

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4
5
6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 April 25, 2006
9 Jefferson City, Missouri
Volume 2
10
11
12 Gene Koverman,)
13 Complainant,)
14 v.) Case No. WC-2006-0248
15 Missouri-American Water Company,)
16 Respondent.)
17)
18 KENNARD L. JONES, Presiding,
19 REGULATORY LAW JUDGE.
20 JEFF DAVIS, Chairman,
21 LINWARD "LIN" APPLING,
22 COMMISSIONERS.
23 REPORTED BY:
24 KELLENE K. FEDDERSEN, CSR, RPR, CCR
25 MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2 GENE KOVERMAN, pro se
3 725 Judson Manor Drive
4 St. Louis, MO 63141
5 (314) 341-8195

6 KENNETH C. JONES, Attorney at Law
7 727 Craig Road
8 St. Louis, MO 63141
9 (314) 996-2278
10 FOR: Missouri-American Water Company.

11 SHELLEY SYLER, Assistant General Counsel
12 P.O. Box 360
13 200 Madison Street
14 Jefferson City, MO 65102
15 (573) 751-3234

16 FOR: Staff of the Missouri Public
17 Service Commission.
18
19
20
21
22
23
24
25

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

2 JUDGE JONES: Okay. We are on the record
3 with Case No. WC-2006-0248, Gene Koverman, Complainant vs.
4 Missouri-American Water Company, Respondent. My name is
5 Kennard Jones. I will be the Administrative Law Judge
6 overseeing these matters today.

7 At this time we'll take entries of
8 appearance, meaning just simply introduce yourself,
9 beginning with Mr. Koverman. Please just state your name
10 and your address.

11 MR. KOVERMAN: Gene Koverman, 725 Judson
12 Manor Drive, St. Louis, Missouri 63141.

13 JUDGE JONES: Another thing, Mr. Koverman,
14 yeah. Try to use -- you don't have to repeat yourself.
15 I'm certain the court reporter got that, but try to
16 remember to use the microphone. If you forget, don't
17 worry, I'll remind you.

18 And from Missouri-American Water?

19 MR. JONES: Kenneth Jones, 727 Craig Road,
20 St. Louis, Missouri 63141.

21 JUDGE JONES: And is your microphone on,
22 Mr. Jones?

23 MR. JONES: No, it's not.

24 JUDGE JONES: That's fine. Thank you. And
25 from the Staff of the Commission?

1 Mr. Koverman, you may have a seat. Staff
2 of the Commission?

3 MS. SYLER: Shelley Syler representing the
4 Staff of the Missouri Public Service Commission, Post
5 Office Box 360, Jefferson City, Missouri 65102.

6 JUDGE JONES: I will note for the record
7 that the Office of the Public Counsel is monitoring these
8 proceedings but is not actively participating.

9 As we discussed prior to going on record,
10 the way we will proceed is Mr. Koverman will give an
11 opening statement under oath. Missouri-American Water
12 will then give an opening statement and then the Staff of
13 the Commission, after which Mr. Koverman will take the
14 witness stand and be subject to cross-examination by
15 Missouri-American Water, Staff and the Bench.

16 And then Missouri-American's witness will
17 be presented for direct testimony, cross-examination,
18 beginning with the Staff, and then finishing with
19 Mr. Koverman. And then Staff's witness will be presented,
20 with cross-examination from Missouri-American, and finally
21 Mr. Koverman. Whether or not we have closing statements
22 I'll determine after we've heard all the evidence. It may
23 not be necessary.

24 I'm almost certain, though, there won't be
25 any post-hearing Briefs to be filed. Are there any

1 preliminary matters or pending motions that need to be
2 discussed prior to beginning that anyone can think of?

3 MS. SYLER: And, your Honor, I just want to
4 make sure that we have on the record that the pleading the
5 Staff filed with the Staff report was designated HC, so
6 because of the specific customer information that it did
7 utilize in the investigation, so...

8 JUDGE JONES: Okay. When we get to Staff's
9 witness and we begin to discuss those matters, we will go
10 in-camera to receive that evidence.

11 Okay. At this time then we'll briefly go
12 off the record to gather any Commissioners that may
13 attend.

14 (A BREAK WAS TAKEN.)

15 JUDGE JONES: Okay. We're back on the
16 record with Case No. WC-2006-0248. At this time we'll
17 hear an opening statement from Mr. Koverman, Complainant.
18 If you could please step to the podium here. And,
19 Mr. Koverman, could you please raise your right hand.

20 (Witness sworn.)

21 JUDGE JONES: Thank you. You may proceed.
22 Make sure that microphone is on. Is it? Thank you.

23 MR. KOVERMAN: First when I begin, it's not
24 the first time I'm got problem with Missouri-American
25 Water Company. It's the second. In 2004 we got some

1 problem where we receive bill for almost \$1,200 and I won
2 \$600. The problem was there, just in few words I just
3 describe that issue.

4 Representative of Missouri-American Water
5 come check my meter for one and a half year, can you
6 believe that? And what I've tried to show this Court is
7 what this company's not probably response with the action
8 and the employees, and like they explain it to me is, was
9 they left a note. It's a four-unit apartment building.
10 It's got eight doors over there. And nobody called me,
11 nobody send me any letters, and that is that. I'm not
12 sure what year.

13 It's like with all explanation what I
14 received from Missouri-American Water Company, in 2004
15 they make rules according to their insurance what say a
16 representative cannot get to the basement to check the
17 meter reading. And I don't know how they could do this
18 from 2004 until 2006 regarding my property. Like, for
19 example, one property is send me the letter. They
20 couldn't do that, we put a meter outside, electronic
21 meter. For other properties they didn't do that. So
22 again what I would like to show is this company is not
23 promptly response.

24 Now I come back to this case is in -- that
25 was in April. I received a bill from American Water

1 Company for \$386, and I would like to tell you is what I'm
2 already eight years in this business, and I used to have
3 four four-by-four units apartment buildings, and this is
4 first time except that accident we got for \$1,200, I never
5 receive bill that high.

6 Of course, right away I called to
7 Missouri-American Water Company and I said, this bill is
8 too high, and what they did, they sent -- it's called high
9 bill inspection. So as my explanation of complaints,
10 first came the young lady, like 20 years old. She just
11 look on the meter with the flashlight. She was there
12 maybe 30 seconds, just write down the number and
13 disappear.

14 Second time came the man, and he look more
15 careful. He determined the meter was properly running, so
16 as an engineering technical mechanic, I can say you cannot
17 determine it with a flashlight and eyes what the
18 mechanical wires works properly well with the flashlight
19 and your eyes. So according to the inspection is, it says
20 here, during our inspection we examine the meter for signs
21 of movement for three minutes. For me it doesn't mean
22 anything. Maybe for you the same thing, because this is
23 measuring.

24 So what I did, on the same building just
25 90 degrees located ten feet from this building, so it's

1 the same way properties -- oh, I'm so sorry. I said three
2 minutes on other property. This meter was assessed five
3 minutes, and according to the note on the bottom, it says
4 only slight registration.

5 What I can assume is on a meter it's got
6 small red arrow, and when the water is moving, so it's
7 moving, that arrow is moving. When you look that arrow,
8 you can see it's moving very, very slow. This is probably
9 what they terminate one spin probably for three minutes.
10 I cannot say because I'm not in particular in this
11 business, so I cannot determine it's one spin, twelve spin
12 or whatever.

13 So they determine that five minutes, and
14 the other property, the other property, same four-unit
15 apartment building, they determine next month it's three
16 minutes. So it's two numbers pretty close to each other,
17 and -- but this property got billed \$386; the other
18 property the same time got \$139. So we cannot say what we
19 got leak. We got drop. It's a four-unit apartment
20 building. We got four toilets, four bathroom. We got
21 four kitchen sinks and other thing, and not one for
22 guarantee flap for hundred-and-some a month, because it's
23 not a shot over.

24 So it could be some drop, yeah, sure, but
25 it cannot be increase that much usage water from average

1 what I receive usually. Like I said, I'm eight years in
2 this business, and I never got billed like that. Average
3 between 150, \$180 per three months. This is the average.

4 So what I made, I made like a chart and I
5 sent to your attorney, and I would like to show you,
6 present you -- I don't know how I can do that. So what I
7 got, because I got only three buildings left right now,
8 and the same time, this particular buildings got from
9 January to April 163. The other property, 162. The third
10 one got 182.

11 Then from April to July, we got jump on
12 this particular property, 386. The other property 139,
13 the other one 164. Then from 336, it jumped 203. It's
14 from July to October. The other properties 143, 161. And
15 the last bill what I got is from this property for 112.
16 The other property 142, 156. So if you can see, something
17 is not right. It jump from 163, 386, 203 and 112. The
18 numbers is so far from each other.

19 And so according to the other properties,
20 162, 139, 143, 142, it's pretty reasonable, 30, \$40
21 different. The third property, 182, 164, 161, 157, the
22 same reasonable, 20, \$30 different. Yes, but it cannot be
23 112 and 386.

24 Now, what else I would like to say is, what
25 is the most water usage in four-unit apar-- actually, I

1 forgot to tell, according to this property particular, it
2 was 11 people at that time. The other property because
3 it's four-units apartment building, usually it's between
4 three and four people in each unit. So that apartment,
5 the 11 people, the total properties 13 people, even more.

6 So what is the most usage water for in
7 four-units apartment building. I can say cooking not that
8 much. Restroom, no. Shower, most likely, and of course,
9 washing machine. On this particular property, on that
10 time we got only two washing machines. On the other
11 property we got three, and the third one we've got four,
12 all people got. And we cannot say, assume in this time
13 what this particular property would be talking about that
14 more washing machine, because people use them.

15 But like I said before, it jump from \$112
16 to 380. We're talking about three times more, so we
17 cannot say with people come back in lunch time and evening
18 time and the morning, three times take a shower and next
19 three months, they take only shower one time per day. And
20 according to everything what I said is, as educated
21 person, and I used to work as technician, and I saw many
22 cars come with 5 million miles on the speedometer. What
23 does it mean? When you got once, it's making full
24 revolution. Then after full revolution, pick up ten.
25 When the full revolution, pick up hundreds.

1 So this how it works. This is the same
2 device. It's working the same way. So what's happened,
3 what I can assume is when it's -- I don't know which line
4 number, 100 or 10,000, maybe 100,000 because I'm not
5 familiar with the measuring, so one year pick up the other
6 year, some year jump. That is not jump. Then it stay
7 stabilize. Then it probably working slow or something
8 like that. So what I can say is that the wire doesn't
9 work properly well. It's a mechanical device, because
10 according to the other properties, what they already with
11 the electronic digital wires, we don't have any problem.

12 Like I represent, the difference is only
13 30, \$35 between each quarter, and it cannot be like I said
14 before, three times more or three times less for a certain
15 period of time. And also what I would like to put your
16 attention is, the average utility company charged me
17 according to the water usage, and every they charge almost
18 the same amount but they charge by month, except what the
19 water -- Missouri Water Company charged.

20 So my bill came according to because it was
21 high usage water \$147 for over three months, and this why
22 I think is if -- if I don't agree like this. So they're
23 responsible for the other \$300 what I overpaid. And so
24 that's it.

25 JUDGE JONES: The documents that you have,

1 that you've prepared, did you prepare those yourself?

2 MR. KOVERMAN: Yes.

3 JUDGE JONES: What did you base the
4 information on them on, from bills that you had?

5 MR. KOVERMAN: Exactly right. I can
6 present everything. This is the original, the original
7 bill inspection I can present you, from Missouri --

8 JUDGE JONES: Do you have copies of those
9 documents?

10 MR. KOVERMAN: I sent the copy. I send in
11 the copy.

12 JUDGE JONES: No, I mean with you now.

13 MR. KOVERMAN: No, I don't. I'm sorry.

14 JUDGE JONES: Mr. Jones, have you viewed
15 the documents that he's discussing?

16 MR. JONES: Not the underlying documents,
17 your Honor, no. I've seen the chart that he filed
18 together with his response to the Staff's report.

19 JUDGE JONES: Can you show him those
20 documents, please?

21 MR. KOVERMAN: Sure.

22 JUDGE JONES: And then show those documents
23 to the Staff attorney.

24 MR. JONES: These I've seen. These are
25 what you had attached to your report (indicating).

1 MR. KOVERMAN: Yeah.

2 MR. JONES: I think what his Honor was
3 referring to was the underlying bills on the other
4 property, if I'm correct.

5 MR. KOVERMAN: Sure. Yes.

6 You want to see my chart or you want to see
7 the original bills?

8 MR. JONES: I've seen the chart. The
9 original bills, yes.

10 JUDGE JONES: You said you have seen the
11 chart?

12 MR. JONES: Yes. He attached that
13 handwritten chart to his response to the Staff's report.

14 JUDGE JONES: Okay. Have you-all had an
15 opportunity to go over those documents?

16 MR. JONES: Yes, your Honor.

17 JUDGE JONES: Do you have any objection to
18 them being admitted into evidence?

19 MR. JONES: Yes, I have an objection, your
20 Honor, to the documents which represent the bills for the
21 other properties that are not the subject of this
22 complaint because they're irrelevant, and no foundation
23 has been established that they're relevant or that the
24 people occupying the premises use water in a similar
25 manner and they're -- there's been no foundation

1 established for those documents.

2 JUDGE JONES: So you're objecting for two
3 reasons, shotgun method. You're saying they're
4 irrelevant. Do you think that the bills that are at those
5 other properties, if the properties are the same, they
6 have similar number of tenants, they're in the same area,
7 and they have certain number -- the bill is a certain
8 amount for each of the properties, and then the property
9 in dispute is much different than those other properties,
10 you don't think that's relevant?

11 MR. JONES: No, I don't think that's
12 relevant, your Honor.

13 JUDGE JONES: I disagree with you. Staff,
14 do you have any objection to this -- to those documents
15 being admitted?

16 MS. SYLER: We will remain silent on this
17 issue.

18 JUDGE JONES: Now, I realize you don't have
19 copies, but what I'm going to have you do is take those to
20 the court reporter, have her mark them as exhibits. How
21 many exhibits are there? How many pages do you have, or
22 documents, I should say?

23 MR. KOVERMAN: Actually, this is the too
24 high bill inspection, and if you want original bills?

25 JUDGE JONES: I don't want your original

1 bills.

2 MR. KOVERMAN: And that's it.

3 JUDGE JONES: What about the chart that
4 you --

5 MR. KOVERMAN: The chart that I made that I
6 sent the original, this is my copy (indicating).

7 JUDGE JONES: Well, I realize you sent
8 them --

9 MR. KOVERMAN: Yes, I did.

10 JUDGE JONES: -- but they need to be made
11 part of the record.

12 MR. KOVERMAN: Yes, yes. I sent original.
13 This is copy I made.

14 JUDGE JONES: What I want to do, though, is
15 have her mark those as exhibits. We'll copy them, and
16 then you can keep your originals. We'll do that after the
17 hearing.

18 MR. KOVERMAN: Sure.

19 JUDGE JONES: So if you could give those to
20 her, have her mark them as exhibits so they can be
21 admitted as exhibits into the record, please.

22 (EXHIBIT NO. 1 WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 JUDGE JONES: I believe there are two
25 pages, but one document; is that correct?

1 MR. KOVERMAN: Yes, two pages.

2 JUDGE JONES: Well, it can just be marked
3 as Exhibit 1. Was there something else, Mr. Koverman, a
4 piece of paper, documents that you had?

5 MR. KOVERMAN: If you want a copy of the
6 bill, I pay \$147.

7 JUDGE JONES: Is that the bill to the
8 property, the relevant property? It looks like -- are
9 those bills --

10 MR. KOVERMAN: Yes. This is for all year.
11 I keep in my records because the year is over, the last
12 year is over.

13 JUDGE JONES: We'll mark that as Exhibit 2.

14 MS. SYLER: Your Honor, before you rule on
15 the foundation objection, I'm not sure if you want to give
16 Mr. Koverman the opportunity to establish more foundation
17 or more information with the basis of those bills. I
18 didn't hear in his opening a lot of basis for the other
19 bills --

20 JUDGE JONES: Third-year law students are
21 most arguably unable to do that. I don't think it's
22 necessary to do that today. Thank you, however, for
23 bringing it up.

24 (EXHIBIT NO. 2 WAS MARKED FOR
25 IDENTIFICATION BY THE REPORTER.)

1 JUDGE JONES: And, Mr. Koverman, was that
2 all you had?

3 MR. KOVERMAN: Yes, sir.

4 JUDGE JONES: What I want you to do is have
5 a seat over here at the witness stand, and we'll move on
6 to cross-examination. And I'll remind you that you remain
7 under oath.

8 THE WITNESS: Yes, sir.

9 MR. JONES: And, your Honor, did you want
10 an opening from me first or --

11 JUDGE JONES: Please, go ahead and make
12 opening, and then you can do your cross.

13 MR. JONES: May it please the Commission,
14 your Honor, Commissioners.

15 Mr. Koverman, as we heard, owns a four-unit
16 apartment building in St. Louis County. In July of 2005,
17 he received a quarterly water bill in the amount of \$386.
18 He claims that this bill was abnormally high and he
19 attributes the bill to a malfunctioning meter. And I
20 think it's important to keep in mind through this it's
21 pure speculation on Mr. Koverman's part that the meter was
22 malfunctioning. He has no evidence to back up his
23 speculation.

24 The actual facts, as we'll hear, based on
25 two onsite inspections and on a meter test at

1 Missouri-American's meter shop after the meter was changed
2 out in February of 2006 show that the meter was
3 functioning properly. It was registering water usage well
4 within the range permitted by the Public Service
5 Commission regulations.

6 Now, since the water meter was accurately
7 measuring water usage, the higher amount in July 2005 is
8 attributable to one of two factors: The higher usage by
9 people living in the apartment or a leak somewhere in the
10 building or a combination of the two.

11 Now, the water usage, you'll hear, for the
12 year and a half, the two years up to the July 2005 bill is
13 as follows: In January of 2004, it was \$219; April 2004,
14 \$224; July of 2004, which is the same period as the
15 subsequent 2005 bill, the same quarterly period was 265;
16 the October 2004 bill was 260; January 2005 bill 227;
17 April 2005, 163; July 2005, 386; October of '05 was 203;
18 and January of '06, of this year, was 112.

19 Now, upon receipt of the July 2005 bill,
20 Mr. Koverman asked for an inspection onsite that he
21 referred to. On July 22nd of 2005, a customer service rep
22 came to the premises and did the first inspection. The
23 customer service rep makes sure that water is turned off
24 at the premises and then checks the dial to see if there's
25 any registration on the meter. If there is registration,

1 that indicates that there's water usage.

2 In this case the records show that there
3 was a registration, which indicates that there's a leak in
4 the building or that somebody happened to be there and
5 using the water in the premises. Now, Mr. Koverman
6 requested another inspection a week later, and
7 Missouri-American went out and again performed the onsite
8 inspection, and again registration was measured on the
9 water meter, again indicating a leak.

10 Mr. Koverman's meter was changed out and
11 inspected at Missouri-American's meter shop in February
12 2006. And you will hear that the tests showed that the
13 meter was functioning properly and was registering usage
14 well within the range set by the Public Service
15 Commission. At ten gallons per minute, the
16 five-eighths-inch meter registered at 101 percent, at two
17 gallons per minute, 101.8 percent, and at .25 gallons per
18 minute, it registered at 98 percent, which is well within
19 the Public Service Commission's regulations of 105 percent
20 registration. The meter was not malfunctioning, as the
21 tests show.

22 Furthermore, if the meter were
23 malfunctioning, which we will show it was not, Dave
24 Yungerman, who manages the customer service department and
25 the meter shop, will tell you in his opinion, based on his

1 experience, that meters do not fluctuate high and low, in
2 one period be high, another period being low, excessively
3 low. He will tell you that if there is a bad meter, it
4 will either register always high or always low, and that's
5 not the case here.

6 Furthermore, Mr. Yungerman will testify
7 that if a meter does go bad, usually due to age, that it
8 will slow down, it will under-register usage. And in that
9 case, it's to the customer's benefit.

10 Now, the facts here are the meter was
11 functioning properly, it accurately registered usage at
12 the apartment complex for the second quarter of 2005.
13 Again, the explanation for the higher usage recorded for
14 that period is a simple one, that there was a leak, that
15 there was higher usage by the occupants or a combination
16 of the two. Thank you.

17 JUDGE JONES: Thank you, Mr. Jones. We'll
18 now have opening statement from the Staff of the
19 Commission.

20 MS. SYLER: May it please the Commission?
21 The Staff received a formal complaint from Mr. Koverman
22 in -- well, he filed it on December 9, 2005, and response
23 from the company was filed January 11th. They were
24 ordered by the Commission to go ahead and investigate and
25 file a response. Mr. Jerry Scheible did go ahead and

1 investigate this situation. He contacted
2 Missouri-American Water Company. He received history,
3 including accounts, the actual onsite visits that they had
4 records for in their computer.

5 He himself analyzed the data, talked to
6 Mr. Koverman, and upon his review of this four-unit
7 two-bedroom apartment building, he determined that the
8 complaint that Mr. Koverman had, which I think
9 Missouri-American Water Company correctly summarized, was
10 not, in his opinion, the reason for the higher water bill.

11 You will hear him testify as to a
12 comparison of past bills for this actual apartment
13 building, and the water bill of \$386.30 for April to July
14 was within the realm of possibility for usage, and in his
15 opinion also could have been caused by either a leak or
16 irresponsible usage.

17 JUDGE JONES: Okay. Let's begin
18 cross-examination of Mr. Koverman by the Staff, and then
19 Missouri-American. We'll let Missouri-American go last.

20 GENE KOVERMAN testified as follows:

21 CROSS-EXAMINATION BY MS. SYLER:

22 Q. Mr. Koverman?

23 A. Yes.

24 Q. This is an apartment building you said you
25 owned for eight years?

1 A. Yeah, approximately.

2 Q. Okay. And how many people actually live in
3 the tenement now? Are you aware of that number?

4 A. Right now, I can tell right now, two,
5 three, five, eleven people.

6 Q. Eleven people.

7 JUDGE JONES: Let me interrupt just for a
8 moment. Mr. Koverman, is your microphone on?

9 THE WITNESS: Yes, it's working.

10 BY MS. SYLER:

11 Q. Okay. So you said, just so we have it on
12 the record, eleven people --

13 A. Eleven people.

14 Q. -- currently live there?

15 And that's as of April 2006?

16 A. Yes.

17 Q. Now, how many -- or has that number
18 recently changed for the number of people residing in your
19 apartment building?

20 A. No. If some people move out, like I said
21 before, it's a two-bedroom apartment building. It's
22 average people who lives there, it's a three, four people.

23 Q. Okay.

24 A. In each unit I mean.

25 Q. And are all units occupied?

1 A. Sure.

2 Q. And were they all occupied?

3 A. Exactly.

4 Q. From April to July 2005?

5 A. Exactly. This apartment goes fast, stay
6 available only for a week, maximum two.

7 Q. Okay. And this is the apartment building
8 at 10952 White Hall Manor Drive?

9 A. That's correct.

10 Q. Bridgeton, Missouri?

11 A. That's correct.

12 Q. Okay. Now, on the April to July 2005 water
13 bill that you received, it was for \$386.30?

14 A. That's correct.

15 MS. SYLER: Okay. Your Honor, at this time
16 I'm going to refer to numbers that the Staff received
17 through the investigation. I don't know if we need to
18 designate that highly confidential, since it was through
19 their investigation of the specific customer.

20 JUDGE JONES: Is it highly confidential?

21 MS. SYLER: It does deal with
22 Mr. Koverman's specific information and billing, prior
23 billing.

24 JUDGE JONES: Who would be harmed by the
25 information being made public? Who might be harmed?

1 MS. SYLER: Potentially Mr. Koverman or the
2 company. Not necessarily the Staff.

3 JUDGE JONES: Mr. Koverman, are you aware
4 of the information she's about to talk to?

5 MR. KOVERMAN: Pardon me?

6 JUDGE JONES: Are you aware of the
7 information she's about to discuss?

8 THE WITNESS: Which information?

9 MS. SYLER: I'm about to ask him about the
10 prior April to July bill 2004 for the same apartment
11 building.

12 THE WITNESS: Sure, go ahead.

13 JUDGE JONES: Is this information that you
14 would like to be held confidential?

15 THE WITNESS: I don't care.

16 JUDGE JONES: Missouri-American Water?

17 MR. JONES: It's not required to be
18 confidential.

19 JUDGE JONES: Then we won't do that.

20 MS. SYLER: Okay.

21 BY MS. SYLER:

22 Q. Now, since we've declared that I can ask
23 you about this on the record, from April to July of 2004,
24 were you aware that the bill -- I think you are, but were
25 you aware the bill was 265.66?

1 A. Yes, exactly. Yes. But on that time, I
2 was worried about that, and I can say maybe on that time
3 the meter wasn't properly working from that time.

4 Q. A year ago it wasn't?

5 A. Exactly right.

6 Q. Okay. But that's not what your complaint
7 is today, right?

8 A. No. Complaint comes when I receive \$386.

9 Q. Okay. When do you think this meter was
10 properly working?

11 A. Never.

12 Q. Okay.

13 A. Because it's never been changed. I guess
14 it's original. It's 40-years-old meter.

15 Q. Now, where do you receive the information
16 that it's a 40-year-old meter?

17 A. Because nobody changed that meter,
18 according to my knowledge. I own that building for eight
19 years and nobody change it. Actually, the
20 Missouri-American Water Company, they said they change in
21 '95 or '96, but I got building at that time and they said
22 the sticker say on the bottom, on the back say the sticker
23 doesn't mean somebody changed the meter.

24 Q. So Missouri-American --

25 A. They said they change it, yes, but

1 according to my knowledge, nobody confirm it. Was they
2 going to shut off water for a day or maybe a half day or
3 something like that? No.

4 Q. Okay. But so you are aware that this --
5 this quarter's bill was only \$120 and some odd change
6 higher than last year's 2004 bill?

7 A. Exactly right. Yes.

8 Q. Okay. Now, are you also aware that
9 Metropolitan Sewer District is not under the PSC's
10 jurisdiction?

11 A. Yeah, I know that, but on my knowledge,
12 what I tried to show is, see, my MSD bills, it's belong
13 according to the Missouri water usage. And see, I cannot
14 get any response or something like that because if I use
15 that water, they charge me accordingly, you know what I
16 mean? So it's in this case, I can say if I go in this
17 charge, so Missouri-American Water is they primarily
18 responsible for my overcharge.

19 Q. Okay. Well, as to the history of this
20 building, were the numbers that Mr. Jones read in his
21 opening statement, to the best of your knowledge, correct
22 as to the bill summaries?

23 A. Yes.

24 Q. Okay. And you heard that those fluctuated
25 quite a lot throughout the year for this building?

1 A. Yes.

2 Q. Whether it was three months for winter or
3 three months for summer?

4 A. Yes.

5 Q. Okay. You would agree with that. And how
6 much -- are you aware of the tenant usage of their water?

7 A. Am I what?

8 Q. Are you aware of how much the tenants in
9 your building use water? Do you go in there and do they
10 tell you all about when they shower?

11 A. No. It's very private thing. I cannot
12 restrict them or something like that. You know, take one
13 time shower per day or two times, I cannot do like that.

14 Q. Okay.

15 A. But like I said, see, with my own
16 experience and according to the other buildings what I
17 got, and the average what I receive usually for quarter,
18 between 150, 160-70. That's it.

19 Q. But we're not talking about that for this
20 building?

21 A. No, no, no.

22 Q. Okay. Did you hire a plumber?

23 A. For what?

24 Q. To check the lines, to check the water?

25 A. Everything was cool, except according even

1 to the statement. There is no leak. There is no leak.

2 Q. How do you know there wasn't any leakage if
3 you didn't hire a plumber?

4 A. Because I represent to Mr. Gerald when I
5 turn -- see that, what's called red arrow on the meter,
6 it's move very slow. You open just a little bit water and
7 you can hear the water moving in the pipes when you're in
8 the basement and you can see it spin like crazy. You
9 cannot even pick up how it spins. So there you can see
10 it's leaking, but if it's moved just a little bit, we're
11 talking about drops, not leak. Maybe half, maybe one
12 gallon per all day long at the most in this case.

13 Q. Okay.

14 A. But it didn't move. We get inside to the
15 basement, there is no hearing the water moving inside the
16 pipe. When I turn the water, we can hear, shhh, that
17 noise like that and start spinning like crazy.

18 Q. But you did see it moving slow?

19 A. Very slow. This is what it says. This
20 even says over here, it's only slight registration, so it
21 means it's moving. This particular building moving five
22 minutes for something. I don't know. The other building
23 moving three minutes, so it's two numbers very close to
24 each other, because you cannot find any apartment
25 buildings for how we pretend going to be major, like I

1 said before, not one guarantee for 100 percent because the
2 flap cannot guarantee 100 percent. Only shot of water can
3 guarantee, but not the flap in the pipe.

4 MS. SYLER: No further questions at this
5 time.

6 JUDGE JONES: Cross-examination from
7 Missouri-American Water?

8 MR. JONES: Your Honor, may I approach the
9 witness and give him a document?

10 JUDGE JONES: Yes, you may.

11 CROSS-EXAMINATION BY MR. JONES:

12 Q. Mr. Koverman, I've handed you a document
13 which I'll represent to you is the ledger information
14 which shows your account on a dollar usage from January
15 2004, which I read in my opening statement, and I believe
16 you said to Ms. Syler on cross-examination that these
17 amounts represent your bills since January of 2004; is
18 that correct?

19 A. Yes.

20 Q. Let me ask you, you talked about the number
21 of people who occupy the premises. You talk about
22 averages. Can you tell me precisely how many people were
23 living in the premises for the quarter ending in January
24 2004?

25 A. No, I cannot tell you that.

1 Q. You don't know?

2 A. No.

3 Q. Can you tell me how many people were living
4 in the premises for the quarter ending April of 2004?

5 A. No, I cannot tell you right now, because I
6 don't have my leases.

7 Q. So you can't tell me how many people are
8 living in the premises except those who are living there
9 right now?

10 A. Yeah, but like I said, I cannot get more
11 than four people per each unit, so it cannot be more than
12 12 people.

13 Q. So you're just estimating how many people
14 were in there?

15 A. I'm not estimating. I can prove it with
16 the contracts.

17 Q. And you also didn't monitor the usage of
18 the tenants?

19 A. I monitor? No, I cannot do that.

20 Q. And you also did not hire a plumber to look
21 for a leak?

22 A. We don't have leak.

23 MR. JONES: All right. That's all the
24 questions I have.

25 JUDGE JONES: Commissioner Appling?

1 QUESTIONS BY COMMISSIONER APPLING:

2 Q. Sir, are you only concerned about one
3 quarter, that's the quarter that's from say May through
4 July?

5 A. Exactly right.

6 Q. That's the quarter that you're concerned
7 with. Okay. I heard your testimony. You say you didn't
8 have any leaks in the building. Are you sure you didn't
9 have any leaks in the flap part of the toilet, the toilet
10 was leaking?

11 A. Actually, me and my maintenance guy, we
12 both check everything, but again, like I said, we got --

13 Q. Did you check it during that quarter or you
14 checked it after you received the bill?

15 A. Yeah, we check it after I receive the bill,
16 but again, according to the inspection from Missouri Water
17 Company, you can see there is no leak. We talking about
18 drops.

19 Q. Well, Missouri was just looking at the
20 meter, right? They didn't come in and check your whole
21 building to see --

22 A. They cannot do that. They can't. How they
23 can -- to check it, they have to go to each unit to check
24 it.

25 Q. That's what I'm asking you.

1 A. No, they never ask me to do that, and they
2 never did that.

3 Q. Did you ever do it yourself?

4 A. Yes, I did.

5 Q. Okay. Was that prior to the -- you getting
6 the bill or after you got the bill?

7 A. No, I did after I received the bill, and I
8 check everything. Everything was all right, and this is
9 why I called. Right away I called to Missouri-American
10 Water Company for this inspection, and inspection show
11 what we got slight registration with five minutes only, so
12 like I said, we're talking about dripping, not leakage.

13 Q. Is it a possibility that your tenants used
14 more water during that --

15 A. No.

16 Q. -- month?

17 A. No.

18 Q. How can you say that, sir?

19 A. Yeah, because you know, like I said,
20 because otherwise so each tenant in my building, because
21 we're talking about more than two times than average usage
22 water, like I said, the average four-unit apartment
23 building, according to my knowledge, because I'm eight
24 years in this business, 150, \$160 per quarter. This is
25 380. So you cannot say what tenants come back in lunch

1 time, take a shower extra for this particular time.

2 Q. That's not the question I'm asking, sir.

3 And let me just refresh you. The job that I had before I
4 came to the Public Service Commission, I managed every
5 building that the State owned.

6 A. Yes, I manage by myself.

7 Q. I managed every building that the State
8 owned, to include the Capitol, buildings the size of the
9 Truman Building, and I paid Ameren and UE for that kind of
10 water and all that stuff, and I'm not doubting what you're
11 saying. I'm just trying to get at the head of this to
12 say, is it a possibility that somebody had a flapper open?
13 Because if it's running 24 hours, you know that could
14 cause a lot of leakage.

15 A. I can prove the other way because my
16 maintenance guy, he used to live in that time in apartment
17 No. 1 and he got round on this time. If you go to the
18 basement, you can hear when somebody using water or water
19 use, you can hear the noise in the pipe.

20 Q. Right.

21 A. So he will be calling me right away if he
22 find something wrong, but so far, no.

23 Q. Okay. How has your usage been since you
24 changed out the meter? Has it been back down to the
25 average?

1 A. We don't know.

2 Q. You haven't had a quarterly report?

3 A. No. No. And actually the water company

4 didn't want to provide even to put a new meter on the

5 apartment, after I called and I request to change the

6 meter.

7 Q. Okay.

8 A. They didn't do that. I requested that.

9 Q. You requested a change in the meter?

10 A. Yes.

11 Q. And that you haven't got a bill since you

12 changed the meter?

13 A. No, not yet. Not yet.

14 Q. Okay.

15 A. It should be in April. Should be in April.

16 Probably maybe today, tomorrow.

17 Q. Okay. Do you have any other explanation --

18 you've heard the testimony here that the meter checked out

19 to be operating correctly, so what other explanation do

20 you have, or do you have any other explanation?

21 A. Yeah. Like I said before, to determine

22 what this mechanical device works properly with the

23 flashlight and with eyes, you can't do that. For example,

24 you go to the gas station, fill up your tank with the gas

25 on the meter, you see ten gallons, you pay for ten

1 gallons. Are you sure you get ten gallons? You're not
2 sure. Maybe you get nine, maybe you get eleven.

3 The same thing here, you see the number,
4 but you cannot -- you don't know how much water come
5 through that. And according to -- this is my next
6 question. I'm sorry. You understand my point. This is
7 the point.

8 Q. I understand.

9 A. The number doesn't mean anything.

10 COMMISSIONER APPLING: I have no more
11 questions.

12 JUDGE JONES: All right.

13 QUESTIONS BY JUDGE JONES:

14 Q. What type of property, Mr. Koverman, does
15 the building lie on?

16 A. You mean --

17 Q. How much property is around it?

18 A. How many -- it's a big complex.

19 Q. Yeah. How much land is around it?

20 A. It's hard to determine that, because it's
21 like a three buildings in the same time. We shove
22 together the parking lot in the back.

23 Q. Okay.

24 A. So it's not that much. But it's just a
25 little bit in the front property with the ground, that's

1 it. According to the picture, you can see the picture,
2 but in the back it's just parking lot.

3 Q. Do you have anyone doing any landscaping on
4 the property?

5 A. Yes.

6 Q. Now, this is in -- this is in the hottest
7 part of the summer that this bill was so high. Is it
8 possible that watering the grass or trees --

9 A. No, no, no. No. No. We don't have any
10 outlets water on the building. There is none. And my
11 grass is excellent. I don't need to even put the water on
12 them. No, it's good condition. It's true, yes.

13 JUDGE JONES: All right. Thank you. I
14 don't have any other questions. We'll have recross. For
15 Staff, any recross?

16 MS. SYLER: Just one question.

17 RE-CROSS-EXAMINATION BY MS. SYLER:

18 Q. Mr. Koverman, just a clarification. On the
19 building that we're talking about, is there an outside
20 spigot, are there spigots or where you could put a valve
21 on?

22 A. It's an old pipe. You can see it, but it's
23 shut off when water is disconnect from that. There is no
24 water leak.

25 Q. Because you don't --

1 A. Yeah. There is nothing there. This is why
2 I pulled everything from inside.

3 Q. So you --

4 A. No. There is no water. It's disconnect
5 inside the basement. You cannot use that. Just outlet
6 from previous long time ago. There is no shut-off valve,
7 there is no -- any valve. No. Just everything is out.

8 Q. Okay.

9 A. And you can see on the picture, everything
10 out, you cannot use that. You mean if somebody uses water
11 outside?

12 Q. So if they didn't -- if they could put a
13 valve onto it and --

14 A. No. No. You can't. It's shut off inside
15 the basement.

16 MS. SYLER: Okay. Thank you.

17 JUDGE JONES: Recross from
18 Missouri-American?

19 MR. JONES: No questions, your Honor.

20 JUDGE JONES: Now, normally if you were
21 represented, your attorney would redirect and ask
22 questions of you to address everything that has come out
23 since you've been on the bench. Since you don't have an
24 attorney, is there something else you would like to ask?

25 THE WITNESS: Who, ask who?

1 JUDGE JONES: To add to your testimony in
2 response to everything else that has been discussed.

3 THE WITNESS: Only thing what I got
4 question to is what American Water can do now.

5 JUDGE JONES: You can do that when their
6 witness is on the stand.

7 THE WITNESS: Okay. That's it, then.

8 JUDGE JONES: Well. All right, you may be
9 seated.

10 Now we'll have Missouri-American's witness.
11 Will you please state your name, sir.

12 MR. JONES: David Yungerman.

13 JUDGE JONES: And will you raise your right
14 hand, Mr. Yungerman.

15 (Witness sworn.)

16 JUDGE JONES: Thank you. You may proceed,
17 counsel.

18 MR. JONES: Thank you, your Honor.

19 DAVID YUNGERMAN testified as follows:

20 DIRECT EXAMINATION BY MR. JONES:

21 Q. Sir, would you please state your name for
22 the record.

23 A. David Eric Yungerman.

24 Q. And who is your employer?

25 A. Missouri-American Water.

1 Q. And what is your current position with the
2 company?

3 A. I'm an operations supervisor.

4 Q. How long have you been employed by the
5 company?

6 A. Coming up on 13 years.

7 Q. As an operations supervisor, what is
8 your -- what are your duties?

9 A. I supervise the field customer service
10 personnel in North County that do meter changes, turnoffs,
11 high bill inspections, things of that nature. Also
12 supervise two meter shop personnel.

13 Q. How long have you been in this position as
14 operations supervisor?

15 A. Approximately two years.

16 Q. And what did you do before that? What was
17 your position?

18 A. It was meter shop supervisor.

19 Q. And how long were you the meter shop
20 supervisor?

21 A. Approximately nine years.

22 Q. And what were your duties as meter shop
23 supervisor?

24 A. We actually, at that point we rebuilt water
25 meters, tested water meters, did tests for high bill

1 inspections, things of that nature.

2 Q. In your current position as operations
3 supervisor, how many people report to you?

4 A. Approximately 14.

5 Q. And how many people report to you as meter
6 shop supervisor?

7 A. Well, I included them all in that number,
8 so there's 11 for operations supervisor and 2 for meter
9 shop.

10 Q. You've brought along with you a meter. I
11 just want to have you testify about how an actual water
12 meter works. Let me ask you first, is this the meter that
13 was in Mr. Koverman's property?

14 A. No. No, it's not.

15 Q. Is it a representation of the meter that
16 was in Mr. Koverman's property?

17 A. Yes. The register head is different. His
18 original meter, I believe, wasn't a remote-type meter, but
19 the body is the same and the workings are the same, the
20 internal workings.

21 Q. Can you tell me how a water meter registers
22 water usage?

23 A. Basically, you have your two ports. You
24 have your water that flows in, goes around the chamber
25 inside the meter and there's a -- it's called a nutating

1 disk that nutates around, and as that nutates, there is a
2 magnet up in the top inside the meter here (indicating)
3 that spins along with that, and then there's a magnet
4 inside the register, and those two couple together. And
5 as the water goes through, it makes the register spin
6 around, rotated.

7 Q. And how is a person reading the meter able
8 to tell water usage by looking at this meter dial?

9 A. They read the -- on this dial, you read the
10 odometer style, or you can also wire it to the outside of
11 the home and read it through a remote touch panel on the
12 outside. That's what this type is.

13 MR. JONES: May I approach the witness?

14 JUDGE JONES: Yes, you may.

15 BY MR. JONES:

16 Q. Mr. Yungerman, I've given you a document.

17 MR. JONES: Madam Court Reporter, we
18 haven't had that marked.

19 (EXHIBIT A WAS MARKED FOR IDENTIFICATION BY
20 THE REPORTER.)

21 BY MR. JONES:

22 Q. Mr. Yungerman, I've given you Exhibit A.
23 Can you identify that for me?

24 A. It's a copy of Mr. Koverman's billing
25 record going back to October of 2003.

1 Q. As customer service supervisor, are you
2 familiar with the billing system of Missouri-American
3 Water?

4 A. Yes.

5 Q. Is this the type of record that is kept
6 within the normal course of Missouri-American's business?

7 A. Yes.

8 Q. And were these meter readings and usage
9 readings made at or near the time of the usage?

10 A. Yes. Yes.

11 Q. We've already been through those amounts
12 from January 2004, so I won't ask you to do that. I'm
13 going to show you what I've asked to be marked Exhibit B.

14 (EXHIBIT B WAS MARKED FOR IDENTIFICATION BY
15 THE REPORTER.)

16 BY MR. JONES:

17 Q. Can you identify Exhibit B for me,
18 Mr. Yungerman?

19 A. It's a screen print. The first page is a
20 screen print of the service orders for the account 10952
21 White Hall Manor, and then after that is the detailed
22 information that was done at the -- at the premise on each
23 one of the service orders.

24 Q. And again, Exhibit B, is this -- are you
25 familiar with the customer service order reporting system

1 that Missouri-American Water employs in its business?

2 A. Yes.

3 Q. Is this business record kept in the normal
4 course of Missouri-American's business?

5 A. Yes.

6 A. Were these records made at or near the time
7 of the events that they describe?

8 A. Yes, they were.

9 MR. JONES: I move that Exhibit B be
10 admitted into evidence.

11 JUDGE JONES: Mr. Koverman, do you have any
12 objection to the Commission considering this document in
13 its determination?

14 MR. KOVERMAN: No.

15 JUDGE JONES: Exhibit B is admitted into
16 the record.

17 (EXHIBIT B WAS RECEIVED INTO EVIDENCE.)

18 MR. JONES: Your Honor, I apologize. I did
19 not move for the admission of Exhibit A. At this time I
20 move to admit Exhibit A, which was the billing statement.

21 JUDGE JONES: The ledger information
22 report, is that it?

23 MR. JONES: Yes, your Honor.

24 JUDGE JONES: Mr. Koverman, do you have any
25 objection to Exhibit A?

1 MR. KOVERMAN: No, sir.

2 JUDGE JONES: Exhibit A is admitted into
3 the record.

4 (EXHIBIT A WAS RECEIVED INTO EVIDENCE.)

5 BY MR. JONES:

6 Q. Mr. Yungerman, I ask you to turn to page 3
7 of Exhibit B, and if you look towards the middle of the
8 screen print, there's a service order number on the
9 right-hand side?

10 A. Uh-huh.

11 Q. Can you read that service order number?

12 A. 3238125, I believe.

13 Q. I believe so. I'm asking you to go through
14 this because there's no date on the particular screen
15 print. To get the date where this event occurred you have
16 to go back to page 1 of the exhibit?

17 A. Correct.

18 Q. If you find the service order number on the
19 left-hand side of the page, 3238215, does it show that
20 that service order took place on July 22nd, 2005?

21 A. Yes, that would be the closed date.

22 Q. And could you read the description, the
23 comment lines on page 3 for July 22nd, 19-- I'm sorry
24 2005?

25 A. It says, please check for leaks and/or

1 damage to meter, check for leaks in service lines, thanks,
2 customer would like call ahead. Then the field service
3 representative took a meter reading, and then typed in,
4 this is an apartment building, saw meter moving, there is
5 a leak somewhere in building, they will have to hire a
6 plumber to locate leak.

7 Q. Can you -- do you understand that this is
8 an onsite inspection of Mr. Koverman's meter in July of
9 2005?

10 A. Yes.

11 Q. Can you describe to me how an onsite meter
12 inspection is performed and what the customer service rep
13 is looking for?

14 A. Well, they're looking for movement on the
15 meter when there should be no usage, when no one is at
16 home or all the water is determined to be off within the
17 building.

18 Q. And what does movement on the meter
19 indicate?

20 A. Well, it means that either the small dial
21 here that Mr. Koverman referred to is moving or the sweep
22 hand is moving. The meter is showing registration, is
23 what movement basically means.

24 Q. And does the dial have to be rotating
25 wildly in order to indicate a leak on the premises?

1 A. No. No.

2 Q. Can a minor movement on the registration,
3 relatively, can that lead to a relatively high amount of
4 water usage on the premises?

5 A. Over time, yes.

6 Q. Let me direct your attention to -- I don't
7 know if I asked you this. Given this -- the comment lines
8 on page 3 for the July 22nd, 2005 inspection, what does
9 that indicate with you was going on at the premises at
10 Mr. Koverman's apartment building?

11 A. Well, it would indicate that the field
12 service representative went to the address and saw
13 movement on the meter. Whether there was someone using
14 water or there was a leak, I don't think we determined.

15 Q. If I could ask you to turn to page 4. Is
16 the service order number on this service order report
17 3240533?

18 A. Yes.

19 Q. And if you turn back to page 1 of
20 Exhibit B, did service order No. 3240533 take place on
21 July 28th, 2005?

22 A. Yes.

23 Q. So six days after the first inspection,
24 there was another onsite inspection; is that your
25 understanding?

1 A. Yes.

2 Q. Could you read the comment lines of this
3 service order?

4 A. Says, please check for leaks and/or damage
5 to meter, please call ahead. Actually, I think that was a
6 cut and copy I had from the old one. Please call ahead so
7 customer can meet FSR there.

8 Q. What's FSR?

9 A. Field service representative.

10 Q. Okay. Go ahead.

11 A. This is an apartment building with four
12 apartments. Has already checked each apartment and have
13 found no leaks. Would like for us to check again while he
14 is there, also if need be to change meter. Please call
15 ahead. This was not done last order.

16 Q. Go ahead. Continue.

17 A. Apparently it was rescheduled for some
18 reason. That's what the reschedule reason FRCC,
19 rescheduled order, means. Then when we went there, it
20 was -- they took a reading, then they wrote in verified
21 reading time, meter only slight registration in three
22 minutes. Then they wrote found the water on, left the
23 water on.

24 Q. And what does the service order report
25 indicate to you again less than a week later was occurring

1 with water usage in the premises?

2 A. That there was slight registration on the
3 meter, and the FSR's interpretation.

4 Q. Mr. Yungerman, do you understand that in
5 February of 2006 Mr. Koverman's meter was removed and
6 tested in the company's meter shop?

7 A. Yes.

8 Q. And I'll show you what I will ask the court
9 reporter to mark Exhibit D.

10 JUDGE JONES: Do we have an Exhibit C?

11 MR. JONES: I'm sorry. Your Honor, you're
12 correct. Let's have that Exhibit C.

13 (EXHIBIT C WAS MARKED FOR IDENTIFICATION BY
14 THE REPORTER.)

15 BY MR. JONES:

16 Q. Mr. Yungerman, could you identify
17 Exhibit C, please?

18 A. This is a letter that is sent to property
19 owners after we test the meter in our meter shop on high
20 bill complaints.

21 Q. And specifically what property does this
22 letter refer to?

23 A. There it is. 10952 White Hall Manor Drive.

24 Q. Is that the property that is the subject of
25 this complaint?

1 A. Yes.

2 Q. And what's the date of this letter?

3 A. February -- I'm sorry. March 6, 2006.

4 Q. Can you tell me how a meter test is done in
5 our meter -- in Missouri-American Water's meter shop?

6 A. Well, on a situation as this, we put the
7 meter in our test bench, and what we do is, we run a set
8 amount of water through the water meter into tanks, and
9 then once they get to a level, we stop the tanks at
10 100 percent. And then we verify with the meter how it
11 registered with -- if we ran ten gallons a minute, two
12 cubic feet, we run that amount of water through there, and
13 we compare the meter to the tanks. And then if the meter
14 runs a little bit high or low, it's determined at that
15 point.

16 Q. Can you tell me from this Exhibit C what
17 the results of the test were on the meter at 10952?

18 A. 10 gallons per minute, it registered
19 101 percent. At 2 gallons a minute, it registered
20 101.8 percent, and at a quarter gallon per minute, it
21 registered 98 percent.

22 Q. And what is your understanding of the
23 regulations of the Public Service Commission for meter
24 registration?

25 A. That we are allowed plus or minus five

1 percent.

2 Q. Was this document, Exhibit C, kept in the
3 ordinary course of Missouri-American's business?

4 A. Yes, it was.

5 Q. Is it the practice of Missouri-American
6 Water to maintain these types of records in the course of
7 its business?

8 A. Yes, it is.

9 Q. And was this record made at or near the
10 time of the event that it describes?

11 A. Yes.

12 MR. JONES: Your Honor, I move that
13 Exhibit C be admitted into evidence.

14 JUDGE JONES: Any objection, Mr. Koverman?

15 MR. KOVERMAN: No.

16 JUDGE JONES: Exhibit C is admitted into
17 the record.

18 (EXHIBIT C WAS RECEIVED INTO EVIDENCE.)

19 BY MR. JONES:

20 Q. Now, given the results of the test as shown
21 on Exhibit C, does it indicate that the meter was
22 functioning properly?

23 A. Yes, it does.

24 Q. And why do you draw that conclusion?

25 A. Well, it ran within the 5 percent leeway,

1 but 101, 101.8 and 98 are good test results and they're
2 approved by the Public Service Commission.

3 Q. Based on your experience, Mr. Yungerman,
4 what caused the July 2005 bill on the premises to register
5 at \$386 in usage?

6 A. I would say either some form of leak in the
7 form of -- I don't even know, a toilet or a flapper as we
8 discussed earlier or just excessive usage.

9 Q. Now, we've seen from Exhibit A, the ledger
10 of water usage at the premises, that the dollar amounts
11 recorded have gone, for example, from 219 in January 2004
12 to 163 in April of 2005, up to 386 in July of 2005, and
13 then down to 112 in January of 2006. In your experience,
14 will a malfunctioning meter record this kind of
15 fluctuating pattern?

16 A. I guess I'm not sure exactly --

17 Q. If a meter is malfunctioning --

18 A. Okay.

19 Q. -- how will that malfunction express itself
20 on the usage?

21 A. It would -- the meters, when they're
22 malfunctioning, when they get old, they run lower. That
23 has been my experience.

24 Q. In your experience, does a meter
25 malfunction by registering excessively high usage one

1 period and excessively low usage another period?

2 A. No, they will not do that.

3 MR. JONES: Thank you. I have no more
4 questions.

5 JUDGE JONES: We'll have cross-examination
6 now from the Staff of the Commission.

7 CROSS-EXAMINATION BY MS. SYLER:

8 Q. Mr. Yungerman, were you in the room when
9 Mr. Koverman was testifying?

10 A. Yes.

11 Q. And were you in the room for
12 cross-examination also of Mr. Koverman?

13 A. Yes.

14 Q. So did you hear all of his answers and all
15 of his statements?

16 A. Yes.

17 Q. Okay. He referenced something about the
18 change -- changing of the meter to the electronic head
19 that you also referenced?

20 A. Uh-huh.

21 Q. Now, does that installation of that digital
22 external readout change the way water use is actually
23 measured specifically, which is by a mechanical meter with
24 an odometer-type register?

25 A. No, it does not.

1 Q. Okay. Now, does the digital external
2 readout merely allow a meter reader to document the usage
3 as recorded by the mechanical odometer-type meters in,
4 let's say, the basement of buildings like this one is?

5 A. That's exactly what it does.

6 Q. Now, at the bottom of the letter on
7 Exhibit C that Missouri-American Water sent out, it says,
8 we will hold this meter in our shop for two months. If
9 you dispute this information or wish to see the meter
10 retested in your presence, please contact our customer
11 service center with the phone number and availability of
12 24 hours per day, 7 days a week for your convenience.

13 Are you aware, did Mr. Koverman call and
14 you refuse to retest the meter?

15 A. I'm not aware of that, no.

16 Q. Are you aware of Mr. Koverman calling to
17 dispute the test results on this page at all?

18 A. No, I'm not.

19 MS. SYLER: Okay. Nothing further.

20 JUDGE JONES: Commissioner Appling?

21 Oh, I'm sorry. Mr. Koverman, do you have
22 questions of Missouri-American Water's witness?

23 MR. KOVERMAN: Sure.

24 CROSS-EXAMINATION BY MR. KOVERMAN:

25 Q. Could you explain to me, please, what does

1 it mean, three minutes and five minutes, what does mean
2 slight registration?

3 A. Well, in my definition of that would be
4 that the field service representative watched your meter
5 for either three or five minutes and saw that there was
6 usage on the water meter. That would be what I would
7 determine.

8 Q. So you mean five minutes, they just watch
9 it five minutes how it works?

10 A. Yes.

11 Q. This is what you determined?

12 A. That's what I would think that --

13 Q. You think or you're sure?

14 A. I would say if they wrote on there,
15 witnessed the meter registration for five minutes, that
16 they watched the meter for five minutes, saw registration
17 on the meter. That's what that would mean.

18 Q. This what it mean?

19 A. Yes, sir.

20 Q. All right. In your knowledge, what does
21 mean only slight registration? What does mean, it's
22 amount of what? What you going to concern, registration
23 slight, more registration or something like that,
24 according to the gallons per usage?

25 A. I don't think slight registration is

1 actually a -- a term that they used to put a given gallon
2 amount on it. I think what slight registration means is,
3 either the sweep hand moved slightly or the triangular
4 wheel was moving slightly.

5 Q. So in other words, you try to say, like I
6 explain it to Commissioner before, that the red arrow,
7 what is sitting on the meter, so it's moving very, very
8 slow, this is what you try to say?

9 A. Which one are you speaking of?

10 Q. The small one.

11 A. The small one?

12 Q. Yeah, the small one.

13 A. They could have meant that, or they could
14 have meant that the sweep hand --

15 Q. What do you mean they could? You are
16 supervisor in the shop and you just say could be, may be.
17 You know, it doesn't look like you try to say something
18 right answer to me.

19 A. I'm saying that they saw your meter for
20 five minutes and there was usage and registration on the
21 meter.

22 Q. Okay. But we're talking about the big
23 arrow line, I mean, arrow or the small one?

24 A. Without actually speaking to the employee,
25 I couldn't answer that.

1 Q. Oh, you cannot answer. Okay. So I can
2 tell you it's only moving the small one very, very, very
3 slow, and you can see it's probably made like probably for
4 one minute, probably half of revolution only. When I turn
5 the water on, moving you cannot see slow. I'm not in this
6 particular business, but I do have master degree diploma
7 which is mechanical diploma. What I can explain it to you
8 more probably if I get deeper in that business.

9 Understand what I mean?

10 So this is not amount of the water if this
11 small arrow moving very, very slow. When I open the
12 shutoff valve and you can hear the noise in the water, I
13 don't know how much the gallons goes through, but you can
14 hear leak.

15 JUDGE JONES: Mr. Koverman, is there a
16 question you have for him?

17 MR. KOVERMAN: I just want an explanation
18 about the three minutes and five minutes.

19 BY MR. KOVERMAN:

20 Q. So can you assume what the same period of
21 time, the three months, the bill could be \$386 and \$112,
22 three times more or three times less, it's possible?

23 A. Yes.

24 Q. Yes. It's possible malfunction with the
25 meter it could jump like hundreds or 1,000, it's possible

1 jumps or not?

2 A. I would say no.

3 Q. Why?

4 A. Because in my experience I've never seen
5 that happen before, plus we tested the meter and the meter
6 tested fine.

7 Q. Yeah. But you test only ten gallons. You
8 think it's enough?

9 A. Yes.

10 Q. I don't think so. It could be jumping
11 hundred, could be jumping 1,000, 10,000. Could be?

12 A. I have never seen it happen.

13 Q. Because probably not one was complained
14 like that. And so far so good. Actually, from where you
15 pick up all the information, the first time in my life I
16 see that on exhibition B. It's called, comments lines.
17 Does your employee give it to you?

18 A. This is what the employee enters into their
19 computer when they close your service order out.

20 Q. Yeah, what you try -- can you explain to
21 me, please check for leaks and/or damage of meter, what
22 does it mean?

23 A. That was actually put in by the customer
24 service rep at our Alton call center when you called in
25 your request. They probably -- they probably typed in

1 exactly what you told them to check for.

2 A. Excuse me. Just second ago you said your
3 employees put that note. Now you said the representative,
4 sir.

5 A. I think I stated earlier, the first part of
6 that comments are the instructions for the field service
7 rep to do at your account. The second part, when it says
8 meet -- I'm not sure which page you're on. Which page are
9 you on?

10 Q. This is third one page.

11 A. Third page? Is it the one that starts,
12 please check for leaks and/or damage?

13 Q. Yeah, yeah.

14 A. Okay. Those are the instructions to the
15 field service rep, customer would like call ahead. Then
16 once it says meter reading on down, those are the comments
17 that the field service rep put in.

18 Q. Okay. For the next page it says -- the
19 next page it says what this is apartment building for
20 apartment, has already check each apartment and have found
21 no leaks. So who did that?

22 A. The Alton call center typed that in,
23 probably after a conversation with you requesting your
24 second inspection. You probably told them that, and they
25 typed it in so the field rep would know what to do when

1 they got out there.

2 Q. All right. One more question, about this
3 is two the same buildings, four-apartment buildings, so
4 this is -- one of it says, during our inspection we
5 examine the meter for signs of movement for three minutes,
6 and this is movement for five minutes.

7 MS. SYLER: Your Honor, if I could object
8 that I don't know what Mr. Koverman is referring to.

9 MR. KOVERMAN: The answer it's high
10 inspection for Missouri Water Company.

11 MS. SYLER: And --

12 JUDGE JONES: What documents are you
13 looking at? Is that something that someone has seen
14 already?

15 MR. KOVERMAN: Yeah, it's high inspection
16 bill, high bill inspection. You should have a copy. I
17 sent it to you.

18 MR. JONES: I believe it was attached to
19 Mr. Koverman's response to the Staff report.

20 MR. KOVERMAN: Can I continue?

21 BY MR. KOVERMAN:

22 Q. Yeah. Could you give me explanation,
23 because it's the same two buildings, the same
24 four-apartment building, so this show three minutes
25 movement, this show five minutes. This bill was \$380,

1 this bill \$146. Can you give me explanation about that?

2 A. I don't have copies of those.

3 JUDGE JONES: Can you show him those
4 copies?

5 BY MR. KOVERMAN:

6 Q. Sure.

7 A. I'm sorry. Can you repeat your question
8 again?

9 Q. The question is, it's the same apartment
10 buildings with the same amount of the people. How could
11 be the one register three minutes and the other one five
12 minutes with the number so close to each other one and one
13 is billed \$386, the other one \$146, more than two times?

14 A. Well, if you're asking me about the
15 different inspection time and minutes --

16 Q. Yes.

17 A. -- it appears that there were two different
18 field reps. Let's see. No, there was the same field rep
19 out there, on different days. One day they did it for
20 three minutes, and the other day they did it for five as
21 far as viewing the meter. I can't answer for that person
22 why they did one day three and one day five.

23 Q. Okay.

24 A. That's why it's left blank, because they --
25 different people do it for different amount of minutes,

1 depending on the size of the leak.

2 Q. Different rules and regulations for each
3 representative from your company?

4 A. No. They did an inspection and found
5 registration.

6 Q. Yeah. What do you know about what the
7 company changed the rules I guess in 2004, what your
8 representative not allowed to go to the basement for meter
9 reading in inspection for insurance purpose?

10 A. I'm not familiar with that.

11 Q. You're not familiar?

12 MR. JONES: Your Honor, let me object that
13 the question assumes facts not in evidence and is also
14 irrelevant to this case.

15 JUDGE JONES: I'll sustain the objection in
16 that it assumes facts not in evidence. Mr. Koverman, what
17 that means is you assumed that rules have been changed,
18 but --

19 MR. KOVERMAN: Yeah, they changed the
20 rules. They supposed to give me knowledge what they
21 supposed to be change meter long time ago and put
22 electronic meter outside of the premises.

23 JUDGE JONES: Just so you understand that
24 the objection is sustained because it is not shown that
25 the rules have been changed.

1 MR. KOVERMAN: This is what the
2 representative told me in 2004. This why they didn't read
3 the meter for one and a half year for other property.

4 JUDGE JONES: Okay. Well, I'm going to
5 sustain the objection. What I gather, this witness can't
6 answer that question anyway.

7 MR. KOVERMAN: No, I just asked him if he
8 knows something about that because he's representative,
9 came inside -- I mean, employee representative and changed
10 the meter and did the work. So if he's familiar with that
11 rules, with the change in the Missouri Water Company. He
12 said no.

13 That's it. No more questions.

14 JUDGE JONES: Thank you. Commissioner
15 Appling?

16 QUESTIONS BY COMMISSIONER APPLING:

17 Q. Mr. Yungerman, how you doing?

18 A. Good.

19 Q. Good. First question is, when you test a
20 meter back in your -- back at the meter testing station
21 back wherever you do it, how long do you run the test on
22 it?

23 A. Well, we run --

24 Q. My question is, you run more than ten
25 gallons of water through it, don't you?

1 A. Yes, we do. We run through different
2 tests. One of them is ten gallons a minute. We run two
3 cubic feet in the first test, and on down the line. I
4 don't remember the exact amounts, but we do run more than
5 ten gallons through.

6 Q. Second question, on the building that we're
7 talking about, the four-unit apartment, when is the meters
8 read on a quarterly basis, you look at the meters every
9 three months on that?

10 A. Yes, according to the billing records, it's
11 quarterly.

12 Q. Does a service person go out and physically
13 read the meter?

14 A. A meter reader will. Not a service person,
15 but a meter reader.

16 Q. Is it a possibility that the meter reader
17 recorded the wrong numbers? Could they have -- could they
18 have read the numbers wrong?

19 A. That can happen, but they were verified on
20 subsequent service orders, when the service people went
21 out.

22 Q. Okay. I'm not saying that they did or not.
23 I'm just trying to ask questions to see is there some
24 possibilities, some explanation why this quarter was
25 higher than the rest of the quarters were. In your

1 experience on this, what explanation do you have for this
2 meter registering higher this quarter than in the past?
3 I'm sure you've had people come in with complaints about
4 meter readings, being too high, whatever the case is, so
5 give me your thoughts on this.

6 And I'm not saying that you're right or
7 wrong. I'm actually putting you on the spot here, and I
8 know that, but tell me what your thoughts are on this.

9 A. Well, I mean, my thoughts are it's a --
10 it's a frustrating thing, I guess, for the customer as
11 well as us. We bring the meter in and we find out that
12 it's running properly. We don't know if it was a toilet
13 flapper or somebody turned on and used more water, had a
14 sink running, had an outside spigot going. I know you
15 don't have any outside spigots, but my answer is usually.
16 We don't know. I mean, we just know that the meter is
17 testing fine and I don't know of any -- I have no way to
18 tell where that water went. I just know it went through
19 the meter.

20 Q. If a toilet flapper was up on a toilet,
21 just for an example, it locked up one time and it doesn't
22 do it again, how long would it take for that water to be
23 running through a toilet in order to run up another \$100
24 on your water bill?

25 A. I don't really know. I'd have to do the

1 math, I guess. I don't know. I guess it depends on how
2 much water is going through the toilet.

3 Q. I'm just searching for an explanation here.

4 A. I understand that.

5 Q. So that you can go back to St. Louis and so
6 your clients go back to St. Louis and put it away. Is
7 there anything else you can tell me about this location,
8 anything in the research that you-all did that explained,
9 other than somebody used the water and the meter recorded
10 it correctly?

11 A. Not really, no.

12 COMMISSIONER APPLING: Okay. Thank you.

13 QUESTIONS BY JUDGE JONES:

14 Q. Mr. Yungerman, earlier you said a service
15 person went by the house to check the meter, determined
16 that there was a -- I'm not sure how you described the
17 register, a small register of some sort?

18 A. Registration.

19 Q. What was the adjective you put on that
20 word? What was it, minimal or slight? Was it slight?

21 A. I think I used the term that they had in
22 the service order, slight registration.

23 Q. Okay. Now, they base that conclusion --
24 well, they concluded that there must be a leak in the
25 building and that Mr. Koverman needed to check that out.

1 And they also determined that there was no one in the
2 building at that time using water. In other words,
3 there's no water being used, there should be no
4 registration at all, so there must be a leak; is that the
5 conclusion?

6 A. Well, the conclusion they wrote on the
7 service order was that there was usage and there must be a
8 leak. It doesn't say anything on there about whether
9 there was anybody else in the building or not.

10 Q. I know you mentioned that earlier, but
11 you're saying that's not a conclusion that you like to
12 draw, then. Someone could have been in the building, I
13 don't know, getting a three-minute drink of water that
14 caused that slight registration, rather than there being a
15 leak; is that possible?

16 A. According to what's here, yes.

17 JUDGE JONES: Okay. Commissioner Appling?

18 COMMISSIONER APPLING: One more question,
19 please.

20 FURTHER QUESTIONS BY COMMISSIONER APPLING:

21 Q. If I call you up tonight to come out and
22 check my apartment building, I tell you that I think I
23 have a problem with the meter, you're going to come and
24 check what on that house, that apartment?

25 A. On apartments buildings, they're always

1 tough because in order to properly do it, you need to gain
2 access to all of the units, make sure that nobody's using
3 any water, and then go down and look at the meter. A lot
4 of times in apartment complexes we go and we'll look and
5 see usage, and we have no way to access every unit. So we
6 say we're showing usage, you either have a leak or
7 somebody's using water.

8 Q. But you're not a plumber, so your service
9 people don't actually go around checking all the faucets
10 and all that stuff, do they?

11 A. Correct.

12 Q. So what you would recommend to the
13 landlord, that he get a plumber to check --

14 A. Yes.

15 Q. -- to see if there's some additional leaks
16 in the system?

17 A. Yes.

18 COMMISSIONER APPLING: Okay. Thank you.

19 JUDGE JONES: We'll move on to recross,
20 beginning with Staff.

21 RE-CROSS-EXAMINATION BY MS. SYLER:

22 Q. Just one question, then. On the meter that
23 we're talking about, how old was this meter?

24 A. I don't know the answer to that question.
25 I mean, I can tell by the meter number that -- it's not a

1 40-year-old meter, I can guarantee that. But the exact
2 age, without checking our records and looking, I couldn't
3 tell you that. Probably I would say my best guess would
4 be within probably the last ten years that meter was
5 purchased.

6 Q. How often do you change out meters?

7 A. We change out five-eighths-inch meters
8 every 15 years.

9 Q. And why is that?

10 A. Because that's the stated what --
11 determined usage on when a meter starts to lose its
12 effective life.

13 MS. SYLER: Okay. No further questions.

14 JUDGE JONES: Commissioner Appling?

15 FURTHER QUESTIONS BY COMMISSIONER APPLING:

16 Q. Mr. Yungerman, I hate to keep coming back
17 to you. I keep thinking I'm finished, but the longer you
18 talk, the more questions you generate for me, so that's
19 fine.

20 But in your experience of testing and
21 looking at meters that is being taken out, what -- do you
22 have an estimate of the percentage of how many meters that
23 malfunction, the eight or ten-year-old meters that
24 malfunction? Do you-all have problems with meters often
25 or not often or you don't have any at all?

1 A. I would say the only -- almost every time
2 we test a meter, the meter does not over-register. The
3 only time we would ever see that is if the meter was
4 misgeared either by our meter shop when we had one or if
5 it came from the factory misgeared, but that would be a
6 consistent -- it would always register the same way.

7 Q. What are some of the common problems that
8 you have with meters, other than over or
9 under-registering?

10 A. We really don't have that many problems
11 with meters, really. We're very happy with our
12 manufacturer that we receive the meters from.

13 COMMISSIONER APPLING: Okay. Thank you
14 very much, sir.

15 JUDGE JONES: Staff have any further
16 questions based on Commissioner Appling's questions?

17 MS. SYLER: No, your Honor.

18 JUDGE JONES: We'll move on to recross by
19 Mr. Koverman.

20 RECROSS-EXAMINATION BY MR. KOVERMAN:

21 Q. What do you think is it possible for the --
22 for this -- not this particular, the old previous meter
23 like I used to have, is it possible the gear jump up one
24 to the other? Is it possible or not?

25 A. I would say no, because for it to jump

1 something would have to break, and it would continue to be
2 a problem. And I've never seen it happen.

3 Q. You've never seen it. Is the same
4 principle working like an odometer in the car or not? Do
5 you know how works odometer in the car?

6 A. Yes.

7 Q. So is it the same principle?

8 A. The sweep hand moves and then the gears
9 turn.

10 Q. Right. The same principle?

11 A. Yes.

12 Q. Do you know how many times I saw as a
13 technician millions of miles on cars? A lot. So this is
14 possible, too, and when you buy old odometer from the
15 junkyards, you have to register with the State of
16 Missouri, because you change the miles on a car, so this
17 is what I can say it's possible could jump.

18 MS. SYLER: Your Honor, I would have to
19 object as to whether or not there's a question coming.

20 JUDGE JONES: Mr. Koverman, do you have a
21 question?

22 MR. KOVERMAN: No, that's it.

23 JUDGE JONES: Objection sustained, by the
24 way. We'll move on to redirect from Missouri-American.

25 MR. JONES: I have no questions, your

1 Honor.

2 JUDGE JONES: Thank you. Mr. Yungerman,
3 you may step down.

4 THE WITNESS: Thank you.

5 JUDGE JONES: Okay. The next witness is
6 Staff's witness, but we've been going for an hour and a
7 half, so we're going to give the court reporter a
8 few-minutes break and then we'll come back here at 20
9 minutes 'til three and continue with Staff's witness.

10 (A BREAK WAS TAKEN.)

11 JUDGE JONES: We are back on the record in
12 Case No. WC-2006-0248. We'll begin now with Staff's
13 witness.

14 MS. SYLER: Staff calls Mr. Jerry Scheible
15 to the stand.

16 JUDGE JONES: Mr. Scheible, will you raise
17 your right hand, please.

18 (Witness sworn.)

19 JUDGE JONES: You may be seated.

20 JERRY SCHEIBLE testified as follows:

21 DIRECT EXAMINATION BY MS. SYLER:

22 Q. Mr. Scheible, could you state your name and
23 spell it for the record, please.

24 A. My name is Jerry Scheible, S-c-h-e-i-b, as
25 in boy, l-e.

1 Q. And what is your occupation?

2 A. I'm a utility regulatory engineer for the
3 Missouri Public Service Commission.

4 Q. How long have you been in that position?

5 A. Approximately four and a half years.

6 Q. And what's your educational background?

7 A. I have a degree in engineering from the
8 University of Missouri - Columbia, Missouri.

9 Q. And what are the duties that your job
10 entails?

11 A. They vary. Specific that I would say
12 concerning this case, I do perform many complaint
13 investigations, including high bill complaints and
14 concerns, and also deal with estimation of expected water
15 usage for both new certificate cases for new companies
16 we're going to regulate and any expansions that may be
17 necessary.

18 Q. And will you make reports carrying out
19 those duties?

20 A. Yes.

21 Q. Did you investigate a complaint made by
22 Mr. Koverman to the PSC?

23 A. Yes.

24 Q. Did you make a report in that situation?

25 A. Yes, I did.

1 MS. SYLER: May I approach the witness?

2 JUDGE JONES: Yes, you may.

3 BY MS. SYLER:

4 Q. Do you recognize what I just handed to you?

5 A. Yes.

6 Q. And what is it, if you could identify it
7 please?

8 A. It is a report that I filed in response to
9 an Order from the Commission in response to Mr. Koverman's
10 complaints.

11 Q. And when did you make this report?

12 A. February 28th, 2006.

13 Q. And did it come to any conclusions off the
14 basis of your investigation?

15 A. Yes. After my investigation, I concluded
16 that --

17 MS. SYLER: Wait. Hold on one second.

18 Your Honor, I'd just like to reiterate that we have it
19 stamped as highly confidential, and just to make sure that
20 everyone is still -- it's still acceptable that the report
21 be broadcast and not in-camera.

22 JUDGE JONES: Mr. Koverman?

23 MR. KOVERMAN: I'm okay.

24 JUDGE JONES: Missouri-American Water?

25 MR. JONES: That's fine with us.

1 JUDGE JONES: You may proceed, Counselor.

2 MS. SYLER: Thank you.

3 BY MS. SYLER:

4 Q. Now, is it -- just to back up for a second,
5 is there an affidavit attached to that report?

6 A. Yes, there is.

7 Q. Okay. And is that your signature?

8 A. Yes, it is.

9 Q. And is the report itself a true and
10 accurate copy of what you put together and what you wrote
11 down --

12 A. Yes.

13 Q. -- in this case?

14 A. Yes, it is.

15 MS. SYLER: Okay. This is labeled as
16 Appendix A, your Honor, and I would ask to move this into
17 evidence. I'm not sure what we want to label it. I have
18 pictures that I have numbered as No. 3.

19 JUDGE JONES: You said it's labeled as
20 Appendix A?

21 MS. SYLER: It was an appendix to a
22 pleading that we already did in this case, but I'm not
23 sure what the court -- or what the Commission would prefer
24 it to be labeled as.

25 JUDGE JONES: Any exhibit number different

1 than the ones that are already used.

2 (EXHIBIT NO. 4 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 MS. SYLER: And that report has been
5 labeled as Exhibit No. 4. And I -- was it moved into
6 evidence, your Honor? I'm sorry. Was it already moved
7 into evidence? I would ask that it be moved into evidence
8 as Exhibit No. 4.

9 JUDGE JONES: Any objection to Exhibit 4,
10 Mr. Koverman?

11 MR. KOVERMAN: No.

12 JUDGE JONES: Missouri-American Water?

13 MR. JONES: No, your Honor.

14 JUDGE JONES: Exhibit 4 is admitted into
15 the record.

16 (EXHIBIT NO. 4 WAS RECEIVED INTO EVIDENCE.)
17 BY MS. SYLER:

18 Q. Now, did you visit the building that is
19 referenced in this case?

20 A. Yes, I have.

21 Q. And was that the 10952 White Hall Manor
22 Drive in Bridgeton, Missouri?

23 A. Yes, ma'am.

24 Q. And did you take pictures while you were at
25 that property?

1 A. Yes, I did.

2 Q. And what was that a building of? What did
3 the building look like?

4 A. It's a two-story four-unit apartment
5 building. That was what I could determine from the
6 outside. I did not go into the units, but it is my
7 understanding that it is -- each unit is a two-bedroom
8 apartment.

9 Q. Okay. Do you recognize what I just handed
10 you?

11 A. Yes. This is a photograph of the front of
12 10952 White Hall Manor Drive we've been discussing.

13 Q. Okay. Are there two pictures there?

14 A. Yes, there are.

15 Q. What is the first picture of?

16 A. The first picture is of the front of the
17 building, and the second is a picture of the rear of the
18 building, of the same building.

19 Q. And are they fair, true and accurate
20 depictions of what you saw when you visited that property?

21 A. Yes, they are.

22 MS. SYLER: I would ask to first have it
23 labeled as Exhibit No. 3, and then move it into evidence.

24 (EXHIBIT NO. 3 WAS MARKED FOR
25 IDENTIFICATION BY THE REPORTER.)

1 JUDGE JONES: Any objection?

2 MR. JONES: No, your Honor.

3 JUDGE JONES: Exhibit 3 is admitted into
4 the record.

5 (EXHIBIT NO. 3 WAS RECEIVED INTO EVIDENCE.)

6 BY MS. SYLER:

7 Q. Okay. Did you ever contact Mr. Koverman?

8 A. Yes, I did.

9 Q. And what did you contact him about?

10 A. Concerning the complaint that he had filed.
11 I had a copy of his written complaint, and I contacted him
12 to further discuss the issues with him.

13 Q. And what did he express the nature of the
14 complaint to you as?

15 A. Basically, it was a concern about a high
16 water bill for the period ending in July of 2005, and a
17 corresponding sewer bill to the Metropolitan Sewer
18 District, MSD, that correlated with the high bill. And
19 his main concern or his main contention was that the meter
20 had malfunctioned during that billing quarter, which had
21 caused the high reading.

22 Q. And did he describe the type of malfunction
23 that he believed it to be?

24 A. He believed it to be much -- that the
25 odometer-style reading, the gears -- his opinion was the

1 gears either meshed together or caught and jumped by a
2 factor of possibly 100 or 1,000.

3 Q. Did he discuss any other quarters with you
4 besides the complaint dealing with April to July of 2005?

5 A. I believe just in general that this was the
6 highest one that he had seen in the eight year that he had
7 been in the business of managing these types of
8 apartments.

9 Q. Okay. Did you make contact with
10 Missouri-American Water Company?

11 A. Yes, I did.

12 Q. And what information, if any, did you
13 request?

14 A. I requested past billing information, was
15 the start of my investigation, and further from there,
16 once I learned that the meter had been removed and tested,
17 I requested copies of the meter testing results.

18 Q. Did you request any information about
19 history on this property or having to do with anything on
20 that water bill?

21 A. Yes. The past billing history for that
22 property.

23 Q. Okay. And that was all-inclusive then?

24 A. Yes.

25 Q. Does that also include information that we

1 heard previously from Mr. Yungerman about site visits by
2 their field service representatives?

3 A. Yes, that's correct. That was also
4 included in what the company provided to me.

5 Q. Okay. Did you get any information on the
6 actual meter itself?

7 A. Included in the -- I can't say exactly
8 where at this point. I know that I had requested from the
9 company what the serial number for the meter was that was
10 removed, and also included in the meter test results there
11 was the same information concerning the serial number and
12 brand of the meter and the date that the meter was
13 purchased.

14 Q. Okay. And do you recall what date the
15 meter was purchased?

16 A. I can't say exactly what the date was, but
17 I do recall that it was in 1998.

18 Q. And what are the PSC rules on the
19 timeliness of replacing water meters?

20 A. Chapter 10 of the Code of State Regulations
21 for Economic Development, Public Service Commission
22 require meter testing or replacement every ten years.

23 Q. Was it within that ten-year period, then,
24 when -- with what we're dealing with?

25 A. Yes, if it was purchased in 1998, then that

1 would be within the ten years.

2 Q. Okay. Did you do any sort of comparison
3 with the bills that you received for past years and the
4 bill in question?

5 A. Yes, I did. I had bills that went back
6 through 2003 or a bill history summary that went back
7 through 2003, and the bill in question of July 2005 was
8 certainly the highest of all of them. However, the usage
9 did vary and fluctuate throughout that time period.

10 Q. Okay. How much did it fluctuate throughout
11 that time period?

12 A. I don't think I have the specifics.

13 Q. Do you have any of the specifics within
14 your report?

15 A. The only other date that I have, I have two
16 dates for readings that were subsequent, that occurred
17 after the bill in question, which was taken in October of
18 2005, was for 84,524 gallons of usage for that quarter.
19 And then the bill following that, which was from January
20 of 2006, was for 41,888, which those two are roughly --
21 one is half of what the other one is. That's double
22 between the two. And also the bill dating back to the
23 corresponding same quarter, in the year the previous year
24 in 2004, the usage was for 11,696 gallons.

25 Q. And what does all of that mean to you?

1 A. Well, to me, I compared the usage for the
2 two similar quarters to try and get a better idea of some
3 kind of a trend or a pattern of usage, and the
4 corresponding quarter from the year before basically was
5 within 50 percent usage of what the high bill in question
6 was, which to me indicated that it is within the realm of
7 possibility of regular usage for this property.

8 Q. Okay. Is there any explanation through
9 your training and experience that you could give as to a
10 bill increasing by 50 percent?

11 A. Well, just -- just offhand, it's very
12 possible, since it's a four-unit apartment building, the
13 water usage habits of the tenants can vary greatly from
14 person to person. It would depend on the number of people
15 that were living in each unit and the entire building at
16 any given time, as well as the possibility of any type of
17 a leak that could have existed. Could be a combination of
18 high usage by the tenants and any possible leakage of the
19 internal plumbing.

20 Q. Do you have any kind of technical
21 information or field information that also supports this
22 idea?

23 A. Just for the usage in general, I have
24 researched EPA, Environmental Protection Agency, and I got
25 an annual average residential usage, which is -- which was

1 183 gallons per day per person. That's a nationwide
2 average. And using those numbers, I don't have the
3 calculations in front of me, but they were within --
4 easily within 10 percent of the high bill in question. If
5 you consider, I believe the calculations I used was that
6 there were two and a half equivalent people in each
7 apartment, so multiplying that times four, and then
8 multiplying it times EPA's number of 183 gallons per day.
9 And then I believe the bill in question the quarter was
10 for 91 days, and I multiplied that by 91 days and came up
11 to very close the same usage of this bill that's in
12 question.

13 Further research has shown also and EPA
14 said that from their website mentioned the possibility of
15 a silent toilet leak -- that's not a flap stuck open;
16 that's just a leak that would possibly go undetected
17 because it's just a leak between the tank and going on
18 out -- could account for as many as 500 gallons per day if
19 that was occurring.

20 Q. Did you think before what Mr. Koverman said
21 that he believed the malfunction was as to the actual
22 odometer reading or jump in the number, did you think --
23 did you contemplate that?

24 A. I certainly did.

25 Q. And what did you actually -- have you

1 actually ever heard of that happening?

2 A. That's actually what my response was going
3 to be, is that, yes, I have not ever -- I'm not familiar
4 with that scenario ever being documented that that type of
5 a jump would have occurred, that a meter would jump ahead
6 in that fashion and then return to normal operation.

7 Q. And did this next billing cycle show a
8 normal operation?

9 A. Yes. It appeared to be normal after that,
10 yes.

11 Q. And that's for the July to October 2005
12 bill?

13 A. Correct.

14 Q. Okay. Now, going back to something Mr.
15 Yungerman referenced, were you here for Mr. Yungerman's
16 testimony?

17 A. Yes, I was.

18 Q. And did you hear all of his testimony?

19 A. Yes, I did.

20 Q. And they -- he and Mr. Koverman were
21 discussing the sweep hand or the triangular wheel. Are
22 you familiar with those terms?

23 A. Yes.

24 Q. Okay. Now, are you aware if a sweep hand
25 or triangular wheel, should they be moving at all if

1 there's no water in the system?

2 A. Absolutely not on the sweep hand.

3 There's -- to say that -- the smaller dial's actually
4 referred to in the industry as a leak indicator. The leak
5 indicator should not be moving as long as there is no
6 water usage.

7 However, that said, I guess there's the
8 remote possibility just that there could be expansion say
9 in the hot water heater that could possibly cause a
10 momentary, very short-lived flicker of movement, but I
11 can't verify that's the case either. I would assume if
12 there's no water usage in the house, that neither one of
13 those indicators would be moving.

14 Q. With an expansion in, say, a water heater,
15 would that be shown in a three-minute observation period
16 or would it be momentary?

17 A. It would certainly be momentary.

18 Q. Okay. What would a slow leak or a slight
19 leak look like on a leak indicator?

20 A. Slight leak would show up as continuous
21 movement on the leak indicator. The speed by which the
22 leak indicator was spinning would be determined by the
23 size of the leak. The smaller the leak, the slower the
24 leak indicator would turn, but it would turn in a
25 continuous fashion.

1 Q. Did you come to -- after -- going ahead
2 with your investigation and analyzing all the data that
3 you received, did you come to any conclusions through your
4 training and experience in this case?

5 A. My conclusion was that having not ever
6 being able to -- having not being able to document any
7 evidence of the type of meter malfunction that
8 Mr. Koverman described as in a jumping ahead and then
9 returning back to normal operation, and the fact that the
10 water usage itself is not at all out of the question,
11 especially if you consider any possible leaks, however
12 small they may be, it's my opinion, my professional
13 opinion, that the most likely scenario is that the water
14 did indeed pass through the water -- I'm sorry -- did
15 indeed pass through the meter and is, therefore, the
16 customer's responsibility.

17 Q. Finally, in your investigation and in
18 analyzing the complaint filed and -- did you look at the
19 answer filed first from Missouri-American Water Company?

20 A. Yes, I did.

21 Q. Did they make any mistaken assumptions in
22 their answer?

23 A. Actually, there was one mistaken
24 assumption, in that Missouri-American's answer stated that
25 MSD, the bill for the Metropolitan Sewer District would

1 not have corresponded with the bill in question for the
2 water service from Missouri-American due to the fact that
3 MSD uses the first quarter only to determine sewer service
4 for the entire year.

5 That is true in residential situations.
6 However, MSD considers an apartment building to be a
7 commercial customer, and therefore, being so, the bill
8 actually -- the sewer bill actually does correspond to the
9 same quarter. It is not based solely on the first
10 quarter's usage. So, in fact, a high water bill would, in
11 that quarter, in the second quarter would, in fact, affect
12 Mr. Koverman's sewer bill from MSD.

13 Q. And one last clarifying question. How much
14 of an increase from last year, 2004 April to July bill
15 versus April to July of 2005, how much of a difference in
16 cost was that?

17 A. It was \$120.64. And I may add to that that
18 the rate that Missouri-American is charging per their
19 tariff through the Missouri Public Service Commission has
20 not changed in that time frame. So that would be
21 reflective -- it would be a good comparison between those
22 two dollar amounts.

23 MS. SYLER: No further questions at this
24 time.

25 JUDGE JONES: Cross-examination for

1 Missouri-American?

2 MR. JONES: I have no questions, your
3 Honor.

4 JUDGE JONES: Mr. Koverman, do you have
5 questions of this witness?

6 MR. KOVERMAN: Yeah.

7 CROSS-EXAMINATION BY MR. KOVERMAN:

8 Q. You remember when we met each other by my
9 building to get inside the basement?

10 A. Yes, sir.

11 Q. Me and you we look on the meter, we saw
12 that red arrow line, you remember we talk about, and you
13 remember there is no noise we can hear like water moving
14 through the pipe, remember that?

15 A. That's correct.

16 Q. You remember I came to the one shut-off, I
17 opened the water and we see how it starts spinning so fast
18 you can't even pick up it spins?

19 A. Yes, true.

20 Q. Could you indicate in this case whether
21 it's moving very slow? We're talking about leakage or
22 drop. It's two different thing. And you said to me,
23 we're talking about one extra gallons per day, not more
24 than that, with that registration?

25 A. The day that I met Mr. Koverman, yes, at

1 the apartment complex, when we viewed the meter, yes, the
2 leak indicator was moving, and it was moving at a slight
3 registration, again, for lack of a better term. It was
4 moving very slowly. At that point Mr. Koverman showed me
5 where one of the washer and dryer hookups in the basement
6 was leaking, probably a drip every ten seconds. Would you
7 think that's fair?

8 Q. Yeah.

9 A. And it is my opinion that very likely that
10 the leak indicator spinning on the meter during my
11 inspection probably was being caused by the dripping from
12 the washer and dryer hookup.

13 MR. KOVERMAN: Okay. No more questions.

14 JUDGE JONES: Commissioner Appling?

15 COMMISSIONER APPLING: Judge, I don't think
16 I have any question that relates directly to Jerry, so --
17 but I do have one more question of Mr. Koverman. Once
18 Jerry steps down, maybe I can ask him.

19 JUDGE JONES: Okay.

20 QUESTIONS BY JUDGE JONES:

21 Q. Mr. Scheible, is the dollar amount on that
22 bill consistent with the usage, is that what -- for that
23 quarter?

24 A. I'm sorry. I guess I don't understand the
25 question.

1 Q. Is the dollar amount, the \$386, I think it
2 is, given Missouri-American Water's tariff, is it
3 consistent with that usage?

4 A. If you're asking if there was a billing
5 error as in they just billed the wrong dollar amount?

6 Q. Right.

7 A. No, that is not -- that is not the
8 instance.

9 Q. But you don't know whether it's consistent,
10 though? I mean, they charge a base amount, and then
11 there's an amount based on the amount of gallons on the
12 bill?

13 A. That's correct.

14 Q. The amount of usage is shown?

15 A. That's correct.

16 Q. And is that usage consistent with the \$386?

17 A. I did not perform that calculation.

18 JUDGE JONES: Okay. Is there any recross
19 from Staff? I'm sorry, from Missouri-American.

20 Mr. Koverman, do you have any other
21 questions?

22 MR. KOVERMAN: One more thing.

23 RE-CROSS-EXAMINATION BY MR. KOVERMAN:

24 Q. What you think according to my chart,
25 according to that apartment, the same I showed you, the

1 same building with the same amount of the people
2 plus/minus one, two people, so the same amount the same
3 period of time, the other two buildings got average \$150
4 for the quarter and this building got \$386. What is your
5 opinion in this case?

6 A. Well, my opinion would be that I can't
7 vouch for the water use habits of any one of the
8 individuals in any of the apartments, nor can I vouch for
9 whether there was any plumbing leaks in either one of the
10 buildings.

11 I understand your point that it's -- that
12 it appears to be equivalent, and -- equivalent situations
13 and they should be the same, but I think that there's
14 enough variance between individuals' water use habits and
15 the possibility of any other leak in the premises that
16 basically comparing the two doesn't necessarily -- really
17 isn't much of a comparison at all.

18 Q. You cannot compare these two buildings,
19 this particular property, this what you trying to say?

20 A. Not for water use purposes, no. I don't
21 believe that would be a fair comparison.

22 Q. Why not?

23 A. For the reasons I just previously stated,
24 that every individual uses water at a different rate, and
25 any other form of happenstance, somebody could have just

1 left a tap on. I have no idea, but I don't think it's
2 fair -- it would be fair to compare.

3 Q. Yeah, but we're talking about two times
4 more, two double for three months, we're not talking about
5 20, \$30 different --

6 MS. SYLER: Your Honor, I'm going to
7 object. At this point, I think the witness has answered
8 the question.

9 JUDGE JONES: The objection is sustained,
10 meaning whatever it is you're talking about is -- you
11 shouldn't be talking about it.

12 MR. KOVERMAN: Okay. No more questions.

13 JUDGE JONES: Redirect from
14 Missouri-American?

15 MR. JONES: No questions, your Honor.

16 JUDGE JONES: Okay. Mr. Scheible -- I'm
17 sorry. Redirect from Staff?

18 MS. SYLER: One question.

19 REDIRECT EXAMINATION BY MS. SYLER:

20 Q. Real quick on a consistency question, did
21 you look -- you said you looked at the past water bills
22 for this building?

23 A. Yes.

24 Q. Was there any consistency to the water
25 bills in this building?

1 A. The bills themselves from month to month
2 did seem to vary. I can state that more often than not
3 the bill for each quarter was over \$200 each time. And
4 what I found to be interesting also is that the -- the
5 total water billed for the quarters in 2005 was actually
6 lower, including the high bill in question was actually
7 lower than the bill for the entire quarters in the years
8 of 2004 and 2003. So as a whole, more water was used at
9 this building in the years of 2003 and 2004 than was used
10 in 2005, even including the high bill in question.

11 Q. Wait. Did you say more water or less water
12 was used in 2003 and --

13 A. More water was used in each year. 2003,
14 there was more water used and more water used in the year
15 2004 than what was used in 2005.

16 MS. SYLER: Thank you.

17 JUDGE JONES: Okay. No more questions for
18 Mr. Scheible. You may step down, sir. Thank you for your
19 testimony.

20 THE WITNESS: Thank you.

21 JUDGE JONES: And Commissioner Appling has
22 another question for Mr. Koverman.

23 GENE KOVERMAN testified as follows:

24 QUESTIONS BY COMMISSIONER APPLING:

25 Q. Mr. Koverman, I'm still searching for an

1 answer here. You can stay there. You can sit down and
2 just turn your microphone on.

3 Is it a possibility that one of your
4 tenants had visitors during this quarter that may have
5 increased the use of the water? I'm not sure if you could
6 determine that unless you were there every day, determine
7 who was going in and out of that apartment, but is it a
8 possibility that they had someone visiting for a month or
9 two months that increased the usage of the water?

10 A. No, I don't think so, because, like I said
11 before, my maintenance guy, he lives in apartment. He
12 used to live in that apartment No. 1. He definitely using
13 the laundry all the time. He can hear the --

14 Q. Water running?

15 A. Yes, exactly. Exactly right. And all my
16 tenants, I'm very friendly to all my tenants, and somebody
17 got somebody, actually they're going to go to my
18 maintenance guy if they got some leak.

19 Q. Right.

20 A. You're talking about leak not for one day,
21 for two. You're talking about leak probably for month or
22 two to use that much water. You follow what I mean? So
23 this is not for one-day leak.

24 Q. But that is a possibility?

25 A. For one day, yeah. Possible one day but

1 not for week or month, but for one day's not going to be
2 more water usage, you follow what I mean?

3 COMMISSIONER APPLING: I follow what you
4 mean. Thank you very much.

5 JUDGE JONES: Are there any questions based
6 on questions from the Bench from counsel, Staff or
7 Missouri-American Water?

8 MR. JONES: No, your Honor.

9 MS. SYLER: No questions.

10 JUDGE JONES: Okay. Do you-all think the
11 Commission will benefit from closing statements?

12 MR. JONES: I think at this point all the
13 evidence and opening statements takes care of what the
14 Commission needs to know to make its decision.

15 JUDGE JONES: Staff?

16 MS. SYLER: I would agree with that.

17 JUDGE JONES: Mr. Koverman, would you like
18 to make any closing remarks?

19 MR. KOVERMAN: No.

20 JUDGE JONES: With that, then, we will go
21 off the record. Thank you all. Have a good afternoon.

22 WHEREUPON, the hearing of this case was
23 concluded.

24

25

1	I N D E X	
2	Opening Statement by Mr. Koverman	12
	Opening Statement by Mr. Jones	24
3	Opening Statement by Ms. Syler	27
4	COMPLAINANT'S EVIDENCE:	
5	GENE KOVERMAN	
	Cross-Examination by Ms. Syler	28
6	Cross-Examination by Mr. Jones	36
	Questions by Commissioner Appling	38
7	Questions by Judge Jones	42
	Recross-Examination by Ms. Syler	43
8	Further Questions by Commissioner Appling	99
9	MISSOURI-AMERICAN'S EVIDENCE:	
10	DAVID YUNGERMAN	
	Direct Examination by Mr. Jones	45
11	Cross-Examination by Ms. Syler	59
	Cross-Examination by Mr. Koverman	60
12	Questions by Commissioner Appling	69
	Questions by Judge Jones	72
13	Further Questions by Commissioner Appling	73
	Recross-Examination by Ms. Syler	74
14	Further Questions by Commissioner Appling	75
	Recross-Examination by Mr. Koverman	76
15	STAFF'S EVIDENCE:	
16	JERRY SCHEIBLE	
17	Direct Examination by Ms. Syler	78
	Cross-Examination by Mr. Koverman	94
18	Questions by Judge Jones	95
	Recross-Examination by Mr. Koverman	96
19	Redirect Examination by Ms. Syler	98
20		
21		
22		
23		
24		
25		

1	EXHIBITS INDEX	MARKED	RECEIVED
2			
3	EXHIBIT A		
4	Ledger Information Report	48	51
5	EXHIBIT B		
6	Printout of Work Order Screens	49	50
7	EXHIBIT C		
8	3/06/2006 Letter	55	57
9	EXHIBIT NO. 1		
10	Handwritten Chart	22	
11	EXHIBIT NO. 2		
12	Payment Stubs	23	
13	EXHIBIT NO. 3		
14	Photographs	83	84
15	EXHIBIT NO. 4		
16	Staff Report of Investigation	82	82
17			
18			
19			
20			
21			
22			
23			
24			
25			