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2 PUBLIC SERVICE COMMISSION

3
4 HEARING

5 June 27, 2000
6 Jefferson City, Missouri
7 Volume 18
8
9

10 In the Matter of Missouri-American)
11 Water Company's Tariff Sheets)
12 Designed to Implement General Rate) Case
13 Increases for Water and Sewer) No. WR-2000-281
14 Service Provided to Customers in)
15 the Missouri Service Area of the)
16 Company.)
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21 BEFORE:

22 KEVIN A. THOMPSON, Presiding,
23 DEPUTY CHIEF REGULATORY LAW JUDGE.
24 SHEILA LUMPE, Chair,
25 CONNIE MURRAY,
ROBERT G. SCHEMENAUER,
KELVIN SIMMONS,
M. DIANNE DRAINER, Vice-Chair
COMMISSIONERS.

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

2 JUDGE THOMPSON: Okay. I think we're on
3 rate of return. I believe the first witness is yours,
4 Mr. England.

5 MR. ENGLAND: I believe that's correct.

6 We would call Mr. Harold Walker to the
7 witness stand, your Honor.

8 JUDGE THOMPSON: Good morning, sir.

9 THE WITNESS: Good morning.

10 (Witness sworn.)

11 JUDGE THOMPSON: Thank you.

12 Please take your seat, and spell your name
13 for the reporter, if you would.

14 THE WITNESS: My name is Harold Walker, III.
15 Walker, W-a-l-k-e-r.

16 JUDGE THOMPSON: Please proceed,
17 Mr. England.

18 MR. ENGLAND: Thank you, your Honor.

19 HAROLD WALKER, III testified as follows:

20 DIRECT EXAMINATION BY MR. ENGLAND:

21 Q. Would you please state your full name and
22 business address for the record, please?

23 A. My name is Harold Walker, III. My business
24 address is P.O. Box 80794 Valley Forge, Pennsylvania,
25 19484.

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1 Q. Mr. Walker, by whom are you employed and in
2 what capacity?

3 A. I'm employed by Gannett Fleming Valuation
4 and Rate Consultants as Manager of Financial Studies.

5 Q. And on whose behalf are you testifying here
6 today?

7 A. I'm testifying on behalf of the
8 Missouri-American Water Company.

9 Q. Mr. Walker, are you the same Harold Walker,
10 III, that has caused to be prepared and filed in this
11 proceeding three pieces of prepared testimony, the
12 first of which is entitled, "Direct Testimony of
13 Harold Walker, III," and has been marked for purposes
14 of identification as Exhibit No. 12?

15 A. Yes, I am.

16 Q. And I believe there are schedules attached
17 to that testimony; is that correct?

18 A. That is correct.

19 Q. Did you also cause to be prepared and filed
20 in this case another set of testimony entitled,
21 "Rebuttal Testimony of Harold Walker, III," which has
22 been marked for purposes of identification as Exhibit
23 No. 13?

24 A. Yes, I did.

25 Q. And, finally, did you also cause to be

1 prepared and filed in this case a third set of
2 testimony entitled, "Surrebuttal Testimony of Harold
3 Walker, III," which has been marked for purposes of
4 identification as Exhibit No. 14?

5 A. Yes, I did.

6 Q. With respect to each of those pieces of
7 prepared testimony, are there any corrections or
8 changes which you need to make to any of those
9 testimonies today?

10 A. Yes.

11 Q. Please give us page and line number as well
12 as the testimony.

13 A. Okay. On Exhibit No. 12, my Direct
14 Testimony, Page 2, Line 4, the 9.13 should be 9.11.
15 And on Line 5, the 11.70 should be 11.654.

16 On Page 27, on Line 25, the last word,
17 instead of "EPS," should be "cash flow."

18 And on Exhibit No. 13, my Rebuttal
19 Testimony, Page 12, Line 5, after the first word
20 "dividend," the word "to" should be inserted so that
21 it reads, ". . .dividend to book ratio. . ."

22 On Page 14, Line 6, there should be an "A,"
23 capital "A," beginning that sentence, because that's
24 my answer to the question stated above.

25 Page 18, Line 5, towards the end of the

1 sentence, "of," the word "of" should be inserted
2 before the No. 9.92, so that it reads
3 ". . . recommendation of 9.92. . ."

4 And then on Schedule -- this, again, is part
5 of Exhibit No. 13, Schedule HW-4.8, Page 2 of 2, in
6 the first three columns in the heading, it currently
7 reads "Witness McKiddy & Rate Base. . ."
8 "Disallowance of Staff" should be stricken from the
9 heading. That's strictly a -- that column strictly
10 relates to the St. Joseph position at that time.

11 Similarly, in the next three columns, under
12 "Witness McKiddy & Rate Base," the term -- term
13 "Disallowance of Staff" should be stricken from the
14 column heading because that's strictly a
15 representation of OPC at that point in time.

16 And I believe that's -- those are the only
17 corrections that I'm aware of.

18 Q. Okay. So no corrections to your Surrebuttal
19 Testimony that you're aware of?

20 A. Not that I'm aware of, no.

21 Q. Thank you.

22 Okay. If I were to ask you the questions
23 that appear in the Direct, Rebuttal, and Surrebuttal
24 Testimonies, Exhibits 12, 13, and 14 here today under
25 oath, would your answers be the same as those

1 appearing in the prepared testimony with the
2 corrections that you've noted?

3 A. Yes, they would.

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

6 A. Yes, they are.

7 MR. ENGLAND: Thank you, sir.

8 I have no other questions of the witness,
9 and would tender him for cross-examination, and offer
10 into evidence Exhibits 12, 13, and 14.

11 JUDGE THOMPSON: Thank you, Mr. England.

12 Do I hear any objections to the receipt of
13 the Exhibit 12, 13, and 14?

14 MR. CONRAD: Yes, your Honor.

15 JUDGE THOMPSON: Mr. Conrad.

16 MR. CONRAD: I do have an objection.

17 On the 22nd of February of this year, three
18 parties entered into a Stipulation and Agreement. On
19 Page 2 of that Stipulation and Agreement the three
20 parties agreed that the rate of return for the common
21 equity for the company should be 10 percent.

22 And I read, "All signatories to this
23 Stipulation and Agreement agree that 10 percent is an
24 acceptable return on equity for MAWC based on market
25 information available for purposes of this Stipulation

1 and Agreement. This return on equity will be applied
2 to the actual percentage of common equity reported by
3 MAWC as of the April 30, 2000 true-up date."

4 Your Honor, the Stipulation has the usual
5 boiler plate that it resulted from extensive
6 negotiations between the three parties, apparently,
7 but it also includes language that "in the event the
8 Commission does not approve and adopt in its entirety,
9 then under those circumstances the parties agree that
10 this Stipulation shall be void."

11 The Commission still has this Stipulation
12 before it, and it represents a contractual commitment
13 at this point between those three parties with respect
14 to that recommendation. We could shorten this
15 proceeding up a good bit by simply upholding and
16 enforcing the Stipulation that the three parties have
17 made.

18 I'm asking in my motion here, and my
19 objection would be in the nature of a Motion In Limine
20 to preclude this witness from being permitted to
21 testify in any manner in contradiction to what the
22 parties -- the party that is sponsoring this witness
23 has previously agreed with respect to a rate of return
24 on equity.

25 The Stipulation has not been withdrawn. It

1 has not been ruled on by the Commission. It stands
2 there as a live document. It is put before the
3 Commission by these three parties, in specific at
4 this point, by Missouri-American Water Company, your
5 Honor.

6 JUDGE THOMPSON: Mr. England.

7 MR. ENGLAND: Thank you.

8 As a practical matter, the Stipulation as
9 written cannot be performed. Some of the other
10 obligations in that Stipulation require the Company to
11 file, I believe, a consolidated rate case by May 31st
12 for both Missouri-American and its affiliate company,
13 St. Louis County Water Company, and I believe there
14 may have been some other requirements that -- whose
15 deadline, as least as set forth in that Stipulation,
16 have passed.

17 Secondly, Mr. Conrad correctly notes the
18 caveats and the conditions of the Stipulation and
19 Agreement. We do not believe that the Stipulation
20 and Agreement is still alive. We believe the
21 Commission's order setting this matter for hearing in
22 effect rejected that Stipulation and Agreement.

23 I can't recall the date when it was issued,
24 but I believe it was in May -- excuse me -- March or
25 April of this year.

1 And, finally, to make it absolutely certain
2 that we think that the Stipulation and Agreement is no
3 longer in force and in effect, we have specifically
4 filed a written withdrawal from that stipulation, so
5 we do not believe that the terms of that Stipulation
6 are binding upon us and the motion is not well taken
7 at this time, or objection.

8 JUDGE THOMPSON: Mr. Conrad.

9 MR. CONRAD: If counsel has, in fact,
10 withdrawn his client from the Stipulation, as of this
11 morning I am not aware of it. If he wants to make
12 that representation on the record, he can do so now.
13 I'm happy to accept that. But we have not seen that
14 in writing.

15 MR. ENGLAND: I hesitate to use the phrase
16 "subject to check," but --

17 JUDGE THOMPSON: Please don't.

18 MR. ENGLAND: -- my recollection, and the
19 record will correct me, is that we filed a formal
20 withdrawal of the Stipulation sometime in May, I
21 believe late May.

22 MS. COOK: Public Counsel received a copy of
23 their withdrawal.

24 JUDGE THOMPSON: What was the date of that?

25 MS. COOK: I don't have it with me. I

1 remember reading it.

2 JUDGE THOMPSON: I remember seeing the
3 document that Mr. England is referring to, and I also
4 remember the order of the Commission with respect to
5 the Non-unanimous Stipulation and Agreement. And I
6 can't recall the date of that order, but in that order
7 the Commission pointed out that the Commission's
8 understanding of the Missouri Court of Appeals'
9 decision in Fischer was that a Non-unanimous
10 Stipulation and Agreement is essentially just a
11 declaration of the position of those parties who have
12 joined it as of that moment.

13 Consequently, I'm going to overrule your
14 objection, Mr. Conrad.

15 Please proceed, Mr. England.

16 MR. ENGLAND: Thank you.

17 Again, I would re-offer Exhibits 12, 13, and
18 14, and tender the witness for cross-examination.

19 JUDGE THOMPSON: Those exhibits will be
20 received into the record of the proceeding, over the
21 objection made by Mr. Conrad.

22 (EXHIBIT NOS. 12, 13, AND 14 WERE RECEIVED
23 INTO EVIDENCE.)

24 JUDGE THOMPSON: Cross-examination.
25 Mr. Conrad, I believe you're first.

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1 CROSS-EXAMINATION BY MR. CONRAD:

2 Q. Mr. Walker, I don't have very many things to
3 talk with you about. Probably just really one.

4 Did you do your work specifically with
5 respect to any of the districts, or was it done on a
6 Company-wide basis?

7 A. Company-wide basis.

8 Q. So you wouldn't be able to testify and offer
9 an opinion today to the Commission with respect to the
10 riskiness or comparative riskiness of one district put
11 against another, would you?

12 A. No, not a --

13 Q. I notice that you are with -- is it Gannett
14 or Gannett Fleming?

15 A. Gannett.

16 Q. Gannett Fleming. I did notice the name of
17 your company several other places in this rate case.

18 Do you do a lot of work for
19 Missouri-American?

20 A. A fair amount, yes.

21 Q. About what portion of your business is
22 involved with either Missouri-American or other
23 affiliates of American Water Works Company or for
24 American Water Works Company itself?

25 A. I couldn't give you an exact figure, but --

1 I mean, I would think Gannett Fleming, the valuation
2 of rate portion, is -- gets involved in all types of
3 rate cases all around the country, so if it was -- and
4 I'm throwing out a number here, because I don't
5 know -- 20 percent. For work done for American, all
6 of the -- in the 22 states might represent 20 percent.
7 I don't really know that.

8 Q. Now, would that include just your type of
9 work here in the sense of rate-of-return testimony, or
10 would it include all of the various things that
11 Gannett Fleming does for --

12 A. All of the things that Gannett Fleming does.

13 Q. A fairly substantial client for you.
14 Correct?

15 A. No. When I say 20 percent for all of
16 American, not for Missouri-American. Missouri-
17 American might represent some -- obviously, a smaller
18 portion of the 20 percent.

19 Q. I understand. But with respect to the
20 American Water Works Company itself and its various
21 subsidiaries and affiliates, it would be a fairly
22 substantial client for your company. Correct?

23 A. Yes.

24 Q. Fairly important client for you, wouldn't
25 you agree?

1 A. All of our clients are important.

2 Q. Some are just more important than others?

3 A. No. All of them are important.

4 Q. But if this one happened to go away, it

5 would have a fairly significant impact on your bottom

6 line, wouldn't it?

7 A. No, it wouldn't.

8 Q. You would lose 20 percent of your business,

9 and it wouldn't have any impact on your bottom line?

10 A. Sir, we can't handle the business we have

11 now. We have to turn business away. So it would just

12 get replaced in kind with additional work.

13 MR. CONRAD: Well, I congratulate you on

14 your fortunate position, sir.

15 No further questions.

16 JUDGE THOMPSON: Thank you, Mr. Conrad.

17 Mr. Deutsch.

18 CROSS-EXAMINATION BY MR. DEUTSCH:

19 Q. Good morning, Mr. Walker.

20 I'm Jim Deutsch. I represent the City of

21 Joplin.

22 A. Good morning.

23 Q. I take it from your answer to one of

24 Mr. Conrad's first questions, you couldn't tell me

25 what the rate of return was for any specific district

1 because you did your work on a Company-wide basis in
2 Missouri?

3 A. That is correct.

4 Q. You couldn't tell me the relative difference
5 between, for instance, rate of return for the Company
6 for Brunswick as opposed to Joplin?

7 A. No, I could not.

8 MR. DEUTSCH: I don't have any further
9 questions.

10 JUDGE THOMPSON: Thank you, Mr. Deutsch.
11 Ms. Cook?

12 MS. COOK: Thank you, your Honor.

13 CROSS-EXAMINATION BY MS. COOK:

14 Q. Good morning, Mr. Walker.

15 A. Good morning.

16 Q. I just have a couple of things.
17 First, are you aware that all of the rate of
18 return witnesses from the parties in this case have
19 agreed that Missouri-American's cost of debt is 6.77
20 percent?

21 A. Yes, I am. My -- my use of the debt cost
22 rate in my testimony is merely adoption of, at that
23 point in time, Mr. Salser's testimony.

24 Q. Okay. Would you agree with me that any time
25 a utility comes before the Commission in a rate case

1 they are facing the possibility of having part of
2 their rate base disallow-- disallowed?

3 A. There is always a possibility, whether or
4 not it occurs. It is a rarity in the water industry.

5 Q. I see. And are you aware that American
6 Water Works has announced the formation of a new
7 subsidiary, American Water Capital Corporation, which
8 will serve to lower the cost of capital for its
9 subsidiaries?

10 A. I've read that news release. I don't really
11 know what the news release means. I'm not sure your
12 use of the phrase, or citing the phrase "lower the
13 cost of capital to its subsidiaries," I would assume
14 that's on a long-term basis, and I don't know if that
15 relates strictly to short-term capital. In other
16 words, if they pull all of the short-term lines of
17 credit, in the long run they will have a lower cost of
18 short-term capital.

19 MS. COOK: Okay. Your Honor, permission to
20 approach the witness?

21 JUDGE THOMPSON: You may approach.

22 MS. COOK: Thank you.

23 BY MS. COOK:

24 Q. I'm going to hand you this here, and if you
25 can tell me if you can identify that for me.

1 Your Honor, I'd like to have an exhibit
2 marked, please.

3 JUDGE THOMPSON: Okay. This would be
4 Exhibit No. 114.

5 How shall we describe this?

6 MS. COOK: This is American Water Works News
7 Release of June 26, 2000.

8 (EXHIBIT NO. 114 WAS MARKED FOR
9 IDENTIFICATION.)

10 BY MS. COOK:

11 Q. Mr. Walker, would you just read on the
12 record for me Paragraph 4, the one I've marked on your
13 copy there?

14 A. Sure. The news release states in the fourth
15 paragraph, "American Water Works Company will replace
16 multiple bilateral lines of credit currently held by
17 its utility subsidiaries and consolidate the financing
18 function at American Water Capital Corp. The
19 consolidation will streamline the financing function,
20 creating cash management efficiencies and a lower cost
21 of capital for the utility subsidiaries."

22 MS. COOK: Thank you.

23 Your Honor, I move for the acceptance of
24 Exhibit No. 114 into the record, please.

25 JUDGE THOMPSON: Do I hear any objections to

1 the receipt of Exhibit 114?

2 MR. ENGLAND: No objection.

3 JUDGE THOMPSON: Hearing no objections,

4 Exhibit 114 is received and made a part of the record

5 of this proceeding.

6 (EXHIBIT NO. 114 WAS RECEIVED INTO

7 EVIDENCE.)

8 MS. COOK: Thank you.

9 That's all of the questions I have.

10 JUDGE THOMPSON: Thank you, Ms. Cook.

11 Mr. Krueger?

12 MR. KRUEGER: Thank you, your Honor.

13 CROSS-EXAMINATION BY MR. KRUEGER:

14 Q. Good morning, Mr. Walker.

15 A. Good morning.

16 Q. My name is Keith Krueger, and I'm the

17 attorney for the Staff of the Missouri Public Service

18 Commission in this case.

19 In your Rebuttal Testimony on Page 3 at

20 Lines 7 and 8, you state that "Value Line projects a

21 return on common equity for water utilities for the

22 period 2002 to 2004 at 12 percent."

23 Did you make that statement?

24 A. Yes, I did.

25 Q. What was Value Line's projection for return

1 on common equity for the year 2000?

2 A. I believe for those large Value Line
3 companies it was 11 percent, I think, my recollection
4 of reading the Value Line pages. Eleven percent.

5 Q. Okay. Thank you.

6 Now, is this a projection of the authorized
7 return, the return that's been authorized by a
8 Commission on common equity, or is it a projection of
9 the actual return earned on common equity?

10 A. It's a projection of the accounting return
11 on equity.

12 Q. To your knowledge, is it the responsibility
13 of this Commission or of any Commission to set a
14 return on equity in order to allow the company an
15 opportunity to meet the projections of earned return
16 on common equity?

17 A. No, it is not, but they must be aware of
18 what comparable risk companies are able to earn and
19 are required to earn in the marketplace. So I do
20 believe it is a reasonable bench mark.

21 In fact, my recollection is Staff Witness
22 McKiddy relied upon the projections of Value Line in
23 her testimony as a citing of an ROE.

24 Q. But the Commission doesn't have any
25 responsibility to set the return at a rate that will

1 give them an opportunity to meet Value Line's
2 projections, does it?

3 A. Not Value Line, per se, but they must be
4 made aware of the fact of where other authorized
5 return rates are, where current A-rated public utility
6 bonds of 8.4 percent, of prime rate of 9.5 percent,
7 the Value Line of projection of 11 to 12.

8 Q. Thank you.

9 A. This is all informed judgment that they must
10 rely upon.

11 Q. Do you know if the Commission sets return on
12 equity to ensure that a company maintains a specific
13 bond rating?

14 A. Not a specific bond rating but maintain
15 their credit.

16 Q. Thank you.

17 In your Rebuttal Testimony on Page 10,
18 beginning at Line 12 and continuing to Page 11 --
19 Line 10, are you there?

20 A. Yes.

21 Q. -- you devote a great deal of discussion to
22 Ibbotson Associate's size adjustment --

23 A. Yes.

24 Q. -- in relation to the Cap M Model and how it
25 should be applied to stocks traded on the New York

1 Stock Exchange; is that correct?

2 A. That is correct.

3 Q. Does Ibbotson make any reference in its 1999
4 yearbook as to how those size adjustments apply
5 specifically to the water utility industry?

6 A. No, they don't specify the industry. They
7 merely walk you through the exercise of how you apply
8 the adjustments.

9 Q. What range of betas is used in Ibbotson's
10 analysis?

11 A. The average beta for the largest group of
12 stocks is one; for the smallest group, it's 1.37.

13 Q. Okay. Can you just briefly tell what the
14 term "beta" refers to?

15 A. "Beta" measures, or attempts to measure the
16 relative stock movement of a subject company versus
17 the market in general. A beta greater than one
18 indicates that the stock is more volatile in the
19 market, and a stock -- and a beta below one indicates
20 that the stock, the subject stock, is less volatile in
21 the market as a generalization.

22 The usefulness of beta is -- disappears with
23 size; that is, the larger the company, the more useful
24 the beta measure; the smaller the company, the less
25 useful the beta measure. And that is because they

1 have found that the betas for the small stocks
2 understate the returns that a beta would predict?

3 Q. Now, what range of betas was quoted for the
4 water utility industry in your Direct Testimony,
5 Schedule 9, Page 1 of 4?

6 A. .52.

7 Q. .52 is, what, an average for the water
8 utility industry?

9 A. Yes.

10 Q. Okay. So that would indicate, then, that
11 those stocks are considerably less volatile than the
12 average stock; is that correct?

13 A. Keeping in mind that they are much smaller,
14 so that .52 -- the answer to the question is yes. But
15 the .52 is an understatement of the true risk due to
16 their small size. And that's exactly what the
17 Ibbotson yearbook goes into. They spend an entire
18 chapter in the yearbook explaining why the betas of
19 small stocks understate the riskiness of the
20 investment.

21 Q. But at least for those stocks that a beta of
22 .52 applies, that indicates that those stocks are
23 considerably less volatile in the market in general?

24 A. Yes.

25 Q. Okay. Does Ibbotson provide any discussion

1 on applying the size adjustment to the discounted cash
2 flow method?

3 A. I don't believe so. I don't believe they
4 discuss that.

5 Q. Do they discuss it -- the size -- applying
6 the size adjustment to the Risk Premium Method?

7 A. No, they do not.

8 Q. In your Direct Testimony on Schedule 2 you
9 state the adjusted results of your return on equity
10 calculation to be 10.8 percent. Do you recall making
11 that statement, or can you find it?

12 A. I'm sorry. Can you repeat the question?

13 Q. I'm referring to your Direct Testimony.

14 A. Yes.

15 Q. Schedule 2.

16 A. Yes.

17 Q. You state that the adjusted results of your
18 return on equity calculation for discount cash flow
19 method show a 10.8 percent return on equity; is that
20 correct?

21 A. That is correct.

22 Q. Can you tell me what the results of applying
23 the discount cash flow method would be if not for the
24 adjustment for the alleged size affect that you
25 mentioned?

1 A. I should clarify for the record, the 0.3
2 percent adjustment is not merely a size adjustment,
3 it's a risk adjustment. It encompasses size. It
4 encompasses lower financial ratios, lower coverage,
5 lower leverage, less cash flow. It encompasses the
6 absence of a projected test period. It's an all
7 inclusive adjustment of .3.

8 It encompasses the fact that this company
9 has a lower bond -- bond rating credit profile than
10 the subject company, so it's an all-inclusive number.
11 It's not merely a size adjustment.

12 Q. Okay. What would the return on equity using
13 the discounted cash flow method be but for that
14 adjustment?

15 A. 10.5.

16 Q. Thank you.

17 And would you agree that that return on
18 equity is within the range recommended by the Staff in
19 this case?

20 A. Yes. It's in the upper end of the Staff's
21 range. I believe the Staff's upper end is 10.75.

22 Q. Okay. Thank you.

23 Are you aware that this Commission has
24 generally relied on the discounted cash flow method as
25 its primary tool for determining return on equity

1 while using the Cap M and Risk Premium Models for
2 measuring -- primarily for measuring the
3 reasonableness of the result obtained by using a
4 DCF Model?

5 A. That is my understanding.

6 Q. Do you know whether the -- whether this
7 Commission has allowed an adjustment to return on
8 equity to reflect the alleged size affect that you
9 discuss in your testimony?

10 A. I don't know if they have or not, but it is
11 a component of the capital market return requirement,
12 and it needs to be reflected.

13 Q. But you don't know whether this Commission
14 has ever --

15 A. I've never looked into the subject.

16 MR. KRUEGER: May I approach the witness,
17 your Honor?

18 JUDGE THOMPSON: You may approach.

19 BY MR. KRUEGER:

20 Q. Are you familiar with a book entitled, The
21 Cost of Capital, A Practitioner's Guide, by David
22 Parcell?

23 A. Yes, I am.

24 Q. I'd like to call your attention to Page 6-22
25 of that document, and -- or of that book, and ask you

1 to read the bottom paragraph there.

2 A. "The study used to develop this modification
3 was based on all stocks in the New York Stock
4 Exchange. It was not specifically devoted to utility
5 stocks. To date this proposal is controversial in
6 nature."

7 Q. Would you agree, then, with Mr. Parcell that
8 this is -- this proposal is controversial in nature?

9 A. No, I would not. The adjustment that this
10 book refers to is strictly the Cap M. If you look at
11 the Standard & Poor's, a major bond rating agency, if
12 you look at Value Line, they all recognize size as a
13 component of risk. They all require higher returns
14 due to size. This is just an extension of the -- that
15 wide body of knowledge that small size is an indicator
16 of risk.

17 MR. KRUEGER: That's all of the questions I
18 have, your Honor.

19 JUDGE THOMPSON: Thank you, Mr. Krueger.
20 Questions from the Bench. Chair Lumpe?

21 CHAIR LUMPE: I have no questions.

22 JUDGE THOMPSON: Commissioner Murray?

23 COMMISSIONER MURRAY: Thank you, your Honor.

24 QUESTIONS BY COMMISSIONER MURRAY:

25 Q. Good morning, Mr. Walker.

1 A. Good morning.

2 Q. On Schedule 3 of your Direct Testimony, the

3 ratios that you set out there for long-term debt, you

4 have 56.10, and Staff's calculation prior to the

5 true-up, if I'm correct, was 56.32; is that your

6 understanding?

7 A. That is correct.

8 Q. And for preferred and preference stock you

9 have 1.64 versus Staff's 2.39?

10 A. That's correct.

11 Q. And common equity, 41.96, versus Staff's

12 41.29?

13 A. That is correct.

14 Q. And Staff did not have any amount for

15 investment tax credit; is that correct?

16 A. That is correct.

17 Q. So can you tell me how those numbers are

18 significant, those differences?

19 A. The largest difference is the investment tax

20 credit which the Staff did not reflect in the

21 capitalization. As I stated previously, the

22 capitalization ratios that I adopt in this testimony

23 are actually supported by Mr. Salser of the Company.

24 That's the source of information, the JES-1.

25 The significance of the slight difference in

1 ratio really is, I believe, a timing difference. At
2 the time the Company put these ratios together, they
3 did not exactly know what ratios they would have at
4 April 30th, and I believe the Staff's case was
5 produced at a slightly later date, so they had
6 additional information. But the ratios are -- are
7 comparable, I would say.

8 Q. So it's the investment tax credit that's the
9 primary disagreement?

10 A. That's primarily the big driving force, yes.

11 Q. On Page 21 of your Direct Testimony, you are
12 quoting something there. I'm trying to look and see
13 what you were quoting. "The S&P has stated," you say
14 at Line 4, and then I go on down to the end of that,
15 "To avoid a repeat in the water industry, regulators
16 must be aware of the increased challenges the industry
17 faces."

18 Would you like to elaborate on that a little
19 bit?

20 A. Sure. The increased challenges in the water
21 industry really are the fact that, number one, they
22 have a tremendous amount of future investment that is
23 required, which is unique relative to the other
24 traditional utility industries, and, that is, in the
25 other utility industries, future investment actually

1 reduces costs. In the water industry, it's going to
2 increase cost.

3 So you have basically your
4 telecommunication, your natural gas, and your electric
5 industry replacing plant and operating expense on a
6 downward cost over time; whereas, in the water
7 industry, you have an upward cost slope over time.
8 It's very significant when coupled with the small --
9 the relative small size of the water companies around
10 the country and the capital requirements.

11 Q. Is the water industry the most capital-
12 intensive of the industries?

13 A. By far, the water utilities are the most
14 capital-intensive.

15 Q. On Page 34 of your Direct Testimony, you
16 state, "The reason that DCF understates or overstates
17 investors' return requirements depending upon M/B
18 levels is that a DCF derived equity cost rate is
19 applied to a book value rate base while investors'
20 returns are measured relative to stock price levels."

21 Is that -- is that because MAWC shares are
22 not publicly traded? Is that why that difference in
23 measurement there?

24 A. Actually, that refers to the comparison
25 group. The comparable group that I used had at that

1 time market book ratios of over 200 percent, and the
2 DCF will always understate the cost of equity when a
3 market book is above 100 percent and will overstate
4 when it's below 100 percent.

5 The high market book ratios for the water
6 industry is in my opinion primarily attributed to the
7 acquisitions that have occurred in the water industry
8 over the last couple years. There is an acquisition
9 frenzy that's driving stock prices up, which are
10 not -- not supportive of the fundamentals of the
11 industry. They merely support the potential of an
12 acquisition premium being paid.

13 Q. Okay. Thank you.

14 On Page 45 of your Direct Testimony, at the
15 top of the page, in your common equity cost rate
16 recommendation, why did you not recommend the mid-
17 range, which would have been 12.1 percent, than
18 recommending 11.654? Do you see -- I'm on Page 45 at
19 Line 3.

20 A. The mid-- the so-called mid-range -- I
21 characterize it as mid-range. It's really where the
22 Cap M Model fell out at 12.1. It's not actually the
23 average of all the numbers. It's approximately equal
24 to the average of the numbers, my recommendation.

25 Q. Your 11.654?

1 A. Yeah, which -- I mean, in -- I would term
2 it, rounding purposes, eleven-seven, but 11.654. When
3 I say "rounding purposes," I don't know that you can
4 be as specific for cost of equity. There tends to be
5 some range in there.

6 Q. And then on your -- in your Surrebuttal
7 Testimony, Exhibit 14, on Page 4 you discuss bond
8 yields.

9 A. Yes.

10 Q. And my question is, with -- haven't bond
11 yields fluctuated significantly over the past couple
12 of years? And if bond yields are, in fact, a moving
13 target, how can we tie an ROE to bond yields?

14 A. Yes, they have fluctuated considerably over
15 the past several years. They are the highest they've
16 been, depending on the measure you look at. You look
17 at public utility bond yields, they are the highest
18 level in five or six years. If you look at the
19 short-term rates, the prime rate is the highest rate
20 since 1991.

21 And although you can't specifically tie the
22 cost of equity to a specific yield, you must be aware
23 of the movement, and that is, in my opinion, you must
24 recognize the fact that interest rates, which is a
25 base measure of capital costs, are higher today than

1 they were last year, than the year above, and the year
2 prior to that, et cetera. So I think you have to be
3 made aware of interest rate levels because that is
4 a -- a measurable capital cost rate.

5 If you start with a base public utility bond
6 of eight-four, the question becomes how much higher
7 than eight-four is required by investors to provide
8 equity capital. Is it 200 basis points? Is it 300
9 basis points? Is it 400 basis points?

10 Q. And if we look at bond yield, shouldn't we
11 be looking at the bond yields at the end of the
12 true-up period?

13 A. It's my opinion that you should reflect the
14 latest information made available to you. The end of
15 the true-up period might -- my recollection is the end
16 of April.

17 Q. Yes.

18 A. Which would be roughly 8.7, 8.8 in terms of
19 public utility bonds. I think it's reasonable to look
20 at interest rates now and possibly -- you know, what
21 they've done in comparison to past years.

22 Q. Could you turn to Page 76.2 attached to your
23 Surrebuttal Testimony?

24 A. Yes, I have that.

25 Q. The column for 2000, for April you show

1 8.29?

2 A. Yes.

3 Q. Is that correct?

4 A. That is correct.

5 Q. And then --

6 A. I'm sorry. I misspoke my prior response

7 when I characterized the bond yield at the end of

8 April as 8.8. I guess that was the May number.

9 Q. Okay. And then you have an estimated amount

10 for May. What was the actual for May, if you have it?

11 A. Sure. In May, for the month of May, it's

12 8.7 percent.

13 Q. Okay. Then on Page 7 of your Surrebuttal

14 Testimony, you speak about Lines 8 and 9. You speak

15 about your analysis showing that the current premium

16 is at least 450 basis points. And my question is,

17 where do you show us how you calculated the 450?

18 A. The 450 was developed in my Direct

19 Testimony, which is Exhibit 12. And that begins on

20 Page 38 and it runs through 15 -- or excuse me -- 42,

21 so it's pages 38 through 42 of my Direct Testimony

22 that's the basis of the 4.5.

23 COMMISSIONER MURRAY: All right. Thank you.

24 That's all of my questions.

25 JUDGE THOMPSON: Thank you, Commissioner

1 Murray.

2 Commissioner Schemenauer.

3 COMMISSIONER SCHEMENAUER: Thank you, your

4 Honor.

5 QUESTIONS BY COMMISSIONER SCHEMENAUER:

6 Q. Good morning.

7 A. Good morning.

8 Q. I just have a few questions.

9 Missouri-American Water stock is not

10 publicly traded; is that correct?

11 A. That is correct.

12 Q. American Water Works Company, is that stock

13 publicly traded?

14 A. Yes, it is.

15 Q. Okay. On the Schedule 3 of your Direct

16 Testimony, I'd like to follow up on a question from

17 Commissioner Murray.

18 This is a pro forma statement of April 30, I

19 think, isn't it?

20 A. At the time I characterized it as pro forma.

21 It's my understanding that there was a true-up

22 settlement on capitalization.

23 Q. Okay. The investment tax credit, were those

24 credits carried forward, or were they earned on the

25 St. Joseph plant? Do you know?

1 A. I don't know the derivation of those tax
2 credits.

3 Q. You don't know whether they are expected to
4 be earned on the next -- or claimed on the next income
5 tax statement or not?

6 A. I don't know. Some portion of them would
7 be.

8 Q. Normally, on investment tax credits would a
9 taxpayer, a corporate taxpayer, carry those back three
10 years to recover taxes paid on the previous three
11 years?

12 A. The investments tax credit is accrued over
13 time, so it's not -- it does not relate to strictly
14 investment made over the past three years.

15 Q. I'm talking about claiming the tax credit.
16 What are tax credits? Do you know?

17 A. They relate to investment and plant.

18 Q. And they are a credit on your federal income
19 tax?

20 A. Correct.

21 Q. A refundable credit. Correct?

22 A. Correct.

23 Q. And the corporation has the option of
24 carrying them back three years to recover taxes paid,
25 or carrying them forward seven years; is that correct?

1 A. I don't unders-- I don't know that, no.

2 Q. I guess what I'm asking you is, you don't

3 know whether or not these investment tax credits will

4 be claimed on the current year tax return when it's

5 filed or not?

6 A. I don't know for sure whether or not they

7 would be.

8 COMMISSIONER SCHEMENAUER: Okay. Thank you.

9 That's all I have.

10 JUDGE THOMPSON: Thank you, Commissioner

11 Schemenauer.

12 Commissioner Simmons?

13 COMMISSIONER SIMMONS: Thank you, your

14 Honor.

15 No questions at this time.

16 JUDGE THOMPSON: Thank you.

17 Commissioner Lumpe?

18 QUESTIONS BY CHAIR LUMPE:

19 Q. I just have two, Mr. Walker.

20 One, a question you were asked about whether

21 you did DCF on the district-wide versus -- or

22 Company-wide versus each specific one, would it be

23 necessary to do district-specific DCF if you -- if you

24 were doing district-specific pricing? Would it be

25 necessary to do a DCF per district?

1 A. Per se, you couldn't do a DCF for each
2 district. What you would do is develop a DCF for a
3 comparison group, and then you would add some type of
4 risk adjustment from that comparison group versus each
5 district. So you would have to do some type of
6 analysis of each district versus the comparison group
7 to come up with an adjustment.

8 Q. But you could use the overall DCF if you
9 were doing district-specific pricing?

10 A. From a theoretical basis, each district
11 would have a separate cost rate.

12 Q. So it -- in your opinion, it would be
13 necessary to do a different discounted cash flow for
14 each district?

15 A. You would have a -- the same beginning base
16 discounted cash flow, but you would have a separate
17 adjustment to reflect the risk of each district. As a
18 generalization, the smaller the district, the larger
19 the adjustment.

20 Q. So you would start from an overall and then
21 you would do some adjustment for each district?

22 A. Right.

23 Q. Is that what you're saying?

24 A. That's correct.

25 Q. Thank you.

1 The other thing, in reading some
2 publications, I think a couple of them, they suggest
3 that the national average for return on equity for
4 water companies, other commissions, et cetera, has
5 been about 10.65. Is there some reason that -- that
6 American Water Works should have a higher one over
7 that -- those averages?

8 A. Yes. I think, number one, you have to look
9 at the time that those averages were compiled. There
10 has been a tremendous increase in interest rates over
11 the past year or two, so the 10.65, it might have been
12 appropriate a year ago. Today, that number is ball
13 park. You would add the change in interest rate
14 levels, and it would be 11 1/2, 12 percent, in that
15 range.

16 Q. But if we use the test year which
17 corresponds to the year those averages were, you are
18 still saying, what, we should use something in the
19 future?

20 A. Yeah. Cost of equity is a forward-looking
21 cost rate. It is not a historical cost rate. It's
22 also -- you would need to reflect any risk associated
23 with the end result of any type of disallowances.

24 I mean, the fact is, if you look at national
25 averages, there is no write-offs for those companies

1 because it has not occurred in the water industry,
2 certainly in the magnitude that has been proposed in
3 this case.

4 So I think this 10.65 excludes the impact of
5 risk associated with any type of disallowance. If
6 you -- if interest rates were the same as they were
7 when the 10.65 was developed --

8 Q. Which is '99?

9 A. Right. If the interest rates were the same,
10 it would be 10.65, the risk between the comparison or
11 the national average versus Missouri-American. Once
12 you -- if you are to reflect the risk associated with
13 any type of disallowance, then the 10.65 has to be
14 increased because the risk of the investments is much
15 greater.

16 Post any type of disallowance at all, you're
17 going to have lower coverage, you're going to have
18 higher debt ratios, you're going to have lower cash
19 flows. All of those are indicators of greater risk,
20 which means the cost of equity has to be higher.

21 Q. And are you using Missouri-American, then,
22 as a -- as a stand-alone, as opposed to its capital
23 structure being part of American Water Works' capital
24 structure?

25 A. Yes. Missouri-American is a stand-alone.

1 It's essentially a stand-alone. I mean, the investor
2 who provides the equity capital has a choice of
3 whether or not they invest in Missouri-American. They
4 can choose to invest in another company that provides
5 a higher return and lower risk. So they have a
6 choice.

7 I mean, you are looking for cost of equity
8 which their Board of Directors, American Water Works'
9 Board of Directors, has to look at investment
10 opportunities. I mean, that's what the market
11 requires, an analysis of risk return. Provide me the
12 highest return for the least amount of risk, and
13 that's where the capital is going to be invested.

14 Q. But the investor can't invest in
15 Missouri-American. It invests in American Water
16 Works?

17 A. Right. And they will hold the American
18 Water Works accountable for where they invest.

19 CHAIR LUMPE: Thank you.

20 THE WITNESS: You're welcome.

21 JUDGE THOMPSON: Commissioner Murray?

22 COMMISSIONER MURRAY: Thank you.

23 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

24 Q. Chair Lumpe jogged my memory. There was
25 something I meant to ask you about.

1 Your calculations, or your analysis on DCF
2 was done on Missouri-American Water Company; whereas,
3 Staff's was done using comparables to American Water
4 Works Company; is that correct?

5 A. My analysis begins with a comparison group,
6 okay, in which I develop a base, and then I do -- did
7 a financial analysis in which I looked at various risk
8 measures and determined that Missouri-American is
9 riskier. They require a higher cost rate than the
10 comparison group.

11 So I merely took the comparison group's DCF
12 and I added a premium to reflect lower -- lower
13 interest coverage, cash flow, debt leverage, their
14 small size, et cetera, to come up with what I termed
15 in my testimony Missouri-American DCF.

16 Q. Okay. So, in other words, because
17 Missouri-American is not publicly traded, you took
18 companies that were publicly traded and compared them
19 to American Water Works and then made adjustments to
20 offset the extra risks that are associated with the
21 smaller company, Missouri-American Water, is that
22 correct?

23 A. Yes. I compared the comparison companies
24 versus Missouri-American and adjusted for the fact
25 that they have greater financial risk, they have lower

1 interest coverage, they have lower cash flow, they are
2 smaller. So that -- and, in my opinion, they have --
3 they present a credit profile, which is basically your
4 bond rating, which is lower than the comparison group.

5 Q. Where is your testimony showing your
6 comparison companies?

7 A. The exact companies are listed on -- I think
8 the first place the names of the companies are listed
9 is Schedule 9, Page 1, from -- that's the exhibit
10 supporting my Direct Testimony. There are six
11 comparison companies.

12 Q. All right. And then one last question, and
13 that is, there have been some questions about what
14 investors expect and the fact that Missouri-American
15 Water Company is not publicly traded. Is there any
16 reason to think that a company owned by one investor
17 would have lesser investor expectations than a company
18 owned by many investors?

19 A. Absolutely not. That would be basically a
20 violation of the corner stone of finance and that is
21 there is a risk and return tradeoff, and the risk of
22 an investment does not change dependent on who owns
23 the stock. If you are rich, the risk is at a given
24 level, and if you are a poor investor, it's at a given
25 level. If you are owned by one company or multiple

1 companies, the risk is associated with the actual line
2 of business. It's not who owns the stock.

3 COMMISSIONER MURRAY: Okay. Thank you.

4 JUDGE THOMPSON: Further questions from the
5 Bench?

6 (No response.)

7 JUDGE THOMPSON: Recross. Mr. Conrad.

8 RECROSS-EXAMINATION BY MR. CONRAD:

9 Q. Just a couple of things just to see if I'm
10 clear about this. I think three of the Commissioners,
11 Mr. Walker, have asked you about the publicly traded
12 stock here, and I just want to be clear.

13 If I wanted to invest in Iowa-American Water
14 Company, what stock would I purchase?

15 A. You couldn't. You could not personally
16 invest in Iowa-American.

17 Q. What stock would I purchase if I wanted to
18 invest in Iowa-American Water Company, sir?

19 A. You could not purchase the stock of Iowa-
20 American. Iowa-American is owned by American Water
21 Works.

22 Q. So the only way I could invest any portion
23 of my assets in Iowa-American would be to invest in
24 American Water Works Company. Correct?

25 A. That is correct.

1 Q. Is the same true with respect to Illinois-
2 American?
3 A. Yes, based upon my recollection.
4 Q. And the same, obviously, would be true with
5 respect to Missouri-American?
6 A. Correct.
7 Q. And the same would be true, in fact, with
8 respect to all of the various subsidiary corporations
9 of American Water Works?
10 A. That is correct.
11 Q. What is the capitalization of American Water
12 Works Company?
13 A. Dollar amount?
14 Q. Yes, sir.
15 A. Billions and billions of dollars.
16 MR. CONRAD: Thank you.
17 That's all.
18 JUDGE THOMPSON: Thank you, Mr. Conrad.
19 Mr. Deutsch.
20 RE CROSS-EXAMINATION BY MR. DEUTSCH:
21 Q. I'm just a little confused about the
22 analysis that you went through for Commissioner Lumpe
23 about your comparisons.
24 I thought I understood you to say that you
25 made a comparison between publicly traded water

1 companies and American Water and then adjusted -- made
2 some adjustments in order to make that same comparison
3 for Missouri-American Water Company?

4 A. No. I believe that's what her question --
5 she was -- my recollection is she was trying to -- she
6 was stating her understanding of my testimony, and if
7 you look at my response, I clarified that what I did
8 is I looked at a group of comparison companies, came
9 up with a number. I then did a financial analysis
10 between the comparison companies and Missouri-
11 American and developed a -- an adjustment to recognize
12 the difference in investment risk between Missouri-
13 American and my comparison group.

14 Q. These comparison companies that you analyzed
15 were all subsidiaries of a larger company that are now
16 themselves publicly traded?

17 A. No. They are all publicly traded. All of
18 the comparison companies are publicly traded. They
19 are six, essentially, water utility stocks, publicly
20 traded.

21 Q. So you made a comparison between six
22 companies publicly traded with a Missouri company that
23 is not publicly traded?

24 A. That is correct.

25 Q. Isn't that a little bit of an apples and

1 orange comparison?

2 A. That's the way you develop a cost rate.

3 There is no way -- there is no market available for
4 companies that aren't publicly traded. You wouldn't
5 have anything to work from.

6 If you want to start on a building block, if
7 you want to exclude comparison companies, the simplest
8 thing is to look at the credit profile of this
9 company, which is BBB, and look at interest rate
10 levels for BBB, which is close to 9 percent, and then
11 add some premium, and that's your equity number. That
12 would be if you just wanted to excluded comparison
13 companies.

14 But it is a generally accepted practice what
15 I utilized, and, that is, you use market data that's
16 available for publicly traded companies and then you
17 do a financial analysis between your comparison group
18 and your subject company to determine whether or not
19 they should both have the same cost rate or not?

20 Q. These -- I thought I heard you just say that
21 there were other ways that you could do this
22 comparison than the one that you actually performed?

23 A. Yes. I just mentioned a way to do it. I
24 don't know that that is an accepted way. I haven't
25 read it in -- read about it in the financial

1 literature, but it seems obvious to me that if you
2 know that this company has a credit profile that
3 supports a BBB bond rating, which is currently roughly
4 9 percent, you would add some premium to that to get
5 the equity number. And the question is, is it 3
6 percent -- 2 percent, 3 percent, or 4 percent? In
7 other words, adding a premium to a BBB bond rating
8 gets you 11, 12, 13 percent. We know that it's in
9 that range.

10 Q. So you can compare apples and oranges; is
11 that right?

12 A. I don't understand the -- your question.

13 Q. The non-publicly traded Missouri company
14 compared to six publicly traded companies.

15 A. Yes.

16 Q. And what you're telling us is that you have
17 found a way to compare those six apples to our one
18 orange and come up with a recommendation as to what
19 the rate of return ought to be that this Commission is
20 going to authorize?

21 A. The method that I am recommending and
22 utilized, it is well endorsed by any financial text
23 that you read, trade journals, et cetera. It's the
24 way it's done. You start with a comparison group and
25 then you do some type of analysis.

1 Q. Maybe you found it's the way you did it.
2 Correct? That's the way you did it?
3 A. Yes.
4 MR. DEUTSCH: I don't have any further
5 questions.
6 JUDGE THOMPSON: Thank you, Mr. Deutsch.
7 Ms. Cook.
8 MS. COOK: Thank you, your Honor. Just one
9 question following up on Commissioner Murray's first
10 round of questions.
11 RECROSS-EXAMINATION BY MS. COOK:
12 Q. Mr. Walker, you referred repeatedly to the
13 No. 8.4 percent as being the cost of debt for public
14 utilities. Would you tell us, what is the cost of
15 debt for Missouri-American Water Company?
16 A. If they went out and issued taxable debt --
17 Q. Would you just tell me the number? What's
18 the cost of debt for Missouri-American Water Company?
19 A. The embedded historical cost of debt is
20 6.77. It reflects tax-exempt financing.
21 MS. COOK: Thank you.
22 That's all.
23 JUDGE THOMPSON: Thank you, Ms. Cook.
24 Mr. Krueger.
25 MR. KRUEGER: Thank you, your Honor.

1 RE CROSS-EXAMINATION BY MR. KRUEGER:

2 Q. Mr. Walker, would you agree that a portion
3 of the capital investment of a water company will
4 result in the reduction of maintenance costs?

5 A. I'm sorry. Could you repeat that question?

6 Q. Would you agree that a portion of the
7 capital investment of a water company will result in
8 the reduction of maintenance costs?

9 A. I don't understand the question.

10 Q. One of the things that you would expect to
11 gain by replacing old plant with new plant would be a
12 reduction of maintenance costs; is that correct?

13 A. That is correct.

14 Q. Now, did the Company ask you to calculate a
15 different cost of equity by district to go along with
16 its surcharge proposal which allocates cost
17 differently by district?

18 A. No, they have not.

19 Q. Okay. If you determined a return on equity
20 for each of the districts of Missouri-American by
21 district separately rather than just by Company, would
22 you expect each of those ROEs that you come up with to
23 be higher than the ROE that you have recommended for
24 the Company as a whole?

25 A. I would expect -- and I have not looked at

1 it, but I would expect that, yes, a number of them
2 would be higher.

3 Q. Well, you talked in your testimony about the
4 size adjustment.

5 A. Correct.

6 Q. Each of these districts would be
7 considerably smaller than the Company as a whole?

8 A. Sure.

9 Q. Correct?

10 A. Right.

11 Q. So you would have to make the size
12 adjustment in each case?

13 A. Correct. You would have to also look at the
14 financials, if available, for the individuals and --

15 Q. But, generally, that would tend to cause you
16 to recommend a higher ROE for each of the districts
17 separately?

18 A. Depending on the district, yes.

19 Q. And when you add -- when you combine all of
20 these ROEs for the seven districts of the Company, you
21 would end up with a higher ROE than you have
22 recommended for the Company as a whole; is that right?

23 A. On a individual basis, yes.

24 MR. KRUEGER: Okay. That's all of the
25 questions I have, your Honor.

1 JUDGE THOMPSON: Thank you, Mr. Krueger.
2 Mr. England, redirect.
3 MR. ENGLAND: Thank you.
4 REDIRECT EXAMINATION BY MR. ENGLAND:
5 Q. Mr. Walker I'm just going to kind of take
6 this in the order that I have noted it on my pad here,
7 but I believe in response to a question from
8 Commissioner Murray you indicated the current bond
9 yield as of May. Do you have a comparable figure for
10 June?
11 A. The latest information that I have for June
12 is as of Friday. It was 8-point, I believe, four-two
13 or four-three for single A-rated public utility bonds.
14 Q. Turning your attention now to the questions
15 you've received from several -- both attorneys and
16 Commissioners regarding a district-by-district
17 analysis of the return on equity, do you recall those
18 questions?
19 A. Yes.
20 Q. To the extent a particular district utilized
21 tax-exempt financing, would it be appropriate in your
22 opinion to attribute that tax-exempt financing to that
23 particular district when examining the overall cost
24 rate -- money cost rate for that district?
25 A. Yes. If you're looking at it on an

1 individual basis, you would look at all sources of
2 capital for the individual.

3 Q. So in addition to having different
4 recommended returns on equity by district, you may
5 have different capital structures and capital costs
6 other than equity?

7 A. Yes. You would have different
8 capitalization ratios. You would have different
9 embedded cost rates as well.

10 Q. Is American Water Works Company required to
11 invest equity funds in any of its subsidiaries?

12 A. No, it is not.

13 Q. And what analysis does it use to determine
14 whether it will invest in any of its subsidiaries?

15 A. American Water Works -- I would assume the
16 Board of Directors would look at a risk-and-return
17 analysis, which would lead them to invest in the
18 subsidiaries that provide the highest return for the
19 least amount of risk.

20 Q. And who holds the debt of Missouri-American
21 Water Company? Do you know?

22 A. It's public -- it's privately held.

23 Q. By non-affiliated companies or by American
24 Water Works?

25 A. Non-affiliated companies.

1 Q. Is it -- is the embedded cost of debt for
2 Missouri-American the same thing as the current cost
3 of debt as you've discussed it here today?

4 A. No, it is not. The embedded cost of debt is
5 more or less an accident of history. It reflects the
6 vintage of the plant and the means of the financing.
7 In other words, sometimes the Company has available
8 tax-exempt financing and sometimes it doesn't.
9 Obviously, the tax-exempt financing, you're going to
10 produce a lower embedded cost rate. From an equity
11 standpoint, obviously, you have to pay taxes on your
12 return on equity.

13 Therefore, a comparable comparison would be
14 a -- taxable public utility bond. Whether the
15 comparison is single A, which today is eight-four,
16 eight-five, or a BBB, which I believe the credit
17 profile of this company is, which would be about 30
18 basis points above that number, so you would be in the
19 eight -- eight-seven, eight-eight range in terms of a
20 current taxable debt cost rate for this company.

21 Q. And do investors, when they assess the
22 return requirements of a utility, do they focus on, in
23 your opinion, embedded cost rates or current -- excuse
24 me -- embedded debt cost rates or current debt cost
25 rates of that particular utility?

1 A. Current cost rates.

2 MR. ENGLAND: Thank you, sir.

3 I think that's all, but let me just double

4 check my notes here.

5 Thank you. That's all I have.

6 JUDGE THOMPSON: Thank you, Mr. England.

7 You are excused, Mr. Walker.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 JUDGE THOMPSON: Mr. Krueger, I believe

11 we're going to hear from Ms. McKiddy now.

12 MR. KRUEGER: Yes, your Honor.

13 JUDGE THOMPSON: You were on the stand

14 yesterday, were you not?

15 THE WITNESS: Yes, I was.

16 JUDGE THOMPSON: You are still under oath,

17 ma'am.

18 Please take your seat.

19 Please proceed, Mr. Krueger.

20 MR. KRUEGER: Thank you, your Honor.

21 ROBERTA A. MCKIDDY, being previously sworn, testified

22 as follows:

23 DIRECT EXAMINATION BY MR. KRUEGER:

24 Q. Good morning, Ms. McKiddy.

25 A. Good morning.

1 Q. Did you prepare the pre-filed testimony in
2 this case that's been previously marked as Exhibit 45,
3 Direct Testimony of Roberta A. McKiddy?

4 A. Yes.

5 Q. And did you prepare the pre-filed testimony
6 that's been previously marked as Exhibit 46, Rebuttal
7 Testimony of Roberta A. McKiddy?

8 A. Yes, I did.

9 Q. And did you also prepare the testimony
10 that's been -- the pre-filed testimony that's been
11 marked as Exhibit 47, Surrebuttal Testimony of Roberta
12 A. McKiddy?

13 A. Yes.

14 Q. Do you have any corrections or additions to
15 make to any of those pieces of testimony?

16 A. Yes, I do.

17 On my Direct Testimony, Page 11, Line 6, the
18 date should read November 16th, 1999.

19 And then on Schedule 19 of the Direct
20 Testimony, the column label "UWR's beta" should
21 actually read AWK.

22 And then in my Rebuttal Testimony --

23 JUDGE THOMPSON: Excuse me. What was the
24 last correction?

25 THE WITNESS: It was Schedule 19, the column

1 that's labeled "UWR's beta," should read "AWK."
2 JUDGE THOMPSON: Thank you.
3 THE WITNESS: And then in Rebuttal
4 Testimony, on Page 6, Line 17, the question should
5 actually read, "What is the efficient market
6 hypotheses?" And then on Line 18, the first sentence
7 should read, "One of the underlying assumptions of the
8 DCF and Cap M models is acceptance of an efficient
9 market hypotheses."
10 BY MR. KRUEGER:
11 Q. Could you repeat that again? I didn't get
12 it. Read the entire question on Line 17.
13 A. Okay. Line 17, the question should be,
14 "What is the efficient market hypotheses?"
15 Q. And is it the first sentence of the answer
16 that you're changing?
17 A. The first sentence of the answer should
18 read, "One of the underlying assumptions of the DCF
19 and Cap M Models is acceptance of the efficient market
20 hypotheses."
21 Q. Thank you.
22 A. And then on Page 10 of Rebuttal Testimony,
23 Line 10, it should read "Rebuttal Testimony" rather
24 than direct.
25 Q. With those corrections, are the answers

1 provided in your Direct Testimony, Rebuttal Testimony,
2 and Surrebuttal Testimony true and accurate to the
3 best of your knowledge and belief?

4 A. Yes, they are.

5 Q. And if I asked you the same questions today
6 as are contained in your testimony, would your answers
7 be the same?

8 A. Yes, they would.

9 MR. KRUEGER: Your Honor, I would offer
10 Exhibits 45, 46, and 47 into the record.

11 JUDGE THOMPSON: Do I hear any objections to
12 the receipt of Exhibits 45, 46, or 47?

13 (No response.)

14 JUDGE THOMPSON: Hearing no objections, the
15 Exhibits 45, 46, and 47 are received and made a part
16 of the record of this proceeding.

17 (EXHIBIT NOS. 45, 46, and 47 WERE RECEIVED
18 INTO EVIDENCE.)

19 MR. KRUEGER: Your Honor, inasmuch as this
20 now provides the last information on which the Staff
21 relied in preparing its accounting schedules, I would
22 also at this time offer Exhibit 55, the accounting
23 schedules that were pre-filed with the Staff's Direct
24 Testimony.

25 JUDGE THOMPSON: Do I hear any objections to

1 the receipt of Exhibit 55?

2 (No response.)

3 JUDGE THOMPSON: Hearing no objections,

4 Exhibit 55 is received and made a part of the record

5 of this proceeding.

6 (EXHIBIT NO. 55 WAS RECEIVED INTO EVIDENCE.)

7 MR. KRUEGER: I would then tender the

8 witness for cross-examination.

9 JUDGE THOMPSON: Thank you, Mr. Krueger.

10 Ms. Cook.

11 MS. COOK: I have no questions for

12 Ms. McKiddy, your Honor.

13 JUDGE THOMPSON: Mr. Conrad?

14 MR. CONRAD: No questions. Thank you, sir.

15 JUDGE THOMPSON: Mr. Deutsch?

16 MR. DEUTSCH: No questions, your Honor.

17 JUDGE THOMPSON: Mr. England?

18 MR. ENGLAND: Thank you, your Honor. I have

19 a few.

20 CROSS-EXAMINATION BY MR. ENGLAND:

21 Q. Good morning, Ms. McKiddy.

22 A. Good morning.

23 Q. How are you today?

24 A. Fine.

25 Q. I think you were here for Mr. Walker's

1 cross-examination, were you not?

2 A. Yes, I was.

3 Q. And he received some questions regarding how

4 he approached his determination of the appropriate

5 cost of equity for Missouri-American in that at least

6 his initial analysis was to look at a group of

7 comparable companies that are market traded. Do you

8 recall that?

9 A. Yes, I do.

10 Q. No, in contrast my understanding is you

11 performed -- at least your -- you began your analysis

12 with an analysis of American Water Works and

13 application of the discounted cash flow or DCF

14 analysis; is that correct?

15 A. Yes, that is true. Normally, when we have a

16 company that's not traded on the open market, we look

17 to its parent company to gather the information on the

18 stock and growth rates.

19 Q. Okay. But you also as part of your test of

20 reasonableness looked at a comparable group, not

21 necessarily the same, but a comparable group of market

22 traded companies, did you not?

23 A. That is true.

24 Q. And that is a common practice, is it not --

25 A. Yes, it is.

1 Q. -- in determining a cost rate for a non-
2 publicly-traded utility company?

3 A. We use the comparable group no matter
4 whether the Company is publicly traded or not.

5 Q. Okay. Now, it's my understand that American
6 Water Works has approximately 23 subsidiaries or so;
7 is that right?

8 A. That is correct, to my knowledge.

9 Q. All primarily in the water utility business?

10 A. Yes.

11 Q. Okay. Two of those subsidiaries currently
12 provide service in Missouri, the subject company,
13 Missouri-American, and St. Louis County Water.
14 Correct?

15 A. That is correct.

16 Q. Okay. Let me ask you to assume for purposes
17 of this question a hypothetical, and that is that
18 American Water Works made a decision to divest itself
19 or spin off Missouri-American into a separate and
20 unaffiliated company. Can you accept that, please?

21 A. Yes.

22 Q. Would your recommended return on equity be
23 any different than what you have offered here today?

24 A. I believe your question would call for
25 speculation on my part. I think that there would be

1 factors that would be unknown to me to be able to
2 calculate that at this time.

3 Q. Then is it fair to say that you couldn't say
4 that your recommendation would be the same?

5 A. Hypothetically, yes.

6 Q. Okay. Would your recommendation depend on
7 who owned the stock after divestiture by American
8 Water Works of Missouri-American?

9 A. I don't believe so.

10 Q. Okay. So you would agree that the -- that
11 the investor in a utility should not determine the
12 cost rate for its stock. Correct?

13 A. It depends on what you mean by your
14 question. Missouri-American being owned by American
15 Water Works, since American Water Works does trade on
16 the public market, they, in effect, do have some
17 impact as to the overall cost of capital.

18 Q. Okay. So I guess I need to flip the
19 question. In other words, you do take into
20 consideration in determining a recommended return on
21 equity who the investor is?

22 A. Only from the regard that I have to look at
23 who owns the stock that's traded on the public market.
24 That's the only consideration I need to make.

25 Q. Well, I guess, does it impact your risk

1 profile of the company --

2 A. There are a number --

3 Q. -- the nature of the investor?

4 A. There are a number of things that impact the

5 risk factor.

6 Q. Well, specifically, does who owns the stock

7 impact the risk of the underlying utility?

8 A. Not directly. I mean, they own the stock

9 which trades on the market, but whether they have an

10 actual influence on that, I don't believe so.

11 Q. Would you agree with me that if Missouri-

12 American were publicly traded as opposed to wholly

13 owned by American Water Works, that theoretically it's

14 risk profile should not change?

15 A. Again, that calls for speculation on my

16 part.

17 Q. So you couldn't make that assumption?

18 A. I don't have the information to be able to

19 make that assumption.

20 Q. If Missouri-American were publicly traded

21 and not owned by American Water Works, would it be

22 appropriate to determine Missouri-American's return on

23 equity by examining American Water Works and applying

24 a DCF analysis to it?

25 A. If Missouri-American is traded on the open

1 market, it would be appropriate for me to analyze
2 Missouri-American, but that's not the case. It's
3 owned by American Water Works.

4 Q. Would you agree with me that American Water
5 Works is not required to provide equity capital to
6 Missouri-American or any of its other water utility
7 subsidiaries?

8 A. I'm not aware of what type of arrangement
9 they have between the parent company and the
10 subsidiaries.

11 Q. You've made no analysis or investigation to
12 determine whether it is required or not required to
13 invest in its subsidiaries?

14 A. No, I have not.

15 Q. So any conclusions or statements that you
16 may have in your testimony regarding how American
17 funds its subsidiaries, particularly
18 Missouri-American, would be uninformed; is that
19 correct?

20 A. Well, my assumptions of how American Water
21 Works funds Missouri-American is based on its need or
22 want for them to be successful in their operations.

23 Q. But you have no specific knowledge of the
24 requirements, if any, that the parent has in investing
25 in its subsidiaries, particularly Missouri-American?

1 A. No, I do not.

2 Q. And any statements you make in that regard

3 would be pure speculation on your part; is that right?

4 A. I would have to say yes.

5 Q. Would you agree with me that the debt of

6 Missouri-American is held not by American Water Works

7 but by non-affiliated entities?

8 A. Yes.

9 Q. Would you expect that American Water Works'

10 decision to invest equity in its subsidiaries is based

11 on an analysis of the risk and return involved in

12 investing in those subsidiaries?

13 A. That would be a fair statement.

14 Q. Okay. And if, for example, you were on the

15 Board of American Water Works and you had the

16 opportunity to realize an authorized return of 11.5 to

17 12 percent on equity in one subsidiary versus 9 1/2

18 percent to 10.75 percent equity in another subsidiary,

19 all other things being equal, wouldn't you choose to

20 invest in the subsidiary with the higher authorized

21 return?

22 A. That would depend. I mean, you have to look

23 at the term of that type of earnings and, you know,

24 what your long range goals are.

25 Q. Well, I was just focusing on the --

2224

1 A. From a short-term effect, yes, you would go
2 with the higher rate of return.

3 Q. Would you agree that the current prime rate
4 is approximately 9 1/2 percent?

5 A. Yes.

6 Q. Would you also agree that the last time
7 prime rate was that high was January of 1991?

8 A. Yes.

9 Q. Would you also agree that the current yield
10 for single A rated utility debt is approximately 8.4
11 percent?

12 A. I'm not sure where Mr. Walker got that
13 information. The last information I had is of April
14 2000, and that was 8.29.

15 Q. Okay. So you haven't checked it since then?

16 A. No.

17 Q. You have no -- you have no opinion as to
18 whether or not the May figure of 8.7 is correct or
19 not?

20 A. No, I do not.

21 Q. Okay. And you have no idea what it is
22 today?

23 A. Again, I'm not sure what source Mr. Walker
24 used. I use Moody's Bond with regard to my ratings.

25 Q. Do you think it's still 8.29 today?

2225

1 A. Probably not, but I don't know if it's gone
2 up or down.

3 Q. Do you know when the last time single A-rate
4 utility bond yields were 8.4 percent or higher?

5 A. I would have to refer to my schedules.

6 Q. Can you determine that from your schedules,
7 please?

8 A. Uh-huh. It looks like December of 1992.

9 Q. Thank you.

10 Your comparable water utilities, how many
11 have authorized returns on equity of 9.5 percent? Do
12 you know?

13 A. I do not know that.

14 Q. Would you agree with me that your
15 recommendation regarding an appropriate return on
16 equity for Missouri-American Water Company was
17 determined independent of the recommendations of any
18 other Staff witnesses in this case?

19 A. Yes, that is true.

20 Q. So, for example, your recommendation as to
21 an appropriate return on equity did not take into
22 consideration Staff's proposed adjustment regarding
23 the AFUDC rate or the capacity of the St. Joseph
24 Treatment Plant or the deferral of revenues associated
25 with the rate phase-in. Correct?

1 A. It is -- my analysis is done independently
2 of those adjustments.

3 Q. Would you agree with me that a disallowance
4 of plant due to a capacity adjustments will, all other
5 things being equal, result in a lower revenue
6 requirement for the Company?

7 A. I don't have an answer to that.

8 Q. Okay. Would you assume that for purposes of
9 a hypothetical then, please?

10 A. I would not want to assume that because I
11 just don't know.

12 Q. Okay. Do you know if a disallowance of
13 plant will have an impact, all other things being
14 equal, on Company's earnings?

15 A. It will have an impact on its rate base.

16 Q. And on its earnings?

17 A. I can't say that.

18 Q. Okay. Generally speaking, if the Company
19 has a lower rate base, again, all other things being
20 equal, applying the same rate of return will produce a
21 lower revenue requirement?

22 A. That is correct.

23 Q. Okay. So is it fair to assume that that
24 lower revenue requirement will result, all other
25 things being equal, in lower earnings?

1 A. Again, I can't say that because I do my
2 analysis independent of what adjustment the Accounting
3 Department may be doing.

4 Q. So you made no effort to determine the
5 impact those disallowances will have on Company's cash
6 flow, interest coverages, and earnings; is that right?

7 A. No, I have not. That is not part of my
8 analysis.

9 Q. If that's not part of your analysis, how can
10 you determine or demonstrate to this Commission that
11 your recommended return on equity will, when combined
12 with all of the other Staff proposals and
13 recommendations in this case, produce a fair return on
14 equity that will allow this company to attract capital
15 on reasonable terms in the future?

16 A. Because, again, I base my analysis on the
17 DCF Model and then I use the Cap M and Risk Premium as
18 comparisons for reasonableness.

19 Q. Is it fair to say that without knowing the
20 impact other Staff adjustments will have on the
21 overall revenue requirement of the Company, the return
22 on equity that you've recommended for purposes of this
23 case you cannot say with certainty will enable this
24 company to attract capital on reasonable terms in the
25 future?

1 A. Again, we've never looked at those types of
2 adjustments or analysis, so I believe your -- your
3 question is irrelevant to my analysis.

4 Q. Well, I think the judge will tell me whether
5 my question is irrelevant or not. I would like an
6 answer.

7 A. I don't look at those things because, like I
8 said, I don't do my analysis based on that type of
9 situation. I do it based on the components of the DCF
10 calculation, and that's the way we've always done it
11 in our department.

12 Q. But you --

13 A. We do it independently.

14 Q. Excuse me. But you can't tell this
15 Commission that the results of your DCF analysis and
16 the way you've traditionally done it will be
17 sufficient for this company in the future to attract
18 capital on reasonable terms. Correct?

19 MR. KRUEGER: Objection, your Honor. Asked
20 and answer several times.

21 MR. ENGLAND: On the contrary. That
22 question has not been answered, your Honor.

23 JUDGE THOMPSON: The objection is overruled.
24 Please answer the question, if you are able.

25 THE WITNESS: There has been no reason for

1 us to believe that the results of our DCF Model are
2 not appropriate.

3 MR. ENGLAND: Your Honor, I will accept your
4 ruling, but I do not believe I received an answer to
5 my question, and would ask that the question either be
6 restated or the witness directed to answer the
7 question.

8 JUDGE THOMPSON: Read back the answer,
9 please.

10 (THE REQUESTED TESTIMONY WAS READ BY THE
11 COURT REPORTER.)

12 ANSWER: There has been no
13 reason for us to believe that the
14 results of our DCF Model are not
15 appropriate.

16 JUDGE THOMPSON: I believe your question was
17 whether the results would permit the Company to
18 attract capital?

19 MR. ENGLAND: On reasonable term, correct.

20 JUDGE THOMPSON: Can you elaborate on your
21 answer, ma'am?

22 THE WITNESS: Well, I don't do my analysis
23 based against earnings. Like I said, I use the
24 components of the DCF Model which is the growth rate
25 and the current stock pricing, and with that, like I

1 say, I don't look at earnings.

2 JUDGE THOMPSON: I think that's your answer,
3 Mr. England.

4 MR. ENGLAND: Thank you, your Honor.

5 BY MR. ENGLAND:

6 Q. Would you agree with me that financial
7 analysts look at things such as coverage ratios,
8 including pre-tax interest coverage and cash flow
9 coverages, for purposes of determining whether a
10 utility will meet its indenture requirements?

11 A. I believe that be would be a fair statement
12 to say they do.

13 Q. And would you also agree with me that
14 financial analysis -- analysts, excuse me, look at
15 coverage ratios also as an indicator of risk for a
16 particular company?

17 A. It's one of the factors they look at, yes.

18 Q. Okay. Would you agree that all other things
19 being equal, lower coverages will result in a higher
20 risk profile?

21 A. Repeat your question.

22 Q. Yes. Would you agree with me that all other
23 things being equal, one company with lower coverages
24 is going to have a higher risk profile than a company
25 with higher coverages. Correct?

1 A. It will affect their risk. I won't say that
2 it will be a lot lower risk.

3 Q. So you cannot say looking exclusively at
4 coverages that lower coverages result in higher risk?

5 A. I cannot say that, no.

6 Q. Okay. So you would have no opinion, I would
7 take it, that if Missouri-American were ordered to
8 write off \$30 to \$40 million of plant investment what
9 impact that would have on its current earnings,
10 retained earnings, or ability to attract capital in
11 the future?

12 A. Again, I don't look at those components when
13 I do my analysis, so, no, I would not have an opinion.

14 Q. Would Staff be concerned if as a result of a
15 decision from this Commission the Company was put in a
16 position where it was not able to finance on a
17 long-term basis?

18 A. If the Company was unable to meet their
19 indentures, yes, we would be concerned, but I don't
20 believe that Missouri-American is in that type of
21 trouble at this time.

22 Q. I understand. But you haven't examined what
23 might happen as a result of some of the
24 recommendations that have been made in this case, not
25 necessarily by Staff, but by other parties?

1 A. I know that Mr. Rackers looked at the
2 interest rate coverages and indentures, but I do not
3 on a going forward basis.

4 Q. Do you know if he looked at interest
5 coverages with respect to just Staff disallowances or
6 disallowances of other parties?

7 A. I'm not sure what Mr. Rackers' testimony
8 was.

9 MR. ENGLAND: Excuse me a second.

10 JUDGE THOMPSON: Certainly. If you need
11 some time, Mr. England, we're about at a point where a
12 ten-minute break would be appropriate.

13 MR. ENGLAND: I think I'm about done, and I
14 just need a few minutes to determine whether or not I
15 have any additional questions, so it might be
16 appropriate to take that break and I may find that I
17 don't have any.

18 JUDGE THOMPSON: All right. We'll take a
19 ten-minute recess at this time.

20 (A recess was taken.)

21 JUDGE THOMPSON: Mr. England.

22 MR. ENGLAND: I determined that I have no
23 further cross-examination.

24 Thank you, Ms. McKiddy.

25 JUDGE THOMPSON: Thank you. We are now at

1 the point for questions from the Bench, and the Bench
2 is not here, but I know that the Bench has questions
3 for you, Ms. McKiddy, so I will not excuse you.

4 But I think at this point, unless I hear a
5 lot of objections, we'll go on to Mr. Burdette so that
6 we can take up questions from the Bench from
7 Ms. McKiddy when the Commissioners become available.

8 Is that acceptable, or do you guys want to
9 go ahead and do -- I guess you wouldn't do any recross
10 at this point.

11 MR. ENGLAND: No. That's fine with me.

12 JUDGE THOMPSON: Okay. Why don't you go
13 ahead and step down, and we'll call you back when we
14 get some Commissioners in here.

15 And we'll get Mr. Burdette up there.

16 Mr. Burdette, have you testified earlier in
17 this proceeding?

18 THE WITNESS: No, I have not.

19 (Witness sworn.)

20 JUDGE THOMPSON: Thank you.

21 Please take your seat, and spell your name
22 for the reported, if you would.

23 THE WITNESS: Mark Burdette,
24 B-u-r-d-e-t-t-e.

25 JUDGE THOMPSON: Thank you.

1 Please proceed, Ms. Cook.

2 MS. COOK: Thank you, your Honor.

3 MARK BURDETTE testified as follows:

4 DIRECT EXAMINATION BY MS. COOK:

5 Q. Mr. Burdette, by whom are you employed and

6 in what capacity?

7 A. Financial analyst for the Missouri Office of

8 the Public Counsel.

9 Q. Are you the same Mark Burdette who has

10 caused to be filed in this proceeding what's been

11 labeled Exhibit No. 24, the Direct Testimony of Mark

12 Burdette?

13 A. Yes.

14 Q. And what's been labeled Exhibit No. 25,

15 Rebuttal Testimony of Mark Burdette?

16 A. Yes. Excuse me. Yes.

17 Q. And Exhibit 26, the Surrebuttal Testimony of

18 Mark Burdette?

19 A. Yes.

20 Q. And do you have any corrections to any of

21 those pieces of testimony?

22 A. None that I know of.

23 Q. Okay. If I were to ask you those same

24 questions this morning, would your answers be the

25 same?

1 A. Yes.

2 MS. COOK: Your Honor, at this time I would
3 move for the admission of Exhibit Nos. 24, 25, and 26,
4 and tender the witness for cross-examination.

5 JUDGE THOMPSON: Thank you, Ms. Cook.

6 Do I hear any objections to the receipt of
7 Exhibit 24, 25, or 26?

8 MR. ENGLAND: Your Honor, I have no
9 objections to 24 and 25, and I may not with respect to
10 26, but I do have some questions that may generate an
11 objection depending on the answers I get, so would you
12 reserve judgment on 26, please?

13 JUDGE THOMPSON: Yes, I certainly can.

14 Exhibits 24 and 25 are received into the
15 record of this proceeding.

16 (EXHIBIT NOS. 24 AND 25 WERE RECEIVED INTO
17 EVIDENCE.)

18 JUDGE THOMPSON: And we will take up the
19 issue of 26 after Mr. England has asked his questions.

20 But, first, it is Mr. Krueger's turn.

21 MR. KRUEGER: No questions, your Honor.

22 JUDGE THOMPSON: Thank you.

23 Mr. Conrad.

24 MR. CONRAD: No questions. Thank you, sir.

25 JUDGE THOMPSON: Mr. Deutsch.

1 MR. DEUTSCH: No questions.

2 JUDGE THOMPSON: Mr. England, it's time for

3 those questions.

4 MR. ENGLAND: Thank you.

5 CROSS-EXAMINATION BY MR. ENGLAND:

6 Q. Good morning, Mr. Burdette.

7 A. Good morning.

8 Q. Turning to your Surrebuttal Testimony at

9 Page 5, and I'm going to be talking about that page

10 and testimony there in its entirety. It carries over

11 a little bit to the next page.

12 You indicate that you performed an analysis

13 of the interest coverage for Missouri-American

14 assuming OPC's recommended plant disallowance is

15 adopted as well as OPC's recommended -- or

16 recommendations concerning revenue requirement.

17 Correct?

18 A. Correct.

19 Q. And you calculate there after taking into

20 account OPC's recommendations for plant disallowance,

21 cost of service, rate of return that MAWC will have an

22 interest-earned ratio of 2.39 times. Correct?

23 A. Correct.

24 Q. When was this calculation performed,

25 Mr. Burdette?

1 A. Testimony was filed on May 25th. I couldn't
2 tell you for sure. I would say probably within
3 probably two or three days. It was a relatively busy
4 time. I can't give you a for-sure date.

5 Q. I think that's close. I mean, within --

6 A. Before surrebuttal was filed.

7 Q. But around -- at or around the time
8 surrebuttal was filed?

9 A. We would have been talk-- I can't answer the
10 question any further than I have. It would have been
11 an ongoing process. Final calculations, I would
12 think, would have probably been done a few days --
13 within a few days of filing.

14 Q. Would it be fair to say that you had not
15 performed this analysis at the time you developed your
16 initial return on equity recommendation in your direct
17 testimony in the, I think, April 3rd time frame?

18 A. Would it be fair to say that I had not
19 looked at it?

20 Q. That you had not performed this particular
21 interest coverage analysis?

22 A. This exact calculation, I can't say whether
23 I did or not. Was the entire subject talked about and
24 a concern and an issue from the beginning, yes.

25 MR. ENGLAND: Your Honor, this kind of

1 precipitates my concern. We had requested a data --
2 as a data request on April 13th specifically -- and
3 I'll share with you the data request. I believe it's
4 the last one, 3-4.

5 JUDGE THOMPSON: For the record, Data
6 request 3-4 reads as follow: "Assuming a revenue
7 requirement as recommended by the OPC in its Direct
8 Testimony, please provide MAWC's coverage ratios
9 analyzed beginning as of September 30, 2000."

10 MR. ENGLAND: And the response received is
11 attached in the form of an objection, the second
12 paragraph in the letter.

13 JUDGE THOMPSON: The objection states as
14 follows: "To the extent that Public Counsel does not
15 respond to MAWC Data Request 3-4, Public Counsel
16 objects on the grounds that this request is unduly
17 burdensome in that the information required to compute
18 such coverage ratios is equally available to MAWC."

19 MR. ENGLAND: Here is my dilemma, your
20 Honor: I was never provided with the calculation of
21 interest coverages until I received the surrebuttal
22 testimony. I now learn from the witness today that
23 concerns for interest coverage were apparently being
24 considered at the time he filed this Direct Testimony
25 which preceded the date we submitted this data

1 request, yet Public Counsel represented to us that it
2 was unduly burdensome for them to make this
3 calculation.

4 And I am a little troubled with that
5 representation, if, in fact, they made those
6 calculations prior to April 13th and had not disclosed
7 them to us. And if that's the case, then I think we
8 have grounds for striking this testimony.

9 MS. COOK: Your Honor --

10 JUDGE THOMPSON: Ms. Cook.

11 MS. COOK: -- if I might respond, we had
12 discussed these -- these things conceptually by that
13 time but had not performed the specific calculations
14 at the time this was -- was filed until, as
15 Mr. Burdette stated, to his best recollection, two or
16 three days before the Surrebuttal Testimony.

17 JUDGE THOMPSON: Ms. Reporter, would you
18 read back the last answer that Mr. Burdette gave.

19 (THE REQUESTED TESTIMONY WAS READ BY THE
20 COURT REPORTER.)

21 ANSWER: This exact
22 calculation, I can't say whether
23 I did or not. Was the entire
24 subject talked about and a concern
25 and an issue from the beginning,

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1 yes.

2 JUDGE THOMPSON: Mr. England, I don't think
3 he said that he did perform the calculation prior to
4 embodying it in his testimony. As I understand the
5 answer, he said it was an ongoing concern, but it
6 sounds like what he said -- what he testified is
7 essentially what Ms. Cook has said in her response to
8 you, that the actual calculation had not yet been
9 performed.

10 Do you have a response to that? Am I
11 incorrect?

12 MR. ENGLAND: That's certainly is a fair
13 inference from the testimony. I'd like to get that
14 straight from the witness, if possible, rather than --

15 JUDGE THOMPSON: Certainly.

16 Please proceed.

17 BY MR. ENGLAND:

18 Q. Mr. Burdette, is that a fair
19 characterization that this interest coverage
20 calculation had not been performed at the time you
21 developed your original recommended return on equity
22 as provided in your Direct Testimony in this case?

23 A. I had not performed this exact calculation,
24 correct.

25 Q. Okay. So you -- at that time you did not

1 know whether or not your recommended return on equity
2 coupled with Public Counsel's other recommendations in
3 this case, in particular the plant disallowance
4 involving the St. Joseph Treatment Plant, would
5 produce adequate coverages for the Company?

6 A. When I filed my Direct Testimony and made a
7 recommendation on ROE, that would be correct.

8 MR. ENGLAND: Thank you.

9 I'll withdraw -- if there was a Motion to
10 Strike, I'll withdraw it.

11 JUDGE THOMPSON: Thank you, Mr. England.

12 BY MR. ENGLAND:

13 Q. On Surrebuttal, again, this same area,
14 Page 6, Lines 1 through 2, up there at the top, you
15 indicate that OPC Witness Trippensee provided the
16 operating income and tax amounts used in your
17 calculation. Correct?

18 A. Correct.

19 Q. And I believe you provided to the Company
20 work papers, a portion of which I would like to show
21 you and hope you will tell me that these are the work
22 papers you provided to us.

23 And I would like to mark that as an exhibit,
24 if possible.

25 JUDGE THOMPSON: It's certainly possible. I

1 believe we're up to 115.

2 And we would describe this as --

3 MR. ENGLAND: OPC work papers in support of
4 interest coverage calculations, is my understanding,
5 partial work papers, because there were more.

6 (EXHIBIT NO. 115 WAS MARKED FOR
7 IDENTIFICATION.)
8 one 15.

9 JUDGE THOMPSON: Please proceed,
10 Mr. England.

11 MR. ENGLAND: Thank you.

12 BY MR. ENGLAND:

13 Q. Mr. Burdette, do you recognize Exhibit 115
14 as part of the work papers -- I understand they are
15 not the entirety, but part of the work papers that
16 were underlying or used to develop the interest
17 coverage calculation in your testimony?

18 A. You gave me a Staff accounting schedule.
19 Yes, I think it would be accurate to say that I
20 probably looked at this.

21 Q. I know. That's what troubles me. In
22 representing it's your work papers, I think, and
23 correct me if I'm wrong, but OPC, for purposes of its
24 case, worked off of Staff's recommendation and it made
25 its adjustments on top of or in addition to Staff's

1 case, is my understanding, and that's why it -- Staff
2 Witness Gibbs' name appears at the top right. Is that
3 your understanding?

4 A. I couldn't address exactly how OPC
5 accounting approached the subject.

6 Q. Okay. Well, you will agree with me that the
7 return on equity requirement there in the top shaded
8 box, the 9.92, is your recommended return on equity?

9 A. Yes.

10 Q. And that the overall rate of return on
11 Line 2 of 8.26 is, I believe, your overall recommended
12 return on equity, at least at the point in time you
13 filed Surrebuttal Testimony?

14 A. Yes.

15 Q. Okay. And that the revenue, gross revenue
16 requirement, on Line 14 is Public Counsel's gross
17 revenue requirement as reflected in the Surrebuttal
18 Testimony of Mr. Trippensee, I believe, in this case?

19 A. I would want to check that, but I believe
20 that would be accurate.

21 Q. Okay. Well, let me kind of go through this
22 exhibit if I can a little bit more.

23 It's my understanding that on Line 1 that
24 original cost rate base of 124,700, that figure
25 reflects OPC's recommended rate base in this case.

1 Correct?

2 A. I would think so, yes.

3 Q. Okay. And that this rate base is

4 approximately -- and I use the word "approximately"

5 here because I'm not sure of the exact number, but

6 approximately \$40 million less than the rate base

7 advocated by the Company in this case primarily

8 because of OPC's plant disallowance recommendation?

9 A. I believe that number is in the ball park,

10 yes.

11 Q. So you apply your recommended return to your

12 recommended rate base to come up with your net

13 operating income requirement on Line 3. Correct?

14 A. Well, Mr. Gibbs did, yes.

15 Q. Well --

16 A. You asked me to look at this exhibit. This

17 is not my exhibit. This is Mr. Gibbs' exhibit.

18 Q. Do you know if that's Public Counsel's

19 recommended net operating income requirement?

20 A. I would have to check that.

21 Q. Well, do you happen to have your work papers

22 with you that support this interest coverage

23 calculation, Mr. Burdette?

24 A. My interest coverage calculation is

25 contained within my testimony. Some numbers -- some

1 of those variables are supplied by OPC accounting, and
2 I did a calculation.

3 Q. Do you have any work papers to support this
4 interest coverage calculation, sir?

5 A. Some information I got from OPC accounting.
6 I would not have the work papers.

7 Q. Okay. What information did you get from OPC
8 accounting, sir?

9 A. If we're looking at my Surrebuttal, income
10 available for debt service and how that was reached.

11 Q. Okay. I'm sorry. I asked what you got from
12 OPC accounting.

13 A. And I answered your question.

14 Q. Okay. Let's take it one at a time then.

15 Line 12, OPC net operating income,
16 10,305,918. Do you see that number?

17 A. I do.

18 Q. That, to me, is identical to what appears on
19 Line 3 of Exhibit 115.

20 A. Okay.

21 Q. Line 13, income taxes, test year, 1,893,497?

22 JUDGE THOMPSON: What are we looking at,
23 Mr. England?

24 MR. ENGLAND: I'm sorry. His schedule -- or
25 Surrebuttal Testimony, Page 5.

1 JUDGE THOMPSON: Thank you, sir.

2 MR. ENGLAND: Middle of the page.

3 JUDGE THOMPSON: Proceed.

4 BY MR. ENGLAND:

5 Q. Line 13, income taxes (test year)

6 \$1,893,497. That figure is identical to the one

7 appearing on Line 31 of Page 2 of Exhibit 115, is it

8 not?

9 A. Yes.

10 Q. Line 15 -- well, 14 and 15, additional

11 income taxes associated with revenue requirement,

12 \$2,300,326, that number is identical to what appears

13 on Line 9 of Exhibit 115. Correct?

14 A. Yes.

15 Q. So is it still your understanding that

16 Exhibit 115 is Mr. Gibbs' work papers or Office of

17 Public Counsel work papers?

18 A. Mr. Gibbs' name is on this schedule.

19 Q. I understand.

20 A. I received my information from my

21 accountants. I don't understand --

22 Q. Okay. Where did you get OPC net operating

23 income of 10,305,918?

24 A. From OPC accounting.

25 Q. And do you have the work papers for that,

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1 sir?

2 A. No, I do not.

3 Q. Okay. Same question with respect to income
4 taxes, Line 13.

5 MS. COOK: Okay. Your Honor, if I might, I
6 would be willing to stipulate that this is the
7 response we provided to the Company. This was
8 originally a Staff EMS run which is why Mr. Gibbs'
9 name appears on the work paper. Mr. Burdette didn't
10 provide this. It was modified by Mr. Trippensee. And
11 that might clear up some of the confusion about where
12 it came from, but --

13 JUDGE THOMPSON: Does that clear up the
14 confusion, Mr. England?

15 MR. ENGLAND: I appreciate that. Thank you.

16 JUDGE THOMPSON: Thank you.

17 BY MR. ENGLAND:

18 Q. Okay. So for purposes of my further
19 examination, will you assume that these are your
20 office's work papers, Exhibit 115?

21 A. I'll agree with you that the numbers that we
22 talk about match. Yes.

23 MR. ENGLAND: Okay.

24 JUDGE THOMPSON: Well, I think Ms. Cook, on
25 behalf of the Office of Public Counsel, has stipulated

1 that this is the Office of Public Counsel work paper;
2 is that not correct?

3 MS. COOK: Yes.

4 JUDGE THOMPSON: And, in fact, it was
5 provided as such in response to a data request by the
6 Company; is that not correct?

7 MS. COOK: That's correct.

8 JUDGE THOMPSON: So I think we're not
9 assuming.

10 THE WITNESS: Okay.

11 JUDGE THOMPSON: It is.

12 THE WITNESS: It is.

13 JUDGE THOMPSON: Please proceed.

14 MR. ENGLAND: Thank you, your Honor.

15 BY MR. ENGLAND:

16 Q. Okay. I think my question before we got off
17 on that was that taking your recommended return on
18 equi-- or, excuse me -- rate of return of 8.26 percent
19 times the recommended net original cost rate base
20 produces a net operating income of roughly
21 \$10,300,000. Correct?

22 A. Correct.

23 Q. And offset against that is the current net
24 operating income available of roughly \$6.6 million,
25 which I believe was taken from the prior page,

1 Line 32 -- or the subsequent page, excuse me, Line 32?
2 A. Okay.
3 Q. That produces a net operating income
4 requirement before taxes of roughly 3,700,000 there on
5 Line 5. Correct?
6 A. Uh-huh, yes.
7 Q. Then it grossed up for tax effect, some
8 additional allowances there on Lines 12 and 13, and
9 the total gross revenue requirement recommended by
10 Public Counsel in this case is the 6,023,285.
11 Correct?
12 A. Correct.
13 Q. Now, do you know if that \$6 million figure
14 recommended by Public Counsel as the gross revenue
15 requirement -- or, excuse me -- gross revenue
16 deficiency for purposes of this case is proposed to be
17 received by the Company at one time or phased in over
18 a period of years?
19 A. I believe there is a phase-in proposal.
20 Q. Okay. So to the extent the Company does not
21 receive all of that \$6 million in the first year that
22 rates go into effect, then the 10,300,000 figure in
23 your Line 12 would be something less, would it not?
24 MS. COOK: Your Honor, I object. This
25 witness is not testifying. He hasn't offered any

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1 testimony regarding phase-in. That was
2 Mr. Trippensee's testimony, and those questions should
3 be directed to him.

4 JUDGE THOMPSON: Well, this, I think, is
5 cross-examination, isn't it? And I believe we have a
6 wide-open cross rule, so I'm going to overrule your
7 objection.

8 You may answer, sir, if you are able.

9 THE WITNESS: Can you repeat the question?

10 BY MR. ENGLAND:

11 Q. To the extent Public Counsel proposes a
12 phase-in of revenues and not an immediate increase of
13 the entire \$6 million amount, the net operating income
14 available for coverages that you show as ten-million-
15 three would be something less, depending on the amount
16 of the phase-in, would it not?

17 A. It could be less, yes.

18 Q. Okay. To the extent Missouri-American is
19 required to write off the difference between the value
20 of the plant, the new St. Joseph Treatment Plant, as
21 recommended by Office of Public Counsel versus the
22 amount that has actually been invested by
23 Missouri-American, this would result in an immediate
24 write-off of approximately \$40 million, would it not?

25 A. I -- I believe that's close to the figure,

1 yes.

2 Q. Okay. Well, let's assume that there is an
3 approximately \$40 million write-off as a result of the
4 decision in this case. Would you agree with me that
5 the first thing that would happen would be that it
6 would eliminate current net income of 10,305,918 that
7 you used for purposes of your interest coverage
8 calculation?

9 A. Can you repeat that?

10 Q. To the extent the Commission requires the
11 Company to write off \$40 million of plant investment
12 as a result of OPC's recommendation in this case,
13 would you agree that the first impact that that will
14 have is to eliminate any net operating income that
15 this Company may have, and the net operating income
16 that you show is 10,305,918.

17 A. I'm not quite -- I'm not sure I understand
18 your -- your question. The original -- the original
19 number, 410 million, is based on OPC's rate base
20 recommendation.

21 Q. I understand. But now we're talking about
22 the write-off associated with the recommendation.

23 A. The write-off of the plant?

24 Q. The write-off of \$40 million, sir, in the
25 first year.

1 A. Okay.

2 Q. So that would eliminate, to the extent we

3 have it, any net operating income, which you're

4 projecting here for purposes of interest coverage

5 calculations as ten-million-three?

6 A. Yes, if that write-off was in one year.

7 Yes.

8 Q. Now, the remainder, the approximately

9 30 million that isn't offset by the income, is going

10 to be written off retained earnings. Correct?

11 A. The remaining 30 million, the difference

12 between 40 and --

13 Q. Ten.

14 A. -- ten yes.

15 Q. Are you familiar with the Company's

16 indenture requirements for calculating interest

17 coverages?

18 A. I have read that document. I believe the --

19 the actual coverage is 1.5 times.

20 MR. ENGLAND: Okay. Your Honor, may I --

21 JUDGE THOMPSON: You may.

22 MR. ENGLAND: -- have a document marked?

23 It's from the Commission records in Case

24 No. WF-2000-383. It's a portion of the Company's

25 Fifteenth Supplemental Indenture, and I did not copy

1 the entire document. I only copied relevant portions.
2 And we can take either -- or I can ask for official
3 notice or make it an exhibit, whatever your
4 preference.

5 JUDGE THOMPSON: Let's make it an exhibit.
6 What was the case number you cited?

7 MR. ENGLAND: WF-2000-383.

8 JUDGE THOMPSON: Okay. This will be
9 Exhibit 116.

10 (EXHIBIT NO. 116 WAS MARKED FOR
11 IDENTIFICATION.)

12 JUDGE THOMPSON: Please proceed.

13 MR. ENGLAND: Thank you.

14 BY MR. ENGLAND:

15 Q. Mr. Burdette, is this the document with
16 which you have some familiarity as far as the interest
17 coverage requirements of the indenture are concerned?

18 A. I can't tell you that this is exactly that
19 document, but I -- I have read an indenture, and you
20 are telling me this is an indenture, so I have no
21 reason to believe it's not the same document.

22 Q. Okay. I believe you made reference to the
23 fact that interest coverages must be of at least 1.5
24 times or greater; is that correct?

25 A. Yes.

1 Q. Would you take a minute to read Section 2,
2 which is the second page of that exhibit, entitled,
3 "Covenants with Respect to Issuance of Additional
4 Bonds," not out loud, just to yourself, if you would
5 please. And let me know when you're done.

6 A. Do you want me to continue on to the next
7 page?

8 Q. If you would, please.

9 A. How far? I'm also interested in the
10 calculation of net income that's shown in that
11 indented paragraph on Page -- the third page of the
12 exhibit, Page 8 of the document.

13 Q. Okay. Now, would you agree with me that
14 this section of the indenture provides for at least
15 two things: First, it requires the Company to
16 maintain interest coverages of one and a half times or
17 greater for purposes of issuing additional new bonds.
18 Correct?

19 A. Yes.

20 Q. Okay. And, secondly, it specifies the
21 manner in which net income shall be calculated to
22 determine the 1.5 ratio, if you will?

23 A. Yes.

24 Q. Okay. With respect to the way in which net
25 income shall be calculated, would you agree with me

1 that the way in which you have calculated it, or your
2 office has calculated it, is not consistent with that
3 as required by the indenture?

4 A. There was a lot of information within that.
5 I'm not -- I'm not an accountant. I can't answer that
6 question for sure.

7 Q. Would it be fair to say at the very least
8 you could not certify like an officer of the company
9 has to certify that the net income calculation of your
10 office comports with the requirements of this
11 indenture?

12 A. I would not certify that.

13 Q. Okay. If the Company is required to write
14 off \$40 million of plant investment, and, as we've
15 discussed, the first adjustment would be to eliminate
16 any net operating income from the current year, would
17 you agree with me that the Company will not have any
18 operating income under that scenario for interest
19 coverage purposes?

20 A. In terms of the accounting question of when
21 exactly a write-off is taken in the calculation of
22 income, I am not certain.

23 Q. Okay. Assume for purposes of my question
24 that the write-off happens immediately.

25 A. Then I would agree with you, yes.

1 Q. If that is the case, Mr. Burdette, is it
2 still your testimony that the Company will have
3 adequate coverages to meet its indenture requirements,
4 taking into consideration your recommended return on
5 equity as well as Office of Public Counsel's other
6 recommendations regarding cost of service?

7 A. If you're going to incorporate the write-off
8 of the imprudent investment, yes, I would agree with
9 you.

10 MR. ENGLAND: Okay. Your Honor, at this
11 time I'd like to have another exhibit marked, please.

12 JUDGE THOMPSON: Certainly. This will be
13 Exhibit 117.

14 How should we describe this?

15 MR. ENGLAND: This is the Direct Testimony
16 of Russell W. Trippensee submitted earlier in this
17 docket on March 1, 2000.

18 (EXHIBIT NO. 117 WAS MARKED FOR
19 IDENTIFICATION.)

20 JUDGE THOMPSON: Please proceed,
21 Mr. England.

22 MR. ENGLAND: Thank you, your Honor.

23 BY MR. ENGLAND:

24 Q. Mr. Burdette, would you turn your attention
25 to Page 7 of that testimony that has been marked, as

1 I understand for purposes of identification, as
2 Exhibit 117, Lines -- excuse me -- Lines 17 through
3 19, and I'd read for you, "The Company is required to
4 maintain an interest coverage ratio of 1.5. Based on
5 the data available to Public Counsel, I have projected
6 that a deferral of \$12,772,000 beginning August 1,
7 2000 will allow the Company's interest coverage to
8 drop to 1.51 but not fall below 1.5."

9 Do you see that, sir?

10 A. I do.

11 Q. And my question to you is, with a revenue
12 deferral of 12.7 million effective August 1, and
13 interest coverages of only 1.51, how can you calculate
14 interest coverages of 2.39 times with total revenues
15 of only 6 million effective probably September 15th?

16 MR. CONRAD: And before you answer, your
17 Honor, I guess I'm going to have to object at this
18 point because we're -- we're attempting to use an
19 out-of-court statement that precedes in time this
20 witness taking the stand, obviously, but it's not this
21 witness.

22 The person who provided this testimony under
23 affidavit has not been shown to be unavailable, and,
24 in fact, is here, present. And it strikes me that
25 it's somehow inappropriate to cross-examine this

1 witness with this item which has not been -- when the
2 witness who gave it is sitting right here. It's --

3 JUDGE THOMPSON: Well, as I understand your
4 objection, Mr. Conrad, it is that this document is
5 hearsay?

6 MR. CONRAD: Yeah.

7 JUDGE THOMPSON: And Mr. England has not
8 moved the admission of this document. I believe he
9 can cross-examine this witness about anything.

10 MR. ENGLAND: I'd like to point out a couple
11 of things in response, if I may.

12 JUDGE THOMPSON: You may.

13 MR. ENGLAND: First of all, it is a
14 statement of a party opponent and an apparent
15 statement inconsistent with the statement that's
16 contained in the Surrebuttal Testimony of this witness
17 regarding interest coverage -- coverages. Excuse me.

18 Secondly, this was a document filed in this
19 case which the Commission can certainly take official
20 notice, and, in fact, did when Public Counsel offered
21 the Direct Testimony of James Jenkins in support of
22 the Stipulation and Agreement earlier in this
23 proceeding, so I think turnabout is only fair play.

24 But I think it is not hearsay. It is to
25 demonstrate an inconsistency between the position

1 taken by one member of this office regarding interest
2 coverages with that taken by another member.

3 MR. CONRAD: Your Honor, all that's well and
4 good, but my clients did not -- in fact, we objected
5 to the Stipulation.

6 JUDGE THOMPSON: That's correct.

7 MR. CONRAD: And, therefore, it is not
8 appropriate to take administrative or official notice
9 of this if this is -- this is nothing more than a
10 document that exists at this point in time. And by,
11 frankly, continuing to argue about it we get little
12 bits and pieces of it into the record through kind of
13 the backdoor.

14 You are quite right. It's hearsay, and I
15 would agree, because I've had the same problem myself.
16 I think Mr. England is entirely able to cross-examine
17 this witness on what this witness knows and what this
18 witness perceives and how well this witness narrates
19 what information he knows.

20 But to not in effect cross-examine
21 Mr. Trippensee roundabout through this witness, and I
22 think that's -- that's the difficulty, is we're --
23 we're using this witness and this cross-examination as
24 a vehicle to try to get Mr. Trippensee's material into
25 the record in somewhat of a backdoor roundabout way.

1 And I think that's -- that's the part of this that I
2 think is inappropriate.

3 Hearsay, as your Honor knows, is admissible
4 to really contradict a prior statement of the witness
5 that's on the stand in the sense of impeachment, not
6 just to -- I mean, if the witness knows something, I
7 mean, they can certainly be queried about that. I
8 think that's really what we're getting to.

9 MS. COOK: Your Honor, I'd like to ask for
10 the exhibit number where Mr. Jenkins' Stipulation and
11 Agreement testimony was offered into the record by
12 OPC? I'm not aware that we offered that.

13 JUDGE THOMPSON: Let's not chase that
14 particular wild hare at this moment, Ms. Cook.

15 Mr. Conrad, much of what you say is very
16 valid. The one point I would raise is that it appears
17 that in a case of this nature that many witnesses are
18 testifying based not on their own personal efforts
19 but, rather, as part of a team that developed a point
20 of view or that developed a set of calculations.

21 So I'm going to permit Mr. England to
22 cross-examine this witness on the basis of this
23 document. If the witness does not know, is unable to
24 answer, the witness has already demonstrated that he
25 is well capable of saying that.

1 MR. CONRAD: Very well.

2 JUDGE THOMPSON: If and when Mr. England
3 offers this document, then other questions will come
4 up at that time.

5 Please proceed, Mr. England.

6 MR. ENGLAND: Thank you.

7 BY MR. ENGLAND:

8 Q. And I'll try to remember my question to you,
9 Mr. Burdette. I think it was along the lines of, how
10 can Mr. Trippensee calculate an interest coverage
11 ratio of 1.5 based on deferred revenues of 12.7
12 million effective August 1, 2000, and you calculate
13 interest coverages of 2.39 times based on additional
14 revenues of only \$6 million that wouldn't become
15 effective until approximately 45 days later, or
16 September 15 of this year?

17 A. Given that the document you gave me on
18 Page 3 states that the purpose of this document is
19 Public Counsel's position on why the proposed
20 Non-unanimous Stipulation and Agreement provides the
21 best resolution with respect to this instant case, my
22 Direct Testimony did not address the Stipulation and
23 Agreement, so I cannot address whether these
24 calculations are the same or whether they are -- can
25 be compared. I didn't write this testimony, and it's

1 not even -- it's about a Stipulation and Agreement
2 that we are not talking about.

3 Q. You did indicate that you were concerned
4 with interest coverages at the time you prepared and
5 filed your Direct Testimony albeit you did not perform
6 an analysis. Did you discuss with the office -- with
7 your office, excuse me, interest coverages that would
8 result from the proposed Stipulation and Agreement?

9 A. It certainly would have been something that
10 we discussed. But when the Stipulation and Agreement
11 basically went away, I don't have recollection of
12 every conversation that took place for this case.

13 Q. Would it have been more appropriate for
14 Mr. Trippensee to file interest coverage calculations
15 in the context of this case in light of your
16 recommendation?

17 A. Given that Mr. Trippensee is my boss, I
18 would not attempt to say what is appropriate for
19 Mr. Trippensee to do.

20 Q. I was giving you an out there, Mr. Burdette.
21 Withdraw the comment.

22 It would appear, however, that
23 Mr. Trippensee's calculations of interest coverages
24 are markedly different than yours. Correct?

25 A. The final number. I do not -- I do not know

1 the specifics or the details of the -- the
2 interworkings of the calculation, so I can't
3 address -- I can't address how they can be compared.

4 MR. ENGLAND: Your Honor, at this time I
5 would offer Exhibit 117.

6 JUDGE THOMPSON: Mr. Conrad?

7 MR. CONRAD: Well, no foundation. It's
8 question-and-answer form, prepared testimony. The
9 witness has not been shown to be unavailable. This
10 witness has already testified he didn't write it. He
11 doesn't know anything about it. It's clearly hearsay
12 and no applicable exception.

13 MR. COFFMAN: Your Honor?

14 JUDGE THOMPSON: Mr. Coffman?

15 MR. COFFMAN: Yes. If I might, I would join
16 in Mr. Conrad's objection and note, to clear up
17 earlier confusion, we had considered asking questions
18 regarding testimony that the Company had filed in
19 support of the Stipulation and Agreement. We never
20 did actually get to that or offer any such testimony,
21 and that may be proper.

22 Mr. England had his opportunity to ask
23 questions about this, but it doesn't seem proper now
24 that the Stipulation and Agreement has clearly not
25 been allowed to occur. And I think it would only

1 confuse the record. And, besides, the calculations
2 that we're talking about here are really apples and
3 oranges. They are not the same calculation.

4 MR. CONRAD: Your Honor, before we turn to
5 Mr. England, I just -- it bears to note that earlier
6 today I objected to Company's witness's testimony on
7 the basis of inconsistency with the Stipulation and
8 the Non-unanimous Stipulation. Company's response was
9 that it was -- was void, as a matter of fact, because
10 the Commission hadn't accepted it and deemed it had
11 been rejected.

12 Well, if that's so, and if that's Company's
13 position, they really can't have it both ways. And if
14 it's been rejected, then the language of the
15 Non-unanimous Stipulation vitiates this document
16 altogether.

17 JUDGE THOMPSON: Mr. England?

18 MR. ENGLAND: Thank you.

19 First of all, it is ironic that Mr. Conrad
20 would now argue that the Stipulation and Agreement is
21 void when he tried to obtain the benefits of it
22 earlier this morning by trying to focus with the
23 10 percent return on equity agreed to in that
24 document.

25 MR. CONRAD: But I was first, Trip.

1 MR. ENGLAND: Secondly -- secondly, I
2 believe the document is appropriate for purposes of
3 evidence in this case. It was filed with this
4 Commission. It was filed under oath. I have no
5 qualms with the calculations that Mr. Trippensee makes
6 in there; in fact, would have no cross-examination of
7 him with respect to that. I think the statement
8 speaks for itself.

9 It's -- it's an inconsistency, I think, with
10 the position that they are taking here. I'm not
11 offering it for purposes of supporting or otherwise
12 endorsing the Stipulation and Agreement; simply for
13 purpose of showing that two people from the same
14 office have calculated entirely different interest
15 coverage calculations for this Company, and I think it
16 goes to the credibility, particularly at the late date
17 that we received this interest coverage calculation in
18 Surrebuttal Testimony and after the objection to our
19 data request asking for that information in the first
20 place.

21 JUDGE THOMPSON: Mr. Coffman?

22 MR. Coffman: Again, your Honor, this is --
23 this is testimony that could have been offered when --
24 or prior to Mr. Trippensee taking the stand, so we all
25 could have been able to ask Mr. Trippensee clarifying

1 questions regarding it.

2 Again, it's not the same calculation. It's

3 based on different time periods and for different

4 purposes.

5 JUDGE THOMPSON: Mr. Trippensee is in the

6 room. We could put Mr. Trippensee back on the stand,

7 couldn't we?

8 MR. COFFMAN: I believe that we would be

9 happy to do so.

10 JUDGE THOMPSON: Very well. Mr. Burdette,

11 you may step down momentarily.

12 And I will also entertain, for that matter,

13 if you would prefer, I would entertain a motion to

14 take notice of all of the documents that were filed in

15 this case in support of and in opposition to the Non-

16 unanimous Stipulation and Agreement, and then you

17 can -- you can argue in your briefs what we should

18 regard and what we should disregard.

19 MR. CONRAD: I'd have to -- I'm sorry.

20 MR. ENGLAND: Go ahead.

21 MR. CONRAD: Your Honor, I'd have to think

22 about your solicitation of entertainment. Putting it

23 in -- taking official notice of it, puts it in the

24 record.

25 JUDGE THOMPSON: Uh-huh.

1 MR. CONRAD: If it's in the record, then it,
2 in theory, would be something on which the Commission
3 could base a decision. If it's on something which the
4 Commission could base a decision that we've really not
5 had an opportunity to cross-examine on, then I guess I
6 have a problem with that.

7 JUDGE THOMPSON: Uh-huh.

8 MR. CONRAD: And that's why we had objected
9 to the Non-unanimous Stip. We did not have a hearing.
10 The Commission did not order a hearing on the
11 Non-unanimous Stip. Had we had that, there would have
12 been cross-examination on that that presumably would
13 have at that point in time been heard. Whatever
14 record was admitted subject to the Commission's
15 decision to accept or reject that Non-unanimous
16 Stipulation, that didn't happen.

17 JUDGE THOMPSON: Uh-huh.

18 MR. CONRAD: I don't think it's -- I guess
19 what I'm coming down to is I don't think it's
20 appropriate to take official notice of all of it.

21 JUDGE THOMPSON: Okay.

22 MR. CONRAD: We could do it piece by piece,
23 perhaps, if the witnesses are here and willing to
24 stand cross-examination on it. I understand your
25 desire to --

1 JUDGE THOMPSON: Very good point. I don't
2 care one way or the other. My interest is simply in
3 getting a record that the parties are happy with with
4 respect to the decisions -- the many decisions the
5 Commission has to make in this case.

6 So, why don't we proceed, then, with
7 Mr. Trippensee.

8 You are still under oath, sir.

9 Would you spell your name for the reporter?
10 Russell Trippensee, T-r-i-p-p-e-n-s-e-e.

11 JUDGE THOMPSON: Mr. England.

12 MR. ENGLAND: Thank you.

13 MR. CONRAD: Now, your Honor, let me
14 clarify, Mr. England now -- we've kind of interrupted
15 the procedure, but Mr. England has, in effect, I take
16 it, called Mr. Trippensee as his witness and should
17 now be directing him so the rest of us would be able
18 to cross-examine him; am I correct?

19 JUDGE THOMPSON: We're going to give
20 everything a shot at Mr. Trippensee and we're going to
21 start with Mr. England, and then we'll just go around
22 the room.

23 Please proceed.

24 And I would consider his examination to be
25 in the nature of cross-examination.

1 MR. ENGLAND: I was going to say. It would
2 be strange redirect, your Honor.
3 RUSSELL W. TRIPPENSEE, being previously sworn,
4 testified as follows:
5 CROSS-EXAMINATION BY MR. ENGLAND:
6 Q. Mr. Trippensee, you are the same Russell W.
7 Trippensee that caused to be prepared and filed in
8 this docket, earlier in this docket, the Direct
9 Testimony of Russell W. Trippensee which has been
10 marked for purposes of identification as Exhibit 117?
11 A. Yes, I am.
12 Q. And was that testimony true and correct to
13 the best of your knowledge, information, and belief at
14 the time it was prepared and submitted?
15 A. That is correct.
16 MR. ENGLAND: I have no other questions, and
17 would offer again Exhibit 117.
18 JUDGE THOMPSON: Objections to Exhibit 117?
19 MR. CONRAD: I think we need to go through
20 cross on it, don't you?
21 JUDGE THOMPSON: We certainly may.
22 Let's start with you, Mr. Conrad.
23 CROSS-EXAMINATION BY MR. CONRAD:
24 Q. Mr. Trippensee, attention has been directed
25 to Page 7.

1 A. Yes, sir.

2 Q. Can you explain particularly better the
3 nature of the calculation that you made there that's
4 reflected beginning at Page -- at Line 17, Page 7?

5 A. Yes, sir. I hope so. It's been awhile.

6 The calculation that is performed there is
7 consistent as far as the components of net income, the
8 add-back of taxes, with the calculation performed by
9 Mr. Burdette.

10 The primary differences is not in the
11 calculation but with what is included therein in that
12 calculation. Included in that is the entire value of
13 the St. Joseph Treatment Plant, not reflecting any
14 disallowance.

15 Reflected also in there is that is a
16 historic calculation, looking back at the 12 months
17 ending -- well, specifically, I reference August 1st,
18 but in the analysis, we looked at the 12 months
19 ending, I believe, April of 2000, all of the way
20 through the end of the year 2000. So, like, you would
21 take 12 months ending April, 12 months ending June,
22 and so on and so forth through the end of the year.
23 So it was a historical looking perspective.

24 Mr. Burdette's calculation is a forward-
25 looking perspective after this Commission sets the

1 ongoing rates.

2 Q. Now, looking again at Line 17 on Page 7 of
3 exhibit -- what's been marked for identification as
4 Exhibit 117, you see there reference to an interest
5 coverage ratio of 1.5?

6 A. Yes, I do.

7 Q. Have you had occasion to review the
8 Company's indentures with respect to that ratio?

9 A. Which Mr. England had marked this morning as
10 Exhibit 116?

11 Q. Well, I was getting to that, but that's --
12 that was one thing that's been represented as far as
13 an indenture. Is that -- is what's been marked as
14 Exhibit 116, is that part of the material that you
15 looked at in developing your testimony?

16 A. In conjunction -- assuming it's the same as
17 the indenture that we had in our office in conjunction
18 with Mr. Burdette, yes.

19 Q. Let me draw your attention to the page
20 that is numbered eight in what's been marked as
21 Exhibit 116 and is actually the third physical page of
22 that. And I see there is some indented material?

23 A. Yes, sir.

24 Q. About midway down through that indented
25 paragraph, do I -- I do correctly read that write-

1 downs or, I suppose, write-offs of property are
2 excluded from that calculation?

3 A. That is my reading of it, yes, sir.

4 Q. How would you interpret that calculation
5 that's referenced there in that indented paragraph in
6 connection with the write-down or write-off that your
7 office had proposed?

8 A. I would assume that it would be directly on
9 point, that that -- in this case, a \$40 million
10 write-off, would not be included in the calculation.

11 There is other things that are -- would be
12 included, and that includes the annualization of
13 rates. Those are specifically referenced that they
14 shall be analyzed in the calculation, which is what
15 Mr. Burdette did.

16 Q. Finally, with respect to Exhibit 117,
17 Mr. Trippensee, would you agree with me that that
18 testimony was put together to support a specific set
19 of facts and presumptions?

20 A. Yes, sir.

21 Q. Do those specific facts and presumptions now
22 obtain?

23 A. Now -- excuse me? Obtain?

24 Q. Obtain. Are they now operative?

25 A. I believe the Stipulation and Agreement is

1 no longer a consideration before this Commission, and
2 the special accounting treatments that would have been
3 required to implement it, so no.

4 MR. CONRAD: Thank you.

5 Your Honor, that's all I have.

6 JUDGE THOMPSON: Thank you, Mr. Conrad.

7 MR. Deutsch?

8 MR. DEUTSCH: No questions.

9 JUDGE THOMPSON: Mr. Krueger?

10 MR. KRUEGER: No questions.

11 JUDGE THOMPSON: Ms. Cook or Mr. Coffman,
12 whichever of you is going to take the helm.

13 MR. ENGLAND: Your Honor, I would be willing
14 to let them go last and do reflect, if necessary, and
15 let me do my cross before them.

16 JUDGE THOMPSON: I thought you already did
17 your cross.

18 MR. ENGLAND: Well, I think in response to
19 the cross from the other parties. I mean, I don't
20 know what you anticipate the line of questions --

21 MR. CONRAD: That's now how it works. We
22 don't change in midstream.

23 MR. ENGLAND: Then I'll do my redirect as
24 cross.

25 MR. CONRAD: I raised that question, your

1 Honor, at the very outset of this, and your ruling was
2 that that would be in the nature of cross.

3 JUDGE THOMPSON: That is correct.

4 Mr. England, I took your questioning of Mr. Trippensee
5 to be essentially additional cross-examination of
6 Mr. Trippensee.

7 MR. ENGLAND: I assumed that I was going to
8 just direct him to identify the document and offer it,
9 and then I would be given an opportunity to question
10 him on it in the nature of redirect. I mean, I guess
11 I didn't understand your ruling.

12 MR. CONRAD: Shucky-dern.

13 JUDGE THOMPSON: Mr. Conrad, please.

14 MR. ENGLAND: And if it truly was
15 cross-examination, then I should have been permitted
16 to go last because, obviously, this witness is hostile
17 to my position.

18 MS. COOK: He was your witness.

19 MR. ENGLAND: I didn't call him.

20 MR. COFFMAN: Your Honor, Mr. England
21 accepted your ruling that this would be his
22 cross-examination and had his opportunity.

23 MR. CONRAD: And I believe your Honor's
24 words were that we were going to go -- all around and
25 that everybody would have a chance. Company's counsel

1 had his chance and said no further questions.

2 JUDGE THOMPSON: That's correct,

3 Mr. England.

4 MR. ENGLAND: Okay.

5 JUDGE THOMPSON: Please proceed.

6 MR. COFFMAN: No redirect, your Honor.

7 JUDGE THOMPSON: Thank you.

8 You may step down, Mr. Trippensee. I won't

9 excuse you because there may be questions from the

10 Bench.

11 JUDGE THOMPSON: Mr. Burdette, you are still

12 under oath.

13 JUDGE THOMPSON: Sir.

14 MR. ENGLAND: I will re-offer 117 again,

15 your Honor.

16 JUDGE THOMPSON: Any objections to

17 Exhibit 117.

18 MR. CONRAD: Your Honor, I'll withdraw the

19 objection.

20 MS. COOK: Your Honor, I object to the

21 admission of 117 based on --

22 JUDGE THOMPSON: Because your witness was

23 lying?

24 MS. COOK: No. Based on the --

25 MR. DEUTSCH: Not this time.

1 MS. COOK: I figure someone should. They
2 always do.

3 Based on the fact that this --

4 JUDGE THOMPSON: Let's go off the record for
5 a moment.

6 (Discussion off the record.)

7 JUDGE THOMPSON: And your objection is --

8 MS. COOK: My objection is that Mr. England
9 made quite a point this morning of emphasizing that he
10 filed formal withdrawal from this Stipulation and
11 Agreement in this case and now he's trying to offer
12 testimony that was offered in regard to the
13 Stipulation and Agreement, and I think that's
14 inconsistent with your prior ruling.

15 JUDGE THOMPSON: Well, Mr. England was not
16 arguing in opposition to the admission of any document
17 that had been filed in support of the Non-unanimous
18 Stipulation and Agreement; rather, he was arguing
19 against Mr. Conrad's use of that document to strike
20 the testimony of a witness. So, I mean, it is a
21 different use. I don't see it as inconsistent.

22 I'm going to -- anyone else want to jump in
23 here? Mr. Deutsch, you haven't objected yet today.

24 I'm going to overrule the objection.

25 Exhibit 117 is received and made a part of the record

1 of this proceeding.

2 (EXHIBIT NO. 117 WAS RECEIVED INTO

3 EVIDENCE.)

4 MARK BURDETTE testified as follows:

5 CROSS-EXAMINATION (Resumed) BY MR. ENGLAND:

6 Q. Mr. Burdette, let me switch gears on you.

7 Are you aware of an additional indenture

8 requirement that pertains to Missouri-American that

9 requires it to maintain a debt ratio of no more than

10 75 percent -- excuse me -- 65 percent giving effect to

11 the proposed new debt issuance in order for it to

12 issue new bonds?

13 A. I believe I read less than two-thirds. That

14 would be around 65 percent.

15 MR. ENGLAND: Your Honor, again, I would ask

16 that another document be marked and either official

17 notice be taken --

18 JUDGE THOMPSON: This will be marked as

19 No. 118.

20 How shall we describe this, Mr. England?

21 MR. ENGLAND: This is the Indenture of

22 Mortgage filed in Commission Case 16,452, and better

23 to say an excerpt.

24 JUDGE THOMPSON: Am I correct in thinking

25 that this is an old document?

1 MR. ENGLAND: 1968, your Honor. Some of us,
2 that's not old.

3 JUDGE THOMPSON: I don't think I was alive
4 in 1968.

5 (EXHIBIT NO. 118 WAS MARKED FOR
6 IDENTIFICATION.)

7 JUDGE THOMPSON: I think I need one more
8 copy of 118.

9 Please proceed.

10 MR. ENGLAND: Thank you.

11 BY MR. ENGLAND:

12 Q. Mr. Burdette, I've handed you an excerpt of
13 a document on file with the Commission in its Case
14 No. 16,452, which is a portion of the Indenture of
15 Mortgage for the Missouri-American Water Company
16 issued, I believe, to the Fidelity Bank as trustee.

17 And let me turn your attention to Page 2 of
18 that document, Section 204, and ask that you read to
19 yourself the first paragraph. You can certainly read
20 more of that section if you want, but my question will
21 only deal with the first paragraph.

22 A. Okay.

23 Q. Would you agree with me that this document
24 purports to restrict the Company's ability to issue
25 new debt to the extent that such issuance when

1 combined with existing debt will not exceed 65 percent
2 of its total capitalization?

3 A. Yes.

4 Q. Okay. Now, you have not performed any
5 analysis and provided it in your testimony in this
6 case as to the effect of Public Counsel's
7 recommendations including recommendation regarding
8 plant disallowance on the debt structure or -- debt
9 ratio of the Company, have you, sir?

10 A. Can you repeat that question?

11 Q. Yes. You have performed no analysis in the
12 context of this case regarding the impact of Public
13 Counsel's proposal including its proposed plant
14 disallowance on the Company's debt ratio?

15 A. Correct.

16 Q. So you do not know whether the Company will
17 be able to issue long-term debt under its indenture if
18 your position, that is the Office of Public Counsel's
19 position, in this case is accepted. Correct?

20 A. The Company would potentially have to have
21 an influx of equity, I would assume, if their debt
22 ratio would go above 65 percent.

23 Q. Absent that influx of equity, they would
24 not be able to finance if their debt ratio exceeded
25 65 percent. Correct?

1 A. Correct.

2 Q. And do you know of any requirement on

3 American Water Works, the owner of this company, to

4 infuse equity capital in this company?

5 A. I know of no requirement, but if my

6 subsidiary was in the possibility of being in

7 violation of its indenture, I would think that's

8 probably something I would look into and think it was

9 important, yes.

10 Q. Would you think about investing in other

11 companies where the return is greater and the

12 opportunity for achieving that return is greater?

13 A. I would have to look at risk along with

14 return. I wouldn't just make a recommendation -- or a

15 decision based on return.

16 MR. ENGLAND: Thank you, sir.

17 I have no other questions.

18 JUDGE THOMPSON: Thank you, Mr. England.

19 MR. ENGLAND: And I have a couple of other

20 exhibits for official notice.

21 JUDGE THOMPSON: Okay. Exhibits 115, 116

22 and 118?

23 MR. ENGLAND: I'm sorry?

24 JUDGE THOMPSON: 115, 116, and 118?

25 MR. ENGLAND: Correct. I think -- I would

1 ask the 115, the work papers be offered into -- or be
2 admitted into evidence, and that the Commission simply
3 take official notice of 116 and 118.

4 MR. KRUEGER: Your Honor, I'd object to the
5 official notice of Exhibit 118 because this is
6 obviously just a portion of the entire document. It
7 doesn't state what Company it pertains to. There is
8 no foundation.

9 MR. COFFMAN: That was going to be my
10 objection, too, your Honor. I mean, I can't even tell
11 from this document whether it's the company that we're
12 dealing with here today or not.

13 MR. ENGLAND: I would be happy -- I'm sorry.
14 And I would be happy to provide the full document. I
15 was trying to get by with fewer pages. That's not a
16 problem.

17 MR. KRUEGER: Furthermore, the document is
18 32 years old, and we have no testimony or evidence
19 that indicates that this Indenture of Mortgage is
20 still in effect.

21 MR. COFFMAN: That --

22 JUDGE THOMPSON: The Commission's rules
23 state that any document or any part of a Commission
24 file may be received as long as it is specifically
25 identified and offered.

1 Mr. England has complied with the rule and
2 consequently I will overrule the objections, and I
3 will receive Exhibits 116 and 118 and take official
4 notice of that portion of the Commission's records
5 which those exhibits represent.

6 If, for sake of the completeness of the
7 record, you would like the entire document to be
8 entered into the record, you may certainly request
9 Mr. England to provide that or provide it yourself,
10 whatever you want to.

11 MR. KRUEGER: Your Honor, I don't believe
12 that this document has been specifically identified,
13 not by Mr. Burdette, certainly. Mr. England testified
14 about what it -- what it represented, but Mr. Burdette
15 has not so testified.

16 MR. COFFMAN: Your Honor, I believe
17 Mr. Krueger is correct that there has been no
18 testimony here that the representations of counsel
19 here are, in fact, the financial requirements that do
20 apply to this company. I mean, that foundation has
21 not been established on the record.

22 MR. ENGLAND: No. You did it wrong.

23 Our witnesses have testified that we have
24 65 percent debt ratio requirement and that is in the
25 prepared testimony. The fact that Public Counsel has

1 chose to ignore that is their problem, but that is in
2 the evidence, and this merely bolsters that fact.

3 If counsel for Staff or Public Counsel think
4 that this has been abrogated, rescinded, refunded,
5 what-have-you, they certainly can go to the
6 Commission's records and offer to take official notice
7 of the case in which these -- these bonds were
8 refunded and this indenture was eliminated. I have no
9 problem with that. I have no problem with providing
10 the complete document.

11 MR. KRUEGER: The burden should not be on
12 Staff or Public Counsel to find -- to demonstrate that
13 this is no longer in effect. The burden should be
14 upon the proponent of the document to demonstrate that
15 this is in effect and operates on the requirements of
16 the company.

17 MR. ENGLAND: Our witnesses have testified
18 to that effect.

19 MR. COFFMAN: But, your Honor, they have not
20 testified as to the foundation of this particular
21 document.

22 MR. CONRAD: That's basically what I was
23 going to say.

24 What we have here at the bottom of this
25 appears to have been an exhibit. It doesn't -- it

1 doesn't even show that it's been admitted in that
2 record. I mean, there is nothing here that shows
3 that, Judge.

4 As your Honor well knows and will recall
5 with respect to this case, early on there was a
6 videotape that was offered.

7 JUDGE THOMPSON: That's correct.

8 MR. CONRAD: It was rejected. It is not
9 part of the record, but, nonetheless, that is an
10 example of an item that is in the Commission's files
11 and will be presumably in the Commission's file. I'm
12 not sure how they will convert it to microfilm, but it
13 will stay there.

14 Now, in 1968 through 19-- 2000, we have no
15 showing here what Case No. 16,452 -- I recognize the
16 old numbering system. We don't have any way of
17 connecting this up. I think there is here in this
18 particular case a failure of foundation on the part of
19 the Company to really tie this up with this -- with
20 this case, what it is, where it is. The sheer fact
21 that there is a document in there without anything
22 more ought not to give this credence.

23 And we're really arguing about foundation,
24 not what -- to what Mr. England's witnesses have
25 testified in other parts of this proceeding. If they

1 testified to that, that testimony stands for whatever
2 that testimony stands for. This is -- we're talking
3 about foundation on this document.

4 JUDGE THOMPSON: Well, the rule says, and I
5 am referring to 4 CSR 240-2.130(2), "If any
6 information contained in a document on file as a
7 public record with the Commission is offered in
8 evidence, the document need not be produced as an
9 exhibit unless directed otherwise by the presiding
10 officer, but may be received in evidence by reference
11 provided that the particular portions of the document
12 shall be specifically identified and are relevant and
13 material."

14 MR. CONRAD: Please -- I'm sorry. I mis--

15 JUDGE THOMPSON: You are suggesting that
16 Mr. England has failed to show that this is
17 information contained in a document on file as a
18 public record with the Commission, because that's the
19 only foundation that this --

20 MR. ENGLAND: I have got an -- there is a
21 certificate attached to it evidencing that fact.

22 MR. CONRAD: With respect, your Honor,
23 that's not been -- I could, I'm sure, given about five
24 minutes, go bring you some documents from a case
25 involving Kansas City Power & Light or Union Electric

1 and I would offer them here and say, Well, these are
2 from the Commission's official records; therefore,
3 take official notice. The question is relevancy, and
4 foundation goes to relevancy. And that's what we have
5 here.

6 It's not a question -- the rule that your
7 Honor has cited is to me an accommodation that says
8 that when something is on file at the Commission, you
9 needn't turn mimeos again to make 14 or now eight, or
10 however many copies, of what's already on file. It
11 says "may be received." It does not say "shall be."
12 And that "may" and "shall" distinction, I think, is
13 critical here. It is a foundation issue. It is a
14 relevance issue.

15 JUDGE THOMPSON: Well, I'll tell you what
16 I'm going to do. With respect to Exhibit 118, I will
17 direct Mr. England to produce the entire document.
18 And if he brings me that document with the certificate
19 of the secretary of the Commission and that document
20 on its face clearly refers to Missouri-American Water
21 Company, or one of its predecessors, then I will
22 receive it into the record of this case, unless the
23 parties are able to come up with some reason why I
24 should not, other than the one you've raised now.

25 So we will hold Exhibit 118.

1 Now, I believe you also offered 116, and I
2 will take official notice of Exhibit 116. And you
3 also offered Exhibit 115; is that not correct?

4 MR. ENGLAND: Yes.

5 JUDGE THOMPSON: Okay. Do I hear any
6 objections to the receipt of Exhibit 115? And those
7 would be the work papers.

8 (No response.)

9 JUDGE THOMPSON: I think in view of Public
10 Counsel's stipulation that that is, in fact, the work
11 papers, we will receive Exhibit No. 115 into the
12 record of this proceeding.

13 (EXHIBIT NO. 115 WAS RECEIVED INTO
14 EVIDENCE.)

15 JUDGE THOMPSON: You have completed your
16 cross-examination, Mr. England?

17 MR. ENGLAND: Yes, I have.

18 Thank you, your Honor.

19 JUDGE THOMPSON: Okay. At this point, we
20 still have no commissioners. We're ready for
21 questions from the Bench for Mr. Burdette.

22 What I'm going to do is I'm going to recess
23 for lunch at this time. We will return at 1:30. The
24 reason I am saying 1:30 is because the Commissioners
25 are, of course, involved in other business at this

1 time, and I don't know that they would be ready to
2 come back from lunch any earlier than that.

3 At that time, we will take up questions from
4 the Bench for Ms. McKiddy, questions from the Bench
5 for Mr. Burdette, and any questions from the Bench
6 there might be for Mr. Trippensee with respect to
7 those matters he was recalled for today.

8 MS. COOK: Your Honor?

9 JUDGE THOMPSON: Yes, ma'am.

10 MS. COOK: Might I offer Surrebuttal
11 Testimony of Mr. Burdette at this point? I believe it
12 was not accepted into the record before, subject to
13 future objections that Mr. England might have in
14 the --

15 JUDGE THOMPSON: That is correct.

16 MR. ENGLAND: And I have no objections.

17 JUDGE THOMPSON: Anyone else?

18 MS. COOK: Exhibit 26.

19 JUDGE THOMPSON: Hearing no objections,
20 Exhibit No. 26 is received into the record of this
21 matter.

22 (EXHIBIT NO. 26 WAS RECEIVED INTO EVIDENCE.)

23 JUDGE THOMPSON: We will reconvene at 1:30.
24 Thank you-all very much.

25 (A recess was taken.)

1 JUDGE THOMPSON: Okay. We're ready for
2 questions from the Bench for Ms. McKiddy.

3 I will remind you once again, ma'am, you are
4 still under oath.

5 THE WITNESS: Okay.

6 JUDGE THOMPSON: Go ahead and take your
7 seat.

8 Chair Lumpe.

9 ROBERTA A. McKIDDY, being recalled, testified as
10 follows:

11 QUESTIONS BY CHAIR LUMPE:

12 Q. Ms. McKiddy, I don't know if you were here
13 this morning when I asked the question of Mr. Walker,
14 but would you agree that if we went to district-
15 specific pricing that we would have to have a
16 different discounted cash flow analysis for each
17 district?

18 A. If that's what we chose to do, that's --
19 there would be a separate calculation for each
20 district.

21 Q. So there would be the overall Company return
22 on equity and then there would be different
23 calculations for each?

24 A. There would probably need to be some
25 adjustment made to reflect that individual risk, yes.

2290

1 Q. To reflect that.

2 Okay. I think it's on Page 13 of your

3 Direct Testimony, and it's down at the bottom where

4 you see "In summary" at Line 20.

5 A. Okay.

6 Q. And you're talking about inflation there --

7 A. Yes.

8 Q. -- and long-term interest rates. You have

9 5.8 to 6.2. We were hearing something in the range of

10 8 percent and higher this morning. Do you --

11 A. I believe what they were referring to is

12 public utilities bonds, the A-rated bonds.

13 Q. Okay. And this is the --

14 A. This is something different than that.

15 CHAIR LUMPE: Okay. I was just curious. I

16 appreciate your clarifying that for me.

17 Thank you. That's all I have.

18 JUDGE THOMPSON: Thank you, Chair Lumpe.

19 Vice-chair Drainer.

20 QUESTIONS BY COMMISSIONER DRAINER:

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. I just have a couple of questions.

24 One, on your Direct Testimony, Page 6,

25 Lines 10 through 11, you make a statement about,

1 "However, in the case of the extremely poor
2 management, I do not believe it would always be
3 appropriate for a regulatory agency to provide
4 sufficient funds to continue operations no matter what
5 the costs are to the ratepayers."

6 Do you have any evidence, or is it your
7 position that this company has provided poor
8 management?

9 A. No, it is not my opinion that they've
10 provided poor management.

11 Q. Okay. That was just a general --

12 A. Correct.

13 Q. And with respect to the rate of return, one
14 of the -- return of equity, one of the things that you
15 do bring up, as Chair Lumpe mentioned, is the
16 inflation rate. And you have some discussion about
17 this is the lowest inflation rate we've had in years?

18 A. Correct.

19 Q. Do you have any concerns that with the
20 gasoline prices that we have that have remained high
21 and there doesn't seem to be any evidence of those
22 going down that we could have a supply shock inflation
23 again as we had in the '70s?

24 A. I think there has been some indication that
25 it could possibly affect the inflation rate, but I

1 don't know that there has been any specific
2 determination made at this point.

3 Q. If, however, there were an indication that
4 that were to happen, would -- should the Commission be
5 very cognitive of some spikes in the inflation rate
6 due to such activity by a commodity that is used so
7 universally?

8 A. Well, as I stated this morning, we base our
9 return on equity on the DCF Model which really doesn't
10 take that into consideration. It looks at
11 projected -- both historical and projected growth
12 rates, as well as the stock market price. That's how
13 our current is calculated.

14 COMMISSIONER DRAINER: Thank you very much.

15 No further questions.

16 JUDGE THOMPSON: Thank you, Vice-chair
17 Drainer.

18 Commissioner Murray.

19 COMMISSIONER MURRAY: Thank you.

20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Good afternoon, Ms. McKiddy.

22 A. Good afternoon.

23 Q. With your comparable companies that you used
24 for your evaluation, and -- you compared companies
25 that were comparable to AWW?

1 A. AWK?

2 Q. AWK, yes. That's correct. Right?

3 A. Uh-huh.

4 Q. Now, assume that MAWC were owned by a
5 company that was not in the water utility business.
6 For example, if it were owned by Cisco. What
7 comparables would you use?

8 A. I would assume I would still have to use the
9 water utility industry, since that's who we're trying
10 to set the rate of return for.

11 Q. And who would you compare them to?

12 A. Well, if Missouri-American was owned by
13 Cisco, and Cisco was the only one traded on the open
14 market, I would have to use that stock information
15 that's available. In some cases I know we do use
16 hypothetical information as far as capital structure
17 if it is something that's not really comparable to the
18 industry we're looking at.

19 Q. So are you saying you would compare -- would
20 you make the comparison to Cisco if Cisco owned
21 Missouri-American Water Company?

22 A. If that's the only stock information I had
23 available to me, that's what I would probably do.

24 Q. If you were an investor and you were given
25 the opportunity to purchase shares of either AWWA or

1 MAWC, assuming that it were publicly traded, would you
2 feel secure that your investment would be no more at
3 risk if it were placed with MAWC than if it were
4 placed with the parent company?

5 A. Yes.

6 Q. That's an unequivocal yes.

7 Then on Schedule 30 of your Direct
8 Testimony, it seems that you're using American Water
9 Works' numbers for everything except for weighted cost
10 of capital.

11 A. I'm using American Water Works' numbers for
12 the calculation of ROE. For the embedded cost, I'm
13 using the Missouri-American Water information.

14 Q. Okay. Why is that not mixing apples and
15 oranges?

16 A. Well, as I've been taught in doing rate of
17 return regulation, when information for a company is
18 not available because it is not traded publicly, it is
19 an appropriate substitute to use the parent company's
20 information.

21 Q. Don't you have the information about
22 embedded costs from the parent company?

23 A. Yes, but we're still trying to get as much
24 company-specific information as we can, so we try to
25 use as much of Missouri-American's information as we

1 have available, but because the stock is not traded
2 publicly we have to resort to the parent company for
3 at least the ROE calculation.

4 Q. Okay. So part of your formula is specific
5 to Missouri-American and part of it to American Water
6 Works?

7 A. Correct.

8 Q. Do you agree that there is an unsystematic
9 risk associated with MAWC?

10 A. I think all companies are subject to
11 unsystematic risk.

12 Q. So wouldn't it be appropriate for the
13 Commission to make some kind of a risk adjustment for
14 MAWC for its unsystematic risk?

15 A. Well, I think the only place that that type
16 of risk comes into play is with the Cap M calculation,
17 and that's not my primary tool for coming up with
18 rates of return on equity.

19 Q. With the DCF calculations, wouldn't it be
20 possible to use the data from American Water Works and
21 then factor in certain adjustments which would account
22 for the differences between American Water Works and
23 Missouri-American?

24 A. Are you referring to the size effect that
25 was discussed this morning, or other differences

1 besides that?

2 Q. That, plus any other differences that you
3 can think of.

4 A. Well, as far as the size effect goes, the
5 reason we have chose not to do that adjustment is
6 because every piece of information that we have
7 researched has shown that that is still a
8 controversial adjustment and a number of individuals
9 believe that that size effect is not even something to
10 be considered. So we don't make our adjustments based
11 on controversial-type information.

12 Q. And what -- did you say you are relying on
13 expert sources?

14 A. Yes. One of the books that was, I think,
15 put out this morning was David Parcell's book, Cost of
16 Capital. We also look at another book called, Cost of
17 Capital that was written by Roger Morin, and then I
18 have also found some other information provided by
19 Jeremy Siegel who does, Stocks for the Long Run, which
20 is a very widely used book.

21 Q. And I guess with your -- during the
22 examination on the stand this morning you went over
23 some of that; is that correct?

24 A. I believe other witnesses referred to those
25 books, but I have looked at them as well.

1 Q. All right. Okay. Would you please explain
2 why in your mind there is a difference in the way we
3 would calculate ROE for a company that has one
4 shareholder versus the way we would calculate it for a
5 company that's publicly traded?

6 A. Do I refer to that in my testimony?

7 Q. Well, I don't -- you don't make that
8 specific reference, but it appears to me from what
9 you're recommending that you do think we should do it
10 differently. Is that not true?

11 A. I don't believe I make that distinction.

12 Q. So you don't -- you don't think there should
13 be a distinction between investor expectations for a
14 company that is owned by one investor versus a company
15 that is owned by many investors?

16 A. No.

17 Q. And my last question, if the Commission were
18 to disagree with all of the recommended plant
19 disallowances, but we adopted Staff's recommended ROE,
20 do you know how that would affect the Company's
21 specific bond rating?

22 A. I have not looked at that.

23 COMMISSIONER MURRAY: That's all of my
24 questions, your Honor. Thank you.

25 JUDGE THOMPSON: Thank you, Commissioner

1 Murray.

2 Commissioner Schemenauer.

3 COMMISSIONER SCHEMENAUER: No questions,

4 your Honor.

5 JUDGE THOMPSON: Thank you, Commissioner.

6 Commissioner Simmons.

7 COMMISSIONER SIMMONS: Thank you, sir.

8 QUESTIONS BY COMMISSIONER SIMMONS:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. I would like to follow up on a question

12 having to do with bond ratings.

13 I am referring to your Surrebuttal

14 Testimony, Page 2, Line 2. When you talk about the A

15 bond rating, are there other factors beyond a

16 favorable ROE that would help maintain an A bond

17 rating?

18 A. Yes, there are other factors that are looked

19 at in giving that credit rating.

20 Q. If this Commission were to give a favorable

21 ROE as suggested by Mr. Walker, it's your testimony

22 that there is still other factors that would go into

23 that?

24 A. Correct.

25 Q. To your knowledge, do you know of any other

1 commissions that have given favorable ROE in
2 relationship to wanting to maintain an A bond rating?

3 A. No, I am not.

4 Q. If you are not aware of that, then would you
5 not be able to determine if that was a common practice
6 that was practiced by any other Commission you are
7 aware of?

8 A. To my knowledge, there have not been any
9 rates of return set to maintain a specific bond
10 rating. Not to say that they are not out there. I
11 just am not aware of them.

12 COMMISSIONER SIMMONS: Not aware of them.

13 Thank you, sir.

14 No other questions.

15 JUDGE THOMPSON: Thank you, Commissioner.

16 Recross, based on questions from the Bench.

17 Ms. Cook?

18 MS. COOK: Thank you, your Honor.

19 I have no questions.

20 JUDGE THOMPSON: Mr. Conrad?

21 MR. CONRAD: I think just one area, your
22 Honor, very briefly.

23 RECROSS-EXAMINATION BY MR. CONRAD:

24 Q. Ms. McKiddy, Chair Lumpe asked you a
25 question about the DCF cash flow models -- excuse

1 me -- DCF Models on each of the separate districts.

2 Do you recall that?

3 A. Yes.

4 Q. Did I understand you to say that that
5 would -- that it would be required to do that if the
6 Commission went to a -- a district-specific pricing
7 model?

8 A. I think what I meant was if that's the way
9 we chose to do analysis of return on equity from a
10 point now into the future, that's how we would do it,
11 not to say that we would just take it upon ourselves
12 to do that.

13 Q. Well, even if -- would you agree with me
14 that even if the Commission made that decision that it
15 wouldn't necessarily require an individual DCF Model
16 to be done on each of the separate districts?

17 A. Correct.

18 Q. The Company would still likely not be doing
19 its financing on a total Company basis. Correct?

20 A. Correct.

21 Q. And so it would still be entirely
22 appropriate to do a DCF Model on a total Company
23 basis?

24 A. I believe so, especially in light of the new
25 financing entity that's been established by American

1 Water Works.

2 Q. And that -- the new financing entity that

3 you just referenced, that's an entity at the parent

4 level, correct, not Missouri?

5 A. Correct.

6 MR. CONRAD: I think that's all.

7 Thank you, your Honor.

8 JUDGE THOMPSON: Thank you, Mr. Conrad.

9 Mr. Deutsch?

10 MR. DEUTSCH: No questions, your Honor.

11 JUDGE THOMPSON: Mr. England?

12 MR. ENGLAND: Thank you.

13 RECROSS-EXAMINATION BY MR. ENGLAND:

14 Q. Following up on that line of questioning,

15 Ms. McKiddy, what if lower cost tax-exempt bond

16 financing has been used for a particular district?

17 Wouldn't it be appropriate to assign the costs of

18 those -- the lower cost bond financing to that

19 district if you're going to do a district-by-district

20 analysis?

21 A. If that's the way Missouri-American

22 maintained its accounting records, that would probably

23 be true.

24 Q. I guess if this Commission determines as a

25 policy matter that it's more appropriate to establish

1 rates by district based on the identifiable costs
2 created by each district --

3 A. Uh-huh.

4 Q. -- wouldn't it make sense to perhaps assess
5 capital costs just like you would any other costs of
6 the district to each district?

7 A. If there was a way of doing that, probably
8 so.

9 Q. Okay. And you are aware of recent
10 tax-exempt financings of this company, are you not?

11 A. Correct.

12 Q. And those have been used specifically to
13 financing the new St. Joseph Treatment Plant, have
14 they not?

15 A. I believe so.

16 Q. Thank you.

17 In response to a question from Commissioner
18 Murray, you said you would not have a preference --
19 and I'm paraphrasing now. These weren't your words,
20 but I think this was your import, that you didn't have
21 a preference over investing in MAWC or AWK given the
22 opportunity to invest in either?

23 A. I wouldn't look specifically at one thing.
24 If we're talking about based on the return on equity
25 alone, I think there's more things that are looked at

1 when a person decides to invest in a company.

2 Q. Are you familiar with Mr. Walker's

3 Surrebuttal Testimony?

4 A. I'm fairly familiar of with it, yes.

5 Q. Do you have a copy of it up there?

6 A. No, I do not.

7 MR. ENGLAND: May I approach the witness?

8 JUDGE THOMPSON: You may.

9 BY MR. ENGLAND:

10 Q. Let me show you Page 2 of Mr. Walker's

11 Surrebuttal Testimony, specifically, Table 1 that is

12 shown there. And it compares Missouri-American and

13 American Water Works in several categories. Do you

14 see that?

15 A. Yes.

16 Q. Do you have any reason to believe that those

17 numbers are not accurate?

18 A. No, I do not.

19 Q. Okay. Would you agree with me that -- I'm

20 going to have to look over your shoulder since I

21 didn't retain a copy.

22 Would you agree with me that that table

23 displays a wide disparity basically in size between

24 American Water Works and Missouri-American Water

25 Company?

1 A. As those numbers are represented there, yes,
2 but American Water Works does trade as the parent
3 company, not separately.

4 Q. Right. But I think the hypothetical to you
5 from the Bench was whether -- if you could invest in
6 Missouri-American, and it were -- it was publicly
7 traded, you would have no preference whether you
8 invested in Missouri-American or American Water Works;
9 was that your answer?

10 A. That is my answer.

11 Q. You don't see any advantages of investing in
12 a larger company such as American Water Works, any
13 risk diversification or anything of that nature?

14 A. I'm sure there are some, but, like I said, I
15 look at more than just one sole aspect of a balance
16 sheet.

17 MR. ENGLAND: Thank you.

18 No other questions.

19 JUDGE THOMPSON: Thank you, Mr. England.

20 Mr. Krueger, redirect.

21 MR. KRUEGER: Thank you, your Honor.

22 REDIRECT EXAMINATION BY MR. KRUEGER:

23 Q. Ms. McKiddy, Commissioner Murray asked you
24 some questions about how your view of return on equity
25 would change if Missouri-American was owned by Cisco,

1 for example. Do you recall those?

2 A. Yes.

3 Q. In your decision to use American Water
4 Works' cost of equity to apply to Missouri-American,
5 is it important to you that Missouri-American and
6 American Water Works are in the same line of business?

7 A. Yes.

8 Q. If you adjusted your return on equity to
9 compensate for prudence disallowances, would this
10 negate the prudence adjustments and, in effect, allow
11 a return on imprudent investment?

12 A. Could you repeat that, please?

13 Q. Sure. If you made an adjustment to your
14 recommendation for the return on equity to compensate
15 for the fact that prudence disallowances had been
16 made such as are urged by the Office of the Public
17 Counsel, would this negate the prudence adjustment
18 and, in effect, allow a return on imprudent
19 investment?

20 A. I don't believe I would look at either of
21 those things when I do my ROE calculation.

22 Q. Do you remember Mr. England asking you about
23 assigning tax-exempt financing specifically to a
24 district?

25 A. Yes.

1 Q. Would your DCF calculations be affected by
2 the assignment of debt?

3 A. No.

4 MR. KRUEGER: Okay. No other questions,
5 your Honor.

6 JUDGE THOMPSON: Thank you, Mr. Krueger.
7 You may step down, Ms. McKiddy.
8 (Witness excused.)

9 JUDGE THOMPSON: Thank you.

10 Mr. Burdette, I will remind you, you are
11 still under oath, sir.

12 JUDGE THOMPSON: Questions from the Bench.
13 Chair Lumpe?

14 CHAIR LUMPE: I'll pass right now.

15 JUDGE THOMPSON: Vice-chair Drainer?

16 COMMISSIONER DRAINER: No questions.

17 JUDGE THOMPSON: Commissioner Murray?

18 COMMISSIONER MURRAY: No questions.

19 JUDGE THOMPSON: Commissioner Schemenauer?

20 COMMISSIONER SCHEMENAUER: No questions.

21 JUDGE THOMPSON: Commissioner Simmons?

22 COMMISSIONER SIMMONS: I have no questions
23 for him.

24 JUDGE THOMPSON: Redirect. Ms. Cook?

25 MS. COOK: Thank you, your Honor. Just a

1 few.

2 MARK BURDETTE, being recalled, testified as follows:

3 REDIRECT EXAMINATION BY MS. COOK:

4 Q. Mr. Burdette, do you recall earlier

5 Mr. England asked you some questions about the

6 accounting treatment of the phase-in that might be

7 ordered in this case?

8 A. Yes.

9 Q. Are you an accountant?

10 A. No.

11 Q. Did you pre-file any testimony on the issue

12 of the accounting treatment of any phase-in that might

13 be ordered in this case?

14 A. No.

15 Q. Do you have any authoritative knowledge

16 about the appropriateness of whatever accounting

17 treatment the -- any phase-in would require?

18 A. No.

19 Q. Is your interest coverage calculation in

20 your pre-filed testimony based on revenues, expenses,

21 and so forth that will occur during the year following

22 the -- during the year after the new rates have been

23 placed into effect if OPC's recommendation would be

24 adopted?

25 A. Yes.

1 Q. Do you believe a public utility company has
2 any certain obligation with respect to the provision
3 of public utility service?

4 A. The utility needs to make sure they provide
5 safe and adequate service.

6 Q. And if a company needs to invest equity
7 funds in order to provide that safe and adequate
8 service, do you believe they should do so?

9 A. Yes.

10 Q. If this Commission disallows any portion of
11 the plant as being imprudent but also increases its
12 rate of -- its return on equity because of the
13 imprudence finding, does the return on equity
14 adjustment serve to offset the imprudence adjustment?

15 A. If you -- if you rule -- excuse me. If you
16 determine that an investment is imprudent and then
17 turn around and give a bumped ROE to make up for
18 imprudence, yeah, you are negating the rule of
19 imprudence.

20 MS. COOK: Those are all of the questions I
21 have, your Honor.

22 JUDGE THOMPSON: Thank you, Ms. Cook.

23 You may step down, Mr. Burdette.

24 (Witness excused.)

25 Mr. Trippensee.

1 Do you need a moment to dry it off over
2 there?
3 THE WITNESS: I think we're okay.
4 JUDGE THOMPSON: I will remind you, you are
5 still under oath, Mr. Trippensee.
6 THE WITNESS: Yes, sir.
7 JUDGE THOMPSON: Questions from the Bench.
8 Chair Lumpe?
9 CHAIR LUMPE: I have no questions.
10 JUDGE THOMPSON: Vice-chair Drainer?
11 COMMISSIONER DRAINER: No questions.
12 JUDGE THOMPSON: Commissioner Murray?
13 COMMISSIONER MURRAY: I have none.
14 Thank you.
15 JUDGE THOMPSON: Commissioner Schemenauer?
16 COMMISSIONER SCHEMENAUER: No questions.
17 JUDGE THOMPSON: Commission Simmons?
18 COMMISSIONER SIMMONS: No questions, your
19 Honor.
20 QUESTIONS BY JUDGE THOMPSON:
21 Q. Mr. Trippensee, do you have Exhibit 116 in
22 front of you?
23 A. I believe I do. That starts, "This is a
24 Fifteenth Supplemental Indenture. . ."
25 Q. That is it?

1 A. Yes, sir.

2 Q. If you would return your attention to the

3 page that is numbered at the bottom Page 8?

4 A. Yes, sir.

5 Q. It is the third page of that exhibit.

6 A. Yes, sir.

7 Q. Now, the last time you were up there on the

8 stand some attention was drawn to the language of how

9 this calculation should be done, excluding from such

10 deductions write-downs of property. Do you see that?

11 A. Yes, sir.

12 Q. Now, when you did the calculation in your --

13 your testimony, Exhibit 117, that was filed in support

14 of the Non-unanimous Stipulation and Agreement, did

15 you do that calculation in the manner that this

16 paragraph requires?

17 A. It's my belief that I did.

18 Q. So that if you were an officer of the

19 Company, you would be able to certify that the

20 calculation had been done as required by the bond

21 indenture?

22 A. Yes, sir, I would. In fact, my calculation

23 was based on a calculation originally performed by

24 Mr. Salser.

25 Q. Okay. And with respect to Mr. Burdette, you

1 oversee Mr. Burdette; isn't that correct?

2 A. Yes, sir.

3 Q. And with respect for the similar calculation

4 that Mr. Burdette performed for his testimony in this

5 case, would you also be able to certify that he

6 performed that calculation in the manner required by

7 this bond indenture?

8 A. I believe I would.

9 JUDGE THOMPSON: Thank you.

10 I have no further questions for you.

11 If I can just figure out what the order

12 is, we'll go to recross based on questions from the

13 Bench.

14 Here we are. Mr. Krueger?

15 MR. KRUEGER: No questions, your Honor.

16 JUDGE THOMPSON: Mr. Conrad?

17 MR. CONRAD: No questions.

18 JUDGE THOMPSON: Mr. Deutsch?

19 MR. DEUTSCH: No questions.

20 JUDGE THOMPSON: Mr. England?

21 MR. ENGLAND: Thank you.

22 Can I clarify? Is this redirect or

23 cross-examination?

24 JUDGE THOMPSON: This is recross based on

25 questions from the Bench.

1 MR. ENGLAND: Thank you.

2 RECROSS-EXAMINATION BY MR. ENGLAND:

3 Q. Mr. Trippensee, have you ever had to issue
4 such certification as called for under the Fifteenth
5 Supplemental Indenture for any company?

6 A. No, sir, I have not.

7 Q. Okay. And explain to me how with your
8 calculation of interest coverages in Exhibit 117 with
9 essentially rate relief of 12.7 million effective
10 August 1, 2000, you can calculate an interest coverage
11 of 1.5, but Mr. Burdette comes up with a 2.39 times
12 interest coverage with rate relief of only \$6 million
13 45 days later. Something is intuitively inconsistent
14 there.

15 MS. COOK: Your Honor, I object. I don't
16 believe that question is within the scope of the
17 questions from the Bench.

18 JUDGE THOMPSON: Mr. England.

19 MR. ENGLAND: I believe it is well within
20 the question that you asked him about certification as
21 to if these two interest coverages comply with the
22 indenture. I'd like to know why they are so far
23 disparate and, as I said, intuitively inconsistent.
24 We have higher interest coverages with lower rate of
25 revenue relief.

1 MS. COOK: I believe he answered the
2 question in response to the question that you asked
3 about whether or not he was able to -- had he ever
4 certified such a matter, and I think that the next
5 question is beyond the scope of what you asked him.

6 JUDGE THOMPSON: Thank you.

7 The objection is overruled.

8 Answer the question, if you are able, sir.

9 THE WITNESS: In looking at the data that is
10 shown on Exhibit 117, we were using historical
11 information. We were not -- let's see. First off, we
12 were using historical information. We did not analyze
13 the revenue stream as is done in Mr. Burdette's
14 calculation and is required, as I read the indenture.
15 That would be a primary difference. While we showed
16 \$12 million, we did not analyze it in the 1.51
17 calculation.

18 Also, again, we are using historical
19 information 12 months back from any stopping date such
20 as August or July 31st.

21 BY MR. ENGLAND:

22 Q. If your calculation, as you say, is a
23 historical look and Mr. Burdette's is a
24 forward-looking and your calculation did not annualize
25 certain items -- I'm not sure I -- revenues?

1 A. That would be what 12.72 would be recorded
2 as, yes.

3 Q. Okay. -- and his did, then how can you say
4 that both computations comport with the requirements
5 of the indenture? It seems to me you've got two
6 different interest coverage calculations going on
7 here?

8 MS. COOK: Your Honor, I'd like to register
9 a continuing objection to this line of questioning as
10 beyond the scope of questions from the Bench.

11 JUDGE THOMPSON: You may register your
12 objection.

13 Please answer the question, if you are able.

14 THE WITNESS: Could you rephrase your
15 question, please, or repeat it?

16 BY MR. ENGLAND:

17 Q. Yeah. As I understand, your interest
18 coverage calculation in Exhibit 117 was a historical
19 look and Mr. Burdette's was forward-looking. Yours
20 did not annualize revenues. Mr. Burdette did. Those
21 seem to me to be significant differences in the way in
22 which you calculate interest coverages.

23 How can both ways be compliant with the
24 indenture requirements?

25 A. If anything, the calculation contained in my

1 Direct Testimony in support of the Stipulation is a
2 conservative number. If you do things such as
3 annualize, you will simply raise the debt coverages.

4 Q. Does the indenture require annualization or
5 require actual on a rolling 12-month basis?

6 A. The portion that you were referring to this
7 morning on the indented requires rates shall be
8 annualized. Rates result in revenue.

9 Q. That's your interpretation of the indenture
10 language that you read; is that correct?

11 A. It says, "Any increase or decrease in gross
12 revenues of the Company attributable to higher or
13 lower rates that have been in effect for less than a
14 full 12-month period on which a calculation is based
15 shall be annualized."

16 Q. So then your calculation in Exhibit 117 is
17 not consistent with the indenture requirements by your
18 testimony; is that correct?

19 A. It is consistent with respect to the basic
20 calculations. We did -- it does not include the
21 annualization, so, therefore, if anything, the
22 interest coverages are unstated.

23 Q. So would you have been in error to certify
24 that your calculations in Exhibit 117 are compliant
25 with the requirements of the indenture?

1 A. I was not asked to certify that, sir.

2 Q. I thought that was the question from the
3 Bench. I thought you told Mr. Thompson that your
4 calculation in Exhibit 117 and Mr. Burdette's in his
5 testimony both complied with the requirements of the
6 indenture?

7 A. The overall requirements. We did not do
8 the annualization. From an accounting perspective,
9 if I do something on the conservative side and
10 don't -- that would still be in compliance in my
11 opinion.

12 Q. Am I correct in stating that your interest
13 coverage calculation was taking into effect, albeit
14 not annualized, a \$12.7 million revenue increase as of
15 August 1?

16 A. That's my understanding.

17 Q. Okay. And that your position now in the
18 case as a result of the Surrebuttal Testimony is that
19 the Company's revenue deficiency or its entitlement to
20 additional revenues is \$6 million as of the operation
21 of law date, approximately September 15th?

22 A. That is correct.

23 MR. ENGLAND: Thank you.

24 No other questions.

25 JUDGE THOMPSON: Thank you, Mr. England.

2317

1 Redirect?

2 REDIRECT EXAMINATION BY MS. COOK:

3 Q. Do you believe the capital structure and
4 cost of debt -- interest expenses may have changed?

5 A. The calculation contained in my Direct
6 Testimony to the Surrebuttal would not have included
7 the write-off of any plant disallowances, so, yes,
8 capital structure and interest coverages -- interest
9 expenses would be different. Interest expenses,
10 specifically, have synchronized with the rate base.

11 MS. COOK: That's all of the questions I
12 have, your Honor.

13 JUDGE THOMPSON: Thank you, Ms. Cook.
14 You may step down, Mr. Trippensee.

15 THE WITNESS: Thank you.
16 (Witness excused.)

17 JUDGE THOMPSON: I believe that concludes
18 all of the testimony that we have planned.

19 Mr. Deutsch, you had a witness you wanted to
20 offer?

21 MR. DEUTSCH: No, absolutely not.

22 MR. ENGLAND: Your Honor?

23 JUDGE THOMPSON: Sir.

24 MR. ENGLAND: While we're still on the
25 record, I have a couple of items that I would like to,

1 I guess, have marked at this time that respond to some
2 requests -- well, excuse me, one responds to a request
3 from the Bench regarding the Brunswick rates and
4 revenues and costs, and the other is the corrected
5 schedule to Mr. Salser's true-up testimony that we
6 discussed yesterday.

7 JUDGE THOMPSON: Very well.

8 MR. ENGLAND: Which would you like first?

9 JUDGE THOMPSON: Doesn't matter.

10 MR. ENGLAND: Let's do the Brunswick rates
11 then.

12 JUDGE THOMPSON: We have reserved No. 83 for
13 the Brunswick rates, and this was the exhibit
14 requested by Commissioner Schemenauer.

15 MR. ENGLAND: That's correct. As long as
16 Commissioner Schemenauer is here, if you have any
17 questions, we'll try to answer them. Hopefully, it's
18 straightforward.

19 JUDGE THOMPSON: This will be marked Exhibit
20 No. 83.

21 (EXHIBIT NO. 83 WAS MARKED FOR
22 IDENTIFICATION.)

23 MR. ENGLAND: If I may?

24 JUDGE THOMPSON: Please proceed,
25 Mr. England.

1 MR. ENGLAND: Well, if I may, I'll just
2 point out that what we've attempted to show there are
3 the costs of service that were developed for this
4 district at three points in time; first, in the '95
5 rate case which is WR-95-205. The second was when we
6 had the cost of service study, WO-98-204, and the
7 third is this case.

8 JUDGE THOMPSON: Okay.

9 MR. ENGLAND: The next set of numbers is --
10 are the actual revenues that we recorded receiving
11 from that district over those four year periods of
12 time. And then the second page shows the rates that
13 were in effect at the time the Company was acquired --
14 Missouri Cities was acquired by Missouri-American,
15 which was, I believe, August or so of '93, up through
16 the most recent rate case which was effective
17 November 14th, 1997. Those are the individual rate
18 schedules.

19 JUDGE THOMPSON: Very well. This exhibit
20 was requested by the Bench. Do I hear any objections
21 to the receipt of the Exhibit 83 into the record of
22 this matter?

23 (No response.)

24 JUDGE THOMPSON: Hearing no objections,
25 Exhibit No. 83 is received into the record.

1 (EXHIBIT NO. 83 WAS RECEIVED INTO EVIDENCE.)

2 COMMISSIONER SCHEMENAUER: I just have one

3 question.

4 JUDGE THOMPSON: Sure.

5 COMMISSIONER SCHEMENAUER: Looking at this,

6 am I correct in assuming that the customer base is

7 declining in Brunswick?

8 MR. ENGLAND: I don't know that, sir. I

9 think the reason for the decline is that district has

10 actually experienced rate decreases over this three-

11 or four-year period of time.

12 COMMISSIONER SCHEMENAUER: Thank you.

13 JUDGE THOMPSON: Did you get that we

14 received that exhibit?

15 THE COURT REPORTER: Yes.

16 JUDGE THOMPSON: Thank you.

17 Okay. What else do you have for us,

18 Mr. England?

19 MR. ENGLAND: Mr. Salser found a few more

20 errors in his schedule, so we just went ahead and

21 corrected Schedules JES-4, consisting of eight pages,

22 JES-5, also consisting of eight pages, and JES-6, also

23 consisting of eight pages.

24 JUDGE THOMPSON: Okay.

25 MR. ENGLAND: And we can put Mr. Salser back

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1 on if people feel the need to question him about the
2 changes. I don't think that they were substantial in
3 the overall scheme of things.

4 JUDGE THOMPSON: Now, these were originally
5 part of what exhibit?

6 MR. ENGLAND: 107, I believe, Salser's
7 True-up Rebuttal.

8 JUDGE THOMPSON: Okay. We have received
9 107. Why don't we go ahead and do this in a way that
10 will make it as clean as possible. We'll number this
11 as Exhibit No. 119, and you can go -- why don't you go
12 ahead and offer 119, and we'll see if we have any
13 objections?

14 (EXHIBIT NO. 119 WAS MARKED FOR
15 IDENTIFICATION.)

16 MR. ENGLAND: Okay. Fair enough.

17 We would offer Exhibit 119 at this time,
18 your Honor.

19 MR. DEUTSCH: What are we calling it, your
20 Honor?

21 JUDGE THOMPSON: We're calling it -- I'm
22 calling it Mr. Salser's corrected schedules.

23 Any objections to the receipt of
24 Exhibit 119?

25 (No response.)

1 JUDGE THOMPSON: Exhibit 119 is received and
2 made a part of the record of this proceeding.

3 (EXHIBIT NO. 119 WAS RECEIVED INTO
4 EVIDENCE.)

5 JUDGE THOMPSON: Okay. Looking at the list
6 of exhibits, on the first page, Exhibits 1 through 14
7 have all been received; Exhibits 15 through 28 have
8 all been received; Exhibits 29 through 41 have all
9 been received; Exhibits 42 through 55 have all been
10 received; Exhibits 56 through 69 have all been
11 received; Exhibits 70 through 83 have all been
12 received; Exhibits 84 through 89 have been received.

13 Exhibit 90, an objection was sustained. The
14 exhibit was tendered as an offer of proof.

15 Exhibits 91 through 96 have all been
16 received.

17 We also took official notice of a portion of
18 the Federal Register.

19 Exhibits 97 through 104 have all been
20 received.

21 Let's see. We have also taken official
22 notice of the transcript from WA-97-46, official
23 notice of Missouri-American's Motion for Rehearing
24 from that same case, official notice of the briefs
25 filed by the Public Counsel in that same case,

1 official notice of briefs filed by Staff in that same
2 case, also briefs filed by Public Water Supply
3 Districts in the St. Joseph area in that same case.

4 We've taken official notice of the Rebuttal
5 of a witness named Boltz, it would appear in,
6 WR-95-205.

7 Exhibits 105 through 117 have all been
8 received.

9 We've taken official notice of the Rebuttal
10 of Witness Robertson from WR-95-205. And I should
11 note that Exhibit 116 is official notice, and that's
12 the Fifteenth Supplemental Indenture.

13 Exhibit 118 has not been received. That is
14 the indenture from case 16,452, dated 1968.

15 And, finally, Exhibit 119, Mr. Salser's
16 corrected schedules, has been received.

17 MR. ENGLAND: Now. Mr. England, are you
18 going to get us a certified copy of that indenture
19 from Case 16,452?

20 MR. ENGLAND: Yes, I will, your Honor.

21 JUDGE THOMPSON: Okay. Well, it's already
22 got a number, so you will serve it on all of the
23 parties. I would like objections if any, within ten
24 days of receipt, and that's business days.

25 Now, with respect to briefing --

1 MR. ENGLAND: Your Honor?

2 JUDGE THOMPSON: Yes, sir.

3 MR. ENGLAND: One last evidentiary matter.

4 JUDGE THOMPSON: Sure.

5 MR. ENGLAND: Commissioner Drainer had asked

6 us to file a report on the local hearings in, I

7 believe, it was Joplin, Warrensburg, Mexico,

8 St. Charles, and --

9 JUDGE THOMPSON: I believe this was response

10 to service problems --

11 MR. ENGLAND: Yes.

12 JUDGE THOMPSON: -- service complaints

13 raised by consumers?

14 MR. ENGLAND: Yes.

15 JUDGE THOMPSON: Yes.

16 MR. ENGLAND: Would it be appropriate to

17 reserve Exhibit 120 for that and we should have that

18 in the next day or so.

19 JUDGE THOMPSON: That would be great.

20 MR. KRUEGER: Your Honor, I also have one

21 last evidentiary matter.

22 There were a number of issues that were

23 settled at the prehearing conference, and I would like

24 to have those memorialized in the record in some

25 fashion.

1 JUDGE THOMPSON: Very well.

2 MR. KRUEGER: We have been working on a
3 joint recommendation which incorporates all of those
4 agreements, and I think the Company, Staff, and Public
5 Counsel are all in substantive agreement, at least,
6 with it, although I'm not sure whether all of the
7 language has been entirely approved.

8 JUDGE THOMPSON: What about all of the other
9 parties?

10 MR. KRUEGER: And it hasn't been signed,
11 but -- I'm sorry?

12 JUDGE THOMPSON: What about all of the other
13 parties?

14 MR. KRUEGER: I've showed copies to
15 Mr. Deutsch and Mr. Conrad, but I have not shown
16 companies to the parties that are not represented by
17 counsel here today.

18 JUDGE THOMPSON: Well, if this is something
19 that's going to come in after the end of the hearing,
20 I think you're going to have to have all of the
21 parties who entered an appearance in the case signing
22 off on it.

23 If I'm wrong about that, I'm certainly
24 willing to be instructed by counsel, but that is --
25 that is certainly my reaction.

1 MR. KRUEGER: I think all of the parties
2 have -- are either here or have an opportunity to be
3 here and to review this and determine whether they
4 have any objection to it. The agreements were made at
5 the time of the prehearing conference to which all of
6 these parties were also invited and had an opportunity
7 to contribute.

8 JUDGE THOMPSON: Well, in that case I'm sure
9 they won't have any problem affixing their signature
10 to it.

11 MR. ENGLAND: Your Honor?

12 JUDGE THOMPSON: Sir.

13 MR. ENGLAND: I appreciate Mr. Krueger's
14 concern for getting this done as quickly and as easily
15 as possible, but given the nature of this case and in
16 an abundance of caution, maybe it would be best if we
17 submitted it and served copies on all parties,
18 regardless of whether they are here or not. And that
19 way, if they have an objection, they certainly have
20 the opportunity --

21 JUDGE THOMPSON: Or you could simply recite
22 it into the record before we close the record today.
23 But if it's going to come in after the record is
24 closed today, then everybody is going to have to sign
25 it.

1 MR. ENGLAND: Oh, I see what you're saying.

2 JUDGE THOMPSON: Do you understand?

3 So if you want to stand up and recite it
4 into the record, then we've got it. And those parties
5 who are here can object if they want to. And, as you
6 pointed out, everyone else has had an opportunity to
7 be here and knows that the hearing is set for today
8 and so forth.

9 On the other hand, if it's something that's
10 going to come into the record after the hearing is
11 over, then I think it has to be served on all of the
12 parties and they have to be given an opportunity to
13 signal their consent or their disagreement.

14 MR. COFFMAN: If this document were filed as
15 a pleading, wouldn't it be treated as a Non-unanimous
16 Stipulation and then after five days, lacking any
17 request for hearing, be treated as unanimous?

18 JUDGE THOMPSON: Well, perhaps. We have
19 invested a lot of time and a lot of money to bring
20 this case to this point, and I don't think that we
21 should try any procedural shenanigans that perhaps are
22 going to bring us all back here for more time and more
23 money at some point in the future.

24 MR. ENGLAND: I think -- and I share either
25 the Bench's and/or the party's concern, but my thought

1 was to submit it as a joint recommendation of
2 some, perhaps not all, parties, and let the chips fall
3 where they may. If people object, they can file an
4 objection.

5 JUDGE THOMPSON: Well, when you say
6 "recommendation," to me a recommendation is,
7 Commission, here is what you ought to do with respect
8 to these things, and that's fine, and I'm happy to
9 hear recommendations from anybody at any time about
10 any thing.

11 On the other hand, if these joint
12 recommendations require facts, if it's to some extent
13 in the nature of a stipulation, you understand, that's
14 where I have a concern that everybody has got to sign
15 off on it. I don't think we can stipulate to any
16 facts without all of the parties, or it just becomes a
17 non-unanimous stipulation, and we've been down that
18 road in this case.

19 The Fischer decision, as I read it, says,
20 You have a hearing; you set your issues for hearing;
21 you give everybody a chance to come and put on their
22 evidence and poke holes in everybody else's evidence,
23 and then you make a decision. Right?

24 So if you have recommendations that you want
25 to share with the Commission, meaning resolve these

1 issues this way, well, that's what briefs are for, I
2 thought. If you have a Stipulation, then I want
3 everybody's signature on it, if what you're saying is
4 the parties have agreed that these matters are
5 resolved in this manner. Okay?

6 Now, as I say, I'm willing to be instructed
7 by counsel if my reading of this situation is wrong.

8 MR. ENGLAND: I appreciate your concern. As
9 I said, given the nature of the case, I would share
10 the same concern and do share the same concern.

11 I would represent that these recommendations
12 reflect, I guess, recommendations to the Commission
13 how to resolve certain issues that the parties had
14 determined as a result of the prehearing were not
15 issues --

16 JUDGE THOMPSON: Okay.

17 MR. ENGLAND: -- but we thought needed to be
18 memorialized in writing for perhaps not just this
19 case, but future cases. But I understand that some
20 parties may have reservation about entering into that
21 recommendation, and I think it's appropriate for them
22 not to, if they don't want to. It's merely a
23 suggestion, I guess, by some of the parties as to how
24 you can -- I hate to say resolve issues, because they
25 aren't really issues, but --

1 JUDGE THOMPSON: Like I said, the Commission
2 is willing and ready to receive whatever the parties
3 want to put into the record according to the methods
4 of putting things into the record that are established
5 by the rules and recognized by all learned counsel
6 here. So to the extent that we're departing from
7 those well-recognized ways of putting stuff into the
8 record, that's where I have a concern.

9 If what you have is a Stipulation and
10 Agreement, then it needs to be executed by all parties
11 if you're going to file it after the record is closed.

12 As I told you, I will allow you to read it
13 into the record today before the record is closed
14 because I believe all parties have a right to be here
15 and an opportunity to be here. By not being here,
16 they have waived, just as Mr. Krueger said. But I
17 don't think they have waived any right as to anything
18 that is filed after the record is closed.

19 Do you see the distinction in my mind?

20 MR. KRUEGER: Yes, your Honor. It is my
21 intention to get it into the record --

22 JUDGE THOMPSON: Go head, Mr. Krueger.

23 MR. KRUEGER: It is my intention to get it
24 into the record one way or the other before the record
25 is closed, and I'll be happy to read it.

1 JUDGE THOMPSON: The record is going to be
2 closed any time now.

3 MR. ENGLAND: Could you give us --

4 MR. KRUEGER: I'll be happy to read it,
5 boring as that may be, or if we could have five
6 minutes, I think we could probably have it signed,
7 because we have what I think is a final version of the
8 document. I just haven't heard from --

9 JUDGE THOMPSON: We will take a ten-minute
10 recess to allow you-all to put your heads together and
11 resolve this.

12 MR. ENGLAND: Thank you.

13 (Discussion off the record.)

14 JUDGE THOMPSON: It's my understanding that
15 the transcripts will all be available by the end of
16 the week, and so I would like to see, as I think I've
17 made clear, all of the briefing completed by the end
18 of July. And I apologize if that is a shortened
19 briefing period, but I only have until the end of
20 August to get a decision out.

21 Mr. Conrad.

22 MR. CONRAD: I appreciate that, your Honor.
23 We certainly will work with that.

24 I wanted to let the Bench and the other
25 parties know, I had made a telephone call, I believe

1 it was yesterday, with respect to the transcript from
2 the Joplin public hearing, which no one seems to know
3 what's happened. We were able, with the cooperation
4 of Counsel Cook, to identify the reporter and we
5 called his office.

6 JUDGE THOMPSON: The guy with the mask.

7 MS. COOK: Right.

8 MR. CONRAD: And I got back about --
9 perhaps, about an hour and a half ago a voice mail,
10 which I would be glad to play for you or anybody else,
11 advising that he had advised whoever was delivering
12 the voice mail message for him that he apologized for
13 being behind and the transcript would be ready by the
14 6th.

15 JUDGE THOMPSON: Okay. So that will be a
16 little late.

17 MR. CONRAD: I presume July. The voice mail
18 message said only the 6th.

19 JUDGE THOMPSON: Thank you for that happy,
20 happy news.

21 Anyone else have any bad news for me?

22 Jim, when are you going to have your brief
23 ready?

24 MR. DEUTSCH: When do you want it?

25 JUDGE THOMPSON: I want two rounds of

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1 briefing before the end of July. That's what I want.

2 Mr. Coffman.

3 MR. COFFMAN: My only request would be that
4 more time be granted for the initial than the reply.
5 If July 31st is the deadline for the reply, then seven
6 or ten days prior to that would be my personal
7 preference.

8 JUDGE THOMPSON: And it seems to me when we
9 talked about this last week that's where there was
10 some difference of opinion, as to whether the time
11 should be split evenly, or whether more should be
12 given on the initial than on the reply. I'm willing
13 to go with whatever the majority of counsel prefers to
14 do.

15 Let's hear from the Company. What do you
16 propose.

17 MR. ENGLAND: I concur with John's
18 sentiment. And if I've got this diagrammed right -- I
19 didn't bring my calendar -- my suggestion would be
20 perhaps doing initial briefs on Friday, the 21st, and
21 reply briefs on Monday, the 31st.

22 JUDGE THOMPSON: Twenty-first, 31st. Easy
23 to remember.

24 MR. ENGLAND: And I would be happy to make
25 arrangements with anybody to -- and reciprocate to get

1 briefs done overnight, or sent overnight, to those
2 parties that aren't in our part of town.

3 JUDGE THOMPSON: Okay. And I think we
4 discussed that last week, and I think we will require
5 that because I don't want anyone complaining, you
6 know, I didn't get it until the night before. You
7 know, it's a big case. There's a lot riding on it.
8 Let's give everybody a full chance to say their say.

9 Mr. Krueger, how do you feel about those
10 dates?

11 MR. KRUEGER: That's fine with me, your
12 Honor.

13 JUDGE THOMPSON: Okay. Ms. Cook?
14 Mr. Coffman?

15 MR. COFFMAN: I would sure like until the
16 24th, but if seven days is too short, then I guess --
17 I'd like over the weekend.

18 MR. DEUTSCH: Friday, the 21st, what day of
19 the week is that?

20 JUDGE THOMPSON: The 31st is a Monday. The
21 21st is a Friday.

22 Mr. Conrad, what do you think?

23 MR. CONRAD: I think I was one, your Honor,
24 that was kind of holding out for 15 and 15 instead of
25 20 and 10.

1 I'm -- I'm persuaded to go with the 20 and
2 10 that's been -- that's been suggested. I think with
3 your Honor's direction that things be served
4 expeditiously, I think we can try to work with that.

5 I would, perhaps, maybe as an accommodation
6 suggest to Mr. Coffman, and I know the Commission
7 hasn't yet finalized things on electronic filing, but
8 I'm wondering if it would be possible to do that if
9 that would help if it could be transmitted to you.

10 JUDGE THOMPSON: Anybody who wants to file
11 by sending it as an e-mail attachment to my e-mail
12 address, I can only encourage that.

13 MR. DEUTSCH: But will that be deemed a
14 timely filing?

15 JUDGE THOMPSON: Well, if I was Scott
16 Wright, I guess I could say anything I wanted. But
17 I'm not, so I won't.

18 MR. DEUTSCH: Right, you are not.

19 MR. CONRAD: I take it with the 3 p.m. --
20 and that -- that seems to kind of be implicit in this,
21 or are we? Are we looking at close of business on the
22 21st?

23 JUDGE THOMPSON: Three p.m. is a time that
24 the secretary of the Commission promotes because that
25 gives the records room personnel time to process

1 things that are received on that particular day.

2 So the close of business is fine with me.

3 MR. COFFMAN: Which is 4:00 for the

4 Commission.

5 JUDGE THOMPSON: Which I think is 4:00. You

6 get another hour.

7 MR. DEUTSCH: That will get you a file stamp

8 for the next day.

9 JUDGE THOMPSON: I'm not going to throw

10 anything away because it comes in a day late.

11 MR. ENGLAND: Obviously, Judge, you need a

12 copy of it as soon as it's available, and, secondly,

13 the parties do, and I don't know why we can't make

14 arrangements. We're all either going to Fed-Ex or

15 hand-deliver our copies to you on that Friday, if

16 that's the date. And we'll either make them available

17 that day by hand to people that are here, to the

18 extent we can e-mail them that day to parties that are

19 remote, we'll do that, and, at worst, they'll have

20 next-day delivery if they will give us a Saturday

21 location, and we'll get it Fed-Exed to them.

22 JUDGE THOMPSON: I think that's as good as

23 we can get, you know, in this world.

24 MR. CONRAD: That's fine.

25 JUDGE THOMPSON: I think that's as good as

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1 we're going to get, so let's plan on that.

2 Now, there was some talk of Findings of Fact
3 and Conclusions of Law proposed. I'm not going to
4 require them. I do find them extremely helpful, so
5 anybody who wants to submit them -- I'm not even going
6 to make a deadline, because it's entirely voluntary.

7 So anyone who would like to submit proposed
8 Findings of Fact and Conclusions of Law, and these
9 could just cover selected issues or the entire case,
10 whatever you feel like doing, because, after all, I'm
11 asking you to do extra work, and I'm making it purely
12 voluntary.

13 If you would like to do that, you may file
14 them whenever you want. Just realize that the later
15 they are, the less likely, you know -- and let me
16 know, if you would, that they are going to be coming.
17 So if you would just let me know by, say, the 31st
18 that you plan to file such and here is when you plan
19 to file them. Okay?

20 MR. DEUTSCH: You really want those?

21 JUDGE THOMPSON: I do want them. I find
22 them very helpful.

23 MR. DEUTSCH: I take it you would like to
24 have them also cited to the record where the facts
25 that you are talking about are?

1 JUDGE THOMPSON: I like that just a whole
2 bunch, especially when the record is the size of my
3 cell phone.

4 MR. COFFMAN: I gather from that that they
5 are not necessarily due with the initial brief then?

6 JUDGE THOMPSON: No, they are not. They are
7 due whenever you want to file them.

8 MR. COFFMAN: Great.

9 JUDGE THOMPSON: I am being as accommodating
10 as I conceivably can be.

11 The only thing I can't do is, you know, I
12 can't take the bad taste out of that water, but I know
13 that Company can and will.

14 MR. COFFMAN: We certainly appreciate the
15 Bench's generosity.

16 JUDGE THOMPSON: This has been a difficult
17 case to try, and I'm morally certain it will be a
18 difficult case to write. So thank you-all for your
19 efforts, and I'll be watching my mailbox.

20 We are recessed.

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

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1 I N D E X

2		
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15	Questions by Commissioner Drainer	2291
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16	Questions by Commissioner Simmons	2299
	Recross-Examination by Mr. Conrad	2300
17	Recross-Examination by Mr. England	2302
	Redirect Examination by Mr. Krueger	2305
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19	OPC'S EVIDENCE:	
	MARK BURDETTE:	
20	Direct Examination by Ms. Cook	2235
	Cross-Examination by Mr. England	2237
21	Cross-Examination (Resumed) by Mr. England	2278
	Redirect Examination by Ms. Cook	2308
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23	Cross-Examination by Mr. England	2270
	Cross-Examination by Mr. Conrad	2270
24	Questions by Judge Thompson	2310
	Recross-Examination by Mr. England	2313
25	Redirect Examination by Ms. Cook	2318

1	E X H I B I T S I N D E X		
2		Marked	Received
3	Exhibit No. 12		2171
4	Direct Testimony of Harold Walker, III		
5	Exhibit No. 13		2171
6	Rebuttal Testimony of Harold Walker, III		
7	No. Exhibit 14		2171
8	Surrebuttal Testimony of Harold Walker, III		
9	Exhibit No. 24		2171
10	Direct Testimony of Mark Burdette		
11	Exhibit No. 25		2171
12	Rebuttal Testimony of Mark Burdette		
13	Exhibit No. 26		2171
14	Surrebuttal Testimony of Mark Burdette		
15	Exhibit No. 45		2217
16	Direct Testimony of Roberta A. McKiddy		
17	Exhibit No. 46		2217
18	Rebuttal Testimony of Roberta A. McKiddy		
19	Exhibit No. 47		2217
20	Surrebuttal Testimony of Roberta A. McKiddy		
21	Exhibit No. 55		2218
22	Staff Accounting Schedules		
23	Exhibit No. 83	2319	2321
24	Brunswick Rates, requested by Commissioner Schemenauer		
25	Exhibit No. 114	2177	2178
	American Water Works News Release of June 26, 2000		

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E X H I B I T S I N D E X

Marked	Received
2243	2288
2254	2283**
2257	2278
2279	2283**
2322	2323
	2325***

Exhibit No. 115
OPC work papers in support of
interest coverage calculations,
partial

Exhibit No. 116
Portion of Company's 15th
Supplemental Indenture

Exhibit No. 117
Direct Testimony of Russell W.
Trippensee, submitted
March 1, 2000

Exhibit No. 118
Excerpt of Indenture of Mortgage
filed in Commission Case 16,452,
May 1968

Exhibit No. 119
Corrected schedules to True-up
Rebuttal Testimony of James E.
Salser

Exhibit No. 120
Customer response to repairs
requested by Commissioner Drainer

** Official notice taken
*** Late-filed Exhibit