moving?

16 A. That rotates counterclockwise as this disk
17 is moved by the water.

18 Q. And if water is coming in from the main to
19 the customer's premises, which way is the sweep hand,
20 the larger hand rotating?

21 A. That will rotate clockwise as the numbers
22 are stamped from zero, one through nine as it goes
23 this way.

24 Q. Did you say the sweep hand is connected to
25 the flow indicator by a gear?

1 A. Right. It's like a clock. It works
2 similar. The second hand drives the minute hand which
3 drives the hour hand. It's the same thing. All these
4 GEAR are, you know -- they are gear training. And
5 they drive each other as the water is consumed.

6 Q. So if the flow indicator is moving, is the
7 sweep hand necessarily moving?

8 A. It is, but it would be hard to detect
9 depending on how fast it's going. It's like trying to
10 watch the minute hand as the second hand is moving.
11 You can watch the second hand, it would be hard to see
12 whether it moved at all.

13 Q. Now, can water move backwards through a
14 meter?

15 A. Yes.

16 Q. Now, if it does that, which way does the
17 flow indicator rotate?

18 A. The flow indicator would then rotate
19 clockwise, the sweep hand would start to rotate
20 counter-clockwise.

21 Q. And if the flow indicator is moving
22 clockwise, is the sweep hand necessarily moving
23 counter-clockwise?

24 A. They are all connected.

25 Q. So, can water go backwards through a meter

1 on the customer's premises?

2 A. Yes. Without something to prevent it like
3 a back flow prevention device it can, yes.

4 Q. So there is water that goes through a
5 meter and the reverse gets registered. In other
6 words, if it goes back through the meter is usage
7 being removed from the register?

8 A. Right. When the water goes back through
9 the meter and it will then turn the register, it will
10 record.

11 Q. Now, are you familiar with Mr.
12 Dzuri nski y's complaint in this case?

13 A. Yes. He is claiming that the water meter
14 is not registering the usage of water going back
15 through his meter and thereby giving him a higher
16 bill.

17 Q. Are you aware Mr. Dzuri nski y's meter,
18 actual meter, was tested?

19 A. Yes.

20 Q. It was tested at his request. Now, I'm
21 handing you a second meter. Can you identify that for
22 me?

23 A. That is the meter that was at his
24 residence and was requested that it be tested.

25 Q. And that meter was removed and tested and

1 was that in December 2004. I'm sorry. December 2009?

2 A. Yes.

3 Q. I'm going to show you what I have marked
4 Exhibit 4. Missouri American Water Exhibit 4. Can
5 you identify that exhibit for me?

6 A. The yellowish copy is the card that the
7 field service representative would fill out when the
8 meter is changed. And on it it says we have them
9 write in red "test".

10 Q. And how do you know this test result on
11 Exhibit 4 is a test of Mr. Dzurinskiy's meter?

12 A. Well, of the information that's filled
13 out. It has his address, it has meter number that was
14 installed at his property. And that's how we tie
15 these two together.

16 Q. Can you walk through for me very quickly
17 how a water meter test works?

18 A. They have a calibrated test bench that's
19 at the meter shop and they put the meter on the test
20 bench. They have calibrated tanks that measure the
21 amount of water, a set amount of water that goes
22 through the meter. And as this meter is set up on the
23 bench, the placement of all of the sweep hand and all
24 the odometer readings are noted and the test begins.
25 After a set amount of water goes through the meter,

1 the meter is then read again. And based on how much
2 water the meter registered versus how much water went
3 through the calibrated tank is how they are tested;
4 how they are graded.

5 Q. Did this test on the first page of Exhibit
6 4 take place on December 27, 2009?

7 A. It did. That is meter shop employees
8 employee number 2808 and then he noted the time and
9 date that he tested it.

10 Q. And can you describe for me the result of
11 the test?

12 A. The results are above and at high flow at
13 10 gpm, it tested at 99.7 percent. At mid range, at
14 two gallons per minute -- minimum flow it tested at --
15 I'm sorry. It tested 1.6 percent at two gpm. And on
16 the low flow, the sensitivity test is what they call
17 it. At 1/10th of a gallon per minute it tested at .9
18 percent.

19 Q. If you look at the bottom of that sheet --
20 let me back up. This test at the top of the sheet
21 shows flow through the meter in forward direction from
22 the main to the house?

23 A. Correct. He also noted that it passed.

24 Q. And if you look at the bottom sheet, was
25 the meter also tested backwards.

1 A. Yes. I believe that was requested at a
2 later date and we tested the meter backwards.

3 Q. And if you show -- if you look at the
4 results at ten gallon per minute backwards. What was
5 the registration?

6 A. At ten gallons per minute it tested at 98
7 percent. Subsequently at two gpm it tested at 69.7
8 percent. And at 1/8th of a gallon per minute it
9 tested zero.

10 Q. At Page 2 -- if you look at Page 2?

11 A. Yes.

12 Q. Was the meter tested subsequently at
13 different test levels?

14 A. We did. We tested it at different flow
15 rates. This is obviously, you know, something we
16 normally wouldn't do, but given the nature of the case
17 we wanted to give us a rigorous of a testing that we
18 could. So we tested it again.

19 Q. Was the test conducted on November 10th,
20 2010?

21 A. November 10th, 2010.

22 Q. Both top and bottom were they reverse flow
23 test?

24 A. These were both tested in reverse.

25 Q. So at high flow rate of 20 -- 20 gallons

1 per minute, what was the result of the test?

2 A. It was 97.2 percent.

3 Q. And at full normal flow at ten, what was
4 the test result?

5 A. 98.6.

6 Q. And five gallons per minute, what's the
7 test result backward?

8 A. 99 percent.

9 Q. And if you drop down at two gallons per
10 minute, what was the test result?

11 A. 99.5 percent.

12 Q. And one gallon per minute, what was the
13 test result?

14 A. 98 percent.

15 Q. And at 1/8th of a gallon per minute reverse
16 what was --

17 A. It was ten percent.

18 Q. And I'm going to show you -- and I move
19 Exhibit 4 be admitted into evidence?

20 JUDGE JORDAN: Objections?

21 MR. DZURINSKIY: I want to find out exactly
22 if American Water Work Association does not -- they
23 have no standards, why they tested this. I mean just
24 only one gallon per minute or two gallons per minute.
25 Why you didn't give your test for one gallon per hour.

1 JUDGE JORDAN: That sounds like something
2 you want to bring up on cross examination. Anything
3 as to this document.

4 MR. DZURINSKIY: This document is fine. I
5 agree with that.

6 JUDGE JORDAN: Anything from the staff?

7 MS. HERNANDEZ: No objection.

8 JUDGE JORDAN: Then I will admit Missouri
9 American Water Exhibit 4.

10 Q. (By Mr. Jones) And I'll show you, Mr.
11 Matschiner, Missouri American Exhibit 12. If I can
12 direct your attention to, first of all, can you
13 identify this format as Missouri Public Service
14 Commission regulation 4 CSR 240-N?

15 A. Yes.

16 Q. And if you look at the top right hand
17 corner, the subpart 37 --

18 A. Yes.

19 Q. -- is the Commission regulation saying that
20 no water service meter shall be allowed in service
21 which has incorrect gear ratio or dial train or is
22 mechanically defective or shows error in measurement
23 in excess of five in register water stream flow
24 equivalent to approximately 1/10th and full normal
25 rating for the average service pressure?

- 1 A. That is correct.
- 2 Q. Now, according to the Neptune
- 3 specifications, is full normal rating 20 gallons per
- 4 minute?
- 5 A. That is full max flow.
- 6 Q. And 1/10th of full max flow is 20 gallons?
- 7 A. Two gallons.
- 8 Q. 1/10th is two gallons per minute?
- 9 A. Yes.
- 10 Q. And given the test results of the backwards
- 11 test, does the test show accuracy within five percent
- 12 at least at both full flow at 20 and also ten, and
- 13 plus two gallons per minute?
- 14 A. Correct.
- 15 Q. And two gallons per minute backwards was
- 16 99.7 accurate?
- 17 A. Right.
- 18 Q. And subsequent test was done each at one
- 19 gallon per minute backwards on second page of Exhibit
- 20 4, it showed accuracy?
- 21 A. 98 percent.
- 22 Q. And does that come within the required
- 23 accuracy backwards each of the Commission regulation?
- 24 A. It was well within the five percent.
- 25 Q. I'll also show you what -- I move to admit

1 Exhibit 12 into evidence.

2 JUDGE JORDAN: Objections?

3 MR. DZURINSKIY: No.

4 JUDGE JORDAN: Same thing we're just talking
5 about this document.

6 MR. DZURINSKIY: I don't know what it's
7 talking about. It says accurately shows with suitable
8 device according to best practice and rate flow which
9 properly reflects operation of the meter. What kind
10 of device.

11 JUDGE JORDAN: Do you have an objection to
12 me looking at this.

13 MR. DZURINSKIY: No.

14 JUDGE JORDAN: Staff, any objection.

15 MS. HERNANDEZ: We have no objection, but I
16 would ask judicial notice be taken of the entire
17 statute, not just particular section that's being
18 cited.

19 JUDGE JORDAN: I will take official notice
20 of the regulation. This is the version dated March
21 31st, 2003. I take it your wanting me to make sure I
22 take official notice of the regulation in effect
23 during the disputed period. Is that what you're
24 saying.

25 MS. HERNANDEZ: Correct.

1 JUDGE JORDAN: Okay. And so I will admit
2 this into the record. That is Missouri American Water
3 Company's Exhibit 12?

4 Q. Thank you, Your Honor. I'm also showing
5 you, Mr. Matschiner Missouri American Water Exhibit 5.
6 You identified that for me as tariff of Missouri
7 American Water Company?

8 A. It's a tariff sheet of Missouri American
9 water.

10 Q. Is that tariff R7.7?

11 A. Right. Rule 7.0.

12 Q. And does the tariff read, "customer shall
13 accept the meter installed by the company as standard
14 of measurement for water service if the meter when
15 inspected and tested using the company's intermediate
16 and maximum flow rate testing procedure shall be found
17 to be more than five percent defective or incorrect to
18 the prejudice of the customer or the company, the
19 company has basis for adjusting the billing to the
20 company to determine the quantity of water used by
21 either test of meter, by the amount of water used
22 during corresponding period of the proceeding year or
23 by an estimate based on the amount amount of water
24 used during the preceding 12 months. The portion for
25 the meter shall become defective or inaccurate at

1 company's option?

2 A. Yes, it does.

3 Q. And again, did the meter test results shown
4 on Exhibit 4 showing test results backwards come
5 within five percent of the company's intermediate and
6 maximum flow rate testing procedures?

7 A. It did test within five percent.

8 Q. I move for the admission of Exhibit 5 into
9 evidence?

10 JUDGE JORDAN: Any objection to this
11 document?

12 MR. DZURINSKIY: No.

13 JUDGE JORDAN: Staff, any objection to that
14 document marked Missouri American Water Company
15 Exhibit 5.

16 MS. HERNANDEZ: No objection.

17 JUDGE JORDAN: Then I will admit Missouri
18 American Water Company Exhibit 5 into the record.

19 Q. Thank you, Your Honor. Is it true, Mr.
20 Matschiner, that billing adjustments are not required
21 according to Commission rules for errors in
22 measurement found to be within the limit prescribed by
23 the Commission?

24 A. That is correct.

25 Q. I'm showing you what's been marked Missouri

1 American Water Exhibit 10. And if you look at 4 CSR
2 24013.025 subparagraph D, which is towards the top of
3 the middle column. Does that state, "Whereupon test
4 in error and measurement is found to be within the
5 limit prescribed by Commission rules, no billing
6 adjustment will be made."

7 A. That is correct.

8 Q. And as you testified before, there was no
9 error in measurement according to Commission rules?

10 A. That is correct.

11 Q. And just to make sure I finish my question
12 and the record is clear. No error found in the
13 reverse flow test done on Mr. Dzurinskiy's meter?

14 A. Right. There was no error within the
15 prescribed rules on forward or reverse.

16 Q. Thank you. I would like to move for
17 admission of Exhibit 10 into evidence?

18 JUDGE JORDAN: Any objection to this
19 document? Staff?

20 MS. HERNANDEZ: No objection. I would
21 state as previous to take judicial notice of current
22 rule.

23 JUDGE JORDAN: So noted.

24 MS. HERNANDEZ: This one states '04. I
25 don't know if it's changed.

1 JUDGE JORDAN: I know the date this is
2 effective September 30th '04, and I will admit this
3 document into the record?

4 Q. Mr. Matschiner, if a back flow preventer
5 were to be installed at Mr. Dzuri nski y's home, it
6 would is to be on Mr. Dzuri nski y service line; is that
7 correct?

8 A. That's correct.

9 Q. Ei ther i nsi de or outsi de hi s house?

10 A. It can be installed here inside or outside
11 hi s house.

12 Q. Since it would be on Mr. Dzuri nski y's
13 service line, would it be installed at his cost?

14 A. Correct. The customer, once the service
15 line in its entirety in St. Loui s County.

16 Q. Mr. Matschiner, would you agree the back
17 flow prevention is the duty of the customer?

18 A. Since it's part of customer-owned service
19 line, it is incumbent upon the customer to be
20 responsible for it.

21 Q. I'm handing you what's been marked Missouri
22 American Water Company Exhi bi t 9. Are you able to
23 i denti fy that for me as Department of Natural
24 Resources rule 10 CSR 60-11?

25 A. That is correct.

1 Q. And if I could direct your attention to
2 paragraph 11.0103A1 towards the bottom left hand
3 corner, does that state that class one back flow
4 hazard prevention is an actual or potential health
5 hazard to customers of the public water system should
6 back flow occur. The customer or customer's
7 authorized representative shall construct a department
8 approved air gap separation or installed reduce
9 pressure principal back flow prevention assembly on
10 the customer's service line; is that correct?

11 A. That's correct.

12 Q. Similarly throughout this regulation if you
13 look at subpart B1 towards the bottom right hand
14 corner of the page. Does that read that class 2 back
15 flow hazard threaten to degrade the water quality of
16 the public water system should back flow occur. The
17 customer or customer's authorized representative shall
18 install as minimum protection for class 2 back flow
19 hazard department-approved double check valve assembly
20 or customer's certificates line in accordance with
21 section 5?

22 A. That's correct.

23 Q. It puts the back flow prevention on the
24 customer?

25 A. That's correct.

1 Q. I move for Exhibit 9 into evidence?

2 JUDGE JORDAN: Any objection to this
3 document?

4 MR. DZURINSKIY: No.

5 JUDGE JORDAN: Staff, any objection.

6 MS. HERNANDEZ: No objection.

7 Q. I will enter Missouri American water
8 company Exhibit 9 into the record.

9 JUDGE JORDAN: Thank you.

10 Q. I'm also handing you, Mr. Matschiner,
11 Missouri American Water Exhibit 7. I direct your
12 attention to third sheet in that group Exhibit. It
13 says sheet R2.0 in the top right hand corner. Can you
14 identify that as Missouri American Water Company
15 tariff regarding discontinuance of service for cross
16 connection?

17 A. Rule 2.0.

18 Q. That tariff with which employs to Missouri
19 American Water states "When the company becomes aware
20 of the existence of cross connection, the company
21 shall attempt to notify the customer, but regardless
22 of the success of the attempt the company shall
23 discontinue service to such customer unless all
24 physical connection rating the cross connection are
25 immediately severe. If you move down to the end that

1 have same paragraph service will not be restored until
2 the appropriate back flow prevention control assembly
3 has been installed. Requirement for back flow
4 preventer control assembly shall in accordance with the
5 provision of DNR set forth in chapter 11, 10
6 CSR-60-11.010?

7 A. Yes.

8 Q. So Missouri American tariff refers to DNR
9 regs said the customer has duty to prevent back flow
10 and install back flow?

11 A. Yes, it does.

12 Q. I'd like to move for admission of Exhibit
13 7.

14 JUDGE JORDAN: Objections to this document?

15 MR. DZURINSKIY: No.

16 JUDGE JORDAN: Staff, any objection to
17 this?

18 MS. HERNANDEZ: No objection.

19 JUDGE JORDAN: I just have one question to
20 clarify for the record I notice the St. Louis County
21 Water Company, can I get some clarification for the
22 record?

23 Q. Yes, Your Honor, St. Louis County Water is
24 a predecessor of Missouri American Water Company, St.
25 Louis County District the tariff that employees to St.

1 Louis County Water, rules and regular land after the
2 acquisition by Missouri American Water Company
3 continued to apply to Missouri American unless they
4 were suspended or modified and this particular one has
5 not been suspended or modified since the date of its
6 issuance in 1984?

7 JUDGE JORDAN: So if I take notice of the
8 tariffs of Missouri American Water Company, I would
9 fine continuity of this?

10 Q. Yes?

11 JUDGE JORDAN: I will admit Missouri
12 American Water Company Exhibit 7 into the record.

13 Q. Thank you. I have one area just to
14 conclude on Mr. Matschiner. That's regarding the
15 average customer using of St. Louis County customers.
16 I'm handing you what's been marked as Missouri
17 American water Exhibit 17. Can you identify that for
18 me as Missouri American Water Company submission case
19 number WR-2010-0131 proposed residential rates by
20 operating district?

21 A. Yes, it is.

22 Q. And if you look down towards the middle of
23 the page on the left hand side it says St. Louis
24 County?

25 A. Correct.

1 Q. Does this exhibit show the average usage of
2 a customer based -- of St. Louis County customer if
3 you're looking at column one?

4 A. Correct. It shows the average rate per
5 residential customer is \$225.

6 Q. And if you look per quarter. If you look
7 at the second to last column, stipulated rate for is
8 the average quarterly bill of the customer in St.
9 Louis County at Missouri American Water \$85.92 per
10 quarter?

11 A. Yes, it is.

12 Q. I'd like to move for the admission of
13 Exhibit 17 into evidence?

14 JUDGE JORDAN: Mr. Dzurnski y, any
15 objection to this document.

16 MR. DZURINSKI: No.

17 JUDGE JORDAN: Staff, any objection to that
18 document.

19 MS. HERNANDEZ: Yes. I'll object; a
20 limited objection to the use of anything on this chart
21 besides the first column present rate because all
22 these other columns are stipulated. There is many
23 factors that go into a stipulation and agreement.
24 There's been no foundation as to billing determinants
25 or anything that went into determining what \$85.92 per

1 quarter means.

2 JUDGE JORDAN: That was the stipulated rate
3 per the agreement in Missouri American Water rate case
4 and this document is filed to quantify and memorialize
5 the amount of average bills in each district under the
6 stipulation which is currently in effect and these
7 rates are currently being charged to Missouri American
8 Water customers.

9 MS. HERNANDEZ: I'll still keep the same
10 objection. There is negotiations. There is all kinds
11 of stipulations regarding billing determinants. I'll
12 just leave my objection at that.

13 JUDGE JORDAN: If I may, just stipulate it
14 was agreed stipulated rate, present rate that you are
15 referring to is the rate before the most recent rate
16 increase.

17 MS. HERNANDEZ: Correct.

18 JUDGE JORDAN: It's a matter of public
19 record that is the -- this type of final connection to
20 the rate case. The stipulated rate and also in
21 connection with tariff pricing period which was just
22 on the Commission last week. These are the numbers
23 that were submitted.

24 JUDGE JORDAN: Okay. These numbers are
25 representation of rates in time, recommended and

1 stipulated rate increases. Okay. Maybe I need a
2 little more clarification as to the column, I think it
3 is the second from the last Missouri American. This
4 is the increase or decrease that this column
5 represents the current rates?

6 MR. JONES: Correct.

7 JUDGE JORDAN: Okay. Does staff have any
8 objection to me taking this Exhibit to mean what it's
9 been represented to mean? In other words, second
10 column from the last, are you okay -- are you saying
11 this is not an accurate representation of the current
12 rates.

13 MS. HERNANDEZ: No. I'll remove my
14 objection on that point. That this is \$85.92 is what
15 St. Louis County customers are being charged. I guess
16 my point is there is lots that go into stipulations
17 and agreement and this may not reflect -- while we
18 hope it does. It may not reflect the actual usage of
19 a customer.

20 JUDGE JORDAN: Well, I will overrule that
21 objection and I will admit Missouri American Water
22 Company Exhibit 17 into the record?

23 Q. Thank you, Your Honor. And Mr. Matschiner,
24 am also showing you Missouri American Water Exhibit
25 13. Are you able to identify that for me as a

1 print-out of the first sheet is usage of Mr.
2 Dzuri nski y' s household from August 2004 to present?

3 A. Right.

4 Q. Second two sheets are a ledger print-out of
5 Mr. Dzuri nski y' s water bill from February 2005 to
6 present?

7 A. Correct.

8 Q. And I' d like to move for admi ssi on of
9 Exhi bi t 13 into evi dence?

10 JUDGE JORDAN: Objection to this document,
11 Mr. Dzuri nski y?

12 MR. DZURI NSKI Y: Something is wrong. I' m
13 not sure.

14 JUDGE JORDAN: Do you want to take a minute
15 to review it if you' d like.

16 (Whereupon, a short break was taken.)

17 JUDGE JORDAN: We' re back on the record.

18 Mr. Dzuri nski y, did you have any objection to Mi ssouri
19 American Water Company' s Exhi bi t 13.

20 MR. DZURI NSKI Y: No.

21 JUDGE JORDAN: Staff, any objection.

22 MS. HERNANDEZ: No objection.

23 JUDGE JORDAN: Then I wi ll admi t Mi ssouri
24 American Water Company Exhi bi t 13 into evi dence.

25 Q. Mr. Matschi ner, if you look at the first

1 page of Exhibit 13, you will see on the right hand
2 column figures for usage?

3 A. Yes.

4 Q. And for example the first one is 7.0,
5 second is 6.0, third is 4.0. What does usage mean on
6 this exhibit?

7 A. It's the number of hundred cubic feet that
8 a customer -- feet that a customer uses a billing
9 quarter. When we read the meter on this, 6 indicates
10 odometer. We read first four from the left. So the
11 last two digits are basically ignored. So the reading
12 dial on the registers are first four from the left.
13 It's like the last two are like the tenth on the
14 odometer on your car. If you take it in some -- like
15 you say I have a hundred thousandth place, not one
16 hundredth point one. It would be regardless if it's,
17 you know, 99 or 01. The reading would still be the
18 first four from the left. We don't look at anything
19 other than those.

20 Q. Now, how many gallons are represented by,
21 for example, a reading of 7.0?

22 A. Of usage? One unit equal 100 cubic feet.
23 One unit equals 100 cubic feet. One cubic foot is
24 roughly seven and a half gallons. It's 7.48. Roughly
25 seven and a half. So one unit is seven and a half

1 gal l ons.

2 Q. One cubi c --

3 A. One cubi c foot is seven and a hal f gal l ons.

4 One uni t woul d be one hundred of those. So roughl y

5 750 gal l ons of water.

6 Q. Just so the record is clear, one uni t of
7 usage equal s 750 gal l ons.

8 A. Correct. Roughl y 750 gal l ons.

9 Q. So, i f you look at that and the 7.0 usage
10 amount is for Mr. Dzurinski y's bill on read date of
11 August 17th, 2010. Seven years of usage and mul ti ply
12 that by 750 gal l ons in order to get the number of
13 gal l ons used; correct?

14 A. Correct. And that's usual l y spel l ed out on
15 the bill as well .

16 Q. For example, I' ll show you what's been
17 previ ousl y marked as Mr. Dzurinski y's Exhi bi t C, whi ch
18 is a copy of hi s bill dated June 3rd, 2010. Whi ch i f
19 you can help me out corresponds to the second row of
20 data on Exhi bi t 13; is that correct?

21 A. That is correct.

22 Q. Because the billi ng date is May 24th and
23 you look in farther up corner of Exhi bi t 13, that's
24 the 10th?

25 A. That's correct.

1 Q. If you look towards the middle of the left
2 page of Exhibit C, you will see it says 100 cubic feet
3 used, and to the right it says six, six units and you
4 see the six corresponds on Exhibit 13?

5 A. That it correct.

6 Q. And it shows you one cubic foot, this is
7 Exhibit C, Mr. Dzurinskiy's actual bill, one cubic
8 foot 7.5 gallons used in this usage period is 4500
9 gallons?

10 A. That is correct.

11 Q. Now you told me before, haven't you, that
12 the average quarterly usage of St. Louis County
13 customer is 22,500 gallons; is that correct?

14 A. That's correct.

15 Q. Mr. Dzurinskiy's bill for May 2010, is 4500
16 gallons of water?

17 A. That is correct.

18 Q. Which is about 20 percent of the St. Louis
19 County usage of water?

20 A. Roughly, yes.

21 Q. Thank you. I have no more question for Mr.
22 Matschiner at this time.

23 JUDGE JORDAN: Thank you. Mr. Dzurinskiy,
24 any cross examination for Mr. Matschiner.

25 MR. DZURINSKIY: I know by myself and I

1 take --

2 JUDGE JORDAN: Do you have some questions?

3 MR. DZURINSKIY: Yes.

4 EXAMINATION

5 QUESTIONS BY MR. DZURINSKIY:

6 Q. When you take water reader meter for
7 obstruction number 1001, you will indicate it was ten
8 cubic feet; right? What's the number it would be
9 under in the machine, whatever you use, the device, if
10 you see the reading of water meter is ten or one; is
11 that going to be ten; right?

12 A. I'm not following -- if you're saying the
13 register reads 000 -- I'm sorry 000101.

14 Q. Ten cubic and on one, 1/100th, what exactly
15 are you going to enter in the reader. You just said
16 you don't take the last two numbers; is that correct?

17 A. That is correct.

18 Q. So, if the device will show ten cubic and
19 on one, are you going to put just simple ten; right?

20 A. Correct. 0010.

21 Q. So it's going to be 10895, what number are
22 you going to put; ten?

23 A. Ten.

24 Q. So it means it's been one cubic feet almost
25 difference, but it's still if the bill will show one

1 cubic difference; right? It will show number ten; is
2 that correct?

3 A. That's correct.

4 Q. If the next day from 1091 it is going to be
5 11, it seems to be one cubic feet was not can you
6 knowed in this type of on the day of the reading?

7 A. On the day of the reading, but that's for
8 the three months previous.

9 Q. What I mean if the next day somebody will
10 go and at that time reading from its water meter, it's
11 going to be 1101, somebody can assume yesterday was 10
12 and the next day is going to be 11; is that right? I
13 have no -- if you look at the water meter and just
14 look it says today 11., yesterday was 10, how can it
15 happen in one cubic feet in one day was spent?

16 A. Right.

17 Q. I notice it a couple of times before your
18 people take reading sometimes I see if my water bill
19 it's difference of something during one day I have a
20 difference of one cubic. I know it's not right. I
21 just explained why it's happened, but it could be one
22 cubic; is that correct?

23 A. I think I follow your question.

24 Q. But you just understand what I mean; okay?

25 JUDGE JORDAN: Okay.

1 MR. JONES: If you understand.

2 A. I think I understand.

3 Q. It means it can be kind of confusion for
4 anybody that just reads the water meter next day and
5 difference could appear as one cubic feet?

6 A. Right.

7 Q. I have no more questions.

8 JUDGE JORDAN: Any more questions? Does
9 staff have any questions for Mr. Dzurnski y?

10 MS. HERNANDEZ: No.

11 FURTHER EXAMINATION

12 QUESTIONS BY MR. JONES:

13 Q. I have one. You stated the Neptune
14 standards, where were you pulling those from?

15 A. Neptune has standards for their meters that
16 they guarantee the meter accuracy between one half
17 gallon perameter to 20 gpm. I'm quoting the 5/8th
18 meter.

19 Q. Do they produce it in a manual or pamphlet
20 or that comes in the box of the meter? How is it
21 produced to --

22 A. That's on their web site. It's with all
23 the documentation of theirs. They meet AWWA
24 standards. It has all that information on line and
25 then in some of the documentation that's in some of

1 their brochures and flyers. It's public knowledge if
2 you want to get that.

3 Q. And that's not based on the type of meter.
4 It's a global full normal rating regardless of the
5 meter or is it specific to meter?

6 A. Well, flow rates that the meter is accurate
7 will depend upon its size. 5/8th meter that they
8 guarantee between one half gallon per minute and 95
9 percent to 20 gpm. As the meter sizes grow, they have
10 different flow rates where they are accurate. Larger
11 meters are not accurate at lower flows. But if your
12 house requires, you know -- or you know doesn't
13 require higher rates of flows, that's why a smaller
14 meter is put in there because typically you're using
15 smaller amounts of water. So everybody would be using
16 lower flows and these meters are more accurate at
17 those ranges. I'm not sure if I answered your
18 question.

19 Q. You did. I have nothing further. Thank
20 you.

21 JUDGE JORDAN: I have a few questions for
22 you. I want to clarify a few things and I think it
23 will be very helpful. Let's take a look -- there are
24 two meters before you. Let's take a look at the one
25 we've been using as an exemplar. The one that's

1 clean. You stated that there are basically two hands
2 -- we'll call them hands?

3 A. Okay.

4 JUDGE JORDAN: One is the long needle and
5 one is little triangle one. They both move?

6 A. That is correct.

7 JUDGE JORDAN: The smaller one moves
8 visibly; is that correct?

9 A. It's more visibly.

10 JUDGE JORDAN: More like --

11 A. It's called flow indicator or leak
12 indicator. And that's because, you know, it shows
13 movements on very small amounts of water.

14 JUDGE JORDAN: Okay. I also recall that
15 the two hands, if I remember your testimony correctly
16 move in opposite directions; is that correct?

17 A. That's correct. It's as a gear it meets up
18 with the next one that gear turns the opposite.

19 JUDGE JORDAN: So if one is moving
20 clockwise, the other one would have to be moving
21 counterclockwise.

22 A. Yes. As the cogs meet up --

23 JUDGE JORDAN: Can you give me what the gear
24 ratio is to that?

25 A. I don't know the specifics.

1 JUDGE JORDAN: I got the impression from
2 your testimony that while it might be possible to
3 observe a triangle moving, that the pointer shaped
4 one, the larger hand, while it moves, its movement may
5 be undetectable?

6 A. To the naked eye.

7 JUDGE JORDAN: Right?

8 A. Correct.

9 JUDGE JORDAN: So that person watching it
10 could not see it move. Does it ever happen that you
11 can actually watching that day and you actually see it
12 move?

13 A. The sweep hand?

14 JUDGE JORDAN: Yes.

15 A. Oh, yes. Absolutely. Even at low rates,
16 if you look at hash marks on here you note where it's
17 at and wait for a full minute or maybe five minutes
18 you will see if it's moved from that hash or closer to
19 the next hash, or if it's in between and you can
20 measure the distance that way. If it's at a higher
21 rate, the flow indicator is going to be moving. So
22 that's all you see is little red blur and sweep hands
23 is going around like a second hand on a clock, pretty
24 quickly.

25 JUDGE JORDAN: And what kind of flow rate

1 would it take to reach that?

2 A. To get the sweep hand to move that
3 noticeable, I would say -- I'm not sure exactly.

4 JUDGE JORDAN: It's theoretically possible.
5 I'm wondering if that actually happens.

6 A. Oh, yes. Flushing a toilet you see that
7 move easily.

8 JUDGE JORDAN: All right. Okay. I wanted
9 to get a little bit about the units on Missouri
10 American Exhibit 13. And let's look at that last
11 column where it says at the top usage 7.00. Any 1.00
12 means 7.5 gallons. Do I have that correct?

13 A. Yes. Any 1.0 means seven and a half -- I'm
14 sorry. 750.

15 JUDGE JORDAN: Okay. 750 gallons.

16 MR. JONES: It's one hundred cubic feet.

17 JUDGE JORDAN: Each one to the left of the
18 decimal is 100 cubic feet; is that correct?

19 A. That's correct.

20 JUDGE JORDAN: And as to this way that you
21 read these meter -- can you hand me this one, the
22 clean one. I'm looking at these numbers here. I see
23 000001.

24 A. Yes.

25 JUDGE JORDAN: When you take a reading, you

1 Look at the middle three numbers; is that correct?

2 A. The numbers from the far left reading left
3 to right, so four numbers from the left to the ride.

4 JUDGE JORDAN: Okay.

5 A. If you enter a read for that meter it would
6 be 0000.

7 JUDGE JORDAN: Mr. Dzurinskiy made the point
8 that, you know, the last two numbers might be 95?

9 A. Correct.

10 JUDGE JORDAN: But basically what you're
11 doing is rounding it down, aren't you?

12 A. I guess so in a sense.

13 JUDGE JORDAN: So he might have used another
14 95 on that day, but Missouri American would not be
15 billing him for it; is that correct?

16 A. That's correct.

17 JUDGE JORDAN: That's what I thought.

18 Counsel, I see you have got these demonstrative
19 exhibits on the table. Did you intend to put those
20 into evidence or are we just going to have?

21 MR. JONES: My intent was just to have
22 testimony.

23 JUDGE JORDAN: I think that's all I have.
24 Redirect?

25 MR. JONES: No redirect, Your Honor.

1 JUDGE JORDAN: Anything to recross for this
2 witness, Mr. Dzuri nski y?

3 FURTHER EXAMINATION

4 QUESTIONS BY MR. DZURINSKI Y:

5 Q. I have some questions about the water meter
6 standards. The question before that one you just said
7 this information was available to anybody from the
8 Internet, from the water company. So how it happened
9 I could not obtain this information from your company
10 since I discovered everything about the water meter
11 how they perform, back flow. I'm interested in
12 because I couldn't find any information from any place
13 besides I contacted Neptune Company and they told me
14 what I just said about how they perform.

15 A. My understanding is if you go to Neptune's
16 web site they have information about their meters.

17 Q. And it was nothing specifics how they
18 perform on back flow?

19 MR. JONES: If I may, the information Mr.
20 Matschiner was just referring to was in effect sent to
21 you in response to your data request.

22 Q. Just made specifications about how the
23 water meter performs in the back flow. I couldn't get
24 anything about that, about the test, whose standards,
25 who established standard, federal government, American

1 Water Association. I couldn't find any kind of
2 information about that. And what I was told it
3 appears my flow is 60 times less. 60 times less
4 because you made the test, something about one or two
5 gallons per minute. What I estimate about the cubic
6 feet in area of water is going to be one gallon of
7 water per hour, I would claim. It's still calculated
8 to be two cubic feet. So it means 60 times less. How
9 do you perform this test if Neptune told me it's
10 impossible to do the test in their facility. How
11 could you?

12 MR. JONES: I'll object to the form of the
13 question. It assumes facts for which there is no
14 foundation and it's generally confusing and
15 irrelevant.

16 JUDGE JORDAN: There is a lot of there.
17 Can you break down your question?

18 Q. I will break it down. I was told the water
19 company has not equipment to measure about what I
20 claim. The range of the water meter. What kind of
21 equipment do you use to determine low flow which is 60
22 times less or at least for that I show on the paper
23 that you just show me?

24 A. We have a certified test bench that has --
25 you can set the flows on it at any rate that you

1 choose. And in 1/8th of a quarter per minutes is four
2 times the lower than their guarantee.

3 JUDGE JORDAN: Maybe I can clarify here.
4 You said you describe it as certified. Certified test
5 benches; is that correct.

6 A. Yes.

7 JUDGE JORDAN: Where does the certification
8 come from?

9 A. They typically were calibrated, maybe
10 that's the words I should have used. They are a
11 calibrated test bench is what I should have used.

12 JUDGE JORDAN: Okay.

13 A. I apologize.

14 JUDGE JORDAN: Can you tell us who does
15 calibration?

16 A. The city of St. Louis has their meter shop
17 department and had calibrated those test machines.
18 I'm not sure what facility that they had those on.
19 But they were --

20 JUDGE JORDAN: You believe it's the
21 municipal entity of the city of St. Louis?

22 A. Correct.

23 JUDGE JORDAN: Could it possibly be
24 Department of Agriculture weights and measures
25 department?

1 A. I honestly don't know.

2 JUDGE JORDAN: Fair enough. I think the
3 question that I'd like to get to is, this is done by
4 someone who is not Missouri American Water Company; is
5 that correct? In other words, some third person?

6 A. Right.

7 JUDGE JORDAN: Thank you. You may resume
8 your questions if you wish.

9 Q. My question is again about back flow. This
10 certificate indicates or some statement shows how it
11 applies the range how the water meter can read
12 correctly. What is the range. It's most more part
13 because like I receive information from the Neptune.
14 They told me they are not required to test this water
15 meter in back flow; is that correct?

16 MR. JONES: Again, I object compound
17 question. It assumes facts not in evidence and have
18 not been admitted into evidence.

19 JUDGE JORDAN: I'm going to sustain that
20 objection. It sounds like you're asking him about
21 something that you heard, not that he heard?

22 Q. I'm asking the question if they can test in
23 that certification from the city of St. Louis or
24 whatever certifies this machine, whatever if it just
25 shows the range if it can register water and back flow

1 exactly, the range I came to -- if it's possible.

2 MR. JONES: Objection to form.

3 JUDGE JORDAN: I don't understand the
4 question. You may answer if you understand the
5 question. But I did not understand the question.

6 A. I don't understand the question. I'm
7 sorry.

8 Q. If your test can register back flow one
9 gallon per hour, not per minute what I just showed in
10 back flow?

11 A. So one gallon per hour would be to five
12 gpm. A gallon per minute would be 1/60th of a gallon
13 per minute is that what you're saying?

14 Q. Yes.

15 A. I don't know how much accuracy that they
16 can give. But what is guaranteed by the manufacturer
17 is one half of a gallon per minute accuracy, and this
18 meter tests within the our regulated testing range.
19 This meter tests fine.

20 Q. But that's going forward, not backward?

21 A. For the area we're required to test.

22 Q. But it's when it goes forward, not
23 backward; is that right?

24 A. These meters aren't intended to run
25 backwards.

1 Q. But can it prove accuracy if it goes 1/6th
2 of one gallon?

3 A. We're not required to.

4 MR. JONES: If the answer is no, then you
5 can say that.

6 JUDGE JORDAN: Any more questions for
7 witness?

8 Q. No.

9 JUDGE JORDAN: Does staff have any questions
10 for this witness on recross.

11 MS. HERNANDEZ: No. Thank you.

12 JUDGE JORDAN: I'm going to ask your
13 indulgence for a few more questions and I want to make
14 sure I read this correctly. I'm looking at Missouri
15 American Water Company Exhibit 4. This may sound like
16 a foolish question because I'm not an engineer so I
17 don't understand these matters. That's why I
18 appreciate the testimony I'm receiving today, but as I
19 look at the velocity test on the second page, I have
20 been taking these numbers at the bottom where it says
21 percent final as percentage of accuracy and I see
22 99.5, 98, and then I see 10. Does that mean this
23 meter and this test was 90 percent inaccurate?

24 A. That is correct.

25 JUDGE JORDAN: Tell me what this test --

1 what happened that made it 90 percent inaccurate.

2 What were you measuring at that point?

3 A. Low flow. 1/8th of a gallon per minutes.

4 JUDGE JORDAN: Forward or backward?

5 A. Backward.

6 JUDGE JORDAN: I see that test date was
7 November 10th of 2010. Those are my questions for
8 you. And since I did a re-recross examination, I'll
9 allow some further direct if you like.

10 MR. JONES: No. Thank you, Your Honor.

11 JUDGE JORDAN: Anything from staff for this
12 witness.

13 MS. HERNANDEZ: No. Thank you.

14 JUDGE JORDAN: Thank you very much. You
15 may step down. Missouri American, would you like to
16 present your next witness.

17 MR. JONES: Yes. I'd like to ask Mr. Derek
18 Linam to come to the witness chair.

19 JUDGE JORDAN: Please raise your right
20 hand. Do you solemnly swear the testimony you're
21 about to give will be the truth, the whole truth, and
22 nothing but the truth?

23 MR. LINAM: Yes, I do.

24 JUDGE JORDAN: You may proceed.

25 EXAMINATION

1 QUESTIONS BY MR. JONES:

2 Q. Thank you, Your Honor. Again, Mr. Linam,
3 would you state and spell your full name for the
4 record.

5 A. Derek Linam; D-e-r-e-k; L-i-n-a-m.

6 Q. And who is your present employer?

7 A. Missouri American Water Company.

8 Q. What is your present position with Missouri
9 American Water Company?

10 A. Engineering manager.

11 Q. And what is your educational background?
12 What is your college degree?

13 A. I have a bachelor of science degree in
14 civil engineering from University of Arkansas.

15 Q. Are you a licensed professional engineer in
16 the state of Missouri?

17 A. Yes, I am.

18 Q. Do you have 19 years experience in the
19 water industry?

20 A. Yes, I do.

21 Q. And how did your water company experience
22 began in 1991?

23 A. I started with the water company in 1991
24 the in engineering department as system engineer.

25 Q. And was that St. Louis water company?

1 A. St. Louis County Water at the time?

2 Q. What were your duties?

3 A. My duties were to handle the construction,
4 relocation of existing water mains or replacement of
5 existing water mains whether or not it was in
6 conjunction with highway construction, road
7 improvements, new development, that kind of thing.

8 Q. And did you change positions in 1996?

9 A. I did. In 1996, I moved to our central
10 county water treatment plant as operations engineer.

11 Q. And what did operations engineer do?

12 A. Oversaw and ran operations of the plant,
13 water treatment operators, the coordination of the
14 maintenance projects and improvement that needed to go
15 on.

16 Q. And is St. Louis County central plant the
17 largest water plant in actually American Water
18 Company's system?

19 A. Yes, it is.

20 Q. How many customers does St. Louis County
21 water have?

22 A. A little over 350,000.

23 Q. And how many miles of main are in St. Louis
24 County's distribution system?

25 A. Approximately 4200 miles.

1 Q. How long would the water main stretch few
2 I laid it out end to end; 4200 miles?

3 A. At least from New York to LA and back to
4 St. Louis.

5 Q. So in 1998, did you change positions at the
6 water company?

7 A. Yes, I did. In 1998, I was -- I became
8 senior production engineer in our DLCC department,
9 which is distribution load control center that handles
10 all the operations of the tank sites and pump stations
11 throughout the distribution system and we manage the
12 amount of flow into the water system from the plants.

13 Q. And in 1999 did you change positions?

14 A. Yes, I did. I became superintendent for
15 our South County and Meramec water treatment plants in
16 the southern portion of our distribution operations.

17 Q. And did you again change positions in 2000?

18 A. Yes, I did. In 2000 I was promoted to
19 engineering manager position in our main office in
20 charge of all of the engineering for St. Louis County
21 or Missouri American.

22 Q. And how did your position change in 2003?

23 A. In 2003 I took a position as operations
24 manager of our distribution system in St. Louis County
25 where I oversaw the construction and maintenance

1 activities within the distribution system.

2 Q. And then as you told us in 2008 you assumed
3 your present position as engineering manager?

4 A. Correct. I took engineering manager
5 position in 2008, which is where I'm currently at now.

6 Q. For your education and extensive work
7 history at Missouri American Water, are you quite
8 familiar with the water pressure throughout the
9 Missouri American St. Louis county system?

10 A. Yes, I am.

11 Q. Are there any regulations or rules
12 regarding what the pressure levels must be for the St.
13 Louis County system?

14 A. The DNR, Department of Natural Resources
15 has 20 PSI minimum requirement that we maintain in any
16 operation, the water system must maintain in the
17 distribution system.

18 Q. I'll show you what's been marked Missouri
19 American Water Exhibit 8. And can you identify that
20 for me as ten code state regulation 60-4.080 and then
21 flipping to the second page of the exhibit, (9). Does
22 that regulation state public water system must
23 maintain minimum positive pressure of 20 pounds per
24 square inch, (20PSI) throughout the distribution
25 system under all normal operating conditions?

1 A. Yes, it does.

2 Q. Are you aware of any other regulation --

3 A. No, I'm not.

4 Q. -- in the state of Missouri regarding the
5 required pressures in St. Louis County for water
6 treatment systems?

7 A. No. I'm not.

8 Q. Are you aware of any rule saying that water
9 pressure cannot fluctuate in a water system?

10 A. No, I'm not.

11 Q. In fact, must water pressure necessarily
12 fluctuate throughout the water system?

13 A. Yes. It does. It's going to vary for
14 geographic reasons as well as operational needs.

15 Q. And so you telling me that there are
16 different pressures in a water system depending on
17 where the geographic area you're located?

18 A. Yes. That's correct. Depending on what
19 elevation you are in reference to say the plants or
20 source, or the origin of water, the source of the
21 origin and where it's pumped into the distribution
22 system. The pressure would vary based on that
23 elevation difference.

24 Q. Is there a rule of thumb for how a change
25 in elevation affects water pressure?

1 A. Yes. I guess it's physics, not necessarily
2 rule of thumb but forever one PSI you will have a
3 change in -- let me say it differently. For every
4 2.31 feet difference in elevation, the water pressure
5 will change by one PSI.

6 Q. So the difference in pressure in different
7 parts of the system occur and have to occur because of
8 change in geographic location?

9 A. Right. Because of change in elevation.

10 Q. What about differences in pressure in the
11 same location at different times? Can and do those
12 changes in pressure occur?

13 A. They do. The other things that influence
14 that would be just operation of the system itself.
15 The changes in demand. As demand increases, load
16 increases, as flow increases pressures will drop or
17 reduce, as you have friction losses or pressure losses
18 throughout the pipe.

19 Q. So when everybody gets up at half time
20 watching the Superbowl?

21 A. Right. If you have a significant number of
22 people flushing their toilet at the same time it
23 create high demand on the system. You notice pressure
24 changes or high demand usage in the summer time due to
25 hot weather or fire is going on in the area and there

1 is a lot of flow due to a fire or water main break.
2 Anything that's changing the flow in the system is
3 going to have an effect on the pressure in the
4 immediate area.

5 Q. Now, how does Missouri American water in
6 St. Louis County system control water pressure?

7 A. Well, we control it at our tank sites and
8 booster sites as well as at the plants. And we
9 maintain 30 PSI as a company minimum here in St. Louis
10 County. Essentially we want to keep 30 PSI at the
11 highest elevation in the system. That sort of sets
12 the pressure throughout the rest of the system just
13 due to the difference in elevation.

14 Q. Let's talk about water pressure at a
15 customer's residence. Do you have any general
16 understanding what the typical pressure is inside a
17 residence? What factors contribute to that pressure?

18 A. Yes. The pressure is going to be directly
19 related to what the pressure is in the water main at
20 the residence. Most residences in St. Louis County
21 have a pressure reducing -- I'm sorry pressure
22 regulating valve. Those will typically -- so,
23 consequently if our pressure is 30 they are going to
24 have 30 and their pressure may range anywhere from 30
25 to 80 depending on where their elevation is in the

1 county. Any pressure higher than, again I'm
2 generalizing 75 to 80, their pressure regulating valve
3 is probably going to maintain it below 80. They can
4 adjust that setting. So it depends on person
5 preference what they are setting that regulation
6 number.

7 Q. What can happen in the pressure if a
8 customer's how is higher than pressure in the main
9 service in the house?

10 A. If there is no back flow preventer, they
11 are going to equalize. The pressure in the customer's
12 house, if it increased greater than the pressure in
13 the water main, it will equalize to the pressure in
14 the water main.

15 Q. Now, are you in general familiar with Mr.
16 Dzurinskiy's complaints in this case?

17 A. I am.

18 Q. If Mr. Dzurinskiy is experiencing reverse
19 flow in his meter, how that be prevented?

20 A. By the installation of a back flow
21 preventer.

22 Q. Thank you. No more questions.

23 JUDGE JORDAN: Mr. Dzurinskiy, any cross
24 examination for this witness?

25 EXAMINATION

1 QUESTIONS BY Mr. DZURINSKI Y:

2 Q. Yes. Could you please explain actually the
3 engineer how the water from the station goes to the
4 customer home. How it goes by forcefully or by
5 gravity, how it usually creates a pressure?

6 A. Through pumps, through a series of water
7 mains and the water is pumped into the pipes.

8 Q. Is that located somewhere in the station
9 when I received this water reading?

10 A. They are located at water treatment plant.

11 Q. But I'm talking about I received it from
12 Creve Coeur area where you have two big -- you have
13 pumps over there?

14 A. They are located at water treatment plants
15 and a distribution storage tank sites.

16 Q. So it means it works automatically. If
17 there's not enough water pressure in the pipes so it
18 just adds water or goes by gravity?

19 A. No. The pump would be required to pump it
20 into the pipe. It doesn't happen by gravity at those
21 specific tanks we're talking about. There are a few
22 tanks in our system where it would be by gravity as
23 you say. They are elevated tanks, but the more of our
24 tanks are ground tanks, so there is going to be a pump
25 associated.

1 Q. Such if I have some kind of capacity which
2 can carry, for example, 100 gallons per minutes. If
3 the usage is more, can the pipe carry more than its
4 capacity? I mean if the demand is more than supply
5 what happens in this case?

6 A. The demand is more than supply. Well, the
7 pressure is going to drop.

8 Q. Pressure going to drop?

9 A. And then we turn on pumps.

10 Q. So it cannot distribute as much as it
11 demands in the particular moment; is that correct?

12 A. We would see that and you would turn on a
13 pump to maintain. Our numbers are normal operating
14 pressure ranges.

15 Q. But it still can fluctuate. You cannot
16 exactly at a particular moment create enough pressure
17 to full these pipes?

18 A. No. The pipes are full all the time.

19 Q. Full all the time. You said it fluctuates
20 depending on geographic area. Is it possible if you
21 have two houses next to my house on flat surface and
22 mine is elevated, it could be different pressure in
23 the main pipe to the service?

24 A. I'm sorry. I didn't understand.

25 Q. If you have two house next to mine, for

1 example, they're on the flat surface and mine is
2 located on slope, how much difference could be between
3 my house and different house because of geographic
4 location like you said?

5 A. Are you saying if your house is here and
6 neighbor's house is here?

7 Q. Like here the pipes go and my neighbor's
8 house is like this one. Could water pressure be
9 different in the main approaching his service line and
10 mine. What is the difference between the water
11 pressure, is it same?

12 A. It depends on difference in elevation.

13 Q. Is it, for example, my neighbor's house
14 could not anything like that flow and my house
15 connection about 50 or 60 feet from the house, it
16 would just indicate location because difference in
17 elevation can create different water pressure?

18 A. No. The only -- you're talking about
19 rotation on the meter.

20 Q. Yeah.

21 A. The only time you see rotation on the meter
22 is open a faucet and call for demand.

23 Q. Back flow.

24 A. Back flow -- the only time you get back
25 flow on the meter is if the pressure is going on in

1 your house generated higher than pressure in water
2 mine then it can push backwards.

3 Q. Can you tell me what exactly could the
4 water pressure in the main when my pipe connected to
5 the main pipe correctly because I have reading from
6 digital recorder to show 45 PSI in my home. How much
7 is it in the connection between my main and main pipe?

8 MR. JONES: I'll object. The question
9 assumes facts not in evidence.

10 JUDGE JORDAN: It was a lengthy question and
11 a little complicated.

12 Q. It's complicated because when company try
13 to prove my water goes back flow in the system, how it
14 happens is that if I have 45 PSI. I try to find out
15 how much PSI is in the main pipe, how it get overcome.

16 JUDGE JORDAN: Let's see if he can answer
17 it on hypothetical basis. Let's sort out the
18 question. The question is if you have 45 PSI pressure
19 in your system, your asking him something about
20 Missouri American system. Are you asking him whether
21 that tells him how much pressure is in his system.

22 Q. Yes. I'm asking same point where is my
23 pipe connection to the main pipe, my service line to
24 main pipe on my property, what is the pressure. Can
25 you measure how much pressure in the main pipe at that

1 location?

2 A. If we put a pressure gauge where it's
3 connected, but there is not one installed there.

4 Q. Could you answer -- well, you don't know
5 what pressure, how it can happen, what kind of
6 appliances or whatever I can have in my home?

7 A. The pressure in the main -- if you don't
8 have a pressure regulating valve, the pressure in your
9 main in your house wherever we measure relative to the
10 main in ground, it's going to be very similar. The
11 difference being that over 2.31 feet change you're
12 going to have PSI change plus a few pressure losses
13 due to the fact you have smaller diameter pipes. You
14 get some mine or pressure losses through that smaller
15 diameter pipe.

16 Q. So if the water not fluctuate in your pipe,
17 so it's supposed to be equal in your pipe and my pipe
18 is that correct? If it say idle water in the main
19 pipe and my pipe, if I don't use the water, so it's
20 supposed to stay equal?

21 A. If you don't have a pressure regulating
22 valve, yes.

23 Q. It's supposed to stay equal. So my
24 question is, how this can happen. What is size of
25 your pipe usually going to subdivision next to the

1 house?

2 A. I didn't look, but I would say it's 6 or 8
3 inch diameter.

4 Q. At least 8 inches, at least 8 inches and my
5 pipe connection to my home is about an inch; is that
6 correct?

7 A. I'm sorry.

8 Q. About an inch?

9 A. It's probably three quarters of an inch.

10 Q. So what happens if that water pressure
11 falls in your pipe like this one a couple, how much
12 can fall in my water pressure?

13 A. How much can it what?

14 Q. How much pressure can fall in my pipes?
15 Because it's my understanding pressure in my home
16 creates from your pipes, from the big pipe to the
17 small pipe; is that correct?

18 MR. JONES: I'll object to the compound
19 nature of the question.

20 JUDGE JORDAN: That's a lot of question.
21 Here's the rule. When counsel talks about compound
22 questions -- I sustain your objection. You have to
23 ask one question at a time?

24 Q. Okay.

25 JUDGE JORDAN: You have to ask one question

1 at a time. And you can do this on cross examination
2 also, you can ask a yes or no question. That might
3 narrow it down and so he can understand the question
4 and be able to answer it?

5 Q. My question is how does 45 PSI that was
6 created from your pipes. It's law I can usually
7 say --

8 A. When you say it's created in the pipes,
9 it's a confusing question because it's created from
10 the plant end, the pump at tank site and it's all
11 related from there. And as you have difference in
12 elevation from those sites, along with the losses in
13 pressure that may occur due to flow, that's how your
14 corresponding pressure is what it is at the main
15 outside in front of your house.

16 Q. But does it mean I have something at my
17 home that can create this pressure? It just means
18 water goes from the main pipe and creates special in
19 my pipe; is that correct?

20 A. Correct.

21 Q. My question about what kind of equipment
22 usually by your experience people have in their home.
23 Usually residential area, what can push water from my
24 home, from one three-quarter inch to about 8 inch.
25 How it can happen that my water just only be gravity

1 because how it can create rotation, I mean --

2 MR. JONES: Let me objection to the
3 compound question and assumes a lot of facts not in
4 evidence.

5 JUDGE JORDAN: I'll sustain that objection.
6 Remember, little questions. Little questions, one at
7 a time. I know there is a lot of issues, but in order
8 for us to understand; guys like me are not engineers.
9 You have to break it down in little bits for us.

10 Q. I'm sorry. By your experience how much --
11 what kind of treatment should they have in my home to
12 create gravity to push the water back in the main?

13 MR. JONES: Do you understand the question?

14 A. Yeah.

15 JUDGE JORDAN: Okay.

16 A. But it doesn't work by gravity.

17 Q. It doesn't work by gravity?

18 A. You used the word gravity, and it doesn't
19 work by gravity.

20 Q. What kind of equipment? How it works,
21 explain this?

22 A. How does the pressure --

23 JUDGE JORDAN: I need to clarify so that I
24 can understand what question is being asked. You're
25 asking him what determines the water pressure in your

1 system? Is that what you're asking?

2 Q. Yeah. The standard, and I received his
3 answer, but my last question is how it happens if you
4 said not by gravity. What can push the water from my
5 home to the main, what kind of system? Explain.

6 A. When there is no use occur in your home,
7 there is no demand, no faucets opening, no anything,
8 and your hot water heater is heating you get expansion
9 effect, which will increase the pressure on your
10 service line.

11 Q. I'm not talking about -- I just tried to
12 mention if my -- it's not about whether water heater
13 is on, but no usage of water, no appliances. I know
14 heat creates pressure and water will go in less
15 resistance; is that correct? It means I have
16 expansion. It goes from point of higher pressure to
17 lower pressure. Okay. So that means water pressure
18 in your main pipe can be less than in my home. How
19 can it happen?

20 A. Through thermal expansion in a hot water
21 heater.

22 Q. That means water heater is on; right?

23 A. Excuse me.

24 Q. The water heater is on or no appliance in
25 use?

1 A. Did you say if it is on.

2 Q. Yes. But if I don't use the water heater.
3 My question is no one using any appliances, the heater
4 is not on, can the water by itself from your
5 residential -- I don't know how many feet of pipes I
6 have at my home. Can it push the water in the main?

7 A. Typically, no.

8 Q. Typically, that is why I want to find out
9 how it can happen. I just could not understand the
10 reason because I consulted a lot of plumbers and
11 everybody just told me the same. Department of
12 Natural Resource the same. They told me it's
13 impossible. Just only if I have a problem or I have
14 an irrigation system or I have something, a lot of
15 pipes. I mean the pressure much more than main pipe
16 so it can push the water that's why I try to figure
17 how my water can overcome the pressure. That's fine.

18 JUDGE JORDAN: There is no objection to this
19 question. So just question and answer are fine. Do
20 you have other questions for this witness?

21 Q. One more question. You do hear some kind
22 of experience that people in residential area install
23 what kind of conditions they say on my property is
24 back flow preventer?

25 A. I didn't understand the question.

1 Q. You do have experience and hear from
2 somebody that what happened on my property is people
3 installing back flow preventer?

4 A. I don't have any knowledge of that.

5 Q. You don't have knowledge, okay?

6 JUDGE JORDAN: Anything else for this
7 witness?

8 Q. No, that's it?

9 JUDGE JORDAN: Cross examination from staff.

10 MS. HERNANDEZ: No, thank you.

11 JUDGE JORDAN: I have a few questions. I
12 want to clarify some things. Again, not being an
13 expert or engineer, but I heard you mention the term
14 equalization. One of the issues we're trying to get
15 to is what could possibly cause -- if there is any
16 back flow, what causes back flow from a residence into
17 Missouri American's system. This does happen
18 occasionally I understand, does it not, in general
19 through out the system.

20 A. Yeah.

21 JUDGE JORDAN: Throughout St. Louis County.
22 How does that happen?

23 A. Well, like I tried to explain earlier, it
24 could typically happen from you not using any water in
25 the home, but you have used, let's say, hot water

1 enough that your hot water heater fills back up with
2 cooler water.

3 JUDGE JORDAN: Uh-huh.

4 Q. Hot water heater then kicks on and is
5 heating it up. Water is not compressable so as it's
6 heating it's trying to expand. There is expansion
7 that's occurring. It's increasing the pressure on the
8 system. If you're using water it won't happen, but if
9 you don't have anything turned on it will continue to
10 increase and it will stay equal with -- actually if
11 you started out lower than on your main your pressure
12 in your service line will climb until it reaches the
13 pressure in your main. And then they will stay equal
14 until it finishes its heating process.

15 JUDGE JORDAN: Now, other than a heater,
16 are you familiar with any factual scenario that causes
17 back flow?

18 Q. Not on residential.

19 JUDGE JORDAN: Okay. That's all the
20 questions I have for this witness. And since I have
21 asked some questions on cross examination, Missouri
22 American, do you have any redirect.

23 MR. JONES: No, Your Honor, we don't.

24 JUDGE JORDAN: All right. Mr. Dzurnski y,
25 do you have any other recross?

1 MR. DZURINSKIY: No. I think it's enough.

2 JUDGE JORDAN: Anything from staff.

3 MS. HERNANDEZ: No, thank you.

4 MR. JONES: I'm not sure if I moved to
5 admit Exhibit 8.

6 JUDGE JORDAN: I'm not sure whether did you
7 either. Would you like to?

8 MR. JONES: I move to have Exhibit 8 into
9 evidence.

10 JUDGE JORDAN: Any objection to this
11 document, Mr. Dzuri nski y.

12 MR. DZURINSKIY: No.

13 JUDGE JORDAN: Staff, any objection.

14 MS. HERNANDEZ: No objection.

15 MR. JONES: Before I let this witness go,
16 I'd like to make sure I don't have any exhibits.

17 JUDGE JORDAN: I'll go ahead and admit
18 Exhibit 8 into the record.

19 MR. DZURINSKIY: That's fine. Nothing else
20 for this witness.

21 JUDGE JORDAN: And if I understand it that
22 concludes Missouri American Water's case in chief.

23 MR. JONES: Yes, Your Honor.

24 MS. HERNANDEZ: Would it be okay time to
25 take a quick rest room break?

1 JUDGE JORDAN: We'll take a short break and
2 we'll resume.

3 (Whereupon, a short break was taken.)

4 JUDGE JORDAN: We're back on the record.
5 We've concluded Missouri American Water Company's case
6 in chief.

7 MR. JONES: Yes, Your Honor.

8 JUDGE JORDAN: We're ready for staff's case
9 in chief.

10 MS. HERNANDEZ: Yes. The staff calls Mr.
11 Steve Loethen.

12 JUDGE JORDAN: Would you raise your right
13 hand? Do you solemnly swear that the testimony you
14 are about to give will be the truth, the whole truth
15 and nothing but the truth?

16 MR. LOETHEN: I do.

17 JUDGE JORDAN: You may proceed.

18 EXAMINATION

19 QUESTIONS BY MS. HERNANDEZ:

20 Q. Good afternoon. Can you state and spell
21 your name for the record please?

22 A. Steve L-o-e-t-h-e-n.

23 Q. Where are you employed?

24 A. Missouri Public Service Commission.

25 Q. And in what capacity are you employed?

1 A. Utility operations technical specialist in
2 the water and sewer department.

3 Q. And how long have you held that position?

4 A. Almost eleven years. It will be eleven in
5 January.

6 Q. And what are the duties that are part of
7 that position?

8 A. Mainly we do inspections, annual
9 inspections on water and sewer systems that we
10 regulate. We also work complaint investigations.
11 During rate cases we perform operational audits and
12 also help the audit team during the rate case when
13 they need help in deciding what things are useful out
14 in the field. We go verify it. And verify prudence.

15 Q. And do you have any previous experience
16 that would be applicable to the complaint?

17 A. Yes. I worked in water -- waste water
18 industry for eight years previous to this position.

19 Q. And what type of duties did you complete
20 during those eight years?

21 A. When I was -- whenever I left that position
22 I was manager of the new operations or new facility.
23 I help work with the engineers to design waste water
24 treatment plant and also to kind inform between the
25 engineers and contractors and they go then get it

1 built the way the engineers drew it up. And I also
2 looked at new or new customers and tried to
3 incorporate when a contractor came in and put in a new
4 treatment plant, we tried to expand it out to any
5 other municipalities, not municipalities, but any
6 other customers and tried to expand the plant and get
7 it built bigger to handle more capacity later.

8 Q. Did you complete an investigation and file
9 a recommendation in this matter?

10 A. Yes, I did.

11 Q. And do you have any changes to make to that
12 recommendation today?

13 A. No, I don't.

14 Q. And is your investigation and
15 recommendation still correct to the best of your
16 knowledge, information, and belief?

17 A. Yes, it is.

18 Q. At this time I will move to admit staff
19 Exhibit 01, which I believe we've handed everyone a
20 copy.

21 JUDGE JORDAN: All right. Earlier I asked
22 staff to I stated that staff's exhibits would be
23 marked with Roman numerals, but I'm going to change
24 that this is already marked as Staff-01, which is
25 sufficient at this date to keep it straight from

1 Missouri American Water Exhibits. And this is the
2 only exhibit you plan to introduce; is that correct,
3 counsel?

4 Q. Yes, Your Honor.

5 JUDGE JORDAN: I think that will be okay.
6 The record will be clear this is staff's investigation
7 and recommendation. Is there any objection, you have
8 offered this into evidence?

9 Q. Yes. I move to have it admitted into
10 evidence?

11 JUDGE JORDAN: Objections.

12 MR. JONES: No objection.

13 JUDGE JORDAN: Objections, Mr. Dzurnski y.

14 MR. DZURNSKI Y: No.

15 JUDGE JORDAN: I'll enter this into the
16 record.

17 Q. Thank you. I have a few more questions.
18 After the investigation was filed on March 12th, 2010,
19 did you complete any other investigative tasks?

20 A. Yes. I went out and on site one more time
21 I went out. In some of Mr. Dzurnski y's filings he
22 indicated that other customers in the area were having
23 similar problems that he was having. So I went out
24 and investigated two houses I'd say above and below
25 the street on the same side and houses on the opposite

1 side of the street. All those homes I believe to be
2 on the same main Mr. Dzurinskiy is on and I found no
3 one else was having ratcheting motion or having the
4 same issue that Mr. Dzurinskiy was having.

5 Q. And what did you observe on the
6 complainant's meter that day?

7 A. It was ratcheting like the original
8 complaint.

9 Q. Now, earlier the complainant entered
10 Complainant's Exhibit F. May I hand that to the
11 witness, Your Honor?

12 JUDGE JORDAN: Please do.

13 Q. Do you remember that Exhibit?

14 A. Yes.

15 Q. Now, I'm going to hand you the original.
16 Well, let me ask you, is that an original of the
17 pressure recorder?

18 A. Yes.

19 Q. And do you remember when you took that
20 reading?

21 A. I installed it on 5-18 and took it off on
22 5-19.

23 Q. And if you would, can you compare those two
24 documents and make sure that that is an exact copy of
25 the original?

1 A. Yes.

2 Q. And I'm sorry. Can you pass that around?

3 A. I wouldn't say it's exact copy. I have
4 wrote some things on this one since we made the copy
5 and sent it. In getting prepared for the hearing
6 today, I wrote some things on it.

7 Q. Okay. Besides the words on the paper, can
8 you compare the pressure recorder line all the way
9 during the hours that you took it and see if it's an
10 exact copy?

11 A. Yes. It appears to be.

12 Q. Do you remember if a copy of the original
13 was sent to the complainant?

14 A. Yeah, I believe we eventually sent a copy
15 of this.

16 Q. And looking at the copy that the
17 complainant entered as an Exhibit, do you remember if
18 the copy that was sent to him had that writing?

19 A. On his Exhibit or my writing?

20 Q. Well, both?

21 A. My exhibit did not have -- this pressure
22 recording did not have this writing. I just did that
23 in preparing for the hearing last week. And no, I did
24 not put any writing. It's my understanding this is
25 all we sent him was a copy of the pressure recording.

1 Q. What writing do you have? Can you just
2 explain or state what you wrote.

3 A. I just put the date or the address and then
4 date it was installed and date it was taken on.

5 Q. And that doesn't -- your writing does not
6 affect the reading of the pressure recorder?

7 A. No. No, it doesn't.

8 Q. I believe that's all the questions I have
9 for this witness. So I'll tender him for cross?

10 JUDGE JORDAN: All right. Cross examination
11 from Mr. Dzuri nski y?

12 EXAMINATION

13 QUESTIONS BY Mr. Dzuri nski y:

14 Q. Yes. Maybe I'm mistaken. Is that the same
15 date what you I just wrote down, what is happening in
16 March? Because I may be mistaken and hear about that
17 you said it was taken in May. It seems it was taken
18 in March; is that right?

19 A. My records are it was in May.

20 Q. How did that happen. I was handed this
21 recording when we were all on my property in May, but
22 it was taken in March before the hearing. There is
23 something wrong.

24 A. I can review my records. Whether it was
25 March or May, it's really not --

1 Q. I know exactly. You gave me in May when
2 everybody from St. Louis County was on our property.
3 You handed it to me?

4 A. Okay.

5 Q. It seems it was taken in March. I'm
6 positive about that. I can check the calendar, but
7 that's when it says it was installed?

8 Q. So was, is that March or is that May?

9 A. As far as I know it was May. But March or
10 May.

11 Q. Can you check your records?

12 A. I have that May 18th is when I was -- I
13 went to Mr. Dzurinskiy's house.

14 Q. It was St. Louis County.

15 A. And I also have in March I was Missouri
16 American St. Louis, but it doesn't say Roman's
17 complaint. But regardless of the discrepancy, it's
18 not going to make a difference in the pressure or --

19 Q. Okay. This is a graph of the pressure,
20 either in March or in May.

21 A. Right.

22 Q. Okay.

23 MR. JONES: Any more questions for this
24 witness.

25 Q. I have a lot of questions.

1 JUDGE JORDAN: Let's hear them. Remember
2 keep them short, bite size.

3 Q. Mr. Loethen, can you just tell me, any case
4 is unique like mine when you go to investigate some
5 complaints?

6 A. Yes. I see a lot of unique things.

7 Q. Yeah. What would be unique about that one
8 exactly. I mean how many cases did you have like
9 mine?

10 A. Have I seen ratcheting with the movement in
11 your meter; this is my first one.

12 Q. So it's the first time. So, it means you
13 can give opinion or just statement that you have
14 experienced about that one case completely a hundred
15 percent?

16 A. Not a hundred percent.

17 Q. You can not been sure because it's your
18 first case?

19 A. Not a hundred percent, no.

20 Q. I asked you this question.

21 A. Like I said, we can't investigate all your
22 plumbing in your home. There is just too many
23 variables to say 100 percent.

24 Q. You are the only person who was inside and
25 outside of my home?

1 A. I don't know.

2 Q. Yes, I mean no one in this room from the
3 water company who was inside. You were the only one
4 person who was in my home a couple times?

5 A. I don't know what they did on their
6 investigation if they were in your home or not.

7 Q. You inspected some of my appliances in my
8 home?

9 A. I entered your home and observed your
10 turned off -- what I believe the main disconnect in
11 your home.

12 Q. Can I see -- I read your report very
13 carefully. You just gave it stopped ratcheting. Your
14 report did not indicate what exactly -- what and who
15 turned it off. Would you tell us?

16 A. You turned it off. You're asking who
17 turned off the water?

18 Q. When you came in the room?

19 A. You did.

20 Q. I did it.

21 A. Yes.

22 Q. Are you sure exactly?

23 A. Yes.

24 Q. I under oath will tell you what exactly
25 happened. I told you --

1 MS. HERNANDEZ: I'll object. This witness
2 is now testifying, not the witness. He is testifying.

3 JUDGE JORDAN: You can only ask questions.

4 Q. Yes. So you just confessed that I turned
5 this off; right?

6 A. Yes.

7 Q. This is objectionable. I disagree about
8 that one. I never touched anything in your presence?

9 JUDGE JORDAN: This is not the time for you
10 to testify. And maybe later you can tell me why that
11 makes a difference?

12 Q. It's a big difference. Did you check my
13 appliances at home?

14 A. No.

15 Q. You didn't check anything?

16 A. I observed what I could from the entrance.
17 It was a small utility room. I saw that you pointed
18 out that you had a new hot water heater installed.

19 Q. Uh-huh.

20 A. I saw that or got the number name and
21 number off of it. And I notice that you have some
22 kind of boiler heating system, but you indicated it's
23 not in service. I did not go look and all your
24 toilets and sinks and stuff like that, no.

25 Q. Did you find something wrong on my

1 property, not licensed plumber or just something
2 illegal by your opinion?

3 A. I have not been informed of anything that's
4 illegally installed in your home, no.

5 Q. Actually in your report you just indicated
6 that this issue -- it's a high technical issue, is
7 that right, you indicated it has a lot of
8 complications. It's a high technical issue. I am
9 wondering what kind of task everything you applied to
10 make your decision or opinion about something wrong
11 with my plumbing system?

12 A. I'm not -- I don't think I said it was high
13 tech. I think I said I never saw it before. And what
14 I used to determine my conclusion was when you turn
15 the water off it stopped doing it, which my conclusion
16 is it's in your home that's causing the problem. When
17 you turn the water back on it started doing it again.

18 Q. But just it says it's your opinion; right?

19 A. Right.

20 Q. It's not a statement. And did you state in
21 your report that there is possibility that when it's
22 low flow the water meter cannot register the water.
23 Did you get this information?

24 A. I asked Missouri American to do a flow test
25 on the water meter both forward and backwards. They

1 sent the results to the forward test and it passed.
2 And then when they did the backward test it showed on
3 the very, very lowest flow that it wouldn't pick up a
4 reading.

5 Q. You indicate in your report you contacted
6 American Water Work Association and Neptune, it's in
7 your report, you contacted them. Who did you contact
8 and what information did they provide you?

9 MS. HERNANDEZ: Your Honor, if I may hand
10 the witness the copy of the report so he can --

11 Q. Why is -- it's in the March report?

12 A. From Neptune I talked to Patrick Brasilia.
13 And from AWWA I talked to Frank Kurtz. And neither
14 one of them could really help me without being on
15 site. The conversation I had with them didn't
16 necessarily influence my decision?

17 Q. I mean did you represent yourself that you
18 were an investigator from Public Service Commission
19 and explain to them what you were looking for?

20 A. Yes.

21 Q. And you could not obtain information from
22 the Neptune exactly about the ratcheting and what is
23 causing the problem or just the water meter?

24 A. They gave me an assumption they thought
25 might be happening.

1 Q. But they did not produce any kind of
2 documents or anything?

3 A. They couldn't without being on site to do
4 the investigation.

5 Q. What is the reason, I mean, did you request
6 them to produce documents or not or manuals, whatever
7 they provide.

8 A. I just asked them how if they have seen
9 this situation before and if so what they think would
10 be causing it, and if they thought a back flow
11 preventer would stop or fix the problem.

12 Q. Can you tell me what exactly your opinion
13 what kind of device -- because I just replaced my
14 water heater I explained and expansion tank. What
15 cause water pressure push from my home to main pipe,
16 is that water or it could be air like you told me the
17 air?

18 A. I don't remember telling you air, but yeah
19 when hot water heater expands, it can push water back
20 like Mr. Linam explained.

21 Q. If I asked you I don't use water heater
22 under normal condition, we assume no one is using hot
23 water, what can cause, push the water backwards, what
24 did you find?

25 A. Not without a mechanical device, nothing.

1 Q. It means if I have no improper mechanical
2 device, it's generally impossible by gravity that my
3 water go in the main type to overcome 45 PSI?

4 A. Yes.

5 Q. Generally it is. We have not a lot of
6 time, if you can go through all your reports. There
7 is a lot of omissions, mistakes. One of them is last
8 one I just pointed out to Mrs. Hernandez about that.
9 I just contacted St. Louis County plumbing department
10 with same issue. You describe it that St. Louis
11 County begin installing expansion tanks a couple years
12 ago because it was mandate from Missouri American
13 Water Company in Jefferson City to install. That's
14 why they decided to install expansion tanks; is that
15 right?

16 A. That's what the St. Louis County inspector
17 indicated. And I also talked to numerous on our water
18 seal staff.

19 Q. Is that right usually what happens install
20 first back flow preventer, and after that it just goes
21 together and install expansion tank? Can you explain
22 why it's happened that they are supposed to install an
23 expansion tank and not back flow preventer?

24 A. If you install or have a back flow
25 preventer on a service line and you have a lot water

1 heaters heating up and it expands, something's got to
2 happen. So it's either going to cause -- if the
3 pressure increases enough over what the pipe can
4 withstand it's going to cause a leak, cause a pipe to
5 burst, or other problems. There is a pressure release
6 value on the hot water heater. If that doesn't
7 function properly, something's got to give. If it
8 does function properly, it purges water. That water
9 purge, if people's home or hot water heater isn't set
10 up properly or drain or something to catch the water,
11 I have had many instances when I say that, I'm not
12 saying Missouri American, you have many instances in
13 the industry if somebody installed a hot water heater
14 without a drain under it and it purged, it can destroy
15 the floor and everything underneath it. This is why a
16 back flow preventer is mandated. That's why St.
17 Louis -- it was indicated to me -- I did not know this
18 for fact. That's why they went to expansion tanks as
19 part of any new hot water heater being install or any
20 new homes had to have expansion tank.

21 Q. You indicated in your last report that St.
22 Louis County requires right now new construction to
23 install back flow preventer, where did you get this
24 information?

25 A. Again, that's what I was told from what I

1 remember. I can't say. I did not look.

2 Q. To my knowledge what I just told them a
3 week ago was because they adopted new code. There is
4 not requirement for residential area in St. Louis
5 counsel to install --

6 MS. HERNANDEZ: I'll object, Your Honor.
7 Right now he is just testifying. If there is a
8 question in there he is welcome to ask it, but right
9 now he is stating what his phone conversation with
10 another agency was?

11 Q. Okay. When you were in my home you just
12 try to push me and told me that I already had back
13 water flow preventer and it was malfunctioning. How
14 did you get this information at very beginning? You
15 indicated I was responsible to fix it. How did you
16 make this assumption that I had this back flow
17 preventer already installed on my property?

18 A. I don't understand the question.

19 Q. You presented me tariffs from the water
20 company indicated what device I'm responsible to fix.
21 I indicated that I did not have back flow preventer
22 because if I had at that time I would probably had my
23 water heater explode or purge the water. So I
24 indicated I did not have a device to fix and you
25 insisted that I had and it did not work. Where did

1 you get this information?

2 A. I don't know that I insisted anything.

3 Q. You insisted about that?

4 JUDGE JORDAN: He is denying your premises.

5 Q. Well, I don't know if it's important. You
6 just indicated in your report that company
7 communicates to me everything that I asked you about
8 to employees who were in my home and tests they
9 perform. And you told me at that time that company
10 did not want to cooperate to you. What does it mean?
11 Did you ask them a question about that?

12 A. Again, you're saying they told you the
13 company said they would not cooperate.

14 Q. Something about this issue because they
15 stated about the test and you indicated you shut off
16 the valve. It was not me. It was water company
17 employees who came on my property and just did this
18 action. I asked you if you could find the report.

19 JUDGE JORDAN: You need to make your
20 question short.

21 Q. Well, I try to make. I want to just point
22 him in the right way. You talked to the company about
23 this?

24 A. Yes.

25 Q. Did you tell me that water company didn't

1 want to cooperate with you about this issue?

2 A. I don't recall saying anything like that.

3 Q. Why didn't you obtain this informational
4 report from the water company?

5 A. I got information from their service orders
6 where they went out and performed their service.
7 Okay.

8 Q. We had a hearing you insisted to install
9 back flow preventer; is that right?

10 A. I don't think it's something I insisted.

11 Q. You recommended?

12 A. It's my recommendation.

13 Q. Did they tell you at that time that I also
14 consult some plumbers and it was improbable just
15 simply to install because it needed alteration; is
16 that correct?

17 A. No, I didn't have alternation. It started
18 with the meter.

19 Q. It's my understanding you said it would be
20 easy to install, only put back flow like this one you
21 don't need to do anything?

22 A. You pull the meter out and put a riser in
23 and put the meter back in the riser. It's four steps.
24 I could do it in a half hour.

25 Q. Could you please tell me the company's

1 response about what was possible, but not practical?

2 MR. JONES: Object to the form of the
3 question. He is asking for hearsay.

4 JUDGE JORDAN: Can you repeat the question
5 please?

6 Q. The water company made the report, you said
7 you responded to that about the workers and I asked a
8 question. Was -- in your opinion was water company
9 could install the back flow preventer, but it was not
10 practical in your opinion?

11 A. We showed up on your premises. We had
12 representatives, I was there along with
13 representatives from water company and St. Louis
14 County, Missouri. And it's my understanding that St.
15 Louis County said that Missouri American -- or it has
16 to be licensed plumber to install back flow preventer
17 because it's a mechanical device and Missouri American
18 indicated they don't have. One, they don't have -- I
19 don't know if they don't have licensed plumbers, but
20 they didn't want to set the precedence of installing
21 because of liability one. Set the precedence of
22 adding things or doing labor on what is your service
23 line.

24 Q. You didn't know about that, that by your
25 experience that this kind of job is supposed to be

1 I like this one. Somebody that has a license?

2 A. I'm not a licensed plumber.

3 Q. So, I understand from your papers the water
4 company on that day did not invite you to be present,
5 what you indicated in your paper; is that right?

6 A. I believe it says --

7 Q. It says they did nothing. They invited St.
8 Louis County, not you?

9 JUDGE JORDAN: Let him answer the question.

10 A. In the mediation it was agreed we would all
11 be there. And what that statement meant --

12 MS. HERNANDEZ: I'm going to object.
13 That's settlement negotiations.

14 JUDGE JORDAN: You probably shouldn't get
15 into things that are said in mediation.

16 A. Okay.

17 JUDGE JORDAN: But you can explain your
18 statement without -- if you can explain the statement
19 to which he refers without referring to settlement
20 negotiations, which include mediation, please do so.

21 A. Can I see the statement.

22 JUDGE JORDAN: What statement are you asking
23 him about?

24 Q. It was in his last request. Data request
25 that shows he just provided the name of St. Louis

1 County director but it says he was not invited on the
2 premises from the water company?

3 A. It says Missouri American invited all
4 individuals present except the staff at Mr.
5 Dzurinskiy's property. That's basically saying that
6 it was a scheduled meeting and they invited the other
7 people. Staff was already coming so they didn't have
8 to invite us. They didn't try to exclude me. I was
9 part of the reason we were going.

10 Q. Okay. My question now the company
11 presented a day that water meter is supposed to deduct
12 water. How many times did you observe my water meter
13 ratcheting?

14 A. Observe?

15 Q. Yes.

16 A. Three, four, five, something like that.

17 Q. Did you notice the flow indicator just when
18 it shows water going backward it did not deduct the
19 water? A?

20 A. I brought a cut away meter to your home.

21 Q. Uh-huh.

22 A. And showed you the gearing how it works.
23 It's actually a lot -- way more than there. You can
24 see all the gears. I showed you when the leak
25 indicator moves all those gears move, so if the leak

1 indicator is -- it's adding and subtracting.

2 Q. I must ask. You did observe on the
3 premises -- did you observe when the indicator goes
4 backward the dial didn't deduct the water, did not
5 register back flow water. Did you see that?

6 A. I don't know if it did or didn't. It's
7 just minute. As I testified or it was explained
8 earlier, when that triangle moves that could be drips
9 of water. So it could be dripping forward and
10 backward and never turn the hand back.

11 Q. But you could observe the indicator go in
12 different flow, quarter flow, it just moves still
13 enough to be visible for your eyes?

14 A. I saw the leak indicator turning both ways,
15 yes.

16 Q. Both ways. So indicated it's possible that
17 water fluctuated in the main pipe could create a
18 ratcheting effect?

19 A. No.

20 Q. Here in your report it is possible. Can
21 you read it?

22 A. What that -- it's possible that in the very
23 very low flows, the .125 gallons per minute, if the
24 meter does not read that coming back, if there is
25 actually that happening, then yes, that flow would not

1 be read. But then when it goes forward again it could
2 possibly be read. Because it is accurate on .125 the
3 other way. If you're talking minute amounts of water.

4 Q. Could you please explain? I just told you
5 still probably in March when I noticed water leak
6 indicator did not rotate during the night. You never
7 answered the question about that one. Why? Could you
8 complain?

9 A. It's irrelevant. I didn't need look at it
10 when it was happening not when it wasn't happening.

11 Q. Because you insisted that I have plumbing
12 problems and you did not indicate what exactly
13 plumbing problem, what exactly you don't know. It's
14 just your opinion that they based on what, what kind
15 of test?

16 A. That's what I told you. That's my opinion
17 on the inspection. I can't guarantee 100 percent that
18 a back flow preventer will solve your problems, but
19 that's my opinion.

20 Q. Do you agree with St. Louis County
21 inspector that inspected in your presence and came
22 outside and told you they found nothing wrong? I did
23 not receive any citation illegally installed water
24 involving --

25 A. As far as I know there's nothing illegal,

1 but yet there still is the problem.

2 Q. You just insist I have a problem, but you
3 cannot confirm what the problem is; is that right?

4 A. No, I don't know what the problem is.
5 Because when I turned the valve off in your home it
6 stops doing; when we turn the value on it does it.
7 That's my conclusion. It's in your home.

8 Q. I just want to repeat this question again.
9 Who told you it's important because you just swear
10 about that that you, me, who else told you the stop
11 the water --

12 MS. HERNANDEZ: I'll object. It's asked
13 and answered.

14 Q. It's not objection. It's a lie.

15 JUDGE JORDAN: Hang on. We're going to go
16 off the record.

17 (Whereupon, an off-the-record discussion
18 was had.)

19 JUDGE JORDAN: We'll go back on the record.
20 Now, as I recall your question was who turning off the
21 water in your house?

22 Q. How the test --

23 JUDGE JORDAN: During this test?

24 Q. And which wall, we have two valves, which
25 exactly valve did I or you whoever turn this off?

1 A. We went into like a utility closet the
2 first time I came out to investigate your complaint.
3 First thing I did was walk up to your meter and I
4 observed it. It was ratcheting or moving back and
5 forth, whatever you want to call it. I then knocked
6 on your door. I entered your home. We walked in and
7 you showed me new hot water heater and this utility
8 closet. You turned off the valve. We went back
9 outside and the meter stopped ratcheting. We went
10 back in your home and we discussed things further and
11 you turned the valve back on. We discussed things
12 further, other issues. You showed me some of the
13 bills you have, things like that. We went back out
14 one more time before I asked it was ratcheting.

15 Q. I'm asking which valve. I have two valves?

16 JUDGE JORDAN: Excuse me. Do you have two
17 valves in the same utility closet?

18 Q. One is the main shutoff, completely water
19 and second is inlet to the water heater, which one?

20 A. It's my understanding it was the main one.

21 Q. Okay. See, I would like to present because
22 I just told this is not true completely because we had
23 conversation in the water company about two months ago
24 and they were -- and there was one more witness that
25 they did not keep the water, so it was not a reason

1 for me to shut off. It's irrelevant. It will not
2 keep the water -- the washer was bad at that time.
3 What was reason for me to shut it off. The water
4 meter would be ratcheting anyway. So it's not true.
5 It's not true?

6 MS. HERNANDEZ: I'm going to object. There
7 was no question.

8 JUDGE JORDAN: That's not a question.

9 Q. The question is, if you say that I shut off
10 that main, it's supposed to stop, right, like you
11 said?

12 A. It did stop.

13 Q. It couldn't stop. I couldn't do that
14 because the main did not work at that time. It still
15 does not work. It can not keep the water to have shut
16 off completely. I can assure you Mr. Jones as witness
17 about this. Because their employee just said the
18 same?

19 MS. HERNANDEZ: I'm going to object to
20 that.

21 Q. It's not the reason?

22 MS. HERNANDEZ: Can I state an objection?

23 JUDGE JORDAN: Yes.

24 MS. HERNANDEZ: The complainant is just
25 testifying.

1 Q. I will insist it's not true?

2 MR. JONES: I'll object. Mr. Dzuri nski y is
3 claiming there was some testimony by somebody from the
4 water company that supports what he is saying and
5 that's not the case.

6 JUDGE JORDAN: I think he is trying to give
7 you some background why he is asking the question and
8 its relevance. I can't say I really understand that.
9 But when it comes time for written arguments, perhaps
10 you can site testimony that we've already had that
11 this we make a difference. I think what you're trying
12 to tell me, there are a couple of valves and which one
13 was turned off.

14 Q. Exactly. The main valve did not work. It
15 still does not shut off the water completely so it
16 means if I shut it off it will not help anything. It
17 still will ratchet. So it was not reason for me to
18 shut it off because it still not stop water meter from
19 ratcheting?

20 JUDGE JORDAN: Now, when you're talking
21 about the main valve, you're talking about the line
22 that comes into your house?

23 Q. Yes. From the ground, the main.

24 JUDGE JORDAN: You turn that off and that
25 cuts off the water to the house supposedly?

1 Q. Yes. If it works it's supposed to stop
2 ratcheting. Water doesn't move in the water meter.
3 Is that right? Water stops moving between water meter
4 and my home if you shut it off.

5 A. Maybe I can clarify. You shut off a valve
6 in your home and we went out and looked and it
7 stopped. I don't care which valve. You shut
8 something off in your home and it stopped ratcheting.

9 JUDGE JORDAN: What's the other valve?

10 Q. The second is inlet so the --

11 JUDGE JORDAN: So when you shut off the
12 water heater the ratcheting stopped?

13 Q. That is exactly, but no one shut it off
14 because water company denied --

15 JUDGE JORDAN: Hang on. Did you shut off
16 the main valve or did you shut off the water heater
17 valve?

18 Q. I didn't shut any valve. I didn't shut any
19 valve?

20 JUDGE JORDAN: Did you see him turn a valve?

21 A. He turned a valve and we went out and
22 looked.

23 Q. That's why I'm asking which valve. There
24 was not a reason for me to shut it off. It did not
25 work. The washer is bad. The ratcheting will

1 continue, so that is a lie too.

2 JUDGE JORDAN: So, you're saying that you
3 did not shut off any valve.

4 Q. I didn't shut any valve. I just told Mr.
5 Loethen about the water company employees were in my
6 home. They shut off the valve to the water heater
7 inlet. After that he said I believe you. And I never
8 performed anything in my home. That's exactly what
9 happened?

10 JUDGE JORDAN: Okay. Without regard to
11 whether he saw you turn a valve on or off.

12 Q. This is important because all --

13 MS. HERNANDEZ: I'll object as being
14 argumentative. Our witness has been sworn in.

15 JUDGE JORDAN: Stop. Let me hear -- it's
16 argumentative.

17 MS. HERNANDEZ: Mr. Loethen is presented as
18 an expert witness. He is under oath. He has not
19 contradicted himself. Mr. Dzurinskiy has had the
20 opportunity to testify and that time is up. He is now
21 just supposed to be asking questions and getting
22 answers.

23 JUDGE JORDAN: I understand. I'm in the
24 same state as far as voice goes. So that's not a
25 problem for me. I understand your objection. I have

1 a little bit of extra duty here to develop claims and
2 defense. So I have to require a little bit here
3 because it's very important. So I'm going to delve
4 into this a little bit more with your indulgence for
5 this. Well, I think you asked your question of this
6 witness. You don't like his answers, but those are
7 the answers. And you don't have to agree with him.

8 Q. Yes. I completely disagree?

9 JUDGE JORDAN: That's fine.

10 Q. I'm not going to make an allegation against
11 myself?

12 JUDGE JORDAN: I'd like you to finish your
13 cross examination of this witness before I start to
14 inquire. You won't be able to make him say what you
15 want him to say. That's a mistake people make all the
16 time.

17 Q. So it means my question is so like you
18 indicated in your report it was technical issue
19 besides what you said you shut off or I shut off the
20 valve. You didn't perform any kind of testing in my
21 home; is that right? Besides I remember you asked me
22 to open the water inside my house and you went
23 outside?

24 A. Yeah. You opened.

25 Q. Besides that, you didn't perform any test;

1 is that right?

2 A. The pressure recording.

3 Q. The pressure recording, right, but no other
4 test completed?

5 A. No.

6 Q. So it means what you performed in my home
7 can it be considered high technical issue and some
8 kind of test to confirm about what's wrong with
9 something wrong with my system?

10 A. I'm not aware of any test that can be done.

11 Q. So you just cannot confirm what kind of
12 problem I have exactly; is that right?

13 A. No.

14 Q. Okay. I seem to be -- well, one last
15 question. So you cannot explain again why is it not
16 ratchet or not?

17 A. No.

18 Q. You cannot. You don't know why?

19 A. I didn't investigate that, but no.

20 Q. Well, you had opportunity because I told
21 you many times. Could you tell why you just removed
22 the digital recording not keeping it for 24 hours?
23 Why you removed it just in the morning because I told
24 you mostly it happens -- that it ratchets during
25 working hours?

1 A. I guess you could say that's one thing that
2 we looked overnight because it is overnight and that's
3 one of the questions that's partly why I put it one.
4 The other thing is if I can see anything happening
5 this is on your home. It's on the back side of your
6 home which would pick up anything in your home that's
7 going on. I didn't see anything on this pressure
8 recording that gave me any indication of even the
9 fluctuating pressures or anything like that is going
10 on. It's normal. It's pretty stable actually for
11 most water systems. A lot of times you see a lot more
12 movement than that. You can see when the pumps kick
13 on or when you flush the toilet or something in the
14 home. Other than that, it didn't have anything to do
15 with my conclusions.

16 Q. But did you make some observation when I
17 just asked you if no one using the water, no one is
18 home to perform any particular test and actually
19 compared what's going on with the fluctuation?

20 A. When I saw this the meter was ratcheting,
21 and when I took it off the meter was ratcheting. So
22 this simply -- and you also indicated one time you
23 thought you had low pressure. That's another reason.
24 Your pressure is very good. Actually it's above 45
25 PSI.

1 Q. Is that in your opinion how much water can
2 back flow? Is that kind of dangerous?

3 A. It is dangerous, but I can't tell how much
4 by watching your meter, no.

5 Q. Well, I have no more questions about that.

6 JUDGE JORDAN: Okay. Thank you. Cross
7 examination by Missouri American.

8 EXAMINATION

9 QUESTIONS BY MR. JONES:

10 Q. Just one quick question. When you say
11 ratchet, Mr. Loethen, do you mean you see the flow
12 indicator going both directions?

13 A. Yes. That seems to be term we picked up.
14 But I see the leak indicator move backwards and then
15 do a little spin forward, and there was no rhyme or
16 reason. It might go a turn and a half one way or turn
17 one way and vice versa. It wasn't -- that's why it's
18 kind of difficult to find out what exactly was causing
19 the problem. There was no pattern to it.

20 Q. Thank you. That's all.

21 JUDGE JORDAN: I have a few questions and I
22 hope you will be patient with me as a non-expert in
23 this. If I understand your use of the term
24 ratcheting, is that simply referring to the meter's
25 backwards movement? Is that you mean when you say

1 ratcheting?

2 A. Yes.

3 JUDGE JORDAN: And you have seen this
4 meter --

5 A. Yes.

6 JUDGE JORDAN: -- ratcheting going
7 backwards. That sounds like almost sounds fairly
8 mysterious?

9 A. Yes.

10 JUDGE JORDAN: You heard the testimony that
11 says that's told us the only thing that these experts
12 know that can cause that back flow is the heating up
13 of a water heater. It heats up the water and water
14 expands that pushes the water back through the meter;
15 is that an accurate description of that phenomenon?

16 A. Yes.

17 JUDGE JORDAN: Can you think of anything
18 else, anything in your experience that causes back
19 flow?

20 A. It would have to be another mechanical
21 device, just normal home toilets, sinks. You can see
22 hammers, it could be a water hammer, but that wasn't
23 the case in this because no one was using the water.
24 What you see with a water hammer is if you have
25 particularly in high pressure areas someone is using

1 outside faucet and they shut it off real hard, you can
2 actually have a small amount of time where the water
3 will equalize.

4 JUDGE JORDAN: It's like a bounce back.

5 A. It's like a shock. There is no indication
6 that was going on.

7 JUDGE JORDAN: But something has to be
8 mechanically happening in the house for that ratcheting
9 to happen; is that correct.

10 A. Yes. It's got to be something mechanical
11 causing the pressure to overcome. One of the people I
12 talked to, again, they made a theory it could be the
13 bladder moving, but like I said it doesn't have -- it
14 doesn't have a pattern.

15 JUDGE JORDAN: What is bladder movement?

16 A. The bladder tank that we discussed a few
17 times. It's a small tank that sets on top of the
18 water heater, and it's got a rubber membrane. And as
19 water heats at the expansion -- they are used in small
20 systems they are used to hold pressure in storage.
21 It's a little bladder tank like that and as it
22 expands, the rubber goes up in -- the top part's got
23 air in it and it absorbs the expansion is what it
24 does. But that's one guy made the theory possibly the
25 bladder is moving. But like I said the meter doesn't

1 have a pattern, so I wouldn't think.

2 JUDGE JORDAN: So that's unlikely?

3 A. I don't know.

4 JUDGE JORDAN: Okay.

5 A. I have no idea.

6 JUDGE JORDAN: You know, what I gather from
7 your testimony is that you have seen the ratcheting
8 occur. You have no information as to what's causing
9 it; what's happening?

10 A. Yes.

11 JUDGE JORDAN: Let me ask you this. You
12 heard also the testimony about the measurements of a
13 meter, by which it was 90 percent inaccurate when
14 going backwards but only at very low amounts?

15 A. Right.

16 JUDGE JORDAN: Is it possible for us to --
17 is it possible for us to quantify how much this would
18 affect Mr. Dzurniski's bill?

19 A. Not without -- I guess possibly. If you
20 got it fixed then we can see and that's kind of what I
21 said in my conclusion was Missouri American indicated
22 also that if he got the ratcheting fixed and it showed
23 a significant difference in his bill that they would
24 do the adjustment. I'm not sure if that's still the
25 case.

1 JUDGE JORDAN: Okay. One more small thing.
2 I understand that this ratcheting movement that you
3 observed would very likely be fixed by a back flow
4 preventer; is that correct.

5 A. That's my opinion.

6 JUDGE JORDAN: And do you know of anything
7 that requires Missouri American to pay for that?

8 A. No.

9 JUDGE JORDAN: That's all the questions I
10 have. Now, that may have generated some redirect from
11 staff.

12 FURTHER EXAMINATION

13 QUESTIONS BY MS. HERNANDEZ:

14 Q. A couple follow-up questions. What could
15 tell us exactly how much water, if any method, is
16 going backwards through the meter?

17 A. Other than installing a more accurate
18 meter, I don't know if they make one. I mean you have
19 to put another meter horn, install it backwards, let
20 them both run for a while and see what the numbers
21 are.

22 Q. Can you say with the numbers you you would
23 install a back flow preventer and compare usage to
24 historical usage?

25 A. Yes. In my conclusion, that's what I said

1 we'd do or what I said you could do, yes.

2 Q. So you would compare increased usage if
3 that was what was found to historical usage to
4 determine what might be entering or, excuse me, going
5 backwards through the meter and not being recorded
6 properly?

7 A. Yes. You compare the two usages and see
8 what -- It's possible it could even be a leak yet that
9 might be causes initial movement of the meter. There
10 is no way to tell. There could possibly still be a
11 leak and that might be causing. Mr. Dzuriński's
12 billing statements are not that -- we've got some
13 jumps here and there. So to say like he presented his
14 last bill was five units. My initial investigation
15 showed his average was around four to five units. It
16 then jumped up the next two months to around seven
17 units, but now he just said the last one was five.
18 And I think for the records had Missouri American
19 produce they are anywhere -- five, seven, there is
20 actually some three and four. To say we can come up
21 with a good number if a back flow preventer is
22 installed, the usages are not necessarily something we
23 can quantify because they jump quite a bit already.
24 Q. Do you have any conclusions as to why there
25 is months with five to six units versus seven to

1 eight?

2 A. No, I don't.

3 Q. We talked about going into Mr. Dzuri nski y' s
4 home, were you invi ted into hi s home?

5 A. Yes, I was.

6 Q. Di d you fol low hi s di recti on when you were
7 i n hi s home?

8 A. Yes.

9 Q. Di d you l eave hi s si de whi le you were i n
10 the home?

11 A. No, I di dn' t.

12 Q. Di d you turn off anything that he asked you
13 not to turn off?

14 A. No.

15 Q. Who turned off the valves?

16 A. I do not make it a practice to turn off
17 valves because they can start l eaki ng. So I di d not
18 turn i t off. Mr. Dzuri nski y di d.

19 Q. You testi fied earl ier that you do not
20 complete an i nvesti gati on duri ng the night because you
21 thought i t was i rrele vant; i s that a fair summary?

22 A. Yes, I thi nk i t' s the best thi ng to do your
23 i nvesti gati on when the probl em i s happeni ng. And he
24 i ndi cated i t wasn' t happeni ng at night, so, I di dn' t
25 see a reason to wal k around the nei ghborhood i n the

1 middle of the night doing an investigation?

2 Q. Was it your opinion that going there in the
3 middle of the night, that you had enough information
4 from your investigation prior that that portion was
5 unnecessary?

6 A. Yes.

7 Q. I don't believe I have any other questions.

8 JUDGE JORDAN: All right. Any recross from
9 Mr. Dzuri nski y.

10 MR. DZURINSKIY: Well, I just want to
11 disagree. I would like to throw out about allegations
12 that I shut off the valve. I cannot make it.

13 JUDGE JORDAN: I'm going to probe this a
14 little more here. During this test, who shut the
15 valves off?

16 A. No one. I insist about that, and right by
17 my experience I tell you I'm an engineer. I
18 understand maybe not too much in plumbing. There is
19 difference if you shut off the main valve and inlet
20 valve. It will indicate exactly what happens so if
21 gives you understand why you need to shut off that
22 valve that's why I didn't explain what I thought about
23 that involving?

24 Q. I can explain in five minutes what it
25 usually means if you shut off the main valve. If the

1 valve work properly it shuts off the water so it means
2 when you open and the indicator is just rotating in
3 one direction, it indicates that I have a leak. So, I
4 did not shut it off because it was not a reason
5 because the employee from the water company before
6 that tried to shut it off and he couldn't shut it off
7 because the washer didn't keep the water. See, what
8 it means when the second group came and shut off the
9 inlet valve and it stopped moving. I had cold water
10 completely in my home. It stopped moving so it means
11 I did not have leak; is that right? If I explain
12 correctly. You are plumber, you understand what I
13 mean; right?

14 A. I'm not a plumber.

15 Q. You understand if you shut off inlet valve
16 I still have cold water completely in my home.

17 A. That you just disconnect an apparatus.

18 Q. I only disconnect hot water?

19 A. Then maybe you got it isolated to that
20 area, whatever it is, it stopped the ratcheting.

21 Q. It stopped ratcheting exactly.

22 A. There we go.

23 Q. I cannot testify against myself because the
24 water company employee refused to come in my home as I
25 did this?

1 JUDGE JORDAN: Someone refused what?

2 Q. They performed the test in my home, shut
3 off the inlet valve. Months ago we had conversation.

4 JUDGE JORDAN: So you're talking about a
5 different time when Mr. Loethen was not present?

6 Q. No. It was before him. I told him what
7 the employees of the water did. I explained him the
8 process how it was determined?

9 JUDGE JORDAN: Let me probe into this a
10 little bit. Earlier when Mr. Loethen was not present,
11 someone from St. Louis County came to look at
12 plumbing, is that correct?

13 Q. They came in May.

14 JUDGE JORDAN: And did they shut off some
15 valve?

16 Q. No. They didn't shut off anything. They
17 just checked all my appliances at my home if I have no
18 leak, but they check expansion tank, air pressure in
19 the expansion tank.

20 JUDGE JORDAN: Okay.

21 Q. Because it was indicated that it could
22 create some kind of -- with the bladder side, so it
23 was checked by St. Louis County inspector, he did not
24 find anything wrong. He said pressure is just normal
25 like it's supposed to be?

1 JUDGE JORDAN: Has anyone ever -- I have
2 heard Mr. Loethen's testimony and I'm going to ask
3 you, has anyone examined your meter while either of
4 those valves were shut off?

5 Q. Well, water company employees.

6 JUDGE JORDAN: Okay. Missouri American
7 employees?

8 Q. Yes.

9 JUDGE JORDAN: Okay. They turned off a
10 valve; is that correct?

11 Q. Correct.

12 JUDGE JORDAN: Do you know which valve they
13 turned off?

14 Q. I tried to explain. I have one person from
15 the water company in the morning about nine o'clock
16 who came and shut off the main valve, what Mr. Loethen
17 insist that I do.

18 JUDGE JORDAN: Okay.

19 Q. When he shut it off it water meter still
20 rotating. It did not stop because the washer did not
21 keep the water. It could not shut off completely.

22 JUDGE JORDAN: You're talking about a leaky
23 valve that needs a new washer?

24 Q. Yes. It was washer. He told I need to
25 replace washer inside. So it means what he just said

1 it didn't have any reason for me to shut it off
2 because it will rotate. I told him 20 minutes later
3 when first employee dispatched second crew, when they
4 arrived on my property. It indicated they are
5 supposed to pump up the water from the box. There is
6 not water in the box generally. The water meter was
7 up from the water about half a foot. They just asked
8 me a question if I recently replaced my appliance.
9 That is the question and I said yes, and one of them
10 followed me in my home and he performed this test. He
11 shut off the inlet involving in my water heater.

12 JUDGE JORDAN: What did that do?

13 Q. He followed me come outside, I will show
14 you something and we look at that and it stopped
15 moving.

16 JUDGE JORDAN: So Missouri American water
17 employee shut off the inlet valve?

18 Q. Second group.

19 JUDGE JORDAN: Okay. And that stopped the
20 ratcheting; is that correct?

21 Q. Yes.

22 JUDGE JORDAN: Okay. Thank you.

23 Q. But what exactly happened, I tried to
24 continue this months ago I had meeting with Mr. Jones
25 and all his employees, their supervisor, all of them.

1 They refused to come in my home. This is true. Can I
2 ask him?

3 JUDGE JORDAN: Not really. No. Do you
4 have any more re-cross for Mr. Loethen.

5 Q. No.

6 JUDGE JORDAN: Okay. Thank you very much.
7 Any more re-cross from the staff?

8 FURTHER EXAMINATION

9 QUESTIONS BY MS. HERNANDEZ:

10 Q. You were asked if you know of anything or
11 any regulation that requires Missouri American to
12 install a back flow preventer. Do you remember that
13 question?

14 A. Yes.

15 Q. Do you know of any -- I believe your answer
16 was no?

17 A. Yes.

18 Q. Do you know of anything that would require
19 the complainant to install a back flow preventer?

20 A. Yes. Tariff and rules that if there is
21 actually back flow happening, then the customer needs
22 to install a back flow preventer.

23 Q. That's all I have. Thank you.

24 JUDGE JORDAN: Okay. I'm going to require
25 briefing on this case. The parties may if they wish

1 make closing statement. But I'm going to require a
2 written brief on this. So you can make a statement if
3 you want or just write it down later. And here's what
4 I'm going to say about briefing. We have regulations
5 that -- you're excused. We have a regulation that
6 institutes simultaneous briefing, but I can change
7 that and I will because I don't find it most helpful.
8 I'm going to do alternate briefing. The first brief
9 will be from the complainant, and then I'll have
10 briefs from the respondent and also staff. And then
11 you will get the last word to reply and we'll set up a
12 schedule to do that. Once the transcript is filed,
13 the briefing schedule will start. How much time do
14 you want for a brief. Standards include 30 days, 30
15 days, 15 days. Do you want any -- do you need that to
16 be shortened? Do you want it to be quicker or would
17 you like for lengthier time to prepare?

18 MR. DZURINSKIY: I need time because I'm
19 not familiar about this procedure.

20 JUDGE JORDAN: And that's fine by me. The
21 better your argument would be the more helpful it will
22 be for me. Here's what a brief needs to be. I will
23 want it to be in proposed finding of facts and
24 conclusions of the law. Now, there is a lot of
25 misunderstanding about what that is. And I don't want

1 to hear about the evidence. I want to hear -- I want
2 to see where each person has established an element of
3 their claim or defense with a citation to the record,
4 which will mean a transcript and these exhibits. And
5 then in proposed conclusions of law. I will want to
6 see why you get what you want. From the respondent it
7 will be why you don't get what you want citing to
8 authority. That's where you cite authority. That's
9 where you put the facts and law together. And there
10 is plenty of resources to help you do that. But I
11 think you get the idea. The important thing is to
12 cite the record for finding of fact. The conclusions
13 of law you cite statutes, regulations, and tariffs
14 that you have been through. When the transcript is
15 filed, I'll go ahead and put out a briefing schedule
16 if that is okay. Do you have problem with alternate?

17 MR. JONES: That's fine.

18 JUDGE JORDAN: Staff, does that sound okay
19 to you.

20 MS. HERNANDEZ: That's fine.

21 JUDGE JORDAN: Now, I have heard a lot of
22 testimony today. And there is a certain amount of
23 history in this case, but I think there is from this
24 case and also a certain amount of misunderstanding.
25 Staff has very generously offered to mediate this

1 case. And Mr. Dzuri nski y wants to do so also. All
2 the cards are now on the table. There are no
3 surprises left. Everyone has heard what the other
4 parties have to say. I hope that each party will take
5 up staff' s i nvi tation to discuss thi s further.
6 Because I think there is some room to come to a
7 further and better understanding than has happened so
8 far. I hope everyone will take that to heart. Thi s
9 is probably not a good time to do i t because i t' s
10 almost 4:30 and we need to get back to Jefferson Ci ty.
11 I need to get back to Columbia, but I hope staff wi ll
12 be i n contact wi th these parties to arrange some
13 further di scussi ons on thi s i ssue. We' ve al l l earned
14 a lot today. And I thank everyone for thei r
15 attentio n, for di ffi cul t i ssues and for thei r
16 explanati on to me, a non-expert i n engi neeri ng and
17 plumbi ng. Is there anythi ng el se before we go off the
18 record? Mr. Dzuri nski y, anythi ng further?

19 MR. DZURINSKIY: Well, I sti ll woul d
20 consider to make settl ement about thi s case not to go
21 further. It seems to me i t woul d be benefi ci al for
22 both parties.

23 JUDGE JORDAN: I appreciate that and the
24 law encourages settl ement because general ly the
25 parties can come up wi th somethi ng better than a

1 decision an outside decider may make. Anything from
2 the staff.

3 MS. HERNANDEZ: I just to make sure I
4 understand the briefing schedule. You will issue an
5 order once the transcript comes in. And then the
6 complainant will have 30 days or still to be decided?

7 JUDGE JORDAN: He is asked for 30 days.
8 Right now we're considering 30, 30, and 15.

9 MS. HERNANDEZ: Okay. I apologize if I
10 missed the 30 days on staff's behalf?

11 JUDGE JORDAN: That's okay. And if you
12 have a different idea, you can certainly file a motion
13 to alter that.

14 MS. HERNANDEZ: That's fine with me today.

15 JUDGE JORDAN: Okay. Anything from
16 Missouri American Water Company.

17 MR. JONES: No, Your Honor. Thank you.

18 JUDGE JORDAN: Then we'll go off the
19 record. Thank you very much.

20 (Whereupon, the hearing was closed at
21 4:30.)

22

23

24

25

1	I N D E X O F E X A M I N A T I O N .	
2		Page.
3	Exami nati on of Mr. Matschi ner	
4	Questi ons by Mr. Jones.	78
5	Questi ons by Mr. Dzuri nski y.	108
6	Further Questi ons by Mr. Jones.	110
7	Further Questi ons by Mr. Dzuri nski y .	116
8	Exami nati on of Mr. Li nam.	
9	Questi ons by Mr. Jones.	123
10	Questi ons by Mr. Dzuri nski	131
11	Questi ons by Ms. Hernandez.	144
12	Questi ons by Mr. Dzuri nski y.	150
13	Questi ons by Mr. Jones.	177
14	Further Questi ons by Ms. Hernandez. .	181
15	Questi ons by Judge Jordan.	184
16	Further Questi ons by Ms. Hernandez. .	189.

15	I N D E X O F E X H I B I T S .	
16		
17	Exhi bi t A	41
18	Exhi bi t B.	43
19	Exhi bi t C.	47
20	Exhi bi t D.	51
21	Exhi bi t E.	51
22	Exhi bi t F.	55
23	Exhi bi t G.	60.
24		
25	(Al l exhi bi ts were retai ned by the Judge.)	