

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
August 16, 2018
Jefferson City, Missouri
Volume 5

In The Matter of the Application of)
Rate Increase Request for Liberty) File No.
Utilities (Missouri Water), LLC) WR-2018-0170
d/b/a Liberty Utilities)

JOHN T. CLARK, Presiding
REGULATORY LAW JUDGE
DANIEL Y. HALL, Chairman,
WILLIAM P. KENNEY,
SCOTT T. RUPP,
MAIDA J. COLEMAN,
COMMISSIONERS

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1 JUDGE CLARK: Okay. Let's bring this
2 proceeding to order and go on the record. Good
3 morning. Today is August the 16th, 2018 and the
4 current time is 9:01 a.m. The Commission has set
5 aside this time for an evidentiary hearing in the
6 matter of an application for a rate increase request
7 for Liberty Utilities, Missouri Water, LLC doing
8 business as Liberty Utilities.

9 And that is File Number WR-2018-0170.
10 That was also consolidated with File SR-2018-0171 on
11 January 26, 2018 with the 0170 number being the
12 controlling number.

13 My name's John Clark. I'm the Regulatory
14 Law Judge presiding over this hearing. Also present
15 right now in person we have the Chairman, as well as
16 Commissioner Kenney. At this time I'd like to have
17 counsel for the parties enter their appearance
18 starting with Liberty Utilities.

19 MR. BOUDREAU: Thank you, Judge. Let the
20 record reflect the appearance of Paul Boudreau of the
21 law firm of Brydon, Swearingen and England on behalf
22 of Liberty Utilities. I've given my contact
23 information to the court reporter.

24 JUDGE CLARK: Thank you, Mr. Boudreau.
25 From the Commission Staff.

1 MR. WESTEN: Good morning. Thank you,
2 Judge. My name is Jacob Westen and with me is
3 Alexandra Klaus, and we are representing Staff of the
4 Commission in today's proceeding.

5 JUDGE CLARK: Mr. Westen, Ms. Klaus,
6 thank you.

7 From the Office of the Public Counsel.

8 MS. SHEMWELL: Good morning and thank
9 you, Judge. Lera Shemwell and Caleb Hall representing
10 the Public Counsel, Hampton Williams and the public.
11 Thank you.

12 JUDGE CLARK: Ms. Shemwell and Mr. Hall,
13 thank you.

14 Silverleaf Resorts, Incorporated and
15 Orange Lake Country Club.

16 MR. HARDEN: Thank you, Your Honor.
17 Joshua Harden, legal counsel for Silverleaf Resorts,
18 Inc. and Orange Lake Country Club, Inc. with the law
19 firm of Stinson Leonard Street, 1201 Walnut Street,
20 Kansas City, Missouri.

21 JUDGE CLARK: Thank you, Mr. Harden.
22 And Ozark Mountain Condominium
23 Association.

24 MS. GIBONEY: Good morning, Judge. I'm
25 Sarah Giboney of the law firm Smith Lewis, LLP, and I

1 represent Ozark Mountain Condominium Association.

2 JUDGE CLARK: Thank you, Ms. Giboney.

3 I'm going to advise the audience at this
4 time if you have a cell phone, I'm going to ask you to
5 place it on silent or vibrate at this point.

6 Because of a prior engagement, we are
7 going to be breaking for lunch at exactly 12:25. And
8 as was granted yesterday, we would be taking one
9 witness at least out of order and at three o'clock we
10 will be taking Mister -- I believe it's -- will be
11 taking Mr. Allsbury out of order at three o'clock.

12 Are there any pre-- preliminary matters
13 that need to be addressed at this time?

14 MR. WESTEN: Actually, yes, Your Judge --
15 yes, Judge. Staff has one. Staff counsel has two
16 witnesses that filed testimony and inquired with
17 counsel yesterday via e-mail if they had any questions
18 or objections to the admittance of th-- of those
19 testimony. Those witnesses do not have issues that
20 have been contested by the parties at this point in
21 time.

22 And one witness, Mr. Moilanen, the
23 parties have indicated they have no objection to the
24 admission of his testimony. One other witness,
25 Mr. Gateley, the Office of Public Counsel has

1 indicated that they do have questions for him.
2 Because no party has filed testimony contrary to what
3 Mr. Gateley has presented, he is not -- does not
4 present any contested issues that are on the issues
5 list.

6 And, therefore, Judge, I wanted to
7 inquire as to your preference on when we should take
8 up Mr. Gateley? My preference would be either first
9 thing or after Mr. Murray this morning. I'd offer him
10 for questions as -- since the Office of Public Counsel
11 has indicated they -- they have questions for him.

12 JUDGE CLARK: Well, if he's not -- if
13 he's not testifying as to a contested issue, why are
14 we hearing from him?

15 MR. WESTEN: I -- he is -- has written
16 testimony that was filed and we were simply going to
17 offer it for that purpose, Judge. I can't --

18 JUDGE CLARK: Are there any objections?

19 MS. SHEMWELL: We have -- we have no
20 objection to his testimony coming in, but he was the
21 case coordinator and we have a couple of questions we
22 would like to ask of him. It does not matter to us
23 when he comes on the stand, but we have a couple of
24 brief questions.

25 JUDGE CLARK: Okay. I don't see any --

1 any other objections. Are there any other objections
2 to the admittance of either of that testimony?

3 I see no hands at this time. I'm going
4 to ask you to go over for me again -- would you please
5 state the name of each witness and spell it for me?

6 MR. WESTEN: Yes. The first witness is
7 Mr. Curtis Gateley, C-u-r-t-i-s G-a-t-e-l-e [sic],
8 Gateley. And his -- his testimony is on -- on our
9 exhibit list, Judge, marked as 104. The other witness
10 is -- Staff's exhibit list is marked at 108. That's
11 Stephen Moilanen.

12 JUDGE CLARK: Moilanen?

13 MR. WESTEN: Moilanen.

14 JUDGE CLARK: Moilanen.

15 MS. SHEMWELL: Spell it.

16 MR. WESTEN: It's M-o-i-l-a-n-e-n.

17 JUDGE CLARK: And you said his was on
18 your exhibit list as Number 108?

19 MR. WESTEN: That's correct, Judge.

20 JUDGE CLARK: And what, respectfully, are
21 they going to be testifying today?

22 MR. WESTEN: Well, Mr. Moilanen hopefully
23 will not be testifying at all since no one has
24 objected to the admittance of his testimony. We're
25 simply offering it.

1 As to Mr. Gateley, I don't anticipate him
2 testifying to anything except whatever questions that
3 Public Counsel has. I would just take this moment to
4 say if they are asking him questions that are outside
5 the scope or relevance of his testimony, I -- Staff's
6 going to have to object.

7 JUDGE CLARK: And I guess that's what I'm
8 asking. What is the scope of his testimony? What --
9 what's the issue?

10 MR. WESTEN: His issue is about a
11 chlorination software device that could be used
12 instead of a contractor. He also testifies as to some
13 fees and rates that need to be updated and also
14 consolidating just some of the tariff language.
15 There's been no filed testimony to object or be
16 contrary to those statements.

17 MS. SHEMWELL: Judge Clark, I believe the
18 rule under 536 is that any expert witness may be
19 cross-examined on any topic.

20 JUDGE CLARK: And my belief actually in
21 terms of cross is that cross is pretty much unlimited,
22 so I don't disagree with you there.

23 I'm going to ask the court reporter real
24 quick just to be sure I did, I went on the record.
25 Correct?

1 THE COURT REPORTER: Yes.

2 JUDGE CLARK: All right. I'm going to
3 admit Staff Exhibit 108 because I saw no objections to
4 it.

5 (Staff Exhibit 108 was received into
6 evidence.)

7 JUDGE CLARK: Why don't we go ahead and
8 call Mr. Gateley at this time and that way anybody who
9 wishes to cross him may cross him.

10 MR. WESTEN: Thank you, Judge.

11 MR. HARDEN: Your Honor, are we still on
12 preliminary matters?

13 JUDGE CLARK: We can be. That would be
14 fine. I'll call him as the first witness and we'll
15 just get through the remaining preliminary matters.
16 Go ahead.

17 MR. HARDEN: Okay. Thank you. I -- I
18 have just a couple of -- of small items. One is, I
19 guess, a question, sort of a clarification. As you
20 know, we -- Silverleaf Resorts has an outstanding
21 Motion to Strike the Surrebuttal Testimony of
22 Mr. Keith Magee in this case. I do not intend to
23 argue that.

24 My -- my only question is whether or not
25 for purposes of the reply brief and subsequent

1 briefings in this case, I believe that the order from
2 the Commission was they will deal with that Motion to
3 Strike in its Report and Order. So my -- my question
4 is should we approach that testimony for purposes of
5 the reply brief as though it has been admitted into
6 the legal record?

7 JUDGE CLARK: I would.

8 MR. HARDEN: Thank you.

9 JUDGE CLARK: I would think that would be
10 the way to address it. I mean if it's going to be
11 struck, it's going to be struck afterwards, but we're
12 all going to hear it today.

13 MR. HARDEN: I appreciate it.

14 JUDGE CLARK: And actually as -- why
15 don't I go on and address that because I think it's
16 kind of important for everybody to know.

17 The Commission has not yet made a ruling
18 regarding the filed Stipulation and Agreement. There
19 was a flurry of motions filed in response to that, in
20 response to Staff's Notice of No Objection, not -- to
21 Non-unanimous Stipulation Agreement, Request to Modify
22 the Hearing Schedule, and Motion for Expedited
23 Treatment.

24 Obviously the Motion to Modify the
25 Hearing Schedule was denied, but we have motions

1 ranging from just before that from the Office of
2 Public Counsel, their response to the Non-Unanimous
3 Stipulation and then a clarification. Silverleaf --
4 and I'm just going to call you Silverleaf for purposes
5 of this hearing.

6 MR. HARDEN: That's fine.

7 JUDGE CLARK: They filed a response to
8 non-unanimous. Ozark Mountain Condominium Association
9 filed a out-of-time objection to non-unanimous and
10 request to file such. A Motion to Strike was filed by
11 Liberty, as well as an objection to both Ozark
12 Mountain Condominium Association Request for Leave to
13 Late File and Silver Lake -- Silver Lake's [sic]
14 response. And then the Office of Counsel -- Public
15 Counsel filed another response.

16 All of those are going to be taken with
17 the case. Any of those that you wish to brief, you're
18 welcome to brief. And like I said, if there are a
19 question, you may -- it -- it's entirely possible
20 today that some questions may be asked about the
21 agreement, so be prepared for that.

22 Are there any other pending issues that
23 need to be taken up at this time?

24 MR. HARDEN: Silverleaf also has a number
25 of a non-testimonial exhibits that we would like to

1 offer in the form of affidavits, deeds which speak to
2 the -- the property rights of the owners of the
3 Silverleaf properties. I don't know if Your Honor
4 would deem this an appropriate time to make those --
5 those offers or not, but I stand ready to do so right
6 now if you want me to.

7 JUDGE CLARK: And those are -- those
8 are -- those are exhibits you're offering that don't
9 need the support of a witness?

10 MR. HARDEN: That's correct. That's
11 correct.

12 JUDGE CLARK: You're talking about 305,
13 304, 306 and 307?

14 MR. HARDEN: That is correct.

15 JUDGE CLARK: I am -- unless anybody has
16 an objection, I'm willing to take those up at this
17 time as well. Is there any --

18 MR. BOUDREAU: I don't mind taking the
19 matter up, but I haven't seen the exhibits, so.

20 JUDGE CLARK: Okay. Well, that's a
21 problem I have right there. Can you make sure that
22 all the parties get to see the exhibits, because
23 that's going to be a problem? Why don't we take it up
24 a little bit later after everybody's had an
25 opportunity to see the exhibits?

1 MR. HARDEN: Certainly. And just for
2 your information, Judge, these are the exact same
3 exhibits that were filed in EFIS as schedules to
4 Silverleaf's briefing on one of the issues that we
5 have -- we have dealt with. So I -- they -- they are
6 in EFIS.

7 JUDGE CLARK: And I thought so too, but
8 I'd like to give all the parties an opportunity to --
9 to -- to reacquaint themselves with it and so that if
10 they have an objection they'd like to make, that they
11 can.

12 MR. HARDEN: Absolutely.

13 JUDGE CLARK: Is there anything else that
14 needs to be addressed?

15 Okay. As far as order of witnesses, with
16 the exception of what I said before, we'll follow the
17 order filed by the parties in their joint list of
18 issues and witnesses. Exhibits should be premarked
19 and continuous sequentially. Let me know if you have
20 additional exhibits when we get to them.

21 Just a moment.

22 Okay. And the way I understand it and it
23 was expressed to me is that the parties, rather than
24 making an opening statement before each issue, are
25 just going to be making one opening statement at the

1 beginning; is that correct?

2 MS. SHEMWELL: Yes.

3 MR. WESTEN: Yes, Judge.

4 JUDGE CLARK: Okay. I hear no opposition
5 to that. With that in mind, why don't we start with
6 opening statements. I have Liberty Utilities
7 scheduled to be the first to give an opening
8 statement.

9 MR. BOUDREAU: May it please the
10 Commission. Good morning. My name is Paul Boudreau.
11 I represent Liberty Utilities in this particular case.
12 Liberty Utilities has water and wastewater operations
13 in the counties of Franklin, Jefferson, Cape
14 Girardeau, Stone, Taney and McDonald counties.

15 And as the Commission is aware, the
16 company had -- will soon be incorporating the systems
17 of Ozark International, an acquisition that was
18 approved by the Commission in its File Number
19 WM-2018-0023 in April of this year. But those
20 operations were not part of this case.

21 The -- the operations that are part of
22 this case are what were formerly referred to as the
23 Algonquin Water Resources operations, Noel Water
24 Company's operations and KMB Utility Corporation's
25 operations, which Liberty Utilities has -- has

1 acquired.

2 Through the op-- excuse me. Though those
3 operations are widespread, the number of customers is
4 very small. As Ms. Schwartz, on behalf of the
5 Company, will point out in her Direct Testimony, that
6 there are approximately 2,000 water connections and --
7 and 400 wastewater connections.

8 Because of its size, Liberty Utilities
9 filed a rate increase request under the Commission's
10 Small Utility Rate Procedure ru-- rule or as it's --
11 its acronym is SURP, S-U-R-P, and they filed that on
12 December 15th, 2017 asking for an annual rate increase
13 in operating revenues for its water systems of 995,844
14 dollars and 196,617 dollars for its wastewater systems
15 for a total of 1,192,461 dollars.

16 And this is a request that was driven by
17 significant investments made to improve services since
18 acquiring these systems and increases in O and M, or
19 operation and maintenance, expenses since the last
20 time rates were adjusted for -- for any one of these
21 systems.

22 The Company has also requested the
23 Commission consider a consolidation of rates for its
24 for -- for the former Noel and KMB systems, both water
25 and sewer.

1 Staff undertook an audit after that
2 filing -- or after that request was submitted and
3 audited the systems. And discussions took place to
4 refine the -- the numbers, to identify issues not in
5 dispute and to resolve matters where there were
6 differences. And as a consequence, a Partial
7 Disposition Agreement was filed on May 24th. And at
8 the same time, Staff filed a request for an
9 evidentiary hearing on outstanding issues, so here we
10 are.

11 No one in this case is disputing the fact
12 that a significant rate increase is justified for
13 Liberty. Staff's analysis is that the incremental
14 increase for water and sewer rates is 978,569 dollars.
15 And I believe that number is contained in the Rebuttal
16 Testimony of Staff Witness Harrison.

17 As concerns revenue requirement, there
18 are two issues that are being presented to the
19 Commission to be decided; that is, cost of capital and
20 rate case expense. And in rate case expense, as --
21 two components to that, both the amount of rate case
22 expense and the period -- the proper period over which
23 to amortize that expense.

24 However, if the Commission were to adopt
25 the Company's cost of capital recommendation in this

1 case, which is 10.25 percent of return on equity and a
2 47/53 debt-to-equity capital structure, Ms. Schwartz
3 for Liberty has estimated that the revenue impact
4 would be a positive -- or an upward 6-- 60,000 dollar
5 adjustment approximately to Staff's number as filed.

6 The revenue requirement needed to cover
7 rate case expense is unknown at this time because as
8 is self-evident, proceedings are still ongoing and
9 expenses are still being incurred.

10 I can tell you that despite the Company's
11 diligent efforts to control and minimize rate case
12 expense, it's going to end up being substantial;
13 largely driven by an inability to reach unanimous
14 compromised settlement in this case, even -- even
15 after prolonged discussions, and also the complexity
16 and number of legal and procedural issues that have
17 been raised along the way.

18 This is regrettable for a company with a
19 small number of customers like -- like -- like this
20 particular company, but it has been unavoidable
21 despite the Company's best efforts to -- to minimize
22 those expenses.

23 Now, to a large extent the Company has
24 deferred to Staff's work on rate design and
25 appropriate billing determinants. Where rate

1 consolidation is concerned, Staff is supporting a
2 district-specific pricing approach, but if the
3 Commission wants to see some progress on rate
4 consolidation, Staff has indicated that rate
5 consolidation for the KMB systems would be acceptable.

6 From my client's perspective, it has
7 indicated that although it would like to see more
8 progress on rate consolidation, it would not object to
9 Staff's stated alternative in this case.

10 One party, Si -- which is Silverleaf
11 Resorts and -- and Orange Lake Country Club, has
12 proposed that any rate increase be phased in. And
13 this is a proposal that the Company has rejected on
14 several grounds.

15 One, it is unauthorized by law.
16 Additionally, it would ensure that the Company would
17 not earn its authorized return over the period of time
18 the new rates would be in effect. And additionally,
19 it's likely to create more, rather than less, customer
20 discontent about changes in bills and charges and --
21 over a fairly short period of time.

22 Now, service quality is another issue
23 that's identified on the issues list. That's always a
24 consideration in any rate case. And quite a few
25 comments were filed on that topic in the Commission's

1 EFIS system. Ozark Mountain Condominium Association,
2 an intervenor in this case, is expected to sponsor the
3 testimony of a witness who will discuss a number of
4 issues that they've experienced in the past. And
5 finally, there was testimony in each of the local
6 public hearings in Pineville, Branson and Pacific,
7 some of which touched on this topic.

8 Liberty Utilities takes its obligation to
9 provide safe, reliable, adequate water and wastewater
10 services very seriously and we welcomes any input
11 which points to areas of concern or where improvements
12 can be made.

13 As a result of -- of the -- the matters
14 that I just discussed, the Customer Experience and
15 Operation Staff at the Company were tasked to look
16 into all these topics and to, where appropriate and
17 where needed, resolve them. These matters are
18 addressed in the testimony of Company Witness Jill
19 Schwartz. I'm confident that the Commission will
20 conclude that the Company's response has been more
21 than adequate.

22 The Company is sponsoring the testimony
23 of two witnesses. I've mentioned Ms. Schwartz. The
24 first witness that will take the stand was -- is Keith
25 Magee. He will be testifying on the issue of cost of

1 capital. Following Mr. Magee will be Jill Schwartz
2 who touches on that topic. And she also testifies in
3 a li-- well, she testifies to cost of capital in a
4 limited way and will address other outstanding issues
5 on behalf of the Company.

6 I want to mention and the -- and the
7 Hearing Examiner in -- earlier on mentioned the -- an
8 outstanding Non-unanimous Stipulation and Agreement
9 that was filed by and on behalf of Staff and the
10 Company. And I want to mention that it was filed
11 and -- and if adopted, it would resolve all issues
12 with the -- with the exception of rate case expense.

13 In the current procedural posture of the
14 case, I'm operating under the assumption that it's
15 considered at this time to be a joint recommendation
16 of the signatories and has no independent evidentiary
17 force for purposes of the hearing today.

18 I do want to point out, however that a
19 number of 13th hour pleadings by Public Counsel,
20 Silverleaf and Ozark Mountain Condominium Association
21 filed in this case voiced principle outrage over the
22 fact that the agreement specifies a return on equity
23 number but not a capital structure for -- for purposes
24 of settlement.

25 And tho-- I think those comments ignore

1 that the Mid-States Gas rate case that was just
2 recently resolved by this Commission adopted a un--
3 Unanimous Stipulation and Agreement that addressed the
4 issue of cost of capital in exactly the same manner as
5 is being proposed by Staff and Liberty Utilities in
6 this case. And I also want to point out that Public
7 Counsel was a signatory to that agreement.

8 Before I close, I want to compliment the
9 Commission Staff for all the work that it's done in
10 this case. This has not been an easy one because it's
11 involved the reconciliation of three former separate
12 company operations into a comprehensive, cohesive
13 whole for rate-making purposes.

14 I know that a great deal of effort has
15 gone into it and the Company appreciates the Staff's
16 willingness to have worked with the Company through
17 this process to try and achieve a fair and reasonable
18 recommendation and -- and solutions for this case.
19 And with that, I'll conclude my remarks. Thank you.

20 JUDGE CLARK: Any questions from the
21 Commission?

22 MR. BOUDREAU: I apologize.

23 CHAIRMAN HALL: Just a few. Good
24 morning. You indicated that it's the Company's
25 position that to phase in rates is not authorized by

1 statute.

2 MR. BOUDREAU: That's correct.

3 CHAIRMAN HALL: Does that make it
4 illegal?

5 MR. BOUDREAU: I don't think the
6 Commission has statutory authority to -- to -- to
7 compel a phase-in of rates. Now, if there were -- if
8 there were an agreement, you know, if there were an
9 agreement between the utility and -- and the other
10 pertinent parties to the case to -- for a phase-in
11 proposal, I don't -- I wouldn't see a particular
12 problem with -- with the Commission authorizing an
13 agreement along those lines. But in terms of op--
14 imposing a phase-in, I don't think the Commission has
15 statutory authority.

16 CHAIRMAN HALL: Well, I -- I understand
17 the statutory argument that phase-ins are allowed in
18 electric, not specifically authorized elsewhere. So
19 there's an argument that -- that that's intentional.
20 But putting that aside for a moment, is there a
21 rate-making principle that's being violated if the --
22 if the Commission were to -- were to order a phase-in
23 on rates?

24 MR. BOUDREAU: Well, in -- in terms of
25 the phase-in proposal that's been made by Silverleaf

1 in this case, I think the rate-making violation would
2 be that it doesn't -- it doesn't contemplate
3 compensating the Company for the carrying costs of the
4 deferred revenues.

5 CHAIRMAN HALL: What if that was
6 corrected? Because I agree with you on that.

7 MR. BOUDREAU: Ask me the question.
8 What -- what -- what specifically do you want me to
9 address? I want to make sure that I'm -- that I'm
10 accurate in my response.

11 CHAIRMAN HALL: If we were -- if -- if we
12 were to establish a phase-in that -- that included
13 carrying costs so that the Company was held harmless
14 over the -- over the period of the phase-in until the
15 next rate case, if we were to put a tracker in place
16 or whatever to -- to ensure that the revenue
17 requirement -- well, not to ensure, but to -- to take
18 account of the lower rates on the front end and have
19 higher rates on the back end, would that -- would --
20 if -- if we were to order that in -- in the Report and
21 Order coming out of this case, what rate-making
22 principle would be violated?

23 MR. BOUDREAU: Setting aside the -- the
24 legal argument that I've postulated. I mean that it
25 doesn't -- that the Commission rule --

1 CHAIRMAN HALL: The rule of construction,
2 yeah. I understand that.

3 MR. BOUDREAU: Yeah. Set-- setting that
4 one aside. Well, I -- I suppose as an abstract
5 matter, if -- if the Commission has in the past
6 implemented -- implemented phased-in rates for electric
7 utilities, I would think that that mechanism would be
8 available as -- as a rate-making matter in -- in
9 another context.

10 I guess the con-- the biggest concern the
11 Company has with respect to this is that it ends up
12 costing the customers more in the long run. There's
13 really -- it just exacerbates the problem of -- of
14 cost-of-service.

15 CHAIRMAN HALL: Yeah. It just -- it's --
16 it's a mechanism -- it's a mechanism to deal with rate
17 shock, and so I -- I --

18 MR. BOUDREAU: And we understand.

19 CHAIRMAN HALL: I understand the math
20 that you're --

21 MR. BOUDREAU: Yeah.

22 CHAIRMAN HALL: And I also understand the
23 practical issues involved that -- that you've raised.

24 Okay. What is the Company's position
25 on -- on rate case expense, it's my understanding that

1 the Company is arguing that it should be normalized
2 over two years. Would the -- would the -- would the
3 Company be opposed to amortizing over two years?

4 MR. BOUDREAU: Well, I think the
5 Company's position really -- and there may be some --
6 there may be some confusion. The Company's position
7 is it should be amortized over a period of years.
8 The -- the debate between the Company and the Staff
9 is -- at this point is the -- the appropriate number
10 of years over which to amortize. But I -- I agree
11 with your approach. I think amortization is the way
12 to handle it for -- for accounting purposes.

13 CHAIRMAN HALL: Okay. All right. Thank
14 you.

15 JUDGE CLARK: Any other questions?

16 MR. BOUDREAU: I'm sorry. I keep walking
17 away before I'm excused.

18 JUDGE CLARK: Thank you.

19 MR. BOUDREAU: Thank you.

20 JUDGE CLARK: For the Commission Staff.

21 MR. WESTEN: Thank you, Judge. May it
22 please the Commission. Good morning, Chairman,
23 Commissioners, Judge, Counsel. My name is Jacob
24 Westen. And with Alexandra Klaus today, I'm
25 representing the Staff of the Commission in this

1 proceeding.

2 Before I get into the substance, we've
3 talked a little bit about names and how we're going to
4 identify parties. I just wanted to clarify that for
5 myself. When I refer to Liberty, Liberty Utilities,
6 the Company or the Utility, I'm referring to Liberty
7 Utilities. If I reference Silverleaf or Orange Lake,
8 obviously it's Silverleaf Resorts. And if I reference
9 Ozark Mountain, I'm referring to the Ozark Mountain
10 Condominium Association. I just wanted to make sure
11 that I was making that clear up front.

12 Mr. Boudreau covered some of the
13 history -- the procedural history of this case.
14 Liberty filed its rate increase request letter on
15 December 15th, 2017. That triggered the small utility
16 rate case procedure as it existed up until April 2018
17 when that rule was rescinded. This case has proceeded
18 under that rule rather than trying to retroactively
19 apply a new rule to this case.

20 I just want to kind of go over Staff's
21 positions and discuss those with you. So Liberty has
22 sought a rate increase of 995,844 dollars and an
23 increase to its sewer operating revenues of 196,617.
24 Fortunately, that issue has, for the most part, been
25 resolved by Staff and the Company filing its

1 Non-unanimous Stipulation and Agreement.

2 And understanding the procedural
3 scenarios that we're under, Staff too views that as a
4 joint position of Staff and the Company and we believe
5 that our filed case supports the findings and the
6 proposed resolution of that document.

7 If the Commission decides to approve the
8 Non-unanimous Stipulation and Agreement, the
9 suggestion that is you're approving the positions and
10 finding and supporting those positions presented in
11 the document if you believe that it has been objected
12 to and is a joint position.

13 That document, that Stipulation and
14 Agreement that we filed, which I'll refer to as the
15 stipulation, it recommends an increase of 818,800
16 dollars to the water system revenues and an increase
17 of 196,782 dollars to the sewer revenues. So somewhat
18 less than what the Company has requested.

19 And just to be perfectly clear, no other
20 party, no other participant in the hearing today and
21 to this case, has proposed alternative revenue
22 requirements besides Staff and the Company. No one
23 has -- no one has challenged the validity of those
24 numbers.

25 And while there have been proposed

1 alternative capital structures by Silverleaf and by
2 Liberty to get to the ne-- revenue requirement, none
3 of the parties have really suggested up to this point
4 that the revenue requirement itself should be
5 different. So I think the Commission understands that
6 that's kind of the scope that we're operating within
7 for this -- for the decision set before you today.

8 So there are only a few questions left.
9 And let me present those -- Staff's position to you on
10 those. First are cost-of-service questions. The
11 first question is what is the appropriate return on
12 equity? The stipulation that we filed suggests that
13 it's a 9.75 return on equity. This figure is
14 presented within the range of Mr. David Murray's
15 testimony, who's the Staff witness who can speak to
16 this. He identifies a range. 9.75 is appropriately
17 within that. Mr. Murray is the best witness for --
18 for questions about that.

19 Capital structure. The stipulation is
20 silent as to capital structure. Just as Mr. Boudreau
21 pointed out, this was a similar settlement as to the
22 type that was presented in the Mid-States Gas case.
23 We think it's appropriate here. Obviously Staff views
24 that its capital structure is the appropriate one and
25 is what's in that document.

1 Liberty may disagree, but we would
2 suggest that if the Commission is obligated to pick a
3 specific capital structure, pick Mr. Murray's which
4 has been presented in his testimony and he can answer
5 questions on that topic.

6 Rate case expense. Chairman, you had --
7 you had an important question; the difference between
8 normalization and amortization. Staff, in its direct
9 case, recommended a five-year normalization, looking
10 at the history of past Liberty cases and the frequency
11 of their filing.

12 For the purposes of effectuating this
13 stipulation, if the Commission adopts that and Liberty
14 agrees or is ordered to come back in for a rate case
15 in two years as a part of that stipulation, Staff
16 would recommend that -- a three-year amortization
17 period for that.

18 It gives recovery of the rate case
19 expenses over the two years that Liberty would be out
20 and then recovery of remaining rate case expense
21 during the pendency of that subsequent rate case. And
22 then the over or under can be built back into rates at
23 the end of that subsequent rate case. That -- that
24 would be our recommendation if the Commission adopts
25 the stipulation -- the stipulated positions.

1 Mr. Harrison is the witness who has worked with rate
2 case expense and he is, by far, the best witness to
3 speak with on that topic.

4 There's one important note I need to make
5 about rate case expense. Mr. Boudreau identified that
6 we don't have a final number yet, because we're
7 obviously here today. The stipulation that has been
8 presented by Staff and the Company, it does not --
9 that number -- that revenue requirement number does
10 not include rate case expense.

11 So the decisions you make here today,
12 those will be in addition to that revenue requirement.
13 And I just want to make that point very clear.
14 Because it -- we did our best to try to resolve the
15 case with what we had and we could not reach an
16 agreement on rate case expense. So when you're making
17 your decisions, please keep that in mind that it will
18 be in addition to whichever revenue requirement number
19 you choose to go with, in particular if you choose the
20 stipulated number by Staff and the Company.

21 That addresses cost-of-service questions.
22 The remaining are customer service and rate design.
23 Obviously there has been questions raised about
24 customer service issues and there's both operational
25 and then actual customer service kind of billing

1 inquiries type issues.

2 The question is posed has Liberty
3 adequately responded to those customer issues? Staff's
4 opinion that the changes that the Company has made
5 that -- to the system -- the Ozark Mountain system
6 have adequately addressed those issues going forward.
7 Mr. Roos can speak about the operational issues.

8 When it comes to certain customer service
9 issues and customer response, we think Liberty has
10 made some important changes that they've agreed to
11 both in the Partial Disposition Agreement filed on
12 May 24th and some important comprises and changes that
13 they are making that that would put forward in our
14 stipulation. And we think those will, going forward,
15 if implemented, adequately address any customer
16 service complaint problems.

17 If you need to or have questions about
18 specific customer service items, I'd recommend
19 speaking with our witness, Dana Parish.

20 Finally, on rate design. I think rate
21 design is probably one of the more contentious issues
22 so far in this case. There are three items for your
23 consideration; whether or not to adopt a phase-in,
24 what are the appropriate customer charge commodity
25 charges, and whether or not to exempt Silverleaf from

1 a subsequent rate case as a service area.

2 When it comes to the phase-in, Staff is
3 opposed to a phase-in. We do agree that there are
4 some instances where phase-ins make sense. We don't
5 think a phase-in would make sense in this case based
6 on the amount of the increases and the nature of the
7 service provided. And certainly not Mr. Stannard's
8 proposal, Silverleaf's witness, and -- certainly not
9 his phase-in approach is appropriate in this case.

10 Mr. Bush can speak about phase-in
11 specifically. I can try to answer your questions on
12 that.

13 Customers charge a commodity charge.
14 Obviously Staff believes that its approach to rate
15 design is the most appropriate. If you look at the
16 filed stipulation, Attachment A includes a breakdown
17 of what we believe all the rates are with that revenue
18 requirement.

19 Now, I want to just make it again
20 absolutely clear that those proposed rates, they do
21 not include rate case expense. So that -- they will
22 need to be updated at the end of this case. But that,
23 I think, should provide Staff's -- clearly provide
24 Staff's proposal about how rates will look roughly at
25 the end of this case if Staff's approach is adopted.

1 Staff Witness Matt Barnes can speak to rate design and
2 the specific work that he did on that.

3 Finally, exemption of Silverleaf from a
4 subsequent rate case. Silverleaf has raised this
5 issue that if Liberty is brought back in within
6 24 months, that it would be inappropriate for them to
7 be included in a future rate case.

8 Staff is obviously opposed to this
9 proposal. We don't recommend it. The Commission can
10 best decide what rates are and when they are
11 appropriate when they have all relevant factors in
12 front of them. Exempting a service area, exempting
13 that cost-of-service, that was going to create an
14 incorrect collection of cost-of-service issues. It's
15 going to ultimately either hurt or discriminate
16 against certain customers or for certain customers and
17 we just don't think it's good for the health of the
18 Company or for the benefit of the customers. And
19 Mr. Bush can answer specific questions as to that
20 issue.

21 These are the primary questions before
22 the Commission today. We believe the stipulation that
23 we filed adequately addresses each of these questions,
24 leaving for the Commission just and reasonable rates
25 and benefits both the customers and the Company.

1 Staff obviously views its unique role.
2 We have to provide an objective -- what we think is an
3 objective, neutral resolution to the case. That's
4 what we try to do. And in trying to balance those
5 interests of the Company and the customers, we believe
6 that this proposal best addresses those questions
7 before you.

8 Again, the witnesses here today,
9 Mr. Gateley, obviously we'll have him go first;
10 Mr. Harrison on rate -- rate case expense; Mr. Murray
11 on cap structure, ROE; Mr. Roos and Mr. [sic] Parish
12 on customer service operation customers questions and
13 customer service questions; and Mr. Busch and
14 Mr. Barnes for rate design issues.

15 I just want to thank you again for your
16 time today and I appreciate your thoughts and
17 considerations on reaching resolutions in this case.
18 I'm happy to answer any questions.

19 CHAIRMAN HALL: No questions. Thank you.

20 COMMISSIONER KENNEY: No questions.

21 JUDGE CLARK: Actually I've got a couple
22 questions for you --

23 MR. WESTEN: Sure.

24 JUDGE CLARK: -- I want to ask just
25 briefly.

1 You indicated -- and I believe Liberty
2 did as well that -- that you believe at this point
3 that the agreement as filed is the -- is yours and
4 Liberty's position statement; is that correct?

5 MR. WESTEN: Yes. So the -- the
6 operation of the regulation, according to
7 Non-Unanimous Stipulations and Agreements 2.115 says
8 that if a stipulation is objected to -- a
9 non-unanimous is objected to, that it becomes the
10 joint position of the parties.

11 While obviously that question is pending
12 before the Commission procedurally speaking, and I
13 would urge the Commission to adopt the non-unanimous
14 as a unanimous agreement for those procedural
15 questions, because I think the rules are important and
16 we should follow our rules, the -- the position that
17 we are taking today is the assumption that the
18 Commission has agreed with the objection and is
19 listening to the entire case and the proposed
20 stipulation as though it was a joint position.

21 I think procedurally speaking for today's
22 process, that makes the most sense. That way you're
23 able to hear the issues and the parties are able to
24 present their cases on those issues.

25 JUDGE CLARK: Okay. That leaves me with

1 another question because you said that the filed case
2 you believe supports that agreement. And so I'm left
3 questioning why you have a -- why in -- in filed
4 testimony and in Staff's audit you have a higher
5 revenue requirement than is -- and I understand
6 that -- that -- that -- that you said there's range,
7 but that doesn't really tell me why.

8 MR. WESTEN: So the filed case was going
9 on at the same time negotiations were occurring. And
10 the filed case is Staff's filed case. If there was no
11 Stipulation and Agreement, that would be Staff's
12 direct case and we would be absolutely supporting that
13 case.

14 But because there have been some
15 compromises made in reaching the stipulation, that is
16 the joint position that we're putting forward. We
17 think obviously that our filed case, because of the
18 analysis that we put forward, it underpins the
19 Stipulation and Agreement. And yes, there is going to
20 be some difference there in those numbers, but we view
21 that as part of the compromise in reaching of the
22 stip.

23 I know there's not a question pending,
24 but if I might actually answer a question that you had
25 for Mr. Boudreau, chairman. You asked Mr. Boudreau if

1 there was an issue with lawfulness or specifically
2 about rate-making principles regarding phase-ins.

3 And if -- if I might offer a comment
4 there, not only does this phase-in not mirror past
5 phase-ins where you've seen a stair-step up to an
6 ultimate rate, this one goes below, then above and
7 then finally back down to a normal rate. And that
8 kind of up and down, which changes every year for five
9 years, totally goes against rate stability.

10 It will confuse customers as to what
11 their bills are and how to manage their bills to adopt
12 that kind of phase-in. So not only do you have
13 questions of carrying costs, which you identified, but
14 also there's an issue of rate stability which affects
15 both customers and, frankly, the Company as well. I
16 just wanted to make that point.

17 CHAIRMAN HALL: But that's not a legal
18 issue. That's a --

19 MR. WESTEN: No.

20 CHAIRMAN HALL: -- practical issue?

21 MR. WESTEN: That is a rate-making -- I
22 would say principle that you would want to consider.

23 CHAIRMAN HALL: Thank you.

24 JUDGE CLARK: One last question.

25 MR. WESTEN: Yes, Judge.

1 JUDGE CLARK: Try and make it quick. And
2 that is -- the way it's set, it's around a 92 percent
3 increase; is that correct?

4 MR. WESTEN: Yes. According to our --
5 our calculation, we believe that if you look at the
6 increase to the water revenues, it's roughly
7 92 percent. If you look at the increase to sewer
8 revenues, it's roughly 75 percent.

9 JUDGE CLARK: Is there -- is there a
10 specific percentage point or specific percentage
11 number that Staff has in mind at which they believe
12 rate shock kicks in?

13 MR. WESTEN: That's a very good question.
14 I don't think there is a specific percentage number.
15 I think you have to look at the number of customers,
16 the rates that were in place beforehand, the proposed
17 rates and the effect on the system.

18 I -- there can't be a clear number like
19 that, at least -- I'm speaking for myself, in my
20 opinion. Staff witnesses may have different opinions.
21 But I think -- I think a specific number -- tying it
22 to a specific number can create operational issues
23 when you're -- you might be putting something down on
24 customers that might actually be fine.

25 If you're moving from a fairly high bill

1 to a slightly higher bill, I mean it's still -- it
2 still hurts more if you're still having a high bill.
3 If you're moving from a really low bill to a really
4 high bill, well then, maybe rate shock is implicated
5 more there. I don't know if there's a percentage
6 involved.

7 JUDGE CLARK: Is there a range?

8 MR. WESTEN: I don't know that I -- I
9 could say that there's a range. And I'm not trying --
10 not trying to -- to hide a ball here or anything. I
11 just think when you're looking at the actual rates,
12 there's more to it than just picking a number or a
13 range.

14 JUDGE CLARK: Okay. Thank you.

15 MR. WESTEN: Thank you, Judge.

16 JUDGE CLARK: Opening statement from
17 Silverleaf Resorts, Incorporated and Orange Lake
18 Country Club.

19 MR. HARDEN: Thank you. May it please
20 the Commission. My name is Joshua Harden. I
21 represent Silverleaf Resorts and Orange Lake Country
22 Club, Incorporated. For simplicity, I'll refer to my
23 client as Silverleaf.

24 First of all, I would like to thank the
25 Commission for the opportunity to be heard in this

1 case. I'd like to thank Staff for their hard work in
2 this -- this case or continued hard work. I'd also
3 like to thank Liberty Utilities, particularly
4 Ms. Schwartz, who could probably think of a thousand
5 things she'd rather do on a Friday than did get
6 deposed by Silverleaf, so while Silverleaf certainly
7 does not agree with all of the conclusions reached by
8 Staff and Liberty Utilities, we certainly respect the
9 professionalism that everyone has demonstrated in this
10 case.

11 Who is Silverleaf? Silverleaf owns and
12 operates resort properties in Missouri. Those
13 properties are sold as timeshare interests. The
14 timeshare owners of Silverleaf properties own a
15 legally cognizable fee simple interest in real estate.
16 That interest is recorded via deed in the respective
17 county recorder's office. The deed held by Silverleaf
18 homeowners are subject to a declaration of rights,
19 which are no less legally valid than the deed
20 restrictions held by any other homeowner in the state
21 of Missouri.

22 So to be clear, the timeshare owners of
23 Silverleaf properties are real Missouri property
24 owners under the laws of this state and my clients are
25 the developers, managers and owners of these

1 properties.

2 Silverleaf intervened in this case
3 because it is the largest customer of Liberty Utility
4 Missouri Water with over 50 percent of Liberty Utility
5 Missouri Water's revenues coming from the Silverleaf
6 system. The timeshare owners of Silverleaf Resorts,
7 as well as the management of the property and the
8 homeowners association, have a vested interest in
9 helping to ensure that they receive safe and adequate
10 utility service at just and reasonable rates.

11 Silverleaf is largely in agreement with
12 the revenue requirement produced by Staff, with the
13 notable exception of return on equity. On the ROE
14 issue, Silverleaf simply does not believe that it is
15 appropriate to impute the risk and investor
16 expectations of a natural gas company to a water
17 company, even if those companies are owned by the same
18 multi-national corporation.

19 The customers of Liberty Utilities,
20 Missouri Water, deserve an independent and real
21 analysis of ROE of the water company that serves them
22 and not simply a bootstrap number from an affiliate
23 company in an entirely different industry.

24 Silverleaf also parts ways with Staff on
25 the issue of rate design and would prefer to see a

1 rate design which sends an appropriate price signal
2 that incents intelligent management of water
3 resources. We believe that Staff's proposed rate
4 design, which recovers a substantial amount, it goes
5 from 38 percent to 60 percent of revenues from the
6 fixed customer charge, shifts virtually all of the
7 risk to the customers. It hurts the smallest
8 customers the most and it removes any incentive for
9 intelligent management of water resources. Silverleaf
10 believes that this is simply not good policy.

11 Silverleaf has proposed a phase-in of the
12 rate increase, which we recognize that to some degree
13 is going to happen. This proposal is based on the
14 fact that Liberty Utilities, Missouri Water, waited
15 almost ten years to come to this Commission for rate
16 increase and it is the result of this delay, this
17 management decision, and not simply an increase in
18 O and M costs that will cause severe rate shock for
19 the customers of Liberty Utilities, Missouri Water.

20 Liberty Utilities is not an
21 unsophisticated mom and pop small water and sewer
22 company. The evidence presented today will show that
23 there are simply no management justification for this
24 delay and the rate shock that will be caused without
25 this Commission offering some mitigation.

1 Staff has recommended that Liberty
2 Utilities come in for another rate case within 12 to
3 24 months. This recommendation is based solely on
4 Liberty Utilities acquisition of Ozark International.
5 The acquisition has zero effect on the cost-of-service
6 to the Silverleaf systems, with the notable exception
7 of spreading out the costs of shared services and
8 corporate allocations to another system.

9 We have heard a fair amount about rate
10 case expense already this morning in this case. In
11 fact, rate case expense was the basis for Algonquin
12 Power and Utility Corporation's state subsidiary,
13 Liberty Utility, Missouri Water, use of the small
14 utility rate case procedure in Missouri.

15 Silverleaf merely asks this Commission to
16 consider its rate case expense in regards to Staff's
17 recommendation, which unlike the state-certified
18 monopoly utility with absolutely no market
19 competition, we, Silverleaf Resorts, do not get to
20 automatically recover.

21 Let me conclude with this: Staff is put
22 in a difficult and unenviable position with the small
23 utility rate procedure, at least as it applies to
24 Liberty Utilities, Missouri Water. They're
25 essentially asked to stand in the shoes of the utility

1 company and drive the rate case. But make no mistake.
2 The -- the burden -- the burden of proof under
3 Missouri law remains on the utility company. And this
4 Commission's charge is to determine what is in the
5 best interest of Missourians based on the facts that
6 have been lawfully presented to it.

7 Silverleaf doesn't stand here today as an
8 adversary of Liberty Utility -- of Liberty Utilities.
9 We stand here as a voice for what we believe is in the
10 best interest of our business, for our customers and
11 the public interest.

12 And with, I'm open to any questions that
13 the Commission may have.

14 CHAIRMAN HALL: No questions. Thank you.

15 COMMISSIONER KENNEY: No questions.

16 JUDGE CLARK: Thank you. Opening
17 statement from Ozark Mountain Condominium Association.

18 MS. GIBONEY: May it please the
19 Commission. Good morning. Chairman Hall,
20 Commissioners, Judge Clark, my name is Sarah Giboney
21 and I'm the attorney for Ozark Mountain Condominium
22 Association.

23 This is the association for owners of
24 individual condo units within Ozark Mountain
25 Condominiums. And that's a condo development on Table

1 Rock Lake, just a half mile south of Kimberling City
2 so; you know, 20 miles west of Branson, give or take.
3 The condominiums are located right on the shoreline of
4 the lake.

5 The condominium development is a 101-unit
6 development. And it's arranged a little bit different
7 than Mr. Harden's client. This -- these 101 units are
8 all individually owned and they are all individually
9 metered water and sewer customers of Liberty
10 Utilities. The units are spread over 14 buildings and
11 the development has, you know, some of its own com--
12 common elements such as a clubhouse and a pool and
13 common grounds and things like that. The condo unit
14 owners also have access to similar amenities that are
15 next door at Silverleaf Resorts.

16 So -- and then like the individual condo
17 unit owners, the association itself is also an
18 individual customer of Liberty Utilities. So Ozark
19 Mountain Condominium Association receives its water
20 for its irrigation and the pool and the clubhouse and
21 its sewer from Liberty Utilities.

22 Like I indicated, OMCA, the condominium
23 association, it has sort of a close relation with --
24 with Silverleaf in this case. And basically it's
25 served by the same water and sewer systems. And I

1 just want to point out -- we're talking about names
2 and identifying parties and things like that. The --
3 throughout the case and the pleadings, the actual
4 water system that serves Silverleaf -- Silverleaf and
5 Ozark Mountain, that's referred to as the Silverleaf
6 system, and then the sewer system that serves them is
7 referred to as the Ozark Mountain system.

8 So those two systems I believe were
9 bought from Silverleaf Resorts by Algonquin, which as
10 Mr. Harden mentioned, is a related entity to Liberty
11 Utilities. So I help that sort of orients everyone.

12 Like probably everyone else who received
13 the initial notice from Liberty, OMCA members were
14 alarmed and frustrated when they heard that their
15 rates might more than double for water and almost
16 double for sewer.

17 Oh, and let me stop and note in this
18 proceeding my client has not pre-filed expert witness
19 witness testimony on any of the rate-making issues.
20 We just don't have the capital for that. But as I
21 mentioned, it's in the exact same position as
22 Silverleaf with respect to the service it receives and
23 the systems that -- that serve it.

24 So for that reason, OMCA has fully
25 supported the positions of Silverleaf with respect to

1 return on equity, capital structure, rate case
2 expense, phase-in, customer charges, commodity charges
3 and the question of whether Silverleaf should be
4 exempted from the next rate case.

5 So what does that leave? Well, that
6 leaves the issue of customer service. And thankfully,
7 that remained on the issue list in this case because
8 it's very important. As I mentioned a couple minutes
9 ago, OMCA wasn't just alarmed. It was frustrated when
10 it heard about these potential rate increases.

11 As the Commissioners are certainly aware,
12 the purpose of regulation of these utilities is to
13 ensure safe and adequate service at just and
14 reasonable rates. OMCA's frustration and concerns
15 specifically go to whether or not that service is safe
16 and adequate, and whether the rates it proposes --
17 Liberty proposes are just if its services are not
18 consistently safe and adequate.

19 So on this issue OMCA will offer
20 testimony. That's the testimony of its property
21 manager, Don Allsbury. I think Don can offer the
22 Commission a unique perspective because he's been the
23 property manager there since around the time Algonquin
24 bought these systems.

25 And in his role as property manager, he's

1 sort of a liaison for those individual unit owners.
2 The fact of the matter is if they have a problem, they
3 call Don. They don't necessarily call Liberty. And a
4 lot of the times, a single water problem is affecting
5 many unit owners, so it makes sense that there's one
6 point of contact with Liberty.

7 But as that liaison, he's dealt with
8 numerous and repeated problems with the water system
9 and he details those in his testimony. Some of those
10 systems -- some of those problems, excuse me, resulted
11 in property damage to those common elements, like, you
12 know, damage to the irrigation system or leaking in a
13 condo unit. And those issues are obviously concerning
14 to the unit owners and the association.

15 But if -- even if we set those aside,
16 part of the problems that he talks about are instances
17 of low water pressure and no water to the units for a
18 period of time. We all know what it would mean to
19 have no water, but one of the side effects of that is
20 having no sprinkler system available. So to OMCA,
21 these really are just not adequacy concerns but
22 sometimes they've been safety concerns as well.

23 Those problems we think plainly go to the
24 adequacy and safety of the service. And all those
25 issues, to us, go to whether or not it's just to allow

1 the types of rate increases that Liberty is
2 requesting.

3 In his testimony, Mr. Allsbury also deals
4 directly with the issue of what it's like to
5 communicate with the contractors that Liberty has
6 engaged. You'll read, and perhaps you're going to
7 hear from Staff's witnesses and Liberty witness on
8 these issues.

9 You've already heard Mr. Boudreau suggest
10 that all the problems that -- that Mr. Allsbury talks
11 about in his testimony have been resolved, they
12 think -- I believe Staff said that -- these are my
13 words -- that the Company has, you know, adequately
14 addressed all these concerns.

15 Well, one of the decisions, which we
16 applaud, was the decision to terminate Liberty's
17 contract with a particular contractor and its
18 intention to use in-house employees to provide
19 customer service.

20 You know, in reading the local public
21 hearing transcripts in this case, I was encouraged to
22 see that the Commissioners that were in attendance
23 asked the witnesses -- who to a person -- well, that's
24 not true. There was one witness, Mr. Beauford,
25 Buford, who testified only about rate shock. But

1 setting him aside, to a person -- every witness that
2 showed up had a customer service concern. And I was
3 very encouraged to see that the Commissioners who were
4 in attendance followed up and asked questions about
5 that.

6 So in this hearing, I would just strongly
7 encourage you to do the same and to ask Mr. Allsbury
8 whether -- contrary to Staff and -- and Liberty's
9 position, whether Mr. Allsbury feels like the repeat
10 problems in the past have been resolved in a way that
11 they're not going to happen again.

12 To wrap this up, I just want to mention
13 one last thing. One witness at the local public
14 hearing in Branson on July 23rd made a very short
15 statement that really jumped out at me. And that
16 witness was Jan Fischer and the testimony is at page
17 16, lines 8 through 10 of that transcript. And Jan
18 Fischer said that Liberty should, quote, Take care of
19 business first before it increases rates, end quote.

20 Given my client's members' experiences as
21 water customers of Liberty, OMCA wholeheartedly agrees
22 with that witness.

23 Thank you. Questions?

24 CHAIRMAN HALL: No questions. Thank you.

25 COMMISSIONER KENNEY: No questions.

1 CHAIRMAN HALL: Thank you.

2 COMMISSIONER RUPP: Ms. Giboney?

3 MS. GIBONEY: Yes.

4 COMMISSIONER RUPP: I'm sorry. I was
5 slow to the -- slow to the draw. Good morning.

6 MS. GIBONEY: Good morning.

7 COMMISSIONER RUPP: So you -- Ozark
8 Mountain agrees with Silverleaf positions and then you
9 separated out customer service. What would you like
10 this Commission to do that is not in the Silverleaf's
11 position when it just comes to customer service?

12 MS. GIBONEY: Well, they have -- and
13 Ms. Schwartz or -- or Mr. Boudreau can correct me, but
14 it appears to me in the Non-Unanimous Stipulation and
15 in some of the testimony that -- I'm not really clear
16 whether they have committed to using only employees of
17 Liberty to handle customer service issues. Because
18 there are also provisions about, well, if they use a
19 contractor, you know, then they'll make sure that
20 customers' complaints get referred back to Liberty.
21 So not clear on that.

22 I think it would probably be preferable
23 if they used an employee who was located close by. If
24 you all have been down around Table Rock or just that
25 area of Missouri, you could be 10 miles as the crow

1 flies and you could be 35 miles away on the road. So
2 I don't know what an employee close by means, but
3 truly someone who can respond in a timely manner.

4 The other thing is one of the agreements
5 I guess in this stipulation was that if Liberty used
6 contractors, it would make sure that the contractor
7 promptly reported those -- whatever it was -- issue it
8 was dealing with or how it resolved it to Liberty as
9 soon as practical, but at least monthly.

10 Monthly to me is completely perplexing.
11 I don't know how the messages are being sent that they
12 couldn't be sent faster than that. But if you're
13 talking about a big water leak or a lack of water, I
14 think sending that message back to the Company monthly
15 is inadequate. So those would be the main things. I
16 do -- I am glad that they dismissed the previous
17 contractor.

18 The other issue -- and I'll just mention
19 to you you may want to talk to Mr. Allsbury about
20 this, is -- and I know that other customers have
21 commented on this and that Liberty has attempted to
22 address it, but would be the issue of having a live
23 person who answers the phone when a customer does
24 call.

25 I know there was one witness at the local

1 public hearing who mentioned calling, ringing, no
2 answer, you know, those types of situations when
3 people are trying to find out about boil orders and
4 things like that. I think it's very important that
5 they have someone available who can promptly respond
6 to customer service problems, especially when they
7 involve something like that, you know, water so --
8 broken mains, things like that.

9 COMMISSIONER RUPP: So that's your ask?

10 MS. GIBONEY: Yeah.

11 COMMISSIONER RUPP: Okay.

12 MS. GIBONEY: Better customer service,
13 use of in-house employees, prompter reporting not a
14 month later, yeah.

15 COMMISSIONER RUPP: Thank you.

16 JUDGE CLARK: Opening statement from the
17 Office of the Public Counsel.

18 MS. SHEMWELL: Thank you and good
19 morning. May it please the Commission. Thank you.

20 Public Counsel in this case has not filed
21 testimony. We do agree with the result of the
22 Stipulation and Agreement in terms of the revenue
23 requirement. We have expressed concern -- I don't
24 know that it can accurately be described as outrage as
25 Mr. Boudreau said, but the fact that the Stipulation

1 and Agreement does not contain a capital structure, we
2 feel that that gives inadequate information to both
3 the Commission and potentially investors.

4 We do agree with Staff's capital
5 structure as stated in Mr. Murray's testimony and in
6 the Staff's statement of position, 42.83 common
7 equity, 57.17 long-term debt. I would also note
8 that -- that is our concern and that is what we
9 expressed, what Ms. Roth expressed.

10 I would say that agreement in one case
11 certainly does not require agreement in a second case.
12 Every Stipulation and Agreement says that, that it's
13 not binding on any other case.

14 We agree to the provision in the
15 Unanimous Stipulation for a rate case in two years to
16 incorporate Ozark International. There are two Ozark
17 entities involved in this, and Ozark International is
18 a new acquisition by the Company.

19 In Pacific, Missouri we heard public
20 comments about the chlorine smell and taste of the
21 water. They were complaining that their water had
22 been perfect. And one gentleman said he even filled
23 up gallons of water when he traveled so he could have
24 good-tasting water on his trips. So they really liked
25 the water prior to chlorination.

1 I think that's -- that's all I have
2 unless you have questions. We -- Public Counsel
3 generally opposes phased-in rates.

4 CHAIRMAN HALL: So Public Counsel does
5 not oppose the revenue requirement contained in the
6 Non-unanimous Stipulation and Agreement?

7 MS. SHEMWELL: Correct.

8 CHAIRMAN HALL: And what I don't
9 understand then is, isn't it relatively easy to
10 determine what the capital structure would be if you
11 have the revenue requirement, the cost of debt and the
12 return on equity?

13 MS. SHEMWELL: It is. And Mr. Murray has
14 done that.

15 CHAIRMAN HALL: Well then, even if the
16 Non-Unanimous Stipulation does not expressly say what
17 the capital structure is, can't you read between the
18 lines and see what it is and couldn't any-- any
19 investor who was concerned about that, couldn't he,
20 she or it do the same thing?

21 MS. SHEMWELL: I don't know about
22 investors, what they can or can't do. Again, we agree
23 with Mr. Murray's calculation.

24 CHAIRMAN HALL: Okay. I'm just -- I'm
25 just trying to under-- so you're not opposed to the

1 revenue requirement in the stipulation, you're not
2 opposed to the ROE in the stipulation?

3 MS. SHEMWELL: That's right. We just
4 think that the Stipulation and Agreement should state
5 the capital structure for the information of anyone
6 reading it.

7 CHAIRMAN HALL: And you're also not
8 opposed to the -- to the rate design contained in the
9 stipulation?

10 MS. SHEMWELL: Yes. I think that we have
11 expressed just one concern.

12 CHAIRMAN HALL: I'm sorry. What was that
13 one concern?

14 MS. SHEMWELL: That it didn't state the
15 capital structure.

16 CHAIRMAN HALL: The one concern about the
17 stipulation. Not the one concern about rate design?

18 MS. SHEMWELL: Correct

19 CHAIRMAN HALL: Okay. Thank you.

20 MS. SHEMWELL: Thank you.

21 JUDGE CLARK: No party objected and I
22 agreed to take the testimony of Curtis Gateley out of
23 order, as Staff counsel wanted to offer that onto the
24 record.

25 MR. WESTEN: Yes, Judge. Thank you.

1 I -- I must confess, I'm not sure if I should go
2 through the standard procedure or just offer it, but I
3 guess Staff calls Mr. Gateley to the stand.

4 JUDGE CLARK: And I would prefer if -- if
5 you have him here, that you go ahead and lay the
6 foundation.

7 MR. WESTEN: Yes, Judge.

8 JUDGE CLARK: Mr. Gateley, would you
9 raise your right hand and be sworn.

10 (Witness sworn.)

11 JUDGE CLARK: Thank you. Proceed.

12 MR. WESTEN: Thank you, Judge. Will
13 you -- thank you, Judge.

14 CURTIS GATELEY, being first duly sworn, testified as
15 follows:

16 DIRECT EXAMINATION BY MR. WESTEN:

17 Q. Will you please state and spell your name
18 for the record?

19 A. My name is Curtis Gateley, C-u-r-t-i-s
20 Gateley, G-a-t-e-l-e-y.

21 Q. And by whom are you employed and in what
22 capacity?

23 A. Staff of the Public Service Commission.
24 I'm a utility -- utility policy analyst two.

25 Q. Are you the same Curtis Gateley who

1 prepared or caused to be prepared Direct Testimony in
2 this case which has been previously marked as Staff
3 Exhibit 104?

4 A. Yes.

5 Q. Do you have any changes or corrections to
6 your testimony?

7 A. Not at this time.

8 Q. Is your testimony true and correct to the
9 best of your belief and knowledge?

10 A. Yes.

11 Q. If I asked you the same questions today,
12 would your answers be the same?

13 A. Yes.

14 MR. WESTEN: At this time Staff offers
15 Mr. Gateley's testimony as evidence.

16 JUDGE CLARK: Are there any objections to
17 the Direct Testimony of Curt Gateley, Exhibit 104?

18 Seeing no objections, that will be
19 admitted onto the hearing record.

20 (Exhibit 104 was received into evidence.)

21 JUDGE CLARK: It's my understanding that
22 the Office of the Public Counsel has some
23 cross-examination that they'd like to do.

24 MS. SHEMWELL: Thank you, Judge.

25 CROSS-EXAMINATION BY MS. SHEMWELL:

1 Q. Good morning, Mr. Gateley.

2 A. Good morning.

3 Q. I couldn't help but notice that you've
4 been injured.

5 A. Yes.

6 Q. What was your role in this case? Were
7 you the case coordinator?

8 A. I was the case manager and I also
9 conducted some investigation.

10 Q. As part of that or your investigation,
11 did you review the recordkeeping of the Company?

12 A. Not personally, no.

13 Q. What is your position as to the quality
14 of the recordkeeping by Liberty Water?

15 A. Could -- could you be more specific?

16 Q. Sure. Do they meet Commission
17 requirements for recordkeeping?

18 A. Recordkeeping is -- it is a difficult
19 definition for me to answer. I -- I would have to
20 rely on Staff Witness Paul Harrison for records
21 related to -- to his audit or to some other Staff
22 members for records related to their specific pieces
23 of the investigation.

24 The records that -- that I reviewed were
25 limited to -- personally were limited to the DR

1 responses to -- to my testimony. I did, however,
2 receive feedback from Staff about their various
3 reviews that they conducted.

4 **Q. And as the case coordinator, what was**
5 **your conclusion after your review of the others'**
6 **testimony and your own investigation?**

7 A. It's my opinion that things certainly
8 could have been better. That there were difficulties
9 that -- that Staff encountered in obtaining some of
10 the information that they needed. The feedback that
11 they received from the Company was that the Company
12 was struggling to produce some information themselves.

13 **Q. Did you -- how did you interpret that**
14 **they were struggling? That they did not -- they could**
15 **not find it? They did not have it?**

16 A. In -- in some cases, that's my
17 understanding.

18 **Q. Do you want to be specific about those**
19 **cases, please?**

20 A. I -- I mean these are impressions that I
21 remember through the course of the case. In
22 particular, I recall that our Customer Experience
23 Department encountered a lack of a -- of a log of the
24 customer inquiries. Later, it's my understanding that
25 the Company was able to -- to find some amount of

1 information that -- that was similar to our
2 expectations on -- on a customer inquiry log, but that
3 log then was not as complete as -- as what we would
4 like to see.

5 Initially when we would request
6 information for our audit, it's my understanding that
7 what the Company produced was -- was not necessarily
8 what we asked for, but then further investigation
9 suggested that they were using a -- a improper
10 accounting method for Missouri.

11 So I don't know that the information
12 was -- didn't exist as much as was in a format that we
13 weren't expecting, so we were speaking different
14 languages. I do not have specific items that I
15 reviewed that I recall that they -- that they simply
16 didn't have. It's -- this is the information that I
17 got from folks actually working on the subject.

18 **Q. And we agree that the Commission's**
19 **records regarding water companies -- or the**
20 **Commission's rules regarding water companies require**
21 **the water companies to keep their records according to**
22 **the NARUC USOA, I think it's 1976 as updated in '78.**
23 **Is that your belief or your understanding?**

24 A. I -- I hesitate to commit to -- to which
25 year version, because that's not what I actually do.

1 I'm afraid I might get it wrong. But I -- it's one of
2 the things that we had in our agreement and I -- I
3 could look that up.

4 **Q. Well, could we agree that it was from the**
5 **'70s?**

6 A. I -- I believe that's accurate.

7 **Q. And is it your impression that that will**
8 **be corrected?**

9 A. Yes.

10 **Q. Or has been?**

11 A. I don't know what the Company's status is
12 in achieving that change. They have agreed that by a
13 certain date they will have achieved a change to be in
14 compliance with the -- the Missouri regulations on
15 that.

16 **Q. Is it also your conclusion that their**
17 **other recordkeeping, for example, for customer service**
18 **and so on will also be improved?**

19 A. That's my understanding.

20 **Q. Do you have any remaining concerns with**
21 **any recordkeeping that has not been addressed by the**
22 **Company?**

23 A. As a regulator, I remain skeptical of all
24 companies and will investigate all the time. I will
25 always be concerned. I don't have any specific items

1 that I can think of that aren't addressed by the
2 agreements that -- that we have currently regarding --
3 regarding recordkeeping.

4 **Q. Very good. Thank you, Mr. Gateley.**
5 **That's all I have.**

6 JUDGE CLARK: Are there any other parties
7 present who have any cross that they would like to
8 offer?

9 MR. BOUDREAU: I have no questions.
10 Thank you.

11 JUDGE CLARK: Any questions from the
12 Commission?

13 CHAIRMAN HALL: No questions. Thank you.

14 COMMISSIONER KENNEY: No questions.

15 JUDGE CLARK: Okay. Mr. Gateley, you're
16 excused.

17 MR. WESTEN: Actually, Judge, can I ask
18 one redirect just for clarification?

19 JUDGE CLARK: That would be fine.

20 MR. WESTEN: Thank you, Judge.

21 REDIRECT EXAMINATION BY MR. WEST:

22 **Q. Mr. Gateley, you were asked questions by**
23 **Ms. Shemwell about records and you spoke about**
24 **accounting records. Do you recall that question and**
25 **your answer?**

1 A. I do.

2 Q. You're aware that the Stipulation and
3 Agreement signed between Staff and the Company
4 identifies corrections that Liberty has agreed to make
5 about concerns with recordskeeping and accounting?

6 A. Yes.

7 Q. Thank you very much. No further
8 questions.

9 JUDGE CLARK: Okay. Mr. Gately, you're
10 excused. And as I've said before, Exhibit 104 is
11 admitted on the hearing record.

12 With that in mind, let's start the actual
13 contested issues that we have. My understanding is
14 our first issue is cost-of-service. That's been
15 broken down into three sub-issues, with the first two
16 sub-issues being dealt with together and those would
17 be return on equity and capital structure.

18 With that in mind, I believe Liberty
19 Utilities has the first witness.

20 MR. BOUDREAU: Yes.

21 JUDGE CLARK: You may call your witness.

22 MR. BOUDREAU: I'd like to call Keith
23 Magee to the stand, please. Judge, just as a point
24 of -- as a point of order, just a request for how to
25 handle -- I've got the premarked exhibits. Should

1 I -- would you anticipate that I would hand him the
2 exhibits that I intend to submit for the record or
3 should they otherwise be just provided to the court
4 reporter? Do you have a preference?

5 JUDGE CLARK: I would have a preference
6 that the witness actually see them before they're
7 admitted.

8 MR. BOUDREAU: I can certainly do that.

9 JUDGE CLARK: Unless -- unless he has a
10 working copy.

11 MR. BOUDREAU: Well, I -- I think he'll
12 have a working copy with him, but I don't have any
13 problem handing him the premarked exhibit.

14 JUDGE CLARK: Let's just do it that way
15 then.

16 Okay. Mr. Magee, would you raise your
17 right hand and be sworn.

18 (Witness sworn.)

19 JUDGE CLARK: Thank you.

20 Liberty, you can start your questions.

21 MR. BOUDREAU: Thank you very much.

22 KEITH MAGEE, being first duly sworn, testified as
23 follows:

24 DIRECT EXAMINATION BY MR. BOUDREAU:

25 Q. **Would you state your name for the record,**

1 **please, sir?**

2 A. My name is Keith Magee.

3 **Q. And by whom are you employed and in what**
4 **capacity?**

5 A. I'm employed by ScottMadden, Inc. as a
6 director.

7 **Q. Okay. Are you here testifying on**
8 **behalf -- on behalf of one of the parties to this**
9 **case?**

10 A. I am.

11 **Q. And -- and the name of that party is?**

12 A. Liberty Utilities.

13 **Q. Okay. Are you the same Keith Magee that**
14 **has caused to be prepared and pre-filed in this case**
15 **what's been identified as Exhibit Number 4, which is**
16 **your Surrebuttal Testimony? And I'll -- I'll go ahead**
17 **and present this to you.**

18 A. Yes, I am.

19 **Q. So you recognize that to be a copy of**
20 **your pre-filed Surrebuttal Testimony; is that correct?**

21 A. That's correct.

22 **Q. Do you have any -- well, was that**
23 **prepared by you or under your direct supervision?**

24 A. It was prepared by me, yes.

25 **Q. Okay. Do you have any corrections to**

1 **make to that testimony at this time?**

2 A. I do not.

3 **Q. If I were to ask you the same questions**
4 **as are contained in your Surrebuttal Testimony, would**
5 **your answers today be substantially the same?**

6 A. Yes, they would.

7 MR. BOUDREAU: Okay. With that, I will
8 offer Exhibit 4 into the record and tender the witness
9 for cross-examination.

10 JUDGE CLARK: Any objections to admitting
11 Exhibit -- Liberty Exhibit 4 onto the hearing record?

12 MR. HARDEN: Yes, Your Honor. But for
13 clarification, does that exhibit include what was
14 filed on I believe it was August 9th KM-S13, which is
15 the Direct Testimony of Mr. Magee? It -- and as I
16 recall, that was actually filed separately from his
17 Surrebuttal Testimony so I'm just trying to -- is that
18 included in this exhibit, the schedule?

19 MR. BOUDREAU: Are you asking the witness
20 a question?

21 MR. HARDEN: Well, I gu-- can I see the
22 exhibit so I can see what it is?

23 So, Your Honor, not -- not to argue, but
24 what -- what I would like to do is extend our
25 objection, which we have filed pending before the

1 Commission to the schedule which was -- which was
2 actually filed in EFIS separately, KM-S13, which I
3 believe was filed on August 9th, extend that objection
4 to that particular schedule. Other than that, that's
5 all.

6 JUDGE CLARK: Okay. In regard to your
7 objection, I'm going to provisionally -- I'm going to
8 overrule it for now. I'm going to allow you to -- I'm
9 going to allow you to brief the issue. I'm going to
10 provisionally admit it onto the hearing record pending
11 any decision made in the Report and Order.

12 Go ahead, Mr. Boudreau.

13 BY MR. BOUDREAU:

14 **Q. Mr. Magee, do you have a working copy of**
15 **your Surrebuttal Testimony to which you can refer?**

16 A. Yes, I do.

17 **Q. Okay.**

18 JUDGE CLARK: And so just to clarify,
19 Exhibit Number 4 is provisionally admitted onto the
20 hearing record.

21 (Exhibit 4 was received into evidence.)

22 MR. BOUDREAU: As I indicated, I tender
23 the witness for cross-examination at this point.

24 Thank you.

25 JUDGE CLARK: Cross-examination by Staff?

1 MR. WESTEN: Thank you, Judge.

2 CROSS-EXAMINATION BY MR. WESTEN:

3 Q. Mr. Magee, good morning.

4 A. Good morning.

5 Q. I have just a couple quick questions for
6 you. You are also the same capital structure, ROE,
7 ROR witness that provided testimony in Mid-States Gas
8 case?

9 A. Yes.

10 Q. And that case was resolved by agreement
11 between the parties -- at least three of the parties
12 present today, Staff the Company and -- well, I guess
13 Mid-States was not the same, but OPC all reached a
14 settlement in that case?

15 A. Yes.

16 Q. And that -- that resolution was silent as
17 to the capital structure?

18 A. That's my understanding, yes.

19 Q. Okay. Can I ask you a little bit about
20 your expenses for being here today? Just trying to
21 gauge what our rate case expense is going to be. Do
22 you -- and are you able to say an estimate of what you
23 anticipate your costs will be for being here at this
24 proceeding?

25 A. Yes. We work on a time and material

1 basis so it's still in flux, but I would estimate
2 about 20,000 dollars in total for our testimony in
3 this case and the hearing.

4 **Q. Is that -- is that for testimony that's**
5 **already been done or is that anticipating for just**
6 **today and tomorrow the hearing?**

7 A. That's -- that's the entire case up
8 through today.

9 **Q. Okay. I appreciate that. Thank you. No**
10 **further questions.**

11 JUDGE CLARK: Any cross-examination by
12 Ozark Mountain?

13 MS. GIBONEY: No, Judge.

14 JUDGE CLARK: Any cross-examination by
15 Silverleaf?

16 MR. HARDEN: Yes, quickly. Thank you,
17 Your Honor.

18 CROSS-EXAMINATION BY MR. HARDEN:

19 **Q. Thank you, Mr. Magee. When were you**
20 **retained by Liberty Utilities for this case?**

21 A. Approximately three weeks ago. I can't
22 recall the specific date.

23 **Q. You've received no data requests from**
24 **Silverleaf Resorts or Orange Lake Country Club in this**
25 **case; is that correct?**

1 A. That's correct.

2 Q. You've not been deposed in this case by
3 anyone; is that correct?

4 A. That's correct.

5 Q. You did not file Direct Testimony in this
6 case; is that correct?

7 A. That's correct. My Direct Testimony from
8 the Mid-States Gas case was filed with Jill Schwartz's
9 Direct Testimony.

10 Q. Thank you. You did not file Rebuttal
11 Testimony in this case; is that correct?

12 A. That's correct.

13 Q. In your Surrebuttal Testimony on page 19
14 through 20, line 6 and then it goes through the top of
15 line 6 on page 20, you indicate that your concern
16 regarding Mr. Stannard's use of the Duff and Phelps
17 risk premium is because it understates the risk
18 premium authorized for gas utilities; is that correct?

19 A. That's correct.

20 Q. Mr. Magee, what in your expert opinion
21 are the biggest differences in risk factors between
22 natural gas companies and water utilities?

23 A. My assessment would be that the risks in
24 total are similar. I mean they are both capital
25 intensive utilities that are facing regulatory risk as

1 their primary business risk. I believe Mr. Stannard
2 mentioned flammability as a risk for gas companies.
3 On the -- on the other hand, water utilities face a
4 water safety risk. They must make sure that they meet
5 water safety requirements. So although the operating
6 dynamics are different, I would consider the risk to
7 be generally similar.

8 **Q. So one would be flammability. Are**
9 **there -- are there others?**

10 A. Are you talking about operating
11 characteristics or generally risks?

12 **Q. Well, my question was what -- what in**
13 **your expert opinion are the biggest differences in**
14 **risk factors between natural gas companies and water**
15 **companies?**

16 A. I'm trying to think of specific
17 instances. You know, generally it's regulatory risk.
18 It's how the Company is allowed to recover its costs.
19 It's how it's treated in the rate case process. And
20 that's very similar. Although there are operating
21 differences, I wouldn't be able to specify specific
22 risk differences besides, you know, the capital
23 intensity level.

24 Water utilities generally have a somewhat
25 lower depreciation rate so they have a cash flow

1 concern; whereas, gas utilities usually have a
2 somewhat higher depreciation rate, which makes them
3 somewhat less risky.

4 **Q. Okay. On your schedule, which is labeled**
5 **KM-S8, you have two proxy groups. And I just wanted**
6 **to clarify that the -- sorry, I'm sitting too close to**
7 **this thing.**

8 **I -- I just wanted to clarify whether the**
9 **adjusted ROA -- ROE indicated in column 7 of that**
10 **schedule, now those are not approved ROEs by any state**
11 **public utility commission; is that correct?**

12 **A. I'm sorry. Could -- could you repeat the**
13 **question?**

14 **Q. Sure.**

15 **A. Column 7?**

16 **Q. Yeah. Yeah. It's -- it's Schedule**
17 **KM-S8. You have two proxy groups, one natural gas**
18 **and -- and one I think for the most part water holding**
19 **companies. And I just wanted to clarify whether or**
20 **not the -- what -- what is labeled as the adjusted ROE**
21 **indicated in column 7, that those are -- those are not**
22 **approved ROEs by public utility commissions; is that**
23 **correct?**

24 **A. Correct. Those are not authorized**
25 **returns. Those are value line projections of earned**

1 return on book value projected for the five-year
2 forecast period.

3 **Q. Okay. And this is a -- sort of a**
4 **fundamental question, but I'd like to get it on the**
5 **record. Would you agree that the point of a proxy**
6 **group is to find a similar group of companies to the**
7 **company at issue in the regulatory proceeding?**

8 A. I would agree that the point of a proxy
9 group is to identify companies that be considered
10 alternate investments with similar risks that compete
11 for capital with that -- the subject company in this
12 case, Liberty Water.

13 MR. HARDEN: I have no further questions.

14 JUDGE CLARK: Any cross-examination from
15 the Office of the Public Counsel?

16 MS. SHEMWELL: Thank you.

17 CROSS-EXAMINATION BY MS. SHEMWELL:

18 **Q. Good morning. I'm Lera Shemwell.**

19 A. Good morning.

20 **Q. When you were talking about the risk of a**
21 **gas company being flammability, you're talking about**
22 **the operational risk of the fact that they're handling**
23 **a flammable fuel?**

24 A. I mentioned that because the Witness
25 Stannard, Silverleaf witness, had brought that -- that

1 one up. I mean there are other factors like
2 seasonality or rate mechanisms which can vary from
3 company to company or region--

4 **Q. Okay. I'd like to get back -- do you**
5 **consider flammability the biggest risk?**

6 A. Of a gas utility?

7 **Q. Yes.**

8 A. No.

9 **Q. Okay. That's all I have. Thank you.**

10 JUDGE CLARK: Any questions from the
11 Commission?

12 CHAIRMAN HALL: No questions. Thank you.

13 JUDGE CLARK: Okay. Thank you,
14 Mr. Magee. You're excused.

15 MR. BOUDREAU: Do I have a chance for
16 re--

17 JUDGE CLARK: I'm sorry.

18 MR. BOUDREAU: -- opportunity for
19 redirect?

20 JUDGE CLARK: I apologize. Go ahead.
21 And I apologize. I just skipped over that.

22 MR. BOUDREAU: It's not a problem. Thank
23 you.

24 REDIRECT EXAMINATION BY MR. BOUDREAU:

25 **Q. You were asked, I believe, a question**

1 **about your involvement in the Mid-States Gas case; is**
2 **that correct?**

3 A. Yes.

4 **Q. And asked a question about the**
5 **settlement, your familiarity with the settlement?**

6 A. Yes.

7 **Q. Particularly of cost of capital issues;**
8 **is that correct?**

9 A. That's correct.

10 **Q. Now -- and you indicated I think that the**
11 **settlement was silent as to capital structure; is that**
12 **correct?**

13 A. That is correct, except for there is an
14 infrastructure rider that's specified in ROE and
15 capital structure.

16 **Q. Okay.**

17 A. But for the general revenue requirement,
18 that re-- that stipulation was silent to capital
19 structure.

20 **Q. But -- so what was the capital structure**
21 **that was specified for that limited purpose in that**
22 **settlement, do you know?**

23 A. 53 percent.

24 **Q. 53/47?**

25 A. Yeah. 53 percent equity and 47 percent

1 Long-term debt.

2 Q. Okay. And that is -- that is consistent
3 with the Company's capital structure recommended in
4 this case; is that correct?

5 A. Yes, that's correct.

6 Q. Okay. You also were asked a question by
7 Mr. Harden I believe about the filing of your
8 Surrebuttal Testimony. And -- and do you recall that?

9 A. Yes.

10 Q. He asked you whether or not you filed
11 Direct Testimony. You said you did not; is that
12 correct?

13 A. That's correct.

14 Q. And he asked you if you filed Rebuttal.
15 You said you did not; is that correct?

16 A. That's correct.

17 Q. Now, attached to your Surrebuttal
18 Testimony -- you filed Surrebuttal Testimony; is
19 that --

20 A. Yes, that's true.

21 Q. Attached to your Surrebuttal Testimony is
22 schedule KM-S-- S13; is that correct?

23 A. Yes, it is.

24 Q. And what is that schedule?

25 A. That's my Direct Testimony from the

1 Liberty, Mid-States recent case.

2 **Q. Okay. And you state in your Surrebuttal**
3 **Testimony on page -- pages -- at the bottom of page 22**
4 **and the top of page 23 that you are adopting the**
5 **questions and answers contained in that schedule as**
6 **your testimony in this case; is that correct?**

7 A. That is correct.

8 **Q. Okay. That's all I have. Thank you.**

9 JUDGE CLARK: Thank you. Okay.

10 Mr. Magee, you're excused.

11 Next witness on return on equity and
12 capital structure will be from Staff.

13 MR. WESTEN: Thank you, Judge. Staff
14 calls Mr. David Murray.

15 JUDGE CLARK: Mr. Murray, would you raise
16 your right hand to be sworn.

17 (Witness sworn.)

18 JUDGE CLARK: Thank you. Go ahead,
19 Staff.

20 MR. WESTEN: Thank you, Judge.

21 DAVID MURRAY, being first duly sworn, testified as
22 follows:

23 DIRECT EXAMINATION BY MR. WESTEN:

24 **Q. Can you please state and spell your name**
25 **for the record?**

1 A. My name's David Murray. Last name's
2 spelled M-u-r-r-a-y.

3 **Q. And can you please identify with whom**
4 **you're employed and your position of employment?**

5 A. I'm employed by the Missouri Public
6 Service Commission. And I'm the utility regulatory
7 manager in the Financial Analysis Department.

8 **Q. Are you the same David Murray who caused**
9 **to be prepared or prepared certain testimonies in this**
10 **case; namely, your Substitute Rebuttal Testimony,**
11 **Exhibit 109, and your Surrebuttal Testimony, Exhibit**
12 **110 in this case?**

13 A. Yes.

14 **Q. And did you also prepare or cause to be**
15 **prepared a portion of the cost-of-service report that**
16 **is sponsored by Mr. Paul Harrison in this case?**

17 A. Yes.

18 **Q. If -- do you believe that your testimony**
19 **is true and correct to the best of your knowledge and**
20 **belief?**

21 A. Yes.

22 **Q. And if I asked you those same questions**
23 **today -- I'm sorry. Do you have any changes to your**
24 **testimony?**

25 A. I do not.

1 **Q. Great. If I asked you the same questions**
2 **today, would you give the same answers?**

3 A. Yes.

4 MR. WESTEN: At this time I offer
5 Mr. Murray's Exhibits 109 and 110 as evidence.

6 JUDGE CLARK: Are there any objections to
7 admitting Staff Exhibits 109 and 110 on the hearing
8 record?

9 I see no objections. Exhibit 109 and
10 Exhibit 111 will be admitted onto the hearing record.

11 (Exhibits 109 and 110 were received into
12 evidence.)

13 MR. WESTEN: At this time I'd -- at this
14 time I'd tender Mr. Murray for cross-examination.

15 JUDGE CLARK: Is there any
16 cross-examination from Liberty Utilities?

17 MR. BOUDREAU: Oh, I can't resist. I
18 have to ask him at least one question.

19 THE WITNESS: Well, thank you.

20 CROSS-EXAMINATION BY MR. BOUDREAU:

21 **Q. Good morning, Mr. Murray.**

22 A. Morning.

23 **Q. I was -- I was looking -- this is just a**
24 **question of clarification. I was looking through your**
25 **testimony. You -- you I think it's on both your --**

1 well, it's on your testimony. You refer -- you have
2 the credentials CFA; is that correct?

3 A. Yes.

4 Q. And -- and I -- I didn't see an
5 explanation of that otherwise, but that -- that
6 credential is what? What is -- what is that an
7 acronym for?

8 A. It's the Chartered Financial Analyst
9 designation.

10 MR. BOUDREAU: Okay. That's all I have
11 for Mr. Murray. Thank you.

12 JUDGE CLARK: Any cross-examination from
13 Ozark Mountain?

14 MS. GIBONEY: No, Judge.

15 JUDGE CLARK: Any cross-examination from
16 the Office of the Public Counsel?

17 MR. HALL: Yes, Your Honor. Caleb Hall
18 appearing on behalf of the Office of Public Counsel.

19 JUDGE CLARK: Mr. Hall, go ahead.

20 CROSS-EXAMINATION BY MR. HALL:

21 Q. Mr. Murray, good morning.

22 A. Good morning. How you doing?

23 Q. I'm good. And yourself?

24 A. Pretty good.

25 Q. So Staff counsel has presented the

1 **position that the capital structure was not explicitly**
2 **included within the stipulation in the Mid-States**
3 **case. Are you familiar with that? Pardon me. Let me**
4 **rephrase the question.**

5 **Are you familiar with Staff counsel's**
6 **position on the lack of clarity as to an explicit**
7 **statement of the capital structure?**

8 A. As far as the -- the revenue requirement,
9 yes, that's correct.

10 **Q. Okay.**

11 A. But as ISRS was discussed, it was
12 specified for that reason.

13 **Q. Do you believe that the Commission's**
14 **powers are limited to the approval of any prior**
15 **stipulation?**

16 MR. BOUDREAU: I object, calls for a
17 legal conclusion.

18 JUDGE CLARK: That will be sustained.

19 BY MR. HALL:

20 **Q. Do you believe -- do you believe that the**
21 **Commission wouldn't find a stated capital structure to**
22 **be useful?**

23 A. I don't know what the Commission would
24 think.

25 **Q. Are you familiar with Staff's filed**

1 **position statement in this case?**

2 A. Yes.

3 **Q. It refers back to your Surrebuttal**
4 **Testimony with regarding capital structure; is that**
5 **correct?**

6 A. I believe so.

7 MR. WESTEN: Mr. Murray, would you like a
8 copy of that position statement to review?

9 THE WITNESS: Sure, yes.

10 MR. HALL: Thank you, by the way.

11 BY MR. HALL:

12 **Q. Mr. Murray, you've been handed a copy of**
13 **Staff's position statement. Correct?**

14 A. Yes.

15 **Q. And if you'd turn -- if you would turn to**
16 **the bottom off the first page, going onto the second**
17 **page, there is a citation to your sub-- Substitute**
18 **Rebuttal Testimony. Correct?**

19 A. Yes.

20 **Q. And this refers to the capital structure?**

21 A. Yes.

22 **Q. Could you state what your position on the**
23 **capital structure was?**

24 A. My position on the capital structure was
25 to use LUCo's adjusted capital structure, which was

1 42.3 -- 42.37 percent. I'm looking at my testimony
2 now. 42.83 percent common equity with the remainder
3 57.17 percent debt.

4 **Q. And this is -- that is different from the**
5 **Company's position on capital structure. Correct?**

6 A. Yes, it is.

7 **Q. Are you familiar with the filed**
8 **stipulation between the Commission Staff and Liberty**
9 **in this case?**

10 A. I've read it specifically as it, you
11 know, relates to the 9.75 percent ROE.

12 **Q. Pardon me. We seem to have misplaced our**
13 **copy of it.**

14 MR. HALL: Thank you once again, Staff
15 counsel.

16 MR. WESTEN: Sure.

17 BY MR. HALL:

18 **Q. I believe it's second-to-last page where**
19 **you'll see the section on unresolved disputes that are**
20 **not covered by the stipulation.**

21 A. I'm sorry. What number -- what paragraph
22 number is that?

23 **Q. I'm truly sorry. We had a copy in front**
24 **of us and it seems to have just -- it seems to have --**

25 MS. SHEMWELL: Walked away.

1 MR. HALL: Judge, if I might
2 approach the -- oh. My apologies to everyone.

3 BY MR. HALL:

4 Q. On page 6, paragraph 12 we have remaining
5 issues for determination. Do you see this provision?

6 A. I do.

7 Q. And what is the -- what is listed as
8 our -- what are the listed remaining issues for
9 determination?

10 MR. BOUDREAU: Well, I object to this on
11 the grounds that there's no -- no foundation laid for
12 his testimony about the Stipulation and Agreement. I
13 don't think he's testified that he's familiar with it.
14 My recollection of his testimony is that he stated
15 that he was familiar with that aspect of it that dealt
16 with cost of capital, the 9.75. So lack of
17 foundation.

18 MR. HALL: He's been -- he's been
19 provided with the stipulation, he's a competent member
20 of the Commission Staff and he can read. I think he
21 can read the stipulation.

22 MR. BOUDREAU: Well, if that's the issue,
23 the stipulation's in record. I don't know that it
24 needs to be read into the record with his testimony.
25 We filed the stipulation.

1 JUDGE CLARK: I understand what you're
2 saying. What's going to happen here is I'm going to
3 overrule your objection. He's going to be allowed to
4 testify. He's already indicated that he has read it
5 at least in regard to the portion that concerns him.
6 I'm going to allow him to answer the question.

7 THE WITNESS: It be-- it says rate case
8 expense is the remaining issue.

9 BY MR. HALL:

10 Q. **But capital structure is not listed as a**
11 **remaining issue for determination?**

12 A. Exactly. That's correct.

13 Q. **And you've already answered my question**
14 **that your capital structure is contested by Liberty's**
15 **capital structure?**

16 A. Yes.

17 Q. **So does the stipulation resolve the**
18 **capital structure?**

19 A. No, it remains silent.

20 MR. HALL: No further questions, Your
21 Honor.

22 JUDGE CLARK: Any cross-examination from
23 Silverleaf?

24 MR. HARDEN: Yes, thank you.

25 CROSS-EXAMINATION BY MR. HARDEN:

1 **Q. Good morning, Mr. Murray.**

2 A. Good morning. How you doing?

3 **Q. I'm doing well. Yourself?**

4 A. Pretty good.

5 **Q. Following up on a question that Chairman**
6 **Hall had regarding kind of back -- being able to**
7 **figure out what the capital structure is. Through the**
8 **revenue requirement, ROE you can figure -- you can**
9 **figure that out; is that right?**

10 A. With Staff's revenue requirement, I can.

11 **Q. No, I --**

12 A. Not with any other revenue requirement.

13 I don't know how other parties get to where they get
14 to. I really don't.

15 **Q. I'm just saying in -- in general, if you**
16 **have a return on equity number and you have the**
17 **revenue requirement dollar figure, you can figure out**
18 **what the capital structure is with those two**
19 **variables. Is that an accurate statement?**

20 A. I -- I disagree. Each party would have
21 to agree to exactly what the revenue requirement is
22 for just rate of return.

23 **Q. Okay.**

24 A. And then you could back into it. But as
25 part of an overall revenue requirement settlement, it

1 doesn't tell you. You know, that -- I -- I'm sure
2 there's a reason why Liberty Utilities would not agree
3 to our capital structure. They don't agree that they
4 could back into it or they -- give and take on other
5 issues.

6 **Q. Well, that was the exact question I was**
7 **getting to. In -- in your expert opinion, why would**
8 **a -- why would a utility company not want a capital**
9 **structure in the Stipulation and Agreement?**

10 MR. BOUDREAU: Speculation, calls for --
11 calls for speculation. He's not in a position to
12 testify about what -- what is in the -- in my client's
13 mind.

14 MR. HARDEN: May I respond?

15 JUDGE CLARK: Go ahead.

16 MR. HARDEN: I agree to the extent that
17 I'm not asking Mr. Murray to speculate as to what is
18 in Liberty Utilities' mind. I am asking him as an
19 expert, as a Certified Financial Analyst why a utility
20 company would prefer to not have a capital structure
21 in an agreement.

22 JUDGE CLARK: Okay. That's a different
23 question that you asked. Do you want to ask that
24 question?

25 MR. HARDEN: Sure.

1 BY MR. HARDEN:

2 **Q. In general, why would a utility company**
3 **not want to have a capital structure stated in the**
4 **agreement where a return on equity is stated in the**
5 **agreement?**

6 MR. BOUDREAU: I object on the grounds
7 that it calls for a legal conclusion.

8 JUDGE CLARK: I'm going to let him answer
9 if he would like -- if he knows the answer.

10 THE WITNESS: And I'll just use the
11 example of all the attention that the Regulatory
12 Research Associate information gets. They look at
13 average allowed ROEs and they look at average equity
14 ratios. And to the extent you have -- whether it's a
15 higher ROE, lower ROE, higher equity ratio, lower
16 equity ratio, gets cited in every -- I mean to the
17 extent the rate of return witnesses start to discuss
18 that, if it's -- you know, if it's a lower equity
19 ratio, that would bring, you know, the average equity
20 ratio allowed throughout the country down. And so
21 it's just -- there's just concern about the
22 circularity.

23 BY MR. HARDEN:

24 **Q. Thank you. In your Surrebuttal**
25 **Testimony, you provide that Duff and Phelps is an**

1 authoritative source as it relates to estimating the
2 cost of capital and that Staff consistently relies on
3 this source for the purposes of testing the
4 reasonableness of their own cost of equity estimates;
5 is that correct?

6 A. Yes.

7 Q. Your only issue with Mr. Stannard's use
8 of the Duff and Phelps risk premium was his
9 application of that risk premium to a spot 30-year
10 treasury yield when you say that it should be
11 conditioned on a normalized risk-free rate of
12 3.5 percent. Is that also correct?

13 A. That's not my only issue, no.

14 Q. Okay. But you would agree that that
15 normalized risk-free rate of 3.5 percent results in a
16 market cost of equity of 8 point -- 8.5 percent; is
17 that correct?

18 A. The key issue being the market. The S&P
19 500 market required return on equity. Not a utility
20 required return on equity.

21 Q. Okay. Thank you. You go on to provide
22 that utility stocks, as opposed to the market, the S&P
23 I'm assuming, is less volatile than the broader market
24 and by applying the typical utility beta, that's the
25 measurement of volatility, of .7 to the industry

1 **adjusted risk premium that you cite, 3.5 percent, that**
2 **that results in a cost of equity of 7 percent; is that**
3 **correct?**

4 A. Yes.

5 **Q. Okay. Finally, Mr. Murray, you provide**
6 **that the only reason your recommended ROE does not**
7 **conform with the 7 percent ROE established is that you**
8 **use the Commission's most recent decision in the Spire**
9 **Missouri Natural Gas rate case, Docket Number**
10 **GR-2017-0216 and GR-2017-2017; is that correct?**

11 MR. WESTEN: Well, can counsel please
12 point the witness to his testimony --

13 MR. HARDEN: Sure.

14 MR. WESTEN: -- and what lines he's
15 actually reading from rather than just asking him to
16 remember?

17 MR. HARDEN: Yeah. Yes. Maybe. Hold
18 on.

19 BY MR. HARDEN:

20 **Q. I'm looking -- I'm looking at page 3 of**
21 **your Surrebuttal Testimony, line 10 through roughly**
22 **17.**

23 A. Yes. I think you accurately read what I
24 indicated in the testimony.

25 **Q. And, Mr. Murray, this is the last**

1 **question, same one I've been asking everyone. In your**
2 **expert financial opinion, what are the biggest**
3 **differences in the risk factors between natural gas**
4 **companies and water companies?**

5 A. I've been doing this a while so actually
6 that's, you know, been something that we've explored
7 in -- in some detail in -- in -- in past water cases,
8 past gas cases, past electric cases because -- trying
9 to -- to try to provide the Commission information as
10 to potential allowed ROE, you know, as far as fair and
11 reasonable differences for different industries, you
12 know, we evaluate the, you know -- or most importantly
13 what the investment community says about the
14 differences in the risk and -- but also the -- some of
15 our own evaluation of quantitative measures.

16 And there's some conflicting information.
17 At times, you know, if you look at investment bankers,
18 equity analysts such as I think Wells Fargo, they will
19 assign some cost of equity difference between gas,
20 electric and water, maybe to the tune of 25 basis
21 points less for -- for gas and then another 25 basis
22 points less for water. So in the range of 25 to 50
23 basis points.

24 But we've also looked at -- in context of
25 these water and gas cases and electric cases, we've

1 looked at the cost of debt of water, electric and gas
2 companies and found in some situations the cost of
3 debt with similar characteristics is about the same.

4 And then, of course, betas which is a
5 measure of -- of, you know, the adjustment that needs
6 to be made to the market risk premium actually is
7 fairly similar across all sub-sectors, electric, gas
8 and water. And so nothing is, you know, really -- I
9 mean there's no uniform agreement with all these
10 factors. And so any -- they each have somewhat
11 different risk pro-- or growth profiles.

12 So we just -- you know, we provide an
13 estimate based on our assessment of a lot of these
14 industry considerations that -- that are recognized by
15 investors. And also credit rating agencies. I should
16 note that the credit rating agencies average a --
17 average credit rating for gas and water is about A to
18 A minus, where electric is about triple B plus maybe
19 right now. And so, you know, we -- we take all those
20 factors into consideration.

21 So -- yeah. And then there's --
22 obviously there's movement within Missouri on rate
23 adjustment mechanisms and -- and a lot of gas
24 companies that already, you know, received a lot of
25 surcharges and -- and revenue decoupling. And my

1 understanding is -- is that -- you know, that
2 obviously allows them to earn their allowed ROE
3 much -- much more closely and that's why we don't have
4 gas companies coming in as often.

5 You know, water companies, you know,
6 they -- I don't know that this water company has an
7 ISRS, but as -- on a broader industry wide-basis,
8 they -- you know, that typically is something that is
9 allowed for in the water industry too. So there's a
10 lot of similarities.

11 You know, there's differences obviously
12 in operational issues that you talked about earlier.
13 Is it the San Bruno explosion? I mean that could ha--
14 I mean obviously we -- we're fearful something that
15 would -- like that would happen, but I think that's
16 what the ISRS is trying to address, if I understand
17 correctly, to mitigate those situations.

18 **Q. Real quick, are there any other utilities**
19 **in the state of Missouri in which it would be**
20 **applicable to use the ROE for -- for Spire Natural Gas**
21 **as for -- for that other utility like -- like we've**
22 **done here?**

23 MR. WESTEN: Objection, lack of
24 foundation.

25 MR. HARDEN: Well, I think the foundation

1 was laid by Mr. Murray's Surrebuttal Testimony where
2 he said that that was the basis for his ROE
3 recommendati on.

4 JUDGE CLARK: Spi re Mi ssouri? Spi re
5 Mi ssouri was the basis?

6 MR. HARDEN: Yeah. Yes. Let me --

7 JUDGE CLARK: Okay. Then what's your
8 obj ecti on?

9 MR. WESTEN: Maybe I mi sunderstood hi s
10 question, but I thought he was saying another basis to
11 apply Spi re Mi ssouri to someone else not in thi s
12 particular case, so I'm -- I'm not sure why that's
13 relevant. Foundation is necessary if we're talking
14 about Liberty and Mr. Murray's analysi s.

15 MR. HARDEN: Okay. Well, we've gone to
16 relevance and I can defi nitely tell you what the
17 relevance is. I'm just curious as to in the state of
18 Mi ssouri if it is only Liberty Utilities Mi ssouri
19 Water in which using another natural gas -- a natural
20 gas company, Spi re, is an appropriate way to reach an
21 ROE. Is there another utility company in the state in
22 which that would also be appropriate?

23 JUDGE CLARK: How is that relevant?

24 MR. HARDEN: Well, it would be -- it
25 would be relevant as to the substantive merit of how

1 Mr. Murray used that -- that Spire ROE to reach his
2 recommendation in this particular case.

3 JUDGE CLARK: Okay. I'm going to
4 overrule the objection.

5 You can answer the question.

6 THE WITNESS: I would answer that with
7 just indicating that at the time we were doing our
8 Missouri American testimony, we -- we quantified about
9 the same cost of equity difference for -- for Missouri
10 American below electric's as we did for Spire Missouri
11 below electric's. 25 basis points -- we considered
12 25 basis points below the most recent allowed electric
13 ROE to be reasonable for both the Missouri American
14 and Spire Missouri.

15 BY MR. HARDEN:

16 Q. Thank you, Mr. Murray. No further
17 questions.

18 JUDGE CLARK: Any questions from the
19 Commission?

20 CHAIRMAN HALL: No questions. Thank you.

21 COMMISSIONER KENNEY: No.

22 QUESTIONS BY JUDGE CLARK:

23 Q. I have a question for you. Mr. Murray,
24 given the current state of positions of -- involving
25 the agreement that was filed between Staff and

1 **Liberty, your testimony, you believe, supports that**
2 **revenue requirement?**

3 A. I know it supports our direct case. This
4 is where I'll defer to my --

5 **Q. Do you believe it supports the revenue**
6 **requirement as put forth in the Stipulation and**
7 **Agreement?**

8 A. I believe it's the same as our direct
9 case, so I would say yes.

10 **Q. Okay.**

11 JUDGE CLARK: Any recross after that? I
12 see none. Any redirect?

13 MR. WESTEN: Very briefly, Judge.

14 REDIRECT EXAMINATION BY MR. WESTEN:

15 **Q. Mr. Murray, what -- when it comes to**
16 **capital structure, what is the -- the source of your**
17 **capital structure analysis? What -- what entity is**
18 **the source of the equity debt ratio for you?**

19 A. It's the entity that actually does the --
20 the corporate debt financing for all of the LUCo --
21 LUCo's the entity that is basically the intermediate
22 holding Company for all their Missouri -- excuse me,
23 Missouri -- United States regulated utility
24 subsidiaries.

25 No-- they may have assumed some debt in

1 some other subsidiary, specifically Empire. I mean
2 obviously we're aware of that. But -- but from that
3 point forward, you know, their intention is to do all
4 their debt financing with third-party investors at the
5 LUCo level through a financing subsidiary called
6 Liberty Utilities Finance Gp1.

7 **Q. And that -- that provides the financing**
8 **for both the Mid-States and Liberty Utilities Water**
9 **Company?**

10 A. Yes.

11 **Q. And just one last question. The Duff and**
12 **Phelps analysis, is that a utility-specific risk**
13 **premium analysis?**

14 A. The source itself is -- is just a general
15 corporate resource. It has -- but it obviously goes
16 into all sorts of different industries. But the
17 market risk premium that Duff and Phelps provides
18 needs to be -- you know, needs to be adjusted for
19 utility-specific issues.

20 **Q. Thank you, Mr. Murray. No further**
21 **questions.**

22 JUDGE CLARK: Okay, Mr. Murray. You're
23 excused.

24 THE WITNESS: Thank you.

25 JUDGE CLARK: Next witness on return on

1 equity and capital structure is Silverleaf's.

2 MR. HARDEN: Thank you, Your Honor. Call
3 Mr. William Stannard.

4 JUDGE CLARK: Mr. Stannard, would you
5 raise your right hand and be sworn.

6 (Witness sworn.)

7 JUDGE CLARK: Okay. Silverleaf, you may
8 proceed.

9 MR. HARDEN: Thank you.
10 WILLIAM STANNARD, being first duly sworn, testified as
11 follows:

12 DIRECT EXAMINATION BY MR. HARDEN:

13 Q. Mr. Stannard, will you state your name
14 for the record, please?

15 A. William Stannard, S-t-a-n-n-a-r-d.

16 Q. And by whom are you employed,
17 Mr. Stannard?

18 A. I'm employed by Raftelis Financial
19 Consultants.

20 Q. And are you the same Mr. Stannard that
21 caused to be filed in this case Rebuttal Testimony,
22 what has been labeled as Refiled Rebuttal Testimony,
23 and Surrebuttal Testimony in this case?

24 A. Yes, sir.

25 Q. And in regards to the Refiled Rebuttal

1 **Testimony and the Surrebuttal Testimony, are there any**
2 **changes or edits that you have today?**

3 A. No.

4 **Q. And is it as true and accurate as when**
5 **you wrote it and added it to the file?**

6 A. It is.

7 **Q. Thank you.**

8 MR. HARDEN: Your Honor, at this time I'd
9 like to offer what's been pre-labeled as Exhibit 301,
10 302 and 303. As previously discussed, Exhibit 303 is
11 what has been -- has been struck by the -- the
12 Commission, but I'm officially offering it.

13 JUDGE CLARK: Is that 303 or 301?

14 MR. HARDEN: I'm sorry. It's 3-- 301 is
15 the initial Rebuttal Testimony, 302 is the Refiled
16 Rebuttal Testimony, and 303 is the Surrebuttal
17 Testimony.

18 JUDGE CLARK: Any objections to the
19 admission on the hearing record of Exhibits 301, 302
20 and 303?

21 MR. WESTEN: Yes, Judge. Staff renews
22 its Motion to Strike as made previously in the case to
23 the initial Rebuttal Testimony for the same reasons
24 stated previously in its motion.

25 JUDGE CLARK: And that's in regard to

1 Exhibit 301?

2 MR. WESTEN: If that is the Rebuttal
3 Testimony, then yes. Yeah. Yes.

4 JUDGE CLARK: And that will be sustained.
5 For -- for reasons previously laid out, I do not
6 believe settlement information belongs in testimony.
7 So Exhibit 301 is not admitted onto the hearing
8 record.

9 Any objections to Exhibits 302 and 303?
10 Seeing none, Exhibits 302 and 303 are
11 admitted onto the hearing record.

12 (Exhibits 302 and 303 were received into
13 evidence.)

14 JUDGE CLARK: Go on, Mr. Harden.

15 MR. HARDEN: Thank you. I tender
16 Mr. Stannard for cross-examination.

17 JUDGE CLARK: Any cross-examination by
18 the Office of the Public Counsel?

19 MR. HALL: Yes, Your Honor.

20 CROSS-EXAMINATION BY MR. HALL:

21 Q. **Again, good -- good morning,**
22 **Mr. Stannard.**

23 A. Good morning.

24 Q. **How are you?**

25 A. I'm well. Thank you.

1 **Q. What's been marked as Exhibit 302 is your**
2 **Refiled Rebuttal Testimony. Correct?**

3 A. Yes, si r.

4 **Q. And on page 8 and 9 of your Refiled**
5 **Rebuttal you spoke to capital structure. Correct?**

6 A. Yes.

7 **Q. You stated that there is a disagreement**
8 **between Staff and the Company's capital -- proposed**
9 **capital structures?**

10 A. Yes, si r.

11 **Q. And which one did you think was**
12 **reasonable?**

13 A. Staff' s.

14 **Q. Do you believe that capital structure is**
15 **necessary for rate-making?**

16 A. It is necessary to calculate the
17 appropriate overall return as part of the revenue
18 requirement.

19 **Q. And you're speaking on -- you're speaking**
20 **on behalf of Silverleaf. Correct? And for**
21 **clarification, you're speaking on behalf of Silverleaf**
22 **and its affiliate sewer services or Silverleaf itself?**

23 A. Silverleaf Resorts is my client.

24 **Q. Okay. And Silverleaf as a -- Silverleaf,**
25 **as a customer of Liberty Utilities, it would**

1 appreciate to know what the capital structure is.

2 Correct?

3 A. Yes.

4 MR. BOUDREAU: I -- I object -- I object
5 to the question. I mean, this is speculation about
6 what somebody else would appreciate or not. He's not
7 competent to testify to that.

8 MR. HALL: I think he's competent to
9 speak on behalf of the client he's here testifying
10 for.

11 MR. BOUDREAU: What was the question
12 again?

13 MR. HALL: Would Silverleaf appreciate
14 knowing what the capital structure is?

15 MR. BOUDREAU: I withdraw the objection.
16 I misunderstood the question.

17 JUDGE CLARK: Continue.

18 THE WITNESS: Yeah. Yes, they would.

19 MR. HALL: Thank you. No further
20 questions.

21 JUDGE CLARK: Any cross-examination from
22 Ozark Mountain?

23 MS. GIBONEY: No, Judge.

24 JUDGE CLARK: Any cross-examination from
25 Liberty Utilities?

1 MR. BOUDREAU: Yes, please. Just a few
2 questions.

3 CROSS-EXAMINATION BY MR. BOUDREAU:

4 Q. Mr. Stannard, you're not a chartered
5 financial analyst, are you?

6 A. No, I am not.

7 Q. Okay. And it's also correct to say that
8 you're not a certified rate of return analyst; is that
9 correct?

10 A. That is a correct statement.

11 Q. Are you a certified public accountant?

12 A. No, I am not.

13 Q. Okay. In looking at your credentials,
14 your professional credentials that -- is that you're a
15 registered professional engineer; isn't that correct?

16 A. That is correct.

17 Q. Okay. And as far as your educational
18 background, you have two college degrees. One is a
19 bachelor of science in business administration; is
20 that correct?

21 A. Yes, sir.

22 Q. Okay. And a bachelor of science in civil
23 engineering?

24 A. Yes.

25 Q. Okay. How much are you being compensated

1 **for your services in this case?**

2 A. It's on a time and materials basis, so on
3 an hourly rate basis.

4 **Q. Can you provide an estimate of what your**
5 **charges likely are going to be in connection with this**
6 **case?**

7 A. Probably in the neighborhood of 25- to
8 30,000 dollars --

9 **Q. Okay.**

10 A. -- for -- for the Missouri case.

11 MR. BOUDREAU: Just a moment. I think I
12 might be done here.

13 I have no further questions for
14 Mr. Stannard. Thank you, sir.

15 JUDGE CLARK: Any cross-examination from
16 Staff?

17 MR. WESTEN: Yes, Your Honor. Thank you.

18 CROSS-EXAMINATION BY MR. WESTEN:

19 **Q. Good morning.**

20 A. Good morning.

21 **Q. My name's Jacob. I'm counsel with Staff.**
22 **I have also some questions about your background and**
23 **experience. Your Schedule A, which was attached to**
24 **your Refiled Rebuttal Testimony -- do you have a copy**
25 **of that with you?**

1 A. Yes. It's attached.

2 Q. Great. And I just -- correct me if I'm
3 wrong. As I was reading through this, I did not see
4 that you have testified on behalf of any
5 investor-owned utilities previously. You -- you
6 appear to have just previously testified for municipal
7 entities or -- or water districts; is that correct?

8 A. That is correct.

9 Q. Okay. But you've done cost-of-service
10 analyses for those types of -- those municipality kind
11 of systems. Right?

12 A. The majority of my work, probably
13 95 percent of my work has been for -- on behalf of
14 utilities in providing financial planning,
15 cost-of-service analysis --

16 Q. And I --

17 A. -- and rate design.

18 Q. Those utilities are municipal utilities?

19 A. Yeah. Municipal utilities, some of which
20 are regulated by state public service commissions.

21 Q. Okay. And those -- those municipal
22 utilities, they don't tend to have stockholder
23 investment, do they?

24 A. No, they do not.

25 Q. Okay. I don't have any further

1 **questions. Thank you.**

2 A. Okay.

3 JUDGE CLARK: Any questions from the
4 Commission?

5 COMMISSIONER KENNEY: No questions.

6 JUDGE CLARK: Any redirect?

7 MR. HARDEN: No. Thank you.

8 JUDGE CLARK: Mr. Stannard, you're
9 excused on this issue.

10 Okay. Moving on to the sub-issue on
11 cost-of-service of rate case expense --

12 MR. BOUDREAU: Judge, if I might just --
13 and I think -- I think I know the answer to this, but
14 has Mr. Magee been excused?

15 JUDGE CLARK: For this -- I'm sorry?

16 MR. BOUDREAU: For -- has Mr. Magee been
17 excused? Can he --

18 JUDGE CLARK: Is he going to be
19 testifying as to anything else?

20 MR. BOUDREAU: He's not going to be
21 testifying as to anything else.

22 JUDGE CLARK: Any objections to excusing
23 Mr. Magee?

24 Mr. Magee is excused.

25 MR. BOUDREAU: Okay. Thank you very

1 much.

2 JUDGE CLARK: Okay. Moving on, as I
3 said, the next cost-of-service sub-issue rate case
4 expense. First witness will be for Liberty Utilities.

5 MR. BOUDREAU: I'll call Jill Schwartz to
6 the stand, please.

7 JUDGE CLARK: Ms. Schwartz, would you
8 raise your right hand to be sworn.

9 (Witness sworn.)

10 JUDGE CLARK: Thank you.

11 MR. BOUDREAU: May I approach the
12 witness?

13 JUDGE CLARK: Yes.
14 JILL SCHWARTZ, being first duly sworn, testified as
15 follows:

16 DIRECT EXAMINATION BY MR. BOUDREAU:

17 Q. **Would you state your name for the record,**
18 **please?**

19 A. Jill Schwartz.

20 Q. **By whom are you applied and in what**
21 **capacity?**

22 A. I'm employed by Liberty Utility Service
23 Corp. as the senior manager for the Rates and
24 Regulatory Affairs Department for Liberty Utilities
25 Central Region.

1 **Q. Are you the same Ms. Schwartz th-- who**
2 **has caused to be filed -- or pre-filed prepared**
3 **Direct, Rebuttal and Surrebuttal Testimony in this**
4 **case marked respectively as Exhibits 1, 2 and 3?**

5 A. I am.

6 **Q. Was that testimony prepared by you or**
7 **under your direct supervision?**

8 A. It was.

9 **Q. Do you have any corrections you'd like to**
10 **make to your testimony at this time?**

11 A. I do.

12 **Q. Do you have any corrections you'd like to**
13 **make to your Direct Testimony?**

14 A. I do.

15 **Q. Could -- could you go ahead and start**
16 **working your way through that for the -- for the**
17 **record, please?**

18 A. Yes. On page 4 of my Direct Testimony on
19 line 19, I state that I will sponsor a schedule
20 prepared by Liberty Water that addresses the comments
21 submitted by a number of its customers in this case.

22 That schedule was not provided as part of
23 my Direct Testimony.

24 **Q. So you are striking that sentence from**
25 **your testimony on lines 19 and 20; is that correct?**

1 A. Yes.

2 Q. Do you have another correction to make to
3 your Direct Testimony?

4 A. I do. On page 5 I would like to remove
5 from my Direct Testimony the first Q and A under
6 Section 3 cost of capital beginning on line 16, ending
7 at line 23.

8 Q. I'm just giving everybody a chance to
9 make whatever changes they need to make.

10 Do you have any other corrections to your
11 Direct Testimony?

12 A. On page 6, line 18 I indicate that I
13 would attach Mr. Magee's Rebuttal and Surrebuttal
14 Testimony from Docket Number GR-2018-0013 to my Direct
15 Testimony in this case.

16 And I did not attach his Rebuttal or
17 Surrebuttal Testimony in Schedule JMS-1 of this case.

18 Q. So you're striking the phrase "Rebuttal
19 and Surrebuttal" that appears on line 18?

20 A. Correct.

21 Q. Do you have any other corrections you'd
22 like to make to your Direct Testimony?

23 A. I would like to clarify on page 7,
24 line 8, Liberty -- it states, Liberty Water has been
25 billed 25,185 dollars for outside counsel fees through

1 the end of May, 2018.

2 The Company has since submitted
3 supplemental responses to DR-0016 and that should
4 read, Liberty Water has incurred 25,834 dollars for
5 services rendered through May 2018.

6 **Q. Just so that everybody gets that, can you**
7 **reread that sentence so that everybody gets it**
8 **correctly in their records, please?**

9 A. Liberty Water has incurred 25,834 dollars
10 for services rendered through May 2018.

11 **Q. Thank you. Do you have any other**
12 **corrections to your Direct Testimony?**

13 A. No further ques-- or no further
14 corrections.

15 **Q. Do you have any corrections you would**
16 **like to make at this time to your Rebuttal Testimony?**

17 A. On page 2, line 17 it states the Company
18 has incurred 20,517 dollars for services rendered as
19 of April 2018. That should be 20,180 dollars.

20 **Q. Any other corrections to your Rebuttal**
21 **Testimony?**

22 A. One minor one on page 6, line 11. The
23 last word in that -- on that line is "to" and it
24 should be "by."

25 **Q. Does that conclude your -- does that**

1 **conclude your corrections to your Rebuttal Testimony?**

2 A. Yes.

3 **Q. Do you have any corrections you'd like to**
4 **make at this time to your Surrebuttal Testimony?**

5 A. No, I do not.

6 **Q. Okay. Ms. Schwartz, if I were to ask you**
7 **the same questions as are contained in your Direct,**
8 **Rebuttal and Surrebuttal Testimony, would your answers**
9 **be the same, taking into account the corrections that**
10 **you just indicated for the record?**

11 A. Yes.

12 **Q. And are they true and correct to the best**
13 **of your information, knowledge and belief?**

14 A. Yes.

15 MR. BOUDREAU: With that, I will offer
16 Exhibits 1, 2 and 3 and tender the witness for
17 cross-examination.

18 JUDGE CLARK: Are there any objections to
19 Exhibits 1, 2 or 3 being admitted onto the hearing
20 record?

21 Seeing none, Exhibits 1, 2 and 3 are
22 admitted onto the hearing record.

23 (Exhibits 1, 2 and 3 were received into
24 evidence.)

25 JUDGE CLARK: Any cross-examination by

1 the Staff of the Public Service Commission?

2 MR. WESTEN: No, thank you, Judge.

3 JUDGE CLARK: Any cross-examination by
4 Ozark Mountain?

5 MS. GIBONEY: Judge, I have a question.
6 At this time is Ms. Schwartz only being cross-examined
7 about rate case expense issues?

8 JUDGE CLARK: That is correct.

9 MS. GIBONEY: No questions, Judge.

10 JUDGE CLARK: Any cross-examination by
11 Silverleaf Resorts?

12 MR. HARDEN: If it's only rate -- if
13 we're only doing one issue, then no. Rate case --

14 JUDGE CLARK: Yeah. At this time -- at
15 this time we're only doing the sub-issue to
16 cost-of-service of rate case expense.

17 MR. HARDEN: Okay. No.

18 JUDGE CLARK: Any cross-examination from
19 the Office of the Public Counsel?

20 CROSS-EXAMINATION BY MS. SHEMWELL:

21 **Q. I just have a clarification I'd like to**
22 **make. Good morning.**

23 A. Good morning.

24 **Q. On your Direct under rate case expense,**
25 **page 7, you -- at line 8, for example, and your**

1 original was that Liberty Water has been build. And
2 you changed that to has incurred for services
3 rendered. Does that change indicate that that dollar
4 amount includes something other than outside counsel
5 fees?

6 A. The 25,834 dollars that I --

7 Q. Correct.

8 A. Yes.

9 Q. And so what is included besides outside
10 counsel fees?

11 A. Besides outside counsel fees, there were
12 costs incurred related to customer notifications.

13 Q. Anything else?

14 A. I think all -- they were all customer
15 notifications.

16 Q. You did the customer notifications
17 in-house?

18 A. We did a -- there were multiple customer
19 notifications. Some of the customer notifications
20 there was a mailer that was sent out to customers and
21 that was -- we used an outside vendor to prepare those
22 for us and mail those.

23 Q. I'm sorry. I was making a note. For
24 which one?

25 A. It was a direct mailer that was

1 submitted -- that was provided to customers.

2 **Q. Of -- having to do with the public**
3 **hearings?**

4 A. No. Not related to the public hearing
5 notice.

6 **Q. So to make sure I understand, everything**
7 **else was done by the -- in-house by the Company?**

8 A. I believe so.

9 **Q. That's all I have. Thank you.**

10 A. Thank you.

11 JUDGE CLARK: Any questions from the
12 Commission?

13 COMMISSIONER KENNEY: No questions.

14 JUDGE CLARK: Any redirect?

15 MR. BOUDREAU: No. I don't believe so.
16 Thank you.

17 JUDGE CLARK: Okay. You're going to be
18 testifying on other stuff later, Ms. Schwartz, so you
19 can step down for now.

20 THE WITNESS: Thank you.

21 JUDGE CLARK: I think this will be a good
22 time to take a short break until about 11:30 and then
23 we'll come back and we'll go until 12:25 at which time
24 we'll recess for lunch.

25 (A recess was taken.)

1 JUDGE CLARK: Okay. Why don't we go back
2 on the record and we'll continue with cost-of-service
3 rate case expense as a sub-issue. I believe it is
4 Staff's witness.

5 MR. WESTEN: Thank you, Judge. Staff
6 calls Mr. Paul Harrison.

7 JUDGE CLARK: Mr. Harrison, would you
8 raise your right hand to be sworn.

9 (Witness sworn.)

10 JUDGE CLARK: Thank you. Please be
11 seated.

12 PAUL HARRISON, being first duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION BY MR. WESTEN:

15 **Q. Morning. Will you please state and spell**
16 **your name for the record, please?**

17 A. It's Paul R. Harrison, H-a-r-r-i-s-o-n.

18 **Q. And by whom are you employed and in what**
19 **capacity?**

20 A. I'm employed by the Missouri Public
21 Service Commission. My title is miscellaneous
22 professional, but I am a regulatory auditor.

23 **Q. Are you the same Paul Harrison who's**
24 **caused to be prepared certain pre-filed testimonies**
25 **which have been marked as Staff's Exhibits 105, which**

1 is Direct; 106, which is Surrebuttal; and 107,
2 which -- or I'm sorry, 106 which is Rebuttal; and 107,
3 which is Surrebuttal Testimonies?

4 A. Yes.

5 Q. Do you have any changes to those
6 testimonies?

7 A. I do on my Rebuttal Testimony.

8 Q. On your Rebuttal Testimony. Can you
9 please direct us to what line -- page and line?

10 A. Page 2, line 15.

11 Q. And what is your correction, sir?

12 A. Change the month from June to July.

13 Q. And do you have any other corrections to
14 make?

15 A. No.

16 Q. This is page 2, line 15. And with that
17 change, are the answers that you've given in this
18 testimony true and correct to the best of your
19 knowledge and belief?

20 A. It is.

21 Q. And if I were to ask you the same
22 questions today, would your answers be the same?

23 A. Yes.

24 MR. WESTEN: With that, I offer Staff's
25 Exhibit 105, 106 and 107 as evidence.

1 JUDGE CLARK: Are there any objections to
2 Exhibit 105, 106 or 107?

3 Seeing none, Exhibit 105, 106 and 107 are
4 admitted onto the hearing record.

5 (Exhibits 105, 106 and 107 were received
6 into evidence.)

7 MR. WESTEN: I tender the witness.

8 JUDGE CLARK: Any cross-examination from
9 Liberty Utilities?

10 MR. BOUDREAU: Yes. Just a few
11 questions.

12 CROSS-EXAMINATION BY MR. BOUDREAU:

13 Q. Good morning, Mr. Harrison.

14 A. Good morning.

15 Q. I'm going to ask -- I've just a couple of
16 questions. I think they're in the nature of
17 clarification. Hopefully I won't make a hash out of
18 it.

19 Were you here this morning when your --
20 your counsel made his opening statement?

21 A. I was.

22 Q. And he addressed the issue of the
23 appropriate period for amortizing rate case expense.

24 Do you recall that?

25 A. That is correct.

1 **Q. And he mentioned a three-year period for**
2 **amortization?**

3 A. That is if the Commission approves the
4 Stipulation and Agreement.

5 **Q. That was the clarification I was asking.**
6 **It doesn't represent a -- doesn't rec-- represent a**
7 **change to your testimony as filed?**

8 A. No, it does not. The Stipulation and
9 Agreement in our Surrebuttal Testimony come out
10 approximately at the same time. So there was not time
11 to change that at that point in time.

12 **Q. Fair enough. I appreciate that. Thank**
13 **you for the clarification.**

14 **Now, you based -- you've -- you've**
15 **based -- my understanding of your testimony is that**
16 **you've based your recommendation of a five-year**
17 **amortization period of rate case expense based**
18 **basically on the history of this -- of this Company,**
19 **these various systems and how many years it's been**
20 **since they last filed a rate case; is that correct?**

21 A. That is correct.

22 **Q. Okay. You're aware -- are you aware that**
23 **in -- not only in the -- in the testimony of the**
24 **witnesses filed in this case, but in the Stipulation**
25 **and Agreement, that the Company has essentially agreed**

1 or concurred with the idea of filing a rate case --
2 another rate case within at least two years primarily
3 to address its -- its acquisition of Ozark
4 International?

5 A. Yes.

6 Q. Okay.

7 A. And that's also so they can convert their
8 books back over to the '73, '76 version of the NARUC
9 USOA.

10 Q. Fair enough. I appreciate that. Thank
11 you.

12 Given -- given that, are -- do you still
13 think that the idea of amortizing rate case expense
14 over five years makes sense, assuming that the Company
15 is going to be in in two?

16 A. I wasn't amortizing over five. I was
17 normalizing over five. And I -- and the reason for
18 that is because of the fact that it had been such a
19 long period of time since this utility had brought a
20 rate case before the Commission. This utility also
21 filed a rate case in 2012 and that was a year after
22 the acquisition. And then they closed it off in 2017
23 without filing a rate case.

24 And then in this case they filed a 60-day
25 notice I believe for 1, October and they extended the

1 case twice before they brought the case forward to the
2 Commission and filed their rate in-- requested rate
3 increase. So there's no guarantee that the Company's
4 going to file a rate case any time soon except for the
5 Non-unanimous Stip and Agreement that they've agreed
6 to with the 24 months.

7 **Q. Okay. I want to circle back to the early**
8 **part of your answer there where you made a**
9 **distinction, I think, between the terms**
10 **"normalization" and "amortization"; is that correct?**

11 A. That's correct.

12 **Q. Could you help me under-- because I**
13 **think -- I think the Chairman had a question along the**
14 **same lines and I want to understand better what --**
15 **what the difference is in your view between**
16 **normalizing an expense like that over a five-year**
17 **period and amortizing.**

18 A. When you normalize an expense, you're
19 basically trying to restate a normal ongoing expense
20 or revenue and build that into your cost-of-service.
21 And we typically look at as much data as we can get
22 from the utility to determine what a normal ongoing
23 cost is based on historical data.

24 Now, when you amortize an expense, you're
25 taking a lump sum amount and you're spreading it over

1 a select number of years to allow full recovery of
2 that amortization, whether it be three years, five
3 years, whatever -- whatever the years are. So that is
4 basically the difference.

5 And typically if you say you've got a
6 three-year amortization and a case gets filed before
7 three for rate case expense or if gets filed after,
8 there's typically under- or over-recovery as a result
9 of that because you've got an unamortized amount that
10 you don't fully recover.

11 On the other side, if -- if the case is
12 not filed exactly at that point in time, then the
13 utility will over-cover that -- that expense.

14 **Q. And -- and I understand that. That --**
15 **so -- so tell me in -- in terms of -- if I could**
16 **circle back to what you said, you said you were**
17 **recommending a five-year normalization, not an**
18 **amortization. Right?**

19 A. Five-year normalization if the Commission
20 does not approve this Stipulation and Agreement.

21 **Q. I understand that. But in terms of the**
22 **over/under question in the context of a normalization,**
23 **would that be handled differently in your view?**

24 A. Well, there would be no over- or
25 under-recovery in a normalization. You're trying to

1 normalize and come up with what a normal ongoing
2 expense is going to be, just like every other expense
3 that we put into a cost-of-service. And based on the
4 historical data, we come up with a dollar amount for
5 every account in the cost-of-service to tell -- to
6 come up with what we believe the ongoing cost is going
7 to be. And that's what's built into the
8 cost-of-service.

9 **Q. Okay.**

10 A. Now, rate case expense is no exception.
11 We try to do the same thing. And the reason we do
12 that is to try to get away from that unamortized
13 amount where a utility doesn't fully recover it or
14 they over-recover it.

15 **Q. Well, if -- if -- if the Commission Staff**
16 **in this case is -- is urging the Company to file a**
17 **rate case within two years, do you think it's fair**
18 **that -- I mean basically what -- what would end up --**
19 **if they file in two years, they'd end up not**
20 **recovering -- under your proposal of normalization,**
21 **they wouldn't recover their entire rate case --**

22 A. The normalization --

23 **Q. -- expense incurred in this case.**

24 A. The normalization is only if the
25 Non-Unanimous Stip and Agreement is not approved by

1 the Commission. If the Commission approves that, our
2 recommendation is a three-year amortization.

3 **Q. Okay. I understand that. But -- but the**
4 **Company's -- if the Commission doesn't accept the --**
5 **the Stipulation and Agreement as filed, the Company**
6 **could end up not being -- not being fully compensated**
7 **or not fully recovering its rate case expense in this**
8 **case if they adopt your position in this case?**

9 A. It is totally up to the Company for when
10 they file a rate case. They can file it at two, they
11 can file it at four, they can file it at five. But we
12 attempt to build what we believe an ongoing cost for
13 rate case expense is going to be on a going-forward
14 basis and we build that into rates just like we would
15 any other expense in our cost-of-service.

16 **Q. Okay. Well, thank you for that. That**
17 **helps me understand what your testimony is and what**
18 **the position of the Staff is.**

19 **As you know, the Company's rate case**
20 **expenses continue to -- to accrue as this case goes**
21 **on.**

22 A. I agree.

23 **Q. Okay. And some -- some documentation has**
24 **been submitted to you in response to a Data Request**
25 **that -- that addresses rate case expense; isn't that**

1 correct?

2 A. Up through the end of June 2018.

3 Q. Okay. And the matters that are still
4 contemplated by the scheduling order in this case is
5 not only just this hearing today, the briefing through
6 I think it's September 11th?

7 A. And -- and also the LPH.

8 Q. Oh, yeah. I'm sorry. So -- so -- so I
9 understand what you're referring to in the -- the
10 local public hearings?

11 A. (Witness nodded head.)

12 Q. Yes. Those -- those have occurred?

13 A. Yes.

14 Q. But there's still some events that are --
15 that are ongoing that are will take us up through
16 about the middle of September. Do you -- do
17 you -- would you agree with that?

18 A. Up to the post-brief of this case.

19 Q. Yeah. And I -- and -- but anyway, the
20 record reflects what it is. I believe the date --

21 A. September 11th, I believe.

22 Q. I -- I think that's correct. What period
23 of time after the September 11th -- let's assume the
24 briefing goes as scheduled, everybody submits their
25 briefs, their reply briefs on September 11th. What

1 **period of time would you need as an auditor in order**
2 **to receive the documentation from the Company about**
3 **rate case expense in order for you to complete your**
4 **duties in this case?**

5 A. Well, as soon as we would get the source
6 documents from the Company and we'd had a chance to
7 analyze them, then we would have to put -- put it into
8 all 11 systems and update -- basically update our
9 revenue requirement. And then rate design also has to
10 be performed. So I would say a week to a week and a
11 half, maybe two weeks to get -- to get everything
12 done. And don't tie me down to that, but that would
13 be my estimate.

14 **Q. For what it's worth, that would be that's**
15 **what I was thinking as well.**

16 A. And it would also depend on how quick the
17 Company could provide us the documentation.

18 **Q. Of course. I understand that.**

19 MR. BOUDREAU: I don't have any more
20 questions for Mr. Harrison. Thank you, sir.

21 THE WITNESS: Thank you.

22 JUDGE CLARK: Any cross-examination by
23 Ozark Mountain?

24 MS. GIBONEY: No, Judge.

25 JUDGE CLARK: Any cross-examination by

1 the Public Counsel?

2 MS. SHEMWELL: Thank you.

3 CROSS-EXAMINATION BY MS. SHEMWELL:

4 Q. Good morning, Mr. Harrison.

5 A. Good morning.

6 Q. You understand that Public Counsel agrees
7 with the revenue requirement recommendation as
8 contained in the Stipulation and Agreement?

9 A. That's correct.

10 Q. Do you agree that an increase in revenue
11 benefits shareholders?

12 A. To some degree, yes.

13 Q. Do you have --

14 A. The return on equity piece.

15 Q. Okay. That's all I have. Thank you.

16 JUDGE CLARK: Any cross-examination from
17 Silverleaf?

18 MR. HARDEN: Just one question.

19 CROSS-EXAMINATION BY MR. HARDEN:

20 Q. In response to Mr. Boudreau's -- one of
21 Mr. Boudreau's questions, you indicated that there was
22 a connection between the length of time between rate
23 cases -- when the Company comes in for a rate case and
24 the normalization of rate case expense as opposed to
25 amortization?

1 A. Correct.

2 Q. Can -- can you explain -- can you
3 elaborate on that?

4 A. Well, we normally look on rate case
5 expense how often a utility comes in and files a rate
6 case. If they come in every two years, every three
7 years, then we look at that, how frequently they file
8 a rate case, as a period of time that we would like to
9 spread this cost across.

10 This utility, it's been 7 to 13 years
11 since they've been in for a rate case. And our normal
12 for trying to develop a cost-of-service is a five-year
13 period. And that's the reason we set up this
14 five-year normalization. And it aligns with a lot of
15 the expenses and revenues that we've already got set
16 up in our cost-of-service.

17 Q. Thank you.

18 JUDGE CLARK: Any questions from the
19 Commission?

20 CHAIRMAN HALL: Yes.

21 QUESTIONS BY CHAIRMAN HALL:

22 Q. Good morning.

23 A. Good morning.

24 Q. Staff has consistently recommended that
25 rate case expense get normalized over a period of

1 **time; is that correct?**

2 A. That is correct.

3 **Q. Isn't it also true that the Commission,**
4 **when this issue has come before us over the last**
5 **couple of years or so, has fairly regularly determined**
6 **that it was more appropriate to amortize rate case**
7 **expense?**

8 A. I believe that's happened a few times,
9 yes.

10 JUDGE CLARK: Mr. Harrison, could you
11 speak a little more into the microphone?

12 THE WITNESS: I'm sorry.

13 I agree that has happened.

14 BY CHAIRMAN HALL:

15 **Q. And at least the reason why I have**
16 **supported amortizing rate case expense is to prevent**
17 **over- or under-recovery. And I -- and I would assume**
18 **that that was the motivation for some of the other**
19 **Commissioners who voted in favor of that.**

20 **Why does -- why does Staff continue to**
21 **support normalization even though I think the goal to**
22 **prevent over- or under-recovery amortization makes**
23 **more sense?**

24 A. Well, if I understand your question,
25 you're saying that amortization would not over- or

1 under-recover? Is that what you're asking?

2 **Q. Well, let's start there. Okay.**

3 A. Okay. To me, an amortization unless
4 you -- unless a company files a rate case and it hits
5 exactly at that point in time -- say three years.
6 Unless rates go into effect in three-year period and
7 that's what you got built in for an amortization,
8 there's going to be an over-recovery or there's going
9 to be an under-recovery.

10 **Q. But doesn't that over- or under-recovery**
11 **get rectified in the next rate case?**

12 A. Well, you're -- you're basing -- you're
13 basing on historical data what the rate case expense
14 is and you're building it in on a going-forward basis,
15 say three years. Well, if -- if you've got say 10 --
16 let's say the rate case expense is 30,000 dollars and
17 you've got 10,000 dollars each year built into the
18 case. And let's say that they don't come back in for
19 a rate case until year four. Well, they've
20 over-collected 10,000 dollars.

21 **Q. Right.**

22 A. Now vice-versa, if they come in at
23 2, they've under-covered -- under-recovered 10,000
24 dollars.

25 **Q. But isn't that -- isn't that rectified --**

1 A. That is the amortization.

2 **Q. Right. But isn't that -- in the next**
3 **rate case, isn't that over- or under-recovery**
4 **reflected in the revenue requirement going forward?**

5 A. Not unless -- not unless you state it.

6 **Q. Okay. So --**

7 A. Not unless you -- like what we're trying
8 to do in this Non-Unanimous Stip and Agreement. We're
9 stating in that that if the utility comes back in
10 within 24 months and files for a rate case, then any
11 over- or under-recovery from when they filed a rate
12 case -- and we're proposing three years and if they go
13 past that point or under that point, then a regulatory
14 asset or lib-- liability will be set up and then that
15 will be dealt with in the next rate case.

16 **Q. But in contrast, if -- if rate case**
17 **expense is normalized, then if the Company comes back**
18 **early or late, then they -- they will over- or**
19 **under-recover?**

20 A. There is a possibility of that, yes, but
21 it's the same --

22 **Q. It's not a possibility. It will. And**
23 **that -- that's -- that's mathematically undeniable.**
24 **Isn't it? I mean if -- if --**

25 A. Well, no. Let's say that the --

1 **Q. If you've got 50,000 dollars in rate case**
2 **expense over five years --**

3 A. Okay.

4 **Q. -- and the Company comes back after --**
5 **after ten years instead of -- instead of five years,**
6 **what happens mathematically?**

7 A. It's twice -- they've recovered twice as
8 much that's in there, basically if you want to look at
9 it that way. But what I'm saying --

10 **Q. Well --**

11 A. -- is we've got a normal ongoing cost
12 built into rates.

13 **Q. I -- I -- I understand that -- that that**
14 **is the way most costs get reflected.**

15 A. Yes.

16 **Q. And -- and -- and I -- and there's good**
17 **reason for most costs being reflected that way. It**
18 **seems to me that rate case expense is -- is a somewhat**
19 **different animal.**

20 Okay. So if the Commission wanted to --
21 **if the Commission were to determine that it wanted the**
22 **Company to recover exactly the amount of its rate case**
23 **expense, no more, no less, what would your**
24 **recommendation be?**

25 A. I would recommend an amortization with

1 anything that's over- or under-earned or -- or
2 recovered be dealt with in the next rate case. And
3 then you've got a dollar value associated with it and
4 you can decide what to do with it in the next case,
5 whether you want to normalize it or amortize it over
6 another period of time. Just like what we do for
7 pension OPEBs.

8 **Q. Okay. So from your perspective,**
9 **amortization is the approach if the Commission wanted**
10 **the Company to recover exactly its rate case expense.**
11 **Would it -- would it -- would it need to specifically**
12 **order that any over or under amounts be -- be included**
13 **in either asset or liability for the next rate case or**
14 **is that implicit when we order an amortization?**

15 A. I would say if you fully 100 percent want
16 recovery of that expense -- because it is -- it is
17 stretched over a longer period than one year, rate
18 case expense. That's one of the very few expenses
19 that is. All expenses revenue is on an annual basis.
20 Rate case expense could last over 18 months or
21 whatever.

22 But yes, explicitly if you wanted full
23 recovery, then yes, an amortization with a
24 over/under-recovery in the next rate case.

25 **Q. Thank you.**

1 QUESTIONS BY JUDGE CLARK:

2 **Q. I -- I may not be understanding something**
3 **here so -- I may be a little dense, but I'm not sure I**
4 **understand the difference in regard to if -- if the**
5 **Company can't really change rates without Commission**
6 **approval, is there really a difference beyond when**
7 **they come back in as to whether they over- or**
8 **under-recovery?**

9 A. Well, the utility is the only one that
10 can file a rate case. And typically the Commission
11 don't order a utility to come back in and file a rate
12 case unless they're over-earning. So, therefore, if
13 they say they got five years normalization to recover
14 their entire costs, then they can time it to where
15 they can come back in here at the five-year period and
16 change their rates so that they can get that recovery.

17 **Q. Whether it's a normalization or an**
18 **amortization, if they don't come in at that -- at the**
19 **time they're expected to come in, they'll have an**
20 **over-recovery or an under-recovery?**

21 A. Correct. But -- however their -- with
22 the amortization, typically you always have an
23 unamortized amount that the utility has not recovered.
24 In a normalization, you do not have that. You --
25 you're building in a cost that you expect the utility

1 to fully recover their rate case expense in a set
2 period of time.

3 **Q. Okay. Thank you.**

4 JUDGE CLARK: Any recross after
5 Commission questions?

6 MR. BOUDREAU: Yes.

7 RECROSS-EXAMINATION BY MR. BOUDREAU:

8 **Q. As to that -- as to the last question**
9 **that --**

10 JUDGE CLARK: Is your microphone on?

11 BY MR. BOUDREAU:

12 **Q. Oh, I'm sorry. As to the answer that you**
13 **just gave, if the -- if the Company -- if its**
14 **normalized over five years -- rate case expense is**
15 **normalized over five years, but it files a rate case,**
16 **and just for discussion here, in -- let's say in two**
17 **years, there's going to be a period of time where --**
18 **it's just not going to recover the entire rate case**
19 **expense; isn't that correct?**

20 A. Correct. And that is the reason we
21 attempt to look at how often the utility is filing
22 rate cases. And we attempt to build it over that
23 period of time so they can get the full recovery.

24 **Q. I understand. Thank you very much. I**
25 **appreciate that. That's all I have.**

1 JUDGE CLARK: Any other recross by any
2 party? I see none.

3 MS. SHEMWELL: I have a question.

4 JUDGE CLARK: Go ahead.

5 MS. SHEMWELL: Thank you.

6 RE-CROSS-EXAMINATION BY MS. SHEMWELL:

7 **Q. Mr. Harrison, as a non-attorney, do you**
8 **understand whether or not the Commission sets**
9 **precedent when it makes a decision?**

10 A. I believe on their --

11 MR. WESTEN: I'm sorry. I'm objecting.

12 I want to clarify. Are you asking --

13 JUDGE CLARK: I'm going to sustain that
14 objection.

15 MR. WESTEN: Yeah. It sounds like you're
16 asking for a legal conclusion.

17 MS. SHEMWELL: I was just asking for his
18 knowledge, but okay.

19 JUDGE CLARK: Any other recross?

20 Seeing none, any redirect from Staff?

21 MR. WESTEN: No, thank you, Judge.

22 JUDGE CLARK: Is this witness being
23 called for any other issue?

24 MR. WESTEN: No.

25 JUDGE CLARK: May he be excused?

1 THE WITNESS: Thank you.

2 JUDGE CLARK: I'll take that as he may be
3 excused.

4 Okay. Next witness on rate case expense
5 is Silverleaf's. Mr. Stannard, would you raise your
6 right hand and be sworn.

7 (Witness sworn.)

8 JUDGE CLARK: You may be seated. And I
9 realize you've already been sworn.

10 Go ahead.

11 WILLIAM STANNARD, being first duly sworn, testified as
12 follows:

13 DIRECT EXAMINATION BY MR. HARDEN:

14 Q. Mr. Stannard, can you state what
15 Silverleaf's position is regarding rate case expense
16 in this case?

17 A. Our position is that the time period that
18 Mr. Harrison included in his testimony, the five-year
19 period, is an appropriate time period for recovery of
20 the rate case expense. And -- and I would be -- in
21 spite -- and -- and amortization of that would be
22 appropriate.

23 Q. And why is that appropriate, the norm--
24 the -- the amortization or normalization?

25 A. Well, Mr. Harrison did a good job

1 explaining the nuances, the differences between
2 normalization and amortization. The -- the key thing
3 is the amortization process ensures that the utility
4 will recover the rate case expense that was associated
5 with a case and verified and confirmed and -- over a
6 period of time. And if they under-recover and file
7 earlier, then that can be reflected going forward, so.

8 JUDGE CLARK: Is this information in his
9 Direct? Because this sounds an awful lot like cross.

10 MR. HARDEN: In his -- no, Your Honor.
11 And I'm done. I don't --

12 JUDGE CLARK: Okay. Are you tendering
13 the witness for cross?

14 MR. HARDEN: Yes.

15 JUDGE CLARK: Any cross-examination by
16 the Office of the Public Counsel?

17 MS. SHEMWELL: None, thank you.

18 JUDGE CLARK: Any cross-examination by
19 Ozark Mountain?

20 MS. GIBONEY: No, Judge.

21 JUDGE CLARK: Any cross-examination by
22 Liberty Utilities?

23 MR. BOUDREAU: I don't have any questions
24 for this witness on this topic. Thank you.

25 JUDGE CLARK: Any cross-examination from

1 the Commission Staff?

2 MR. WESTEN: Not on this topic, Judge.

3 Thank you.

4 JUDGE CLARK: Any questions from

5 Commission?

6 CHAIRMAN HALL: No questions. Thank you.

7 COMMISSIONER KENNEY: No questions.

8 JUDGE CLARK: Any redirect, Mr. Harden?

9 MR. HARDEN: No.

10 JUDGE CLARK: Okay. Mr. Stannard, you
11 can step down.

12 I would prefer I think logistically,
13 since we're scheduled to call the witness, Don
14 Allsbury, at three o'clock and I think having him
15 testify would make it a lot easier for all the other
16 parties rather than going in and addressing the
17 remaining customer service issues at this time.

18 Is there a way we can skip over to rate
19 design or is there another issue that we can take up
20 at this time? Or Commissioner Kenney has indicated he
21 can entertain us. And -- and I can speak from
22 experience; he can.

23 MS. GIBONEY: Judge, I could also call
24 Mr. Allsbury and see if he's available now, if that
25 would be helpful?

1 JUDGE CLARK: If you want to go ahead and
2 do that, it would allow us to go ahead and -- and keep
3 somewhat with the order we've got.

4 MS. GIBONEY: I'll step out and do that,
5 if you don't mind.

6 JUDGE CLARK: Okay. We will wait until
7 then. And when I scheduled for 3:00, I just didn't
8 anticipate we'd be this far along by now.

9 MS. GIBONEY: Judge, he just needs just
10 two minutes to get to somewhere where he's not driving
11 around. Just a couple minutes.

12 JUDGE CLARK: Fair enough.

13 (Phone ringing.)

14 JUDGE CLARK: Okay. I'm going to ask you
15 to hold on for just a second.

16 THE WITNESS: All right.

17 JUDGE CLARK: Okay. Are we ready to
18 proceed with customer service? Okay. Mr. Allsbury,
19 could you say something? Would you say something,
20 please?

21 THE WITNESS: Yes. This is Don Allsbury.

22 JUDGE CLARK: Can everybody hear okay?

23 Okay. I'm just going to go through the
24 formality of it. Customer service issues. First
25 issue is Ozark Mountain. Ozark Mountain, you may call

1 your first witness.

2 MS. GIBONEY: Ozark Mountain Condominium
3 association calls Don Allsbury.

4 JUDGE CLARK: Mr. Allsbury, would you
5 raise your right hand in order to be sworn in.

6 (Witness sworn.)

7 JUDGE CLARK: Thank you.

8 Okay. Ozark Mountain, you may begin your
9 direct.

10 DON ALLSBURY, being first duly sworn, testified as
11 follows:

12 DIRECT EXAMINATION BY MS. GIBONEY:

13 **Q. Mr. Allsbury, could you please state your**
14 **position with Ozark Mountain Condominium Association?**

15 A. Yes. I'm a property manager. I'm
16 employed by Ozark Mountain Condo Association.

17 **Q. All right. Did you cause to be filed in**
18 **this water rate case Direct Testimony on the issue of**
19 **Liberty Utilities' customer service?**

20 A. Could you -- could you speak up a little
21 bit? It sounds like you're talking from across the
22 room.

23 JUDGE CLARK: I think -- I think -- I
24 think while we can hear him because it's going through
25 that microphone, you may need to stand up here --

1 MS. GIBONEY: Sure.

2 JUDGE CLARK: -- in order for him to hear
3 you. So I'm going to ask those people who have
4 questions for Mr. Allsbury approach the speakerphone.

5 BY MS. GIBONEY:

6 Q. All right. Don, can you hear me now?

7 A. Now I can, yes.

8 Q. All right. Did you cause to be filed in
9 this water rate case Direct Testimony on the issue of
10 Liberty Utilities' customer service?

11 A. Yes.

12 Q. All right. Do you have in front of you a
13 copy of the document which has been marked as Exhibit
14 401?

15 A. Yes.

16 Q. And is that the Direct Testimony that
17 you've prepared for this case?

18 A. Yes.

19 Q. All right. Are there any changes or
20 corrections that you need to make to that testimony
21 today?

22 A. I do not believe so.

23 Q. All right. So is the information
24 contained in that testimony true and correct to the
25 best of your knowledge and belief?

1 A. That is correct, yes.

2 Q. All right. And if I asked you the
3 questions contained in Exhibit 401 today, would your
4 answers be the same as they are in that written
5 testimony?

6 A. Yes.

7 MS. GIBONEY: Judge, Ozark Mountain
8 Condominium Association offers into evidence
9 Exhibit 401.

10 JUDGE CLARK: Any objection to the
11 admission of Exhibit 401 onto the hearing record?

12 Seeing none, Exhibit 401 is admitted onto
13 the hearing record.

14 (Exhibit 401 was received into evidence.)

15 MS. GIBONEY: Judge, Ozark Mountain
16 Condominium Association tenders Mr. Allsbury for
17 cross-examination.

18 JUDGE CLARK: Thank you. Any
19 cross-examination by Silverleaf?

20 MR. HARDEN: No.

21 JUDGE CLARK: Any cross-examination by
22 the Office of the Public Counsel?

23 MS. SHEMWELL: None, thank you.

24 JUDGE CLARK: Any cross-examination by
25 the Commission Staff?

1 MS. KLAUS: No questions, Judge.

2 JUDGE CLARK: Any cross-examination by
3 Liberty Utilities?

4 MR. BOUDREAU: Yes. I have just a few.
5 Thank you. I'll come up to the microphone

6 JUDGE CLARK: Thank you, Mr. Boudreau.

7 CROSS-EXAMINATION BY MR. BOUDREAU:

8 Q. Good afternoon, Mr. Allsbury. My name is
9 Paul Boudreau. Can you hear me all right?

10 A. Yes. I hear you fine.

11 Q. Okay. I'm -- I'm the attorney for
12 Liberty Utilities in this case and I've just got a few
13 questions I want to ask you. You said --

14 A. Okay.

15 Q. -- you -- you said you had a copy of your
16 Direct Testimony available to you to refer to?

17 A. Yes.

18 Q. I want to ask you, you -- you mention on
19 page 2 at lines 17 through 20, I believe, that you
20 kept a list of water and sewer issues experienced by
21 the condominium association. Do you see that?

22 A. Yes.

23 Q. So you've been pretty diligent about
24 keeping -- keeping track of these for purposes of
25 documenting your concerns; is that correct?

1 A. Yes, I did.

2 Q. And you ten-- I think you, in your
3 testimony, you've addressed them in more or less
4 chronological order; is that correct?

5 A. I tried to, yeah.

6 Q. Well, and tha-- and that's fair. If
7 they're not, you know, that -- but it looked to me
8 like that's -- that was the general --

9 A. Yes.

10 Q. -- gist of it.

11 A. Uh-huh.

12 Q. And I'm looking -- the most recent
13 incident that's -- that is contained in your Direct
14 Testimony is something related to January 4th, 2018.
15 That's on page 8 of your testimony. Do you see that?

16 A. Page 8?

17 Q. Page 8, yes.

18 A. Okay. Hold on. Page 8. All right.

19 Q. Do you need me to repeat the question?

20 A. I'm reading it right now. The water
21 meters in the boxes between Condo Units 500, 600
22 froze?

23 Q. Yeah. That's what I'm referring to.
24 That's what I'm referring to, yes.

25 A. Okay. Uh-huh. Yes.

1 **Q. Okay. So prior to that though, the --**
2 **the most -- the most recent event that you've recorded**
3 **prior to that is the summer of 2015; isn't that**
4 **correct? That appears on page 7 of your testimony?**

5 A. Well, -- on question 7?

6 **Q. On page -- page 7 I think the question**
7 **starts at line 11.**

8 A. Yeah. Yeah. What I was doing here on my
9 testimony, I was writing the -- the problems that we
10 have that are major problems that keep -- that were
11 keeping -- coming up.

12 **Q. Yeah.**

13 A. They were not small leaks. I didn't see
14 them -- just record those where you might have a small
15 leak. But the major ones I was keeping track of, yes.

16 **Q. Okay. I -- I understand that. But that**
17 **was the summer of 2015; isn't that correct?**

18 A. Yes. Yes.

19 **Q. Okay. Only have a couple other**
20 **questions.**

21 **You met with -- the -- the name Paul**
22 **Carlson, does that ring a bell with you?**

23 A. Yes, it does.

24 **Q. Okay. Who is Paul Carlson?**

25 A. He's going to be the one that I'm going

1 to be dealing with for Liberty Water. He's taking
2 over to take care of the maintenance part of it.

3 **Q. Okay. And did you, in February of 2018,**
4 **meet with Mr. Carlson and do a walk-through of the**
5 **resort to identify issues for purposes of the Company**
6 **addressing them?**

7 A. No.

8 **Q. You did not?**

9 A. Did -- we did have a meeting.

10 **Q. You did not do a wal --**

11 A. And --

12 **Q. You did not do a walk-through through the**
13 **resort?**

14 A. We did not do a walk-through of the
15 resort, no.

16 **Q. Have you done a walk-through through the**
17 **resort with Mr. Carlson at any time in the recent**
18 **past?**

19 A. No.

20 **Q. Have you had a meeting with him about the**
21 **issues that -- or concerns that you have with quality**
22 **of service?**

23 A. Yes.

24 **Q. What -- and tell me about this meeting.**

25 A. It -- one day that Paul come on property

1 and introduced himself to me and -- well, I met Paul
2 some time prior to that. I think it was the summer
3 before when they were changing up -- out a pump in the
4 well.

5 **Q. So --**

6 **A. And --**

7 **Q. Just so the record's clear -- just so the**
8 **record's clear --**

9 **A. I just met him then --**

10 JUDGE CLARK: Hold on.

11 THE WITNESS: -- at that time. That was
12 the first time I met him. The second time I met him
13 was, like you said, probably February at the clubhouse
14 and we just sat down had a real short meeting.

15 JUDGE CLARK: Mr. Boudreau, let him
16 finish answering. And then, Mr. Boudreau, it's been
17 indicated that they're having a hard time hearing you.
18 If you could speak into the microphone as well, that
19 would be helpful to people watching the stream.

20 MR. BOUDREAU: Oh, okay. I apologize for
21 that. I'll try to do so.

22 BY MR. BOUDREAU:

23 **Q. So to -- to -- to walk back through**
24 **your -- what you just stated, you said you met with**
25 **Mr. Carlson I think it was the summer of 2017; is that**

1 **correct?**

2 A. It -- it was -- I think last summer when
3 the pump in the wellhouse --

4 **Q. Okay.**

5 A. -- had to be pulled out and replaced.
6 That's the first time I ever met him.

7 **Q. Okay. And since that time, you've only**
8 **had one other meeting with Mr. Carlson? You're saying**
9 **just a quick meeting on -- in February of 2018?**

10 A. Correct.

11 MR. BOUDREAU: Give me a moment. I'll
12 probably be done here.

13 Okay. I have no further -- I have no
14 further questions for you, sir. Thank you. And
15 I'm -- I'm done with this witness. Thank you.

16 JUDGE CLARK: Any questions from the
17 Commission? Hold on just a second, Mr. Allsbury.

18 THE WITNESS: All right.

19 CHAIRMAN HALL: I have no questions.

20 JUDGE CLARK: Any redirect from Ozark
21 Mountain?

22 REDIRECT EXAMINATION BY MS. GIBONEY:

23 **Q. Yes. Don, I have just a couple of**
24 **additional questions.**

25 A. Okay.

1 **Q. When you met with Mr. Carlson in 2018 --**
2 **in February of 2018, did you offer to walk through and**
3 **look at some of the water system features with him?**

4 A. Yes, I did. I offered to do a
5 walk-through with Paul to show him the problems that
6 have to be dealt with.

7 **Q. All right. And what did Mr. Carlson --**
8 **what was his response to your offer to do that?**

9 A. Okay. He said it -- it wouldn't be the
10 proper time to do it because at that time we still had
11 Roger from RK Water. His contract either hadn't ended
12 or they hadn't released him from the contract. So he
13 didn't want to be walking on property at that time.
14 So we just sat down and had a short talk at the
15 clubhouse and that was it.

16 **Q. All right. Did -- has Mr. Carlson**
17 **offered since then to come and meet with you?**

18 A. Not as of yet, no.

19 **Q. All right. Also, Mr. Boudreau asked you**
20 **about your list that you used to prepare your**
21 **testimony about the -- the service issues. Do you**
22 **remember that question?**

23 A. Yes.

24 **Q. All right. And I think you indicated that**
25 **this was just the list of the major concerns; is that**

1 correct?

2 A. That is correct.

3 Q. All right. And did this list address the
4 concerns that you got in contact with the contractors
5 about?

6 A. Contractors and Liberty Water.

7 Q. Okay. And does this list include every
8 call you ever made to Liberty Utilities directly?

9 A. No. Because the -- there was a lady that
10 was on our property -- this was years ago. And she
11 told us -- told me and gave me her card at the time to
12 always contact Liberty Water for issues. And that's
13 when I just started to call Liberty Water and try to
14 deal with the problem.

15 Q. All right. And what would happen when
16 you called Liberty Water directly?

17 A. Well, when they would -- I'll give you
18 two situations. When I would call Liberty Water, we
19 had a -- a water -- mainline break and I called them.
20 A lady answered the phone and she -- I told her I was
21 property manager for Ozark Mountain Condominiums and
22 we have a water main leak at -- in front of the
23 building.

24 And she goes -- and I told her what the
25 building number was. And she goes, I need to have an

1 address. And I said the address on the building, I
2 believe it was 500. And she goes, No, I need an
3 address, a billing address. And I said, Well,
4 there's -- in that particular building there's six
5 homeowners and none of them are here. So all I can
6 tell you is it's -- it's -- the water line's outside
7 the building and it's broke and -- and it's Building
8 300.

9 She goes -- and then she told me she
10 needed a home address with the -- I guess a billing
11 number that they bill the homeowner for so they can
12 look it up. And said, I don't have that information.
13 I'm property manager on the outside. And she goes,
14 Well, I got to have that. I go, I've got a water main
15 broke. The water is shooting up in the air and I
16 can't give you any other information than what's on
17 the building. And she goes, Well, I got to have that
18 information. So I said, I'll take care of it in a
19 different way.

20 So I went back and at that time it was
21 like -- I believe Stan Gilliam who was at that point
22 servicing us. I called him to have him come down and
23 take care of the problem because I'm not getting
24 anywhere with the water company. So he come down took
25 care of the problem.

1 The other time -- and I still tried to
2 call Liberty Water. The other time that I would call
3 Liberty Water is call the 800 number and I think it's
4 in Arizona and they would be shut down, they'd closed
5 for the day. So they'd give you another number, which
6 I believe sends you to Texas. So I'd call that number
7 in Texas and they're closed. So there's nobody I
8 could get ahold of.

9 So I went -- well, first, I've tried
10 three times now to deal with strictly Liber-- Liberty
11 Water and not the -- the vendor that's servicing them
12 and I just can't get any service out of them. So I
13 said I will not do this anymore. I have too many
14 water leaks that I got to deal with, so I'll call the
15 vendor that's working for them.

16 And from that point on -- and it was Stan
17 Gilliam I called until his contract ended. And then I
18 started dealing with Roger at RK Water because I was
19 not getting a response out of Liberty Water.

20 And I think the issue was that they
21 wanted to do is make out a work order and then they
22 would send it to Dan or Roger and then they would come
23 out and repair the problem.

24 Well, that's almost impossible to do when
25 you got a waterline shooting water up in the air and

1 you can't get any results from the office that you're
2 supposed to call. And that's the problem that I have
3 always had with them. And so I quit going to the
4 water company and I just started going to Dan and --
5 and Roger, whoever had the contract at that time.

6 **Q. All right. Thanks, Don. Let me ask you**
7 **one more question. After you filed -- or excuse me.**

8 **After you prepared your Direct Testimony**
9 **in this case and it was pre-filed, did you have any**
10 **contact from any party in this case to discuss the**
11 **issues? Like, for example, did you have any calls or**
12 **meetings with Staff of the Public Service Commission?**

13 A. Zero. No one -- no one has contacted me.

14 **Q. All right. Thank you. I have no further**
15 **redirect. Thanks, Don.**

16 JUDGE CLARK: Mr. Allsbury, thank you for
17 your testimony here today. I know you're a busy
18 person.

19 THE WITNESS: That's all right.

20 JUDGE CLARK: You're excused at this
21 point. Thank you for your time.

22 THE WITNESS: All right. Thank you.
23 Okay. The next issue regarding customer service
24 issues is Commission Staff.

25 MS. KLAUS: Yes, Judge. May I ask, we're

1 coming up to that 12:25 deadline.

2 JUDGE CLARK: We are. Thank you for
3 pointing that out.

4 MS. KLAUS: Should we just go ahead and
5 plan to go through direct examination and then pick up
6 cross after lunch?

7 JUDGE CLARK: I'd say at this point why
8 don't we just pick up after lunch. Why don't we break
9 until 1:30.

10 MS. KLAUS: Thank you.

11 JUDGE CLARK: So we'll come back at 1:30
12 and pick up with Ms. Parish. Thank you for pointing
13 that out. We're off the record.

14 (A recess was taken.)

15 JUDGE CLARK: It's 1:30 and we left off
16 with customer service issues. And I believe Staff was
17 about to call Dana Parish.

18 MS. KLAUS: Yes, Judge. The Staff calls
19 Dana Parish.

20 JUDGE CLARK: Ms. Parish, would you raise
21 your right hand to be sworn.

22 (Witness sworn.)

23 JUDGE CLARK: Thank you. Please be
24 seated. Go ahead, Staff.

25 DANA PARISH, being first duly sworn, testified as

1 follows:

2 DIRECT EXAMINATION BY MS. KLAUS:

3 **Q. Good afternoon.**

4 A. Good afternoon.

5 **Q. Will you please state and spell your name**
6 **for the record?**

7 A. Dana Parish, D-a-n-a P-a-r-i-s-h.

8 **Q. By whom are you employed and in what**
9 **capacity?**

10 A. Missouri Public Service Commission,
11 Customer Experience Department. I'm a utility policy
12 analyst one.

13 **Q. Are you the same Dana Parish who caused**
14 **to be prepared certain testimony which has been marked**
15 **Staff Exhibit 111 and is your Surrebuttal Testimony?**

16 A. Yes.

17 **Q. Do you have any changes or corrections to**
18 **your testimony?**

19 A. No, I don't.

20 **Q. Is your testimony true and correct to the**
21 **best of your belief and knowledge?**

22 A. Yes, it is.

23 **Q. If I asked you those same questions**
24 **today, would you give the same answers?**

25 A. Yes.

1 MS. KLAUS: I offer Exhibit 111 as
2 evidence.

3 JUDGE CLARK: Any objections to admitting
4 Exhibit 111 onto the hearing record?

5 Seeing none, Exhibit 111 will be admitted
6 onto the hearing record.

7 (Exhibit 111 was received into evidence.)

8 MS. KLAUS: And I tender the witness for
9 cross-examination.

10 JUDGE CLARK: Any cross-examination by
11 Liberty Utilities?

12 MR. BOUDREAU: I have no questions for
13 this witness. Thank you.

14 JUDGE CLARK: Any cross-examination by
15 Ozark Mountain?

16 MS. GIBONEY: Yes, Judge.

17 CROSS-EXAMINATION BY MS. GIBONEY:

18 **Q. Ms. Parish, are you the right person to**
19 **ask questions about the customer service portion of**
20 **Staff and Liberty Utilities' Non-Unanimous**
21 **Stipulation?**

22 **A. A portion of it, yes.**

23 **Q. All right. Well, I'll ask you the**
24 **question. If you're not the right person, just tell**
25 **me.**

1 A. Okay.

2 Q. I'm looking at page -- page 5 under the
3 topic of Customer Service at paragraph 8. And that
4 paragraph indicates that Staff and the Company agree,
5 approve with the Company requiring all contractors to
6 report all customer inquiries to Company personnel as
7 soon as practicable, but not later than monthly.

8 And I want to ask you about that "but not
9 later than monthly."

10 A. Okay.

11 Q. Do you have any idea why the Company
12 would not be able to immediately report -- I'm sorry,
13 not the Company. The contractors would not
14 immediately be able to report customer inquiries to
15 the Company?

16 A. It's my understanding that in some cases
17 operational-wise, it could possibly take up to
18 30 days.

19 Q. What would account for that?

20 A. As far as examples, I would have to defer
21 to Staff Witness Roos. He will handle the operational
22 side of that.

23 Q. All right. I'll ask him that question.

24 Thank you.

25 A. Uh-huh.

1 MS. GIBONEY: I don't have any further
2 questions for this witness, Judge.

3 JUDGE CLARK: Any cross-examination from
4 the Office of the Public Counsel?

5 MS. SHEMWELL: Thank you.

6 CROSS-EXAMINATION BY MS. SHEMWELL:

7 Q. Good afternoon, Ms. Parish.

8 A. Good afternoon.

9 Q. I'm looking at the bottom of page 3
10 regarding the Partial Disposition Agreement which OPC
11 signed. And at the bottom of page 3 and the top of
12 page 4 you list some of the agreements that we all
13 made in that partial disposition. Are you there?

14 A. No, I'm not. Could you point me in
15 that --

16 Q. Page 3, starting at line 18 is the
17 question.

18 MS. KLAUS: Ms. Shemwell, are you in her
19 testimony, for clarification? You're not specifically
20 referencing the agreement herself?

21 MS. SHEMWELL: I'm referring to her
22 Surrebuttal --

23 MS. KLAUS: Thank you.

24 MS. SHEMWELL: -- at the bottom of page 3

25 MR. BOUDREAU: What -- what line was it

1 again, Lera?

2 MS. SHEMWELL: Eighteen.

3 MR. BOUDREAU: Okay. Thank you.

4 THE WITNESS: Can you restate your
5 question, please?

6 BY MS. SHEMWELL:

7 Q. I was just directing you to that.

8 A. Okay. I'm there.

9 Q. So I was going to ask, while we agree
10 that within 30 days of the effective date of an order
11 approving the Partial Disposition Agreement, that's
12 part of the agreement at line 21. To your knowledge,
13 has the Company implemented any of these changes?

14 A. To my knowledge, I believe the Company
15 has updated some of the information on their website,
16 as well as they mention the telephone number on the
17 customer bills.

18 Q. Do you have any knowledge about A --
19 sub-A at line 3?

20 A. No, I do not.

21 Q. Have you reviewed their website recently?

22 A. No, not recently.

23 Q. So you don't know if it's easy for
24 customers to find information? Or do you know if it's
25 easy for customers to find the information they might

1 **be looking for?**

2 A. I would probably have to go back out
3 there again and check to see. Last time we did the
4 review, looked at the website, it did seem easily
5 accessible. We also mention, you know, the telephone
6 numbers which they've updated on there. So they have
7 other things as well that needed to be updated, so.

8 **Q. I'm not sure I heard you quite clearly.**
9 **You said they updated the phone numbers?**

10 A. Yes. The phone numbers and there was a
11 payment table on there as well.

12 **Q. Tell me about the payment table.**

13 A. They have different ways that companies
14 are -- customers can call in and make payments, for --
15 for one example. But they do not allow that. When we
16 met with the Company, they don't take phone payments.

17 **Q. Do you know if that's changed?**

18 A. That I do not know.

19 **Q. That's all I have. Thank you.**

20 JUDGE CLARK: Any cross-examination from
21 Silverleaf?

22 MR. HARDEN: No, sir.

23 JUDGE CLARK: Commissioner, any
24 questions?

25 COMMISSIONER KENNEY: No questions.

1 Thank you.

2 JUDGE CLARK: Any redirect by Staff?

3 MS. KLAUS: No redirect.

4 JUDGE CLARK: Ms. Parish, you're excused.

5 THE WITNESS: Thank you.

6 JUDGE CLARK: Staff, you can call your
7 next witness.

8 MS. KLAUS: Staff calls David Roos.

9 JUDGE CLARK: Mr. Roos, would you raise
10 your right hand to be sworn.

11 (Witness sworn.)

12 JUDGE CLARK: Thank you. Please be
13 seated.

14 Staff, go ahead.

15 DAVID ROOS, being first duly sworn, testified as
16 follows:

17 DIRECT EXAMINATION BY MS. KLAUS:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Will you please state and spell your name
21 for the record?

22 A. My name is David Roos, D-a-v-i-d R-o-o-s.

23 Q. By whom are you employed and in what
24 capacity?

25 A. By the Missouri Public Service Commission

1 in the Water and Sewer Department as a utility
2 engineering specialist.

3 **Q. Are you the statement David Roos who**
4 **caused to be prepared certain testimony which has been**
5 **marked Staff Exhibit 112 and it's your Rebuttal**
6 **Testimony?**

7 A. I am.

8 **Q. Do you have any changes or corrections to**
9 **your testimony?**

10 A. I do not.

11 **Q. Is your testimony true and correct to the**
12 **best of your belief and knowledge?**

13 A. It is.

14 **Q. If I asked you those same questions**
15 **today, would you give me the same answers?**

16 A. Yes.

17 MS. KLAUS: I offer Exhibit 112 as
18 evidence.

19 JUDGE CLARK: Any objection to
20 Exhibit 112 being admitted onto the hearing record?

21 Seeing none, Exhibit 112 will be admitted
22 on to the hearing record.

23 (Exhibit 112 was received into evidence.)

24 MS. KLAUS: I tender the witness for
25 cross-examination.

1 JUDGE CLARK: Any cross-examination by
2 Liberty Utilities?

3 MR. BOUDREAU: I have no questions for
4 this witness. Thank you.

5 JUDGE CLARK: Any cross-examination by
6 Ozark Mountain?

7 MS. GIBONEY: Yes, Judge.

8 CROSS-EXAMINATION BY MS. GIBONEY:

9 Q. Mr. Roos, I'm Sarah Giboney and I'm the
10 attorney for Ozark Mountain Condominium Association.
11 I'd like to ask you a question I asked Ms. Parish and
12 that relates to a statement in the Non-Unanimous
13 Stipulation and Agreement.

14 At page 5 of that document, middle of the
15 page, paragraph 8 regarding customer service, the
16 Company and Liberty agreed that the Company will
17 require all contra-- I'm sorry. The Company and Staff
18 agreed that Liberty will require all contractors to
19 report all customer inquiries to the Company personnel
20 as soon as practicable, but not later than monthly.

21 Do you have an explanation for -- for why
22 it might take a month for a customer inquiry to be
23 routed to Liberty by its contractors?

24 A. Well, I have an explanation. I think
25 monthly probably co-- coincide with the billing. And

1 I think some customer inquiries such as -- it could be
2 anything from weed eating around a wellhead or some
3 minor maintenance or something like that, that those
4 things could probably wait a month to report back to
5 the Company.

6 More substantial inquiries should be
7 taken care of as soon as practical and should be
8 responded to as soon as -- as soon as possible.

9 **Q. But in this agreement there's -- there's**
10 **nothing in here that suggests that more serious or --**
11 **I don't remember the adjective you used, but more**
12 **serious issues should be reported sooner than that.**
13 **Correct?**

14 A. Well, I think it says as soon as
15 practical.

16 **Q. Why would it be more practicable to**
17 **report a serious incident faster than Mr. Jones wants**
18 **to know why you're weed eating around the meter?**

19 A. Because it's a serious incident. You
20 would definitely want to respond to that immediately
21 and let people know immediately.

22 **Q. Can you define "practicable" for me?**

23 A. I don't know that I can. I would use the
24 word "practical."

25 **Q. All right. What word you use?**

1 A. Practical or as soon as possible.

2 Q. **Practical. Okay. So you would say as**
3 **soon as practical?**

4 A. Yes.

5 Q. **Why is it less practical if you're just**
6 **making a report to report something in one day or**
7 **30 days or the opposite?**

8 A. Well, these -- these incidents are going
9 to be over a period of time. And you can call the
10 Company back every time there's an in-- or every time
11 there's an inquiry. There could just be small
12 inquiries that might clog the system. I -- it's just
13 my -- it just may not seem that -- that, for instance,
14 weed eating would be something that every time someone
15 calls about that, that you would have to know
16 immediately.

17 Q. **But there's no distinction in here**
18 **between serious issues and -- and non-serious issues.**
19 **Correct?**

20 A. You're correct.

21 Q. **All right. I'd like to ask you next**
22 **about -- well, have you read Mr. Allsbury's testimony**
23 **in this case?**

24 A. Yes, I have.

25 Q. **All right. I can provide you with a copy**

1 if you want, but -- but generally speaking, there's a
2 series of events in the summer of 2015 that he
3 recounts. Are you familiar with that?

4 A. Yes, I am.

5 Q. All right. And would you agree that --
6 with Mr. All-- Allsbury's characterization of that as
7 for 16 days from June 25th through July 10th there was
8 consistently an issue with not having any water at
9 OMCA?

10 A. I have no reason to doubt that.

11 Q. All right. So no water, is that a
12 serious issue for you? Do you consider that a serious
13 issue?

14 A. Yes, I do.

15 Q. All right. And, in fact, you sent a Data
16 Request to Liberty Utilities concerning the time
17 period June 11th through July 11th. Correct? Do you
18 recall that?

19 A. That's correct.

20 Q. Okay. And you asked, Please describe
21 what improvements to system and operations Liberty has
22 made or is planning to make to prevent the series of
23 events that occurred from June 11th, 2015 through
24 July 11th, 2015 from recurring.

25 Do you recall that Data Request?

1 A. Yes. Either Data Request 110 or 111.

2 Q. Yes. And I'm looking at 111, to be
3 clear.

4 A. Okay.

5 Q. So you asked them to describe
6 improvements to system and operations to prevent that
7 from recurring. Do you recall what the response was?

8 A. I'm sorry. I'm reading it right now,
9 just --

10 Q. Okay.

11 A. Yes. Their response was to terminate the
12 contract with the contract operator and use Liberty
13 personnel.

14 Q. All right. But part of your question was
15 describe what improvements to system. Right? Their
16 answer doesn't describe any improvements to the system
17 that would prevent those events from occurring; is
18 that correct?

19 A. That's correct.

20 Q. All right. Oh, I'm sorry.
21 Now I'd like to take a look at your
22 testimony. And I'm looking in particular -- and I
23 apologize, I don't remember the exhibit number. I've
24 already forgotten it.

25 MR. WESTEN: 112.

1 BY MS. GIBONEY:

2 Q. Okay. On -- I'm looking at page 3 of
3 your testimony. And at line 15 the question is asked,
4 What is Staff's conclusion regarding the incidents
5 recounted in Mr. Allsbury's Direct Testimony?

6 A. I'm sorry. I'm sort of behind. Page 3?

7 Q. Yes.

8 A. What line?

9 Q. Fifteen.

10 A. Yes.

11 Q. So the question is, What is Staff's
12 conclusion regarding the incidents recounted in
13 Mr. Allsbury's Direct Testimony?

14 A. Yes.

15 Q. And your answer was, Staff concludes that
16 incidents recounted in Mr. Allsbury's Direct Testimony
17 have been resolved, period.

18 A. That's --

19 Q. The water system has been repaired and is
20 currently a reliable source of water, period.

21 On what facts are you relying in your
22 conclusion that the system has been repaired?

23 A. Back on page 2, I provide a table
24 basically summarizing Mr. Allsbury's testimony of the
25 events. And the basis of that conclusion is that

1 after the year 2015, there's two years of no
2 incidences reported.

3 **Q. Okay. But it's sort of the absence of a**
4 **complaint, not an affirmative fact that you were made**
5 **aware of; is that correct?**

6 A. I also discussed these events with
7 Liberty's operations manager and he told me that they
8 had fixed the problems. Also, in Mr. Allsbury's
9 testimony, he points out that -- I don't think he
10 points out, but the last -- he concludes the events of
11 2015 that basically after the pressure regulating
12 valve was installed and calibrated, that seemed to be
13 the end of the events.

14 **Q. Okay. Of those particular events?**

15 A. Of those particular events.

16 **Q. Well, I'm curious. I think you mentioned**
17 **talking to the operations manager, Mr. Carlson; is**
18 **that correct?**

19 A. That's correct.

20 **Q. All right. Well, is it your**
21 **understanding that an outside contractor actually**
22 **provided services up until just this fall -- this**
23 **spring?**

24 A. It's been relatively recent.

25 **Q. All right. And were you present when**

1 **Mr. Allsbury testified?**

2 A. Yes.

3 **Q. All right. And you heard him say that**
4 **he's had two conversations with Paul Carlson?**

5 A. Yes.

6 **Q. All right. And you heard him say that**
7 **Paul -- Paul Carlson did not walk the grounds with him**
8 **and look at the facilities?**

9 A. I did hear that.

10 **Q. All right. But part of your basis for**
11 **your conclusions is having discussed these issues with**
12 **Mr. Carlson?**

13 A. That is correct.

14 **Q. And you have never met with Mr. Allsbury**
15 **to discuss any of this, have you?**

16 A. I have not.

17 **Q. All right. No further questions.**

18 JUDGE CLARK: Any cross-examination by
19 the Office of the Public Counsel?

20 MS. SHEMWELL: Thank you.

21 CROSS-EXAMINATION BY MS. SHEMWELL:

22 **Q. Mr. Roos, I'm Lera Shemwell. I represent**
23 **the Office of the Public Counsel.**

24 **Your testimony here is pretty specific to**
25 **respond to Ozark Mountain Condominium Association's**

1 **water system; is that correct?**

2 A. It's the Rebuttal -- I wrote Rebuttal
3 Testimony addressing Mr. Allsbury's Direct Testimony.

4 **Q. So have you developed an opinion**
5 **concerning the Company's ability to provide safe and**
6 **adequate water service at any other location?**

7 A. I think they're currently providing safe
8 and adequate water at their other locations -- at all
9 of their locations.

10 **Q. And what's the basis for that?**

11 A. Well, I performed a site inspection of
12 all of their systems. I've also interviewed the
13 Liberty op-- operations manager and their operators.
14 I reviewed the operating permits -- the Department of
15 Natural Resources operating permits that Liberty has
16 and other DNR records. I reviewed the water test
17 results. I also investigated taste, odor and pressure
18 complaints that were made at the public comments
19 section. I sent several DRs to the Company as well.

20 **Q. Did you review the complaints made at the**
21 **Pacific local public hearing concerning chlorine?**

22 A. Yes, I did.

23 **Q. And do you have a conclusion as to what**
24 **might be causing concern -- the concern of the**
25 **customers?**

1 A. Well, I think these -- those systems were
2 originally not chlorinated. Liberty voluntarily began
3 chlorinating these systems, and so there was a change
4 in the taste and odor of -- of the water. It seemed
5 like a lot of it was people's individual reaction to
6 that change.

7 **Q. Do you have an opinion as to the --**
8 **whether or not the level of chlorine in the water**
9 **might have caused customer concerns?**

10 A. Well, Staff measured the -- the level of
11 chlorine in the water at one of our site visits and
12 they were operating between 1 part per million and
13 about 1.5 part per million chlorine. The DNR
14 regulations require them to operate at a minimum of .5
15 part per million and a maximum of 4 part per million.
16 So they were within the operating range.

17 **Q. If I may summarize your testimony about**
18 **that then, you think it was simply that -- it was the**
19 **change in the taste of the water that was causing**
20 **customer concern rather than a high or a low level?**

21 MS. KLAUS: Judge, I'm going to have to
22 object as being asked and answered.

23 JUDGE CLARK: I think she's just trying
24 to clarify it. I'm going to allow her to do so.

25 BY MS. SHEMWELL:

1 **Q. That it was a change in the taste of the**
2 **water that was resulting in the customer's concern as**
3 **opposed to a safety issue?**

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

6 **Q. What I'm asking you is the -- it was a**
7 **change -- the customers noticed a change in the taste**
8 **and smell of their water and complained of chlorine.**
9 **But it's your opinion that that is not a result of a**
10 **safety issue with too much or too little chlorine?**

11 A. That is correct.

12 **Q. Finally got around to asking it. Thank**
13 **you.**

14 A. Okay.

15 **Q. That's all I have.**

16 JUDGE CLARK: Any cross-examination by
17 Silverleaf?

18 MR. HARDEN: No, sir.

19 JUDGE CLARK: Any questions,
20 Commissioner?

21 COMMISSIONER KENNEY: Just briefly.

22 QUESTIONS BY COMMISSIONER KENNEY:

23 **Q. Good afternoon.**

24 A. Good afternoon.

25 **Q. You saw Mr. Allsbury's report of the**

1 **incidents in his Direct Testimony?**

2 A. Yes, I did.

3 **Q. Do you have any reason to doubt any of**
4 **those?**

5 A. I do not.

6 **Q. Okay. You mentioned between -- you**
7 **mentioned that -- first off, did you attend any of the**
8 **local public hearings in Pineview, Branson or Pacific?**

9 A. Yes. I was there at all of them.

10 **Q. Did you hear any of the customers**
11 **complain about problems with phone service and being**
12 **able to communicate with the Company?**

13 A. Yes, I did.

14 **Q. Okay. Pretty prevalent, I thought. I**
15 **mean I heard several too. So I guess my -- my**
16 **question, you mentioned that the Company has taken**
17 **steps to correct that in this last year or last --**
18 **recently? Is that what you said? I'm just -- not**
19 **trying to put words in your mouth. I was trying -- I**
20 **thought I remember you saying something like that.**

21 A. My issue is more -- is operational, is
22 equipment and system operations. As far as the
23 communications, that would be Dana Parish.

24 **Q. Okay. But you didn't pay -- okay. So**
25 **you don't --**

1 A. So I --

2 Q. -- know whether or not the Company was
3 delinquent in their cus-- delinquent in their customer
4 service or not from 2015 to the present?

5 A. I -- I don't.

6 Q. All right. Thank you.

7 JUDGE CLARK: Any recross-examination
8 after Commission questions?

9 MS. GIBONEY: No, Judge.

10 JUDGE CLARK: Any redirect by the
11 Commission Staff?

12 MS. KLAUS: Very briefly.

13 REDIRECT EXAMINATION BY MS. KLAUS:

14 Q. Mr. Roos, you were asked some questions
15 by Ms. Giboney, who is representing OMCA or Ozark
16 Mountain. You were asked if you had seen
17 Mr. Allsbury's testimony. Do you recall that
18 question?

19 A. Yes, I do.

20 Q. And to be clear, Mr. Allsbury's testimony
21 was Direct Testimony. Correct?

22 A. Correct.

23 Q. To which you responded by filing Rebuttal
24 Testimony. Correct?

25 A. Correct.

1 **Q. And in your Rebuttal Testimony you**
2 **concluded that the issues described in Mr. Allsbury's**
3 **Direct Testimony had been resolved. Correct?**

4 A. Correct.

5 **Q. And after that, you did not see any**
6 **Surrebuttal Testimony from Mr. Allsbury. Correct?**

7 A. That is correct.

8 **Q. So there was nothing in the record to**
9 **refute your -- your conclusion?**

10 A. That is correct.

11 MS. KLAUS: That's all I have, Judge.
12 Thank you.

13 JUDGE CLARK: Next witness on customer
14 service issues is Liberty Utilities. And Mr. Roos,
15 you're excused.

16 Ms. Schwartz, you're still under oath.

17 THE WITNESS: Thank you.

18 JUDGE CLARK: Go ahead, Liberty.

19 MR. BOUDREAU: Oh, I -- I'm sorry. I
20 don't have any additional foundation questions to ask
21 her. I mean her tes-- her testimony I think has been
22 verified and offered into the record. So I will
23 tender her for cross on this particular issue.

24 JUDGE CLARK: Okay. Thank you. Any
25 cross-examination by Staff?

1 MS. KLAUS: No questions, Judge.

2 JUDGE CLARK: Any cross-examination by
3 Ozark Mountain?

4 MS. GIBONEY: Yes, Judge.
5 JILL SCHWARTZ, having been previously sworn, testified
6 as follows:

7 CROSS-EXAMINATION BY MS. GIBONEY:

8 Q. Ms. Schwartz, I want to ask you hopefully
9 one but maybe a few questions to reconcile a couple of
10 statements that don't seem reconcilable to me.

11 The first one is in your Rebuttal
12 Testimony and it's at page 7, lines 11 and 12. Well,
13 I'll just read the question first at line 6. What is
14 the Company's response to the issues identified by --
15 and I think it's supposed to say OMCA? And -- and
16 part of your answer was, The Ozark Mountain water --
17 and I think that refers to the Silverleaf system; is
18 that correct?

19 A. That's just -- I was just referring to
20 the water system that --

21 Q. Okay. I just want to make sure we're
22 talking about the same thing. The Ozark Mountain
23 water and wastewater system is now operated by Company
24 employees.

25 All right. So that's your statement

1 **there. And that's still true; is that right?**

2 A. It is -- yes, it is operated on a
3 day-to-day basis by Company employees. We still use
4 contractors to -- you know, to provide emergency
5 services or leak services, leak repair services, but
6 day-to-day operations are done by Company personnel.

7 **Q. All right. So the re-- the response to**
8 **emergency situation is -- is going to be with a**
9 **different contractor but like it was before, with a**
10 **contract service. Is that what you're telling me?**

11 A. There may be things that the Company
12 needs to engage outside contractors to perform work
13 for. Such as a leak repair may need to be done by
14 outside contractors under the supervision of Company
15 personnel.

16 **Q. Does that mean direct supervision at the**
17 **site?**

18 A. I -- I'm sorry, I'm not -- I'm not the
19 operations manager and I don't know if Mr. Carlson
20 would be onsite at every -- in every instance. I
21 would assume that if it's a large outage or issue,
22 that he would be working side-by-side any contractors
23 to make sure that the job is done to his liking.

24 **Q. Okay. And then the other sta-- statement**
25 **that kinds of relates to that that I wanted to ask you**

1 about is in the Non-unanimous stipulation and
2 Agreement. And so that's at page 5, again paragraph 8
3 relating to customer service.

4 And the statement is, While the Company
5 prefers, comma, and is committed to, comma, providing
6 service to customers with Liberty employees, comma,
7 for service territories where contractors are
8 necessary -- and then it goes on to talk about, you
9 know, how they'll report inquiries.

10 So would you consider the Silverleaf
11 system a service area where contractors are necessary?

12 A. That statement was intended to mean that
13 the Company will use Company personnel wherever
14 possible, but there are some situations, because of
15 the dynamics of how this Company has been
16 established -- and so I wasn't able to say
17 definitively that we will always use Company personnel
18 because of our Company -- the KMB properties.

19 So we tried to make the statement that
20 where possible, the Company prefers to use Company
21 employees to operate. And so we were specifically
22 referring to the Ozark Mountain and Holiday Hills
23 companies in the Branson area that is located closely
24 to our other properties and the properties that we're
25 acquiring through Ozark International.

1 **Q. Okay. But even for serious issues you're**
2 **still planning on relying on contractors?**

3 A. There are certain situations where it may
4 be necessary to engage with outside contractors to
5 help repair leaks or other things, but day-to-day
6 operations will be done by Company personnel.

7 **Q. All right. Thank you.**

8 JUDGE CLARK: Any cross-examination by
9 Silverleaf?

10 MR. HARDEN: No. Not on this issue.

11 JUDGE CLARK: Any cross-examination by
12 the Office of the Public Counsel?

13 MS. SHEMWELL: Thank you.

14 CROSS-EXAMINATION BY MS. SHEMWELL:

15 **Q. Good afternoon, Ms. Schwartz.**

16 A. Good afternoon.

17 **Q. How are you?**

18 A. Great.

19 **Q. Good. Where is Mr. Carlson located**
20 **physically?**

21 A. Physically -- well, he travels a lot
22 because he manages all the water properties in
23 Missouri that are located all over, you know, the
24 state. His main office is in Aurora.

25 **Q. Which is in the Springfield area --**

1 A. Yes.

2 Q. -- generally?

3 So he manages Pacific as part of his
4 duties?

5 A. He manages all the water properties for
6 Liberty Utilities in Missouri.

7 Q. Has Mr. Carlson, I think the phrase has
8 been, walked the system? Has he done that yet at
9 the -- with Mister -- wh-- is it OCMA? I'm sorry.
10 I'm -- it's OMCA. Right?

11 A. Correct.

12 Q. Okay. Has he walked the system?

13 A. It's my understanding, based on my
14 numerous conversations with Mr. Carlson, that he met
15 with Mr. Allsbury in February of 2018 and they walked
16 around the property and Mr. Allsbury pointed out
17 certain issues that -- that remained to be addressed
18 by the Company. And Mr. Carlson is -- has a list of
19 issues that need to be addressed and is working on a
20 plan to address those later this year.

21 Q. Did you hear Mr. Allsbury testify that
22 that had not happened?

23 A. I did hear Mr. Allsbury testify that he
24 had a different -- he apparently has a different view
25 of that meeting. It is my understanding, based on my

1 conversation with Mr. Carlson -- and while I was not
2 present at that meeting, as I indicated in my
3 testimony, it is my understanding that they did point
4 out some issues, some meters to Mr. Carlson that he
5 may not have otherwise been able to find on his own.

6 And so Mr. Carlson's view -- and I
7 perhaps should not speak for him. It is my
8 understanding based on conversations with him, that
9 Mr. Carlson viewed that as a walk of the property.

10 **Q. Has Mr. Carlson walked all of your other**
11 **properties in Missouri?**

12 A. I cannot say for sure that he has walked
13 all the properties in Missouri, but I do believe that
14 he has visited all of the properties in Missouri. But
15 to what extent a walk is defined, I'm not sure.

16 **Q. How many people -- how many employees**
17 **does Mr. Carlson supervise?**

18 A. I'm not certain.

19 **Q. Can you give me an estimate?**

20 A. I cannot.

21 **Q. Do you know how many contractors he**
22 **supervises?**

23 A. Liberty Utilities Missouri Water uses
24 contractors for day-to-day operations for the Timber
25 Creek properties in Jefferson County, for the KMB

1 properties in multiple counties but mainly in the
2 Jefferson County area and in Cape Girardeau, and then
3 kind of on an as-needed basis for things like I was
4 referring to with Ms. Giboney's questions for leak
5 repairs and such.

6 **Q. I spoke with Ms. Parish about some of the**
7 **things that the Company had agreed to do in the**
8 **Partial Disposition Agreement. Are you aware of that**
9 **Partial Disposition Agreement?**

10 A. I am.

11 **Q. Are you aware of which of the items**
12 **listed -- do you -- do you need a copy of this?**

13 A. I have a copy.

14 **Q. Have been completed by the Company? It's**
15 **on page 4 of Dana Parish's testimony.**

16 A. I do not have a copy of Ms. Parish's
17 testimony, but I have a copy of the Partial
18 Disposition Agreement.

19 **Q. And can you find those that starts with**
20 **A, the Company's call center representatives?**

21 A. Yes, I see them.

22 **Q. And which of those have been completed?**

23 A. Well, the Company views -- you know,
24 we're -- we're constantly reviewing our customer
25 service and our operations to -- for continuous

1 improvements. It is my understanding, based on
2 discussions with our customer service team, that the
3 customer service representatives are -- have begun
4 answering the phone Liberty Utilities for the
5 after-hours telephone service.

6 I have not personally tested that to make
7 sure of that, my own account, but it is my
8 understanding that that has been communicated to the
9 customer service representatives and then that may be
10 underway.

11 **Q. And is it your understanding that some**
12 **call center representative is available 24/7 --**

13 A. Yes.

14 **Q. -- that phones are answered?**

15 A. Yes.

16 **Q. Thank you.**

17 A. They are. As far as the other items in
18 the -- in the Partial Disposition Agreement, and I'm
19 just kind of scanning quickly, the information
20 included on the billing statements as far -- I'm not
21 exactly sure if we're referring to the phone number in
22 there, but there have been issues and -- and questions
23 about the phone numbers presented on the bills and
24 that has been updated.

25 That was actually updated on the bills

1 beginning in October of 2015 and customers received on
2 those bills a bill message that informed them of the
3 new customer service number.

4 We have also updated the phone numbers on
5 the website to make sure that the website is correct.
6 Now, to your question earlier of Ms. Parish, I would
7 not sit here and state today that the -- that the
8 website is 100 percent perfect. There are always
9 areas for improvement and things that can be improved.
10 And some of it is subject to customers' opinions.
11 What may be easy for one person to find may be not so
12 easy for another person to find.

13 But the Company has reviewed all of the
14 comments that it has received related to the website
15 and the phone number and add-- and is working to
16 address all of those comments and concerns.

17 **Q. Thank you very much. That's all I have.**

18 JUDGE CLARK: Any questions by the
19 Chairman? I'm sorry.

20 COMMISSIONER KENNEY: I got promoted. If
21 I did, they could just recycle that old Kenny name,
22 Chairman.

23 JUDGE CLARK: I apologize. Any
24 questions, Commissioner Kenney?

25 COMMISSIONER KENNEY: You don't have to

1 apologize.

2 JUDGE CLARK: I think --

3 COMMISSIONER KENNEY: I mean, we had a
4 Republican governor for 20 months. It's about time,
5 don't you think? That's another story.

6 QUESTIONS BY COMMISSIONER KENNEY:

7 **Q. Briefly on the call center, when did you**
8 **say these changes began?**

9 A. The -- the customer service number was
10 changed in October of 2015. And we --

11 **Q. You were -- you were at the public**
12 **hearings. Right?**

13 A. I was at the public hearings, yes, sir.

14 **Q. The two where I was at in Pineview and**
15 **Branson when I took that eight-and-a-half hour drive**
16 **around -- it's like a walkabout, but it's a**
17 **drive-about.**

18 A. Yeah.

19 **Q. I heard several people talk about the --**
20 **not being able to get ahold of anybody.**

21 A. Uh-huh.

22 **Q. So if it's -- what have you done since**
23 **then?**

24 A. Well, we were very concerned about that
25 as well. That was the first time that we had really

1 heard that -- we received that level of comment
2 regarding that issue. That wasn't something that I
3 recall seeing in the -- in the comments that were
4 filed in EFIS. So that was of concern to -- to the
5 Company as well, so we immediately started
6 investigating that issue.

7 We believe that that has been kind of an
8 issue that's isolated to the Holiday Hills' customers.
9 Primarily --

10 **Q. Is that Pineview?**

11 A. No. Those were -- that was the Branson.

12 **Q. Branson.**

13 A. Uh-huh. Primarily because the -- the
14 number that was referred to on the Holiday Hills
15 Condominium Association website and on a voicemail and
16 an answering machine service that they have for --
17 that their members would call listed an old customer
18 service number that was no longer used for Missouri
19 Water customers. So it was --

20 **Q. So your thought -- your -- your thought**
21 **is that they probably just went online, got -- found**
22 **it from what their -- their -- their normal position**
23 **instead of going to the Company or looking at their**
24 **bill?**

25 A. Correct. Yes. Their bills were updated

1 October of 2015 with -- on the bill and with a special
2 bill message that indicated the new number.

3 **Q. Okay. Regarding the walk of the property**
4 **at Ozark Mountain whether -- whatever -- I'm not --**
5 **whether it took place or didn't -- whatever each side**
6 **believes, Mr. Carlson and Allsbury, when was that?**

7 A. It's my understanding that that was in
8 February of 2018.

9 **Q. So six months ago?**

10 A. Yes.

11 **Q. And he's still working on a plan?**

12 A. It's my understanding, based on my
13 conversations with Mr. Carlson, that he was trying to
14 be sensitive to this high season. The summer season
15 would be a more -- would be a busier time for the
16 condominiums and the resorts. And so he didn't want
17 to take off the -- he didn't want to take the system
18 off-line to make repairs that could be wait.

19 **Q. Okay. But you just -- you said he's**
20 **working on a plan. That's not working on a plan. I**
21 **mean he already has -- I can understand that. That**
22 **would be a plan in process --**

23 A. Okay.

24 **Q. -- if you have a plan ready to go, but**
25 **here's the reason, here's it is and so everybody**

1 knows. But to me, the fact that six months later he's
2 just still working on a plan, that means -- that
3 shows -- it's just -- you know, I don't -- and I'm
4 not -- I'm not trying to single out your company
5 because we have -- this happens with a lot of small
6 water and sewer companies, and like the rate shock
7 because they don't come in for a hearing for so long.

8 But I've noticed in my six years is that
9 a company does a whole bunch of stuff that last couple
10 months to get things looking like we're doing
11 everything. And to me, I -- I would say that I think
12 if that plan isn't in place, it should have been in
13 place and should be working on. I mean it shouldn't
14 be just in the process. Six months is a long time
15 for -- for a con-- for a company to have a plan in
16 place. So that -- that concerns me.

17 A. I understand your concern. And the -- I
18 can only assure you that the Company is working to
19 address and takes these concerns very seriously and is
20 working to address all of them and fix all of the
21 issues and the meter concerns that exist. So I'll
22 continue to work with Mr. Carlson to make sure that
23 they're sufficiently addressed.

24 Q. Okay.

25 QUESTIONS BY JUDGE CLARK:

1 **Q. Along the lines of what Commissioner**
2 **Kenney had asked --**

3 COMMISSIONER KENNEY: I got demoted. I
4 was made Chairman a few minutes ago and now I'm back
5 to Commissioner.

6 MS. COLEMAN: You're the man.

7 JUDGE CLARK: Apparently I've been given
8 broader powers than I thought this job had.

9 BY JUDGE CLARK:

10 **Q. One of the issues that I've heard and was**
11 **echoed again today that I really haven't heard**
12 **addressed at all is -- is some of the customers**
13 **indicated that they are -- they would be under like a**
14 **boil alert and would have no way of knowing. Is there**
15 **anything that's been done to address that?**

16 A. I've talked to Mr. Carlson numerous times
17 once the customer comments started rolling in in EFIS
18 after the local public hearings and -- and several
19 times since then. It's my understanding that the
20 Company is working on a plan.

21 We have a plan in place where when there
22 are small outages, 25 to 30 meters or less, we will
23 provide door hangers on each customer's door so that
24 they'll be notified when there's a boil advisory or an
25 issue. And then they'll also receive a door hanger

1 when the all clear is given.

2 For larger outages, it's my
3 understanding -- again I'm not an operator, but it's
4 my understanding from Mr. Carlson that there are two
5 forms of notification that are required. And it is
6 the Company's intent that they'll use like a larger
7 A-frame type board to notify customers at the entrance
8 of the property that there is a boil advisor--
9 advisory underway. And then obviously when the board
10 is taken down, then the issue has been resolved.

11 In addition to that form of
12 communication, the Company will also update its
13 website and that would happen as well. The Company is
14 working on a plan and a process, a communication plan
15 with the customer service reps and the communication
16 team to make sure that the website gets updated timely
17 so that customers could go on there and see -- select
18 their particular location area and it would alert them
19 to any outages or advisories, any warnings that they
20 need to be aware of.

21 We have also been preparing an -- like a
22 postcard that will be mailed to all customers to kind
23 of inform them of what the difference between a boil
24 order is and an advisory. And -- so that they kind of
25 understand the differences if you -- it's my

1 understanding -- again, I'm not an operator, but it's
2 my understanding that if you have low pressure, then
3 you would be under a boil advisory.

4 And so we're working on some
5 communications to send to customers on a more regular
6 basis to just constantly remind them as they have --
7 you know, that -- that these things exist and here's
8 what they should do, direct them to our customer
9 service number so that they can let the customer
10 service reps know and we can get in touch with our
11 operations team to make sure that they're addressing
12 the issues promptly.

13 **Q. Thank you.**

14 COMMISSIONER COLEMAN: Judge, I have a
15 question.

16 JUDGE CLARK: Go right ahead.

17 QUESTIONS BY COMMISSIONER COLEMAN:

18 **Q. So just in case this isn't been**
19 **addressed, I'd like to ask about some issues I heard**
20 **about at the Pacific local public hearing regarding**
21 **the -- the chlorine in the water. And I think that**
22 **was brought up by OPC this morning. And in my notes I**
23 **show that, you know, that the taste, the smell of it**
24 **has become extremely significant.**

25 **So I want -- would like to know what type**

1 **of things have been put in place to address that?**

2 A. Well, it's my understanding -- and
3 Mr. Roos previously addressed this in his testimony,
4 but I'll try to -- to restate that because I agreed
5 with what he said and then also provide my
6 understanding from the Company's perspective.

7 But based on my conversations with our
8 operations manager, the Company voluntarily
9 chlorinated the water. We were not required to
10 chlorinate the system, but we believe that it's in the
11 best interest for the health and safety of our
12 customers to chlorinate the water.

13 So based on the recommendations from the
14 Department of Natural Resources, we -- we chlorinated
15 the system. And the level of chlorine in the system
16 was within the recommended range by -- of the DNR.

17 So I believe that the customers, while
18 they did notice a difference in the taste and the
19 smell and they have some concerns and some complaints
20 about it, the levels are within the tolerable range or
21 the recommended range for chlorination by the DNR and
22 that it's just a matter of personal preference or, you
23 know, that it's just a difference in how the water was
24 after chlorination versus previously.

25 **Q. Has there been any attempt by the Company**

1 **to educate the customers on the fact that the levels**
2 **are acceptable and that things -- just as you were**
3 **saying, it's the tolerance level of the customer?**

4 A. I don't believe that there's been any
5 mass communication to all customers about the
6 chlorination. I do understand that we notified
7 customers that we would be adding chlorine to the
8 system. Some customers may not have noticed or
9 thought anything of it.

10 Some customers did complain to the
11 operators, which made its way back to our operator,
12 Mr. Paul Carlson. And I do know that he has had
13 numerous conversations with individual customers kind
14 of on -- on a case-by-case basis. But I don't believe
15 that the Company has sent out any mass communications
16 to customers about chlorine in the -- in the water.

17 **Q. Okay. Thank you.**

18 COMMISSIONER COLEMAN: Thank you, Judge.

19 JUDGE CLARK: Thank you. Any cross --
20 any recross based upon Commission questions?

21 MS. GIBONEY: No, Judge.

22 MS. SHEMWELL: I have just something
23 briefly.

24 RE-CROSS-EXAMINATION BY MS. SHEMWELL:

25 **Q. I was getting calls from -- I'm not sure**

1 **which party, Silverleaf, I think, maybe Holiday Hills.**
2 **The manager of the homes association. And I know that**
3 **they have e-mail addresses for all of their condo**
4 **owners and all of their -- the other owners. Are you**
5 **contacting the management of these water systems of**
6 **like the homeowners association if you have a boil**
7 **order so that they can send out e-mails?**

8 A. I don't know that we have specifically
9 contacted like the homeowners association or the condo
10 associations. We contact our customers directly. So
11 via door hanger for the customers -- you know, for the
12 meter or, you know, with the -- with the signs posted
13 out front. I don't know that there's been any
14 specific outreach to the homeowners association or the
15 condo associations.

16 Q. I'm just thinking it's kind of easy to
17 miss a sign, but if you get an e-mail, most -- I'm
18 just considering that that might be a method of
19 communication. In Jeff City we get notified by
20 television and radio. Is that not -- is that a
21 possibility for customer notification?

22 A. I'm not sure that that's something that
23 we've discussed. To your earlier point about the
24 e-mail addresses, I do recall -- I believe her name
25 was Mrs. Bart testifying at the Branson hearing about

1 her communication with customers via e-mail. We have
2 been discussing that and whether or not that's a
3 possibility.

4 As she indicated I believe in her
5 testimony at that local public hearing, she doesn't
6 have e-mail addresses for all customers and so it's
7 something that the Company is discussing. And we're
8 always looking for ways to better communicate with our
9 customers, so it is something that we're looking at
10 and considering.

11 I don't know that we've had specific
12 conversations -- I don't recall specific conversations
13 about radio stations or television stations.

14 **Q. Thank you.**

15 **A.** Thank you.

16 JUDGE CLARK: Any redirect by Liberty?

17 MR. BOUDREAU: Yes, Judge. I do. I
18 think I'll need to mark an exhibit.

19 JUDGE CLARK: Is this a new exhibit or is
20 this one --

21 MR. BOUDREAU: This is a new exhibit. It
22 will be Exhibit 5 by my count. Can I go ahead?

23 JUDGE CLARK: Yes.

24 REDIRECT EXAMINATION BY MR. BOUDREAU:

25 **Q. Okay. Ms. Schwartz, I've handed -- I'll**

1 hand you a document -- I haven't done it yet, but I'll
2 do it now.

3 A. Thank you.

4 Q. I'll hand you a document that is -- has
5 been marked or will be marked as Exhibit Number 5. Do
6 you recognize that document?

7 A. I do.

8 Q. And this is in response to some questions
9 I think you got from Commissioner Kenney about what
10 I'll call the phone call run-around complaint that
11 mostly came up in the Branson hearing. And you
12 mentioned in your response to Commissioner Kenney that
13 there had been a bill with a customer notification
14 provided in October of '15?

15 A. Yes.

16 Q. Is -- can you tell me what that -- that
17 document is that you have in front of you?

18 A. Sure. This document is a copy of a
19 customer bill for one of our Liberty Utilities
20 Missouri Water customers. That information has been
21 redacted for the privacy of the customer. The only
22 information that remains is you can see that the
23 customer is located in Branson.

24 But specifically this is what I was
25 referring to at the top -- near the top in the

1 left-hand corner there is a statement that says, For
2 questions regarding your bill, call 855.426.4376. And
3 that is the new customer service number that was put
4 in place beginning in October of 2015.

5 Also highlighted in yellow -- and I
6 should note that the -- the actual bills that
7 customers received did not have this information
8 highlighted in yellow at the time that the bills were
9 mailed. This was just something that we did for --
10 for our own internal purposes to highlight that this
11 was, in fact, on there.

12 But we included a special message so
13 that -- so that customers were aware that beginning
14 October of 2015, the customer service number has been
15 changed.

16 JUDGE CLARK: And I think we're jumping
17 ahead a little bit. She's testifying from a
18 documented that hasn't been offered yet.

19 MR. BOUDREAU: I guess she is, isn't she?

20 BY MR. BOUDREAU:

21 **Q. Do you recognize the document that's been**
22 **previously marked as Exhibit Number 5?**

23 A. I do.

24 **Q. Okay. And can you identify what that**
25 **document is?**

1 A. It is a copy of a customer bill.

2 Q. Okay. Is this a customer bill mailed out
3 by Liberty Utilities Missouri Water, LLC to its -- to
4 its water and/or sewer customers?

5 A. Yes, it is.

6 Q. Okay. And is this a typical form for a
7 bill that's mailed by the Company on a monthly basis?

8 A. Yes, it is.

9 MR. BOUDREAU: Okay. With that, I'll
10 offer Exhibit Number 5 into the record, please.

11 JUDGE CLARK: Any objections to admitting
12 Exhibit Number 5 onto the hearing record?

13 Exhibit Number 5 is admitted onto the
14 hearing record.

15 (Exhibit 5 was received into evidence.)

16 JUDGE CLARK: And you can go ahead.

17 BY MR. BOUDREAU:

18 Q. I'm not sure that I've got much more. So
19 you -- you've mentioned that the highlighting on the
20 special message area was added but not -- was -- was
21 not part of the bill that was mailed but was added for
22 the Company's convenience in terms of its
23 investigation of the phone number issue?

24 A. Yes.

25 Q. Okay. And do you know how long that

1 **special message -- how many months that special**
2 **message was included in the mailings?**

3 A. I don't know for sure. I believe at
4 least for one month, but perhaps two.

5 **Q. Okay. All right. Very good. I think**
6 **that's all the questions I have on redirect.**

7 COMMISSIONER KENNEY: I've got a
8 question.

9 MR. BOUDREAU: Certainly.

10 COMMISSIONER KENNEY: Maybe you or your
11 witness -- I'm just curious. That 5 percent penalty
12 for late payment, is that a tariff issue or is that
13 just a Company decision? I mean 5 percent -- I've
14 seen 1.5 percent. 5 percent, is that monthly? Down
15 at the bottom. Late payment fee. I'm just curious.

16 MR. BOUDREAU: I'm not -- I'm not sure if
17 I'm in a position to answer that question.

18 QUESTIONS BY COMMISSIONER KENNEY:

19 **Q. Are you?**

20 A. I don't know without reviewing the
21 tariff. My -- I would imagine that it would be a
22 tariff issue, that it would be something that would be
23 spelled out in our tariff. We wouldn't normally
24 charge customers anything that's not identified or
25 outlined in our tariff, but I would have to check that

1 to confirm.

2 COMMISSIONER KENNEY: Okay. I'd like
3 someone to give me that information before we make a
4 decision on this. Thank you.

5 MR. BOUDREAU: Very good.

6 I don't have any further questions for
7 the witness. Thank you.

8 JUDGE CLARK: Okay. Ms. Schwartz, you
9 can step down for now. I believe that concludes
10 customer service issues which moves us on to the
11 issue --

12 MR. BOUDREAU: Actually, if I might
13 recall Ms. Schwartz, I think we have a copy of the
14 tariff so we can answer the Commissioner's question --

15 JUDGE CLARK: I think that would be
16 appropriate.

17 MR. BOUDREAU: -- right now, I think.
18 Let's go ahead and clear up the record, if you
19 wouldn't mind.

20 JUDGE CLARK: Ms. Schwartz, you're still
21 under oath.

22 MR. BOUDREAU: May I approach the
23 witness?

24 JUDGE CLARK: Yes.

25 FURTHER REDIRECT EXAMINATION BY MR. BOUDREAU:

1 **Q. Ms. Schwartz, I'm going to hand you a**
2 **document and ask you if you recognize -- ask you if**
3 **you recognize that document?**

4 A. Yes. This is a copy of one of the tariff
5 sheets for Liberty Utilities Missouri Water.

6 **Q. And that's for the Silverleaf --**

7 A. Yes, it is.

8 **Q. -- area?**

9 **Does it -- does it address the issue of a**
10 **late payment fee?**

11 A. It does.

12 **Q. And what does it provide?**

13 A. It says that the late payment fee will be
14 the greater of 5 percent of the bill or 2 dollars,
15 which is the same statement that's made on the bill
16 itself.

17 MR. BOUDREAU: Okay. I don't know if
18 that satisfies the Commissioner's question.

19 FURTHER QUESTIONS BY COMMISSIONER KENNEY:

20 **Q. Does it -- is that all it says or does it**
21 **say 5 dollars per month or if it's two months or three**
22 **months or four months or five -- or just a total of**
23 **5 percent?**

24 A. It simply states the greater of 5 percent
25 of bill or 2 dollars.

1 **Q. Okay. Thank you.**

2 MR. BOUDREAU: I'm not going to mark that
3 as an exhibit.

4 MS. SHEMWELL: Paul, did you say you're
5 not going to offer this?

6 MR. BOUDREAU: Huh?

7 MS. SHEMWELL: Did you say you're not
8 going to offer this?

9 MR. BOUDREAU: I don't think I'm going to
10 offer -- the -- the tariff sheets are a matter of
11 public record. I think that they can be referred to.

12 MS. GIBONEY: Paul, could you identify
13 the tariff sheet number? The date or something?

14 MR. BOUDREAU: For the record,
15 Ms. Schwartz was referring to P-- PSC Missouri Number
16 2 canceling PSC Missouri Number 2, First Revised Sheet
17 Number 5.

18 MS. GIBONEY: Is there a date?

19 MR. BOUDREAU: Excuse me?

20 MS. GIBONEY: Date?

21 MR. BOUDREAU: It's ma-- it's stamped as
22 dated received from the Pub-- by the Public Service
23 Commission on July 20th, 1998. Oh, the effective date
24 at the bottom off of the tariff sheet is September
25 4th, 1998. Thank you.

1 COMMISSIONER KENNEY: Thank you.

2 JUDGE CLARK: Any questions from any
3 party related to that?

4 Okay. Ms. Schwartz, you can step down.

5 And we'll move onto rate design. The
6 first issue or sub-issue under the issue of rate
7 design is the phase-in of rates. And in regard to
8 that, first witness is Silverleaf's.

9 MR. HARDEN: Your Honor, I'd call
10 Mr. William Stannard.

11 JUDGE CLARK: Mr. Stannard, I'll remind
12 you you're still under oath.

13 THE WITNESS: Yes, sir.

14 MR. HARDEN: Thank you, Your Honor. I
15 tender Mr. Stannard for cross-examination on the issue
16 of the proposed phase-in rights.

17 JUDGE CLARK: Any cross-examination by
18 the Office of the Public Counsel?

19 MS. SHEMWELL: None. Thank you.

20 JUDGE CLARK: Any cross-examination by
21 Ozark Mountain?

22 MS. GIBONEY: No, Judge.

23 JUDGE CLARK: Any cross-examination by
24 Liberty Utilities?

25 MR. BOUDREAU: This is the rate phase-in

1 i ssue?

2 JUDGE CLARK: That's correct

3 MR. BOUDREAU: I have no
4 cross-exami nation for the witness on that questi on.
5 Thank you.

6 JUDGE CLARK: Any cross-exami nation from
7 the Commi ssi on Staff?

8 MS. KLAUS: No questions. Thank you.

9 JUDGE CLARK: Any questions from the
10 Commi ssi on?

11 COMMI SSI ONER KENNEY: No.

12 JUDGE CLARK: That l eaves you wi thout
13 redi rect so you may step down for the moment,
14 Mr. Stannard.

15 THE WITNESS: Okay. Thank you.

16 JUDGE CLARK: Thank you for your
17 testi mony.

18 The next witness under the i ssue of rate
19 design, sub-i ssue phase-i n of rates wi ll be Liberty
20 Uti l i ti es.

21 MR. BOUDREAU: I' ll ask Ms. Schwartz to
22 take the stand again, please.

23 JUDGE CLARK: Ms. Schwartz, I' ll remind
24 you you' re sti ll under oath.

25 THE WITNESS: Thank you.

1 MR. BOUDREAU: And I would go ahead and
2 tender her for cross on this particular issue.

3 JUDGE CLARK: Thank you. Any
4 cross-examination by the Commission Staff?

5 MS. KLAUS: No questions, thank you.

6 JUDGE CLARK: Any cross-examination from
7 Ozark Mountain?

8 MS. GIBONEY: No, Judge.

9 JUDGE CLARK: Any cross-examination from
10 Silverleaf?

11 MR. HARDEN: Yes. Thank you. Your
12 Honor, may I approach the witness? I'd like to
13 provide her, unless she has already has one, with a
14 copy of her deposition transcript. Deposition was
15 taken August 3rd of this year and I'd like to provide
16 it for her for the purposes of this cross-examination,
17 if it's necessary.

18 JUDGE CLARK: That would be fine.

19 MR. HARDEN: Thank you.

20 JILL SCHWARTZ, having been previously sworn, testified
21 as follows:

22 DIRECT EXAMINATION BY MR. HARDEN:

23 Q. I don't know if you have that.

24 A. I don't. Thank you.

25 Q. Thank you, Ms. Schwartz. On this

1 particular issue, I've actually got really relatively
2 few questions.

3 You started -- you started your
4 employment with Liberty Utility in 2015; is that
5 correct?

6 A. That's correct.

7 Q. And is it true that you have no knowledge
8 as to Liberty Utilities' means of determining when to
9 file a rate case prior to your employment in 2015?

10 A. I'm sorry. Could you repeat the
11 question, please?

12 Q. Sure. It's -- do you have any knowledge
13 as to the -- the means of how Liberty Utilities
14 determined when to file a rate case before your
15 employment starting in 2015?

16 A. As I believe I said in my deposition, I
17 was not -- I do not have any knowledge of how the
18 Company filed or planned to file rate cases prior to
19 my employment with the Company.

20 Q. Thank you. Thank you. And so you cannot
21 say -- you cannot say why the Com-- the Company did
22 not file a rate case for almost ten years. Would that
23 be an accurate statement?

24 A. I cannot state why the Company did not
25 file a rate case prior to my employment with the

1 Company.

2 MR. HARDEN: Your Honor, those are the
3 only questions with regard to the phase-in rates that
4 I have for Ms. Schwartz. I would say that at this
5 time I would like to offer into evidence what I have
6 marked as Exhibit 309, which is Ms. Schwartz's -- the
7 transcript of her deposition taking -- taken earlier
8 this month.

9 JUDGE CLARK: And I don't have that on an
10 exhibit list, so I'm assuming this is a new exhibit?

11 MR. HARDEN: Yes. And I apologize, Your
12 Honor. That was my oversight. I simply forgot to put
13 it down. I have it marked as 309.

14 JUDGE CLARK: In regard to Exhibit 309,
15 are there any objections to admitting Exhibit 309 onto
16 the hearing record?

17 MR. BOUDREAU: Yes, Judge. As you can
18 imagine, I have a number of them. Number one,
19 Ms. Schwartz is sitting right here on the stand. So
20 to the extent that Mr. Harden wants to ask her some
21 questions, she's here to answer questions on at least
22 this topic.

23 The -- I don't have any problem with
24 Mr. Harden using her deposition to impeach her prior
25 testimony, her deposition testimony, that's fine, but

1 to -- to just throw the deposition in wholesale into
2 the record, you don't know what's in there. I have a
3 pretty good idea of what's in there because I was
4 there for the deposition. I can tell you there are
5 standing objections that I made at the opening of the
6 deposition to relevance and hearsay just so that I
7 didn't have to interrupt the flow of the question --
8 of the -- of the deposition.

9 I also -- there were a number of
10 objections to various questions throughout the
11 deposition on various grounds; relevance, hearsay,
12 form of -- form of questions, foundation and what have
13 you. And I think that -- that this would require you,
14 sir, and I and Mr. Harden to go through the deposition
15 and rule on those objections with -- with respect to
16 every question and answer in the deposition. And I'm
17 not sure that's the best use of your time or my time
18 or anybody's time and certainly not the expense
19 associated with doing it.

20 Ms. Schwartz is sitting right there. All
21 he has to do is if he has some questions for her, is
22 to ask some questions. And if she says something
23 that -- at odds or what he perceives at odds with her
24 deposition, he can confront her with it.

25 So I object to the -- just with -- just

1 wholesale throwing in an entire deposition into the
2 record.

3 JUDGE CLARK: Any response, Mr. Harden?

4 MR. HARDEN: Yes, sir. I'm not sure
5 based upon that exactly what the legal objection is.
6 As Mr. Boudreau said, and he's quite right, he was
7 present and he did make a number of objections during
8 the course of the deposition.

9 In no way would -- I -- I would assume
10 that Your Honor and Mr. Boudreau would have all the
11 right and authority to sustain those objections at
12 some point in -- you know, at some point in the
13 future. The legal record remains -- remains open, as
14 we know from other issues within this case.

15 I'd just like to, you know, sort of
16 remind everybody that under -- it's Rule 5707, the use
17 of depositions in court proceedings. And I'm just
18 going to read it. It says, Any part of a deposition
19 that is admissible under the rules of evidence applied
20 as though the deponent were testifying in court may be
21 used against a party who was present or represented at
22 the taking of the deposition and who had prior notice
23 thereof. Depositions may be used in court for any
24 purpose.

25 Again, I'm -- I'm -- I'm a little baffled

1 as to what the specific objection being offered today
2 is to it. I certainly do understand and -- and it's
3 taken well that Mr. Boudreau had -- had objections to
4 specific questions within the deposition. And, again,
5 you would be fully within your rights to -- to -- to
6 strike those particular -- those particular questions.
7 But I see no reason why -- today I'm offering this
8 deposition testimony in, why -- why this testimony
9 can't come in.

10 JUDGE CLARK: Okay. Well, you're both
11 right to a degree. And here -- here's what I'm going
12 to say in regard to that. In regard to the expense of
13 timely keeping us here in order to do that, that's --
14 that's not in any way a valid objection. And -- and
15 what you said in regard to a deposition can be used in
16 court for multiple purposes, that's true; impeachment
17 being one of those, there being others.

18 But the problem with a deposition is a
19 deposition is kind of unbounded. It -- it -- it -- if
20 the deposition comes in and as Mr. Boudreau points
21 out, it comes in wholesale, then it comes in
22 essentially unfiltered with -- with whatever subjects
23 were -- were asked about, whether or not they would be
24 admissible or not in this proceeding.

25 So I'm going to allow you to ask

1 questions from it, but I'm not going to admit a whole
2 deposition onto the hearing record. So if you want to
3 use it to impeach, if you have other purposes with
4 which you want to ask questions from, we can address
5 those questions individually, but I'm not going to
6 allow a deposition in whole. I'm not going to admit
7 it.

8 So Exhibit 309 will not be admitted onto
9 the hearing record.

10 MR. HARDEN: So it won't be admitted --
11 it -- it will not be admitted say provisionally?

12 JUDGE CLARK: No, it won't be admitted --

13 MR. HARDEN: Period?

14 JUDGE CLARK: -- onto the hearing record,
15 that's correct. You can ask questions. You can use
16 the deposition.

17 MR. HARDEN: I understand, Your Honor. I
18 appreciate it. I have no further questions for this
19 witness.

20 JUDGE CLARK: If you have questions you
21 asked during the deposition that you want to ask, as
22 pointed out, you have that witness here.

23 MR. HARDEN: I do understand.

24 JUDGE CLARK: Do you have any other
25 questions for this witness?

1 MR. HARDEN: Not on the issue of
2 phase-in, which is what -- where I believe that -- the
3 phase-in rates, which is what I believe that -- the
4 issue that we're on.

5 JUDGE CLARK: That is correct.

6 Any cross-examination from the Office of
7 the Public Counsel?

8 MS. SHEMWELL: No. Thank you.

9 JUDGE CLARK: Any questions from the
10 Commission?

11 COMMISSIONER KENNEY: No.

12 COMMISSIONER COLEMAN: No.

13 JUDGE CLARK: Any redirect by Liberty?

14 MR. BOUDREAU: I have none. Thank you.

15 JUDGE CLARK: Okay. Ms. Schwartz, you
16 may step down.

17 Next witness in regards to phase-in is
18 Staff's. You may call your witness.

19 MS. KLAUS: Thank you, Judge. Staff
20 calls James Busch.

21 JUDGE CLARK: Mr. Busch, would you raise
22 your right hand to be sworn.

23 (Witness sworn.)

24 JUDGE CLARK: Please be seated. Direct
25 by Staff.

1 JAMES BUSCH, being first duly sworn, testified as
2 follows:

3 DIRECT EXAMINATION BY MS. KLAUS:

4 **Q. Good afternoon.**

5 A. Good afternoon.

6 **Q. Will you please state and spell your name
7 for the record?**

8 A. My name is James Busch. Busch is spelled
9 B-u-s-c-h.

10 **Q. By whom are you employed and in what
11 capacity?**

12 A. I'm employed by the Missouri Public
13 Service Commission. And I am the manager of the Water
14 and Sewer Department.

15 **Q. Are you the same James Busch who caused
16 to be prepared certain testimony which has been
17 premarked as Staff Exhibit 103 and which is your
18 Surrebuttal Testimony?**

19 A. I am.

20 **Q. Do you have any changes or corrections to
21 your testimony?**

22 A. I do not.

23 **Q. Is your testimony true and correct to the
24 best of your belief and knowledge?**

25 A. It is.

1 **Q. If I asked you those same questions**
2 **today, would you give the same answers?**

3 A. I would.

4 **Q. I believe that you are testifying on**
5 **another issue at a later time?**

6 A. That is correct.

7 **Q. So we will wait to admit your testimony,**
8 **if that's the Judge's preference.**

9 MS. KLAUS: And if so, I will tender the
10 witness for cross.

11 JUDGE CLARK: Any cross-examination by
12 Liberty Utilities?

13 MR. BOUDREAU: I have no questions for
14 this witness. Thank you.

15 JUDGE CLARK: Any cross-examination by
16 Ozark Mountain?

17 MS. GIBONEY: No, Judge.

18 JUDGE CLARK: Any cross-examination by
19 the Office of the Public Counsel?

20 MS. SHEMWELL: I have no questions for
21 this witness. Thank you.

22 JUDGE CLARK: Any cross-examination by
23 Silverleaf?

24 MR. HARDEN: Yes. Just a few.

25 CROSS-EXAMINATION BY MR. HARDEN:

1 Q. On -- good afternoon.

2 A. Good afternoon.

3 Q. On page 8 of your Surrebuttal Testimony,
4 line 4 through 12, you provide that the customers
5 benefit from a utility's failure to come in for a rate
6 increase because the customers get the benefit of the
7 lower -- of the lower rate because they haven't come
8 in for a rate case. Is that an accurate summation of
9 what you provide there?

10 A. You're referring to page 8, lines roughly
11 5 through 7?

12 Q. Yeah, yeah.

13 A. Yes. I would agree with that.

14 Q. Okay. So Mr. Busch, I just want to --
15 using -- using that rationale, would there ever be a
16 situation where customers suffered an unjustifiable
17 rate shock from a utility's failure to come in for a
18 rate case?

19 A. Could -- could you repeat that question,
20 please?

21 Q. Sure. So u-- using the rationale that
22 the customers benefit from a -- from a utility company
23 not coming in for a rate case because the -- the rates
24 remain low, is -- sort of using that as the basis, is
25 there ever a situation where customers would suffer

1 **unjustifiable rate shock from a utility's failure to**
2 **come in for a rate case?**

3 A. It is very difficult to say something
4 would never happen. I'm trying to think of a
5 situation where that would occur. And -- and
6 nothing -- no example is coming to my head right now.

7 **Q. So can I lay out a scenario and kind of**
8 **get your response to it?**

9 A. Sure.

10 **Q. Okay. So one is a utility company comes**
11 **in routinely and asks for a rate increase, which is**
12 **commensurate with their earnings or because of their**
13 **earnings and -- and they want to increase revenues and**
14 **they do this on a regular basis and customers pay**
15 **additional -- increased rates. Do you understand that**
16 **scenario?**

17 A. Can I try to rephrase --

18 **Q. Yes. Please. Absolutely.**

19 A. -- to make sure I understand?

20 **Q. Yeah. Absolutely.**

21 A. If -- if I understand what you're
22 suggesting is that you're creating a situation where a
23 utility is coming in routinely, say every three or
24 four years, something like that.

25 **Q. Sure. Right, right.**

1 A. Because they believe that they need
2 higher revenues to cover their cost-of-service.

3 **Q. Absolutely.**

4 A. Okay. I can make that assumption.

5 **Q. Okay. Second assumption -- or the second**
6 **scenario is one where the company -- the utility**
7 **company does not come in. For whatever reason it is,**
8 **they simply do not come in. And -- and so the**
9 **customers are -- don't see any kind of rate increase**
10 **for a prolonged period of time. And then they do come**
11 **in.**

12 A. Okay.

13 **Q. Okay. In those -- given those two**
14 **scenarios, can you see in that second scenario any**
15 **harm done to the customers?**

16 A. Not necessarily.

17 **Q. Okay. On page 6 and 7 of your**
18 **Surrebuttal Testimony, line 22 through line 1, one of**
19 **the reasons that you give for disagreeing with**
20 **Silverleaf's phase-in is that the proposed charges in**
21 **year 3 and 4 represent a significant increase in a**
22 **short period of time; is that correct?**

23 A. That is correct.

24 **Q. So going back to what we just discussed,**
25 **would that -- would that harm done to customers, a**

1 **large increase in a short period of time, would that**
2 **also be applicable in the situation where a utility**
3 **simply failed to come in for a rate case?**

4 A. I don't know that I stated that it's a
5 harm that those rates are that high. I just think I
6 pointed out that those are significant increases in a
7 short period of time. So I don't know if I agree that
8 it's harm to the consumers just because the rate
9 increases were high.

10 Q. Okay. Can you state one way or the other
11 that today? I mean, I -- I know you don't in your
12 testimony -- or I -- I take that from -- from your
13 testimony that you -- you don't say that it's a
14 specific harm. Do you -- do -- do you think that it's
15 a harm?

16 A. Do I think that the rates proposed are a
17 harm to the consumers?

18 Q. Well, no. Let's -- are -- are large rate
19 increases in a short period of time, are those -- can
20 those be harmful to customers?

21 A. I'm -- I hate to do this, but I'm
22 assuming that you mean by harmful, you mean costly?

23 Q. Yes.

24 A. Because, I mean, you know, harm is -- you
25 know, it's hard to understand what you -- when you're

1 trying to determine what harm is. You know, we look
2 at dollar amounts and we are looking at what the cost
3 is going to be to the consumer on a monthly basis and
4 that's what we focus on. So I don't look at, you
5 know, a high rate as necessarily being harmful, you
6 know.

7 **Q. Fair.**

8 A. You know, we work, in the water and sewer
9 especially, in an environment where we have very small
10 utilities that do not come in for rate cases for many,
11 many years. And we have the situation where larger
12 systems are coming in and purchasing these smaller
13 systems. And nationwide we're dealing with that --
14 have to, you know, completely upgrade our water and
15 sewer infrastructures.

16 So when you have those situations, you're
17 going to have the unfortunate occurrence of having
18 rates that are going to go up relatively high and, you
19 know, in the cost ben-- you know, in the cost analysis
20 to a consumer could be harmful to certain consumers.
21 But unfortunately, in order to provide the safe and
22 adequate service that they deserve, sometimes those
23 costs just have to go up in a short period of time,
24 regardless of whether or not they've come in every two
25 years or if it's been ten years.

1 **Q. Will -- let me see. I know we're on**
2 **phase-in. I apologize. I don't want to hit the wrong**
3 **issue in the wrong section.**

4 A. No worries.

5 **Q. I'm going to assume this is -- this is in**
6 **it -- I just shrank.**

7 A. I saw that.

8 **Q. Okay. Will Staff's recommendation be**
9 **that Liberty Utilities Missouri Water come in for a**
10 **new rate case with every major acquisition?**

11 A. I do not know.

12 **Q. So it's conceivable?**

13 A. Depends on the level of the -- of the
14 acquisition. Depends on, you know, what the -- what
15 the Company looks like in the future. If the Company
16 has -- you know, say, for example, since they're down
17 in the Branson area, they take over the whole
18 Springfield water system in -- in two years and then
19 after that, they buy a relatively more major system
20 but not quite as big. They may not -- we may not have
21 that same recommendation.

22 So that's, again, hard to say what Staff
23 will recommend in the future not knowing what Liberty
24 Utilities will look like next year even.

25 **Q. Would it be dependent upon the size of**

1 **the -- of the system being acquired?**

2 A. That would be one aspect that we would
3 look at.

4 **Q. I mean you can understand why this would**
5 **be concerning to -- to Silverleaf, can't you?**

6 A. I -- I -- I understand. And -- and we've
7 had other large corporations that were acquiring
8 smaller systems and -- and the fear was what happens
9 to rates upon the acquisition of these other systems.
10 So I -- I understand that.

11 It is my hope that we do see Liberty on a
12 more consistent basis. I think that there is capital
13 improvements that need to be made that have been
14 discussed throughout this hearing. We app-- we put
15 that into our -- the Stipulation and Agreement, that
16 they're going to file a five-year capital plan so we
17 can have a better idea working with the Company to
18 make those investments to get the service, you know,
19 appropriate as -- you know, continue to provide that
20 safe and adequate service.

21 And as the Company makes those
22 investments, we hope they come in to get recovery of
23 those investments on -- you know, on a more regular
24 basis. I think that's better for the Company and the
25 consumers.

1 **Q. Has -- has Staff had a hope with regards**
2 **to Liberty Utility Missouri Water coming in in the**
3 **last ten years?**

4 A. I -- I started in 2008 in the Water and
5 Sewer Department. At that time Liberty was only the
6 Silverleaf systems. Shortly thereafter, they
7 purchased the KMB and the Noel systems. I cannot
8 remember the year. I think it was discussed earlier.
9 It was about 2012, '13 maybe they filed a 6-- 60-day
10 notification that they were going to come in for a
11 rate case. So we were anticipating a rate case to be
12 filed before this one.

13 And for decisions that were made by the
14 Company, they didn't come in for a rate case, so.

15 **Q. So is there ever a scenario where not**
16 **coming in for a rate case can be -- can be deemed**
17 **imprudent -- imprudent management from the utility?**

18 A. In all my years, I have not seen a
19 situation where we've deemed it was imprudent that
20 they haven't come in.

21 **Q. Could you -- could you envision a**
22 **scenario where Staff deemed it imprudent for a utility**
23 **to not come in for a rate case?**

24 MS. KLAUS: Objection, speculation.

25 JUDGE CLARK: What was the question

1 again?

2 MR. HARDEN: If -- if he could conceive
3 of a scenario where Staff would consider it imprudent
4 for a utility to not come in for a rate case?

5 JUDGE CLARK: Can you personalize that to
6 him more?

7 MR. HARDEN: Can I -- excuse me? I'm
8 sorry. I just didn't --

9 JUDGE CLARK: Can you personalize that to
10 him more? Rather than to Staff as a more broad --

11 BY MR. HARDEN:

12 Q. Mr. Busch, can you visualize a scenario
13 where it would be imprudent management on the part of
14 the utility to not come in for a rate case?

15 A. Where it would be imprudent? I could
16 definitely see situations where it would not be in the
17 best interest for them not to come in. But to -- to
18 me, to call it up to the level of imprudency, I -- I
19 don't know if I could get to that level.

20 Q. And this would be -- would this, in part,
21 be because you do not foresee -- or you cannot
22 envision harm to the ratepayers from the utility not
23 coming in for a rate case?

24 A. Well, I mean, again, it would -- it would
25 depend on why they would be coming in for a rate case.

1 If the Company has not really invested any money, if
2 they haven't -- if it's a brand-new system that was
3 just put in in a subdivision and they became a
4 regulated entity and brand-new pipe, brand-new pumps,
5 brand-new everything, so you know, nothing breaks
6 down, they get lucky, you know, the expenses are
7 relatively -- stayed the same, I don't know that we
8 would necessarily want to see that company come in
9 just -- just to come in for a rate case.

10 So, you know, especially in the water and
11 sewer world where we're dealing with such small
12 systems with various ages, it's hard to -- you know,
13 there's a lot of factors that would go into whether or
14 not a company should or should not come in for a rate
15 increase.

16 **Q. So that scenario that you just laid out,**
17 **there's no capital improvements, there's no et cetera?**

18 A. That could be one reason why a firm would
19 not come in, and that would be perfectly fine.

20 **Q. To -- to your knowledge, is -- is that**
21 **now or was that in the last ten years the situation**
22 **with Liberty Utilities Missouri Water?**

23 A. I am not familiar with the capital
24 improvements that the Company has made over the last
25 ten years in -- in their systems.

1 **Q. Are you familiar with their O and M**
2 **expenses?**

3 A. I -- I'm not the auditor on this case, so
4 I didn't look at all their operation maintenance
5 expenses.

6 MR. HARDEN: I have no further questions.

7 JUDGE CLARK: Any questions from the
8 Commission?

9 COMMISSIONER KENNEY: No.

10 JUDGE CLARK: Any redirect by Staff?

11 MS. KLAUS: Yes. Hopefully very brief.

12 REDIRECT EXAMINATION BY MS. KLAUS:

13 **Q. Mr. Busch, you were asked some questions**
14 **about your testimony, specifically looking at pages 8,**
15 **6 and 7. And from this you were given two examples or**
16 **scenarios, one in which a utility comes in regularly**
17 **every three or four years and one in which a utility**
18 **doesn't come in for a while. I believe the time**
19 **period referenced was ten years with that.**

20 **And a lot of -- a conclusion was drawn**
21 **from those scenarios. And I'd like just to give you**
22 **an opportunity to make clear. Rate design involves a**
23 **lot more consideration than what was put into just**
24 **those two examples. Correct?**

25 A. Rate design?

1 Q. Yes.

2 A. Rate design takes into account, you know,
3 the overall cost-of-service -- I mean are you just
4 talking rate design as the determination of the
5 customer charge and the commodity charge? Are you
6 talking about the whole --

7 Q. I think just -- just mentioning all of
8 those things has kind of answered my question.

9 A. Right.

10 Q. But let me ask it this way: Rate design
11 has a lot more to do than just the period of time in
12 which a company comes in for a rate case?

13 A. Yes.

14 Q. It's not just three years, four years,
15 ten years?

16 A. Right. I mean, you know, rate design
17 looks at the cost of providing service, the number of
18 customers, the -- the volumes that they utilize. They
19 look at -- we look at what the current rates are, what
20 the proposed rates are going to be based upon that
21 revenue requirement. You know, just a myriad of
22 issues that we have to look at.

23 Q. And using those same examples, you would
24 say that Staff's recommendation in each rate case is
25 based on a case-by-case analysis?

1 A. That is correct. We -- we look at the
2 revenue requirement and then we make a determination
3 based upon, you know, the utility that is before us
4 and the -- you know, the demographics of the -- of the
5 customer base and everything.

6 **Q. One final question. Does Staff make**
7 **management decisions for the company?**

8 A. We do not.

9 **Q. That's all the questions I have. Thank**
10 **you.**

11 JUDGE CLARK: Mr. Busch, you can step
12 down.

13 It is three o'clock now. I'd like to
14 take about a 15-minute recess. Before we do that, it
15 appears that we have two sub-issues remaining under
16 rate design and the additional issue of the exemption
17 for Silverleaf and Orange Lake.

18 Are there any witnesses that are only
19 available tomorrow who would not be available today?
20 Because my tendency at this point is to -- is to keep
21 going and see how far we can get in this.

22 MR. BOUDREAU: For what it's worth, I
23 share that sentiment.

24 JUDGE CLARK: Well, and I appreciate
25 that, but I just want to know are there any witnesses

1 who are not available today?

2 Okay. Then what I'm going to do is we'll
3 take about a 15-minute recess until say about 3:17 and
4 then we'll come back and we will continue to move
5 forward. We'll go off the record.

6 (A recess was taken.)

7 JUDGE CLARK: Let's go back on the record
8 now.

9 MR. WESTEN: Judge, before we get
10 started, can I address a preliminary matter? I
11 mentioned another Staff witness who none of the
12 parties have identified they had any objections to the
13 admission of his testimony.

14 JUDGE CLARK: That was Mr. Moi --

15 MR. WESTEN: Moi Lanen.

16 JUDGE CLARK: Moi Lanen.

17 MR. WESTEN: Staff's Exhibit 108. And if
18 I might just go ahead and offer that at this time to
19 be offered as evidence. That way he doesn't have to
20 wait around until the end of the hearing.

21 MR. BOUDREAU: I thought it was in
22 already.

23 MR. WESTEN: Has it already been entered?

24 JUDGE CLARK: I have it as already
25 admitted.

1 MR. BOUDREAU: Yeah, I have it as
2 received.

3 MR. WESTEN: Well, then I won't trouble
4 everyone and I will hand the testimony to the court
5 reporter.

6 JUDGE CLARK: Thank you. I appreciate
7 you bringing that up. It's better to be sure.

8 MR. WESTEN: Yes, Judge.

9 MR. HARDEN: Your Honor, we had discussed
10 earlier -- I -- I don't know if you want to wait until
11 the end for the non-testimonial exhibits that we
12 discussed.

13 JUDGE CLARK: If you want to take that up
14 now before we go on to the next subject, that would be
15 fine. I believe you're discussing exhibits -- give me
16 just a second -- 304, 305 and 306 and 307; is that
17 correct?

18 MR. HARDEN: Yes, that is correct.

19 JUDGE CLARK: And those are the affidavit
20 of Hugh Rosenblum, affidavit of Lori Howell, affidavit
21 of Michael Hall, and the deeds and the declaration of
22 rights.

23 MR. HARDEN: That is correct.

24 JUDGE CLARK: And you are offering those?

25 MR. HARDEN: I am.

1 JUDGE CLARK: Any objection to admitting
2 those onto the hearing record?

3 MR. BOUDREAU: Yes, Judge. I have a
4 number of objections. I want to probably deal with
5 them in two categories.

6 There's three affidavits, as I understand
7 it. I don't know if any foundation has been laid for
8 the admission of them. I've taken a look at the
9 exhibits and they're certainly copies of affidavits,
10 but they're not -- they're not the originals of the
11 affidavit.

12 The other objection, I think, beyond just
13 the -- the lack of foundation is the relevance to the
14 case. I don't know what these -- what these
15 documents -- what their -- what their relevance to the
16 issues in this case are at this point. There may be
17 an explanation for it, but I'm going to object on the
18 grounds of relevance.

19 JUDGE CLARK: Mr. Harden?

20 MR. HARDEN: To his first point, they're
21 affidavits, they're self-authenticating documents.
22 And in terms of what's been filed in the county
23 recorder's office they're public records.

24 In terms of the relevance, the property
25 rights of the owners of my client's property, and --

1 in addition to the declaration of rights, which spells
2 out the -- in large part the operations and other --
3 operations and maintenance rights and obligations
4 between the owners are all exceedingly relevant to
5 this proceeding.

6 These are literally the people who pay
7 the ultimate -- the -- the utility bill. And so yeah,
8 we think that they're pretty relevant to Liberty
9 Utility Missouri Water's request for a rate increase
10 for water and sewer.

11 MR. WESTEN: Josh, do you have copies of
12 these?

13 MR. HARDEN: They're -- they're in EFIS.

14 MR. WESTEN: When were they filed in
15 EFIS?

16 MR. HARDEN: I don't -- I don't -- I'd
17 more than happy --

18 JUDGE CLARK: If I remember right -- and
19 I can address at least what's being said now a little
20 bit. Are we getting back to -- you had filed at one
21 point a Motion to Dismiss. And I believe that these
22 were documents filed as exhibits in that Motion to
23 Dismiss; is that correct?

24 MR. HARDEN: Yes. That's certainly part
25 of it. That is certainly -- that's --

1 JUDGE CLARK: Because that issue has been
2 ruled on.

3 MR. HARDEN: Right. Right.

4 JUDGE CLARK: Does this relate to a
5 different issue?

6 MR. HARDEN: It relates to the customers
7 or the people who receive water and sewer service from
8 Liberty Utility Missouri Water.

9 JUDGE CLARK: Well, what do you mean "it
10 relates to"? I mean I understand that these are
11 people that as a part of a -- that -- that -- that --
12 that in sharing part of a -- part ownership of a -- of
13 a unit, that that unit does receive utilities. I'm
14 just trying to understand how it's relevant.

15 I mean I'm not going to re-address the --
16 the issue as to whether or not timeshare owners are
17 customers. I think that that's been settled by the
18 Commission. So I'm just trying to figure out where
19 you're going. I'm trying to figure out what your --
20 if you have another point of relevance.

21 MR. HARDEN: We believe that the
22 information and the evidence provided will help the
23 Commission in determining what's in the best interest
24 of the people who are involved in -- in this case. We
25 think that it's relevant to understand what the

1 property rights are. We -- of -- of those people who
2 ultimately pay the bill for Silver-- for Liberty
3 Utilities.

4 MR. BOUDREAU: Judge, if I may, I mean,
5 he's studiously avoiding these references to these
6 individuals as customers.

7 JUDGE CLARK: He is.

8 MR. BOUDREAU: And I guess my point is
9 they're not customers. And to the extent that any of
10 this relevant to anybody, I would think it would have
11 to have some relevance to one of the Company's
12 customers, not some abstract notion of who
13 ultimately -- ultimately contributes to -- to the
14 payment of some account.

15 JUDGE CLARK: That's kind of -- I kind
16 of -- he has, as you put it, studiously avoided saying
17 customers. And I think the customer issue is well
18 settled. But certainly these are people who will be
19 impacted. And in that regard, I'm going to admit
20 those exhibits.

21 So are there any other objections?

22 MR. BOUDREAU: Just -- just for clarity,
23 these are the three affidavits or are you talking
24 about all four of the exhibits?

25 JUDGE CLARK: I am -- I am -- 304, 305,

1 306, 307 and 308 I'm going to admit onto the hearing
2 record. Are there any objections to those from any
3 other party?

4 Seeing none, those will be admitted.

5 (Exhibit 304, 305, 306, 307 and 308 were
6 received into evidence.)

7 JUDGE CLARK: Okay. Moving on to rate
8 design, customer charge and commodity charge. First
9 witness is Liberty Utilities.

10 MR. BOUDREAU: I'm recalling Jill
11 Schwartz to the stand, please. And I don't have any
12 further introductory questions to ask her at this time
13 so I'll tender her for cross-examination on this
14 particular issue.

15 JUDGE CLARK: Okay. Ms. Schwartz, I'll
16 remind you you're still under oath.

17 THE WITNESS: Thank you.

18 JUDGE CLARK: Any cross-examination from
19 Commission Staff?

20 MR. WESTEN: None. Thank you.

21 JUDGE CLARK: Any cross-examination from
22 Ozark Mountain?

23 MS. GIBONEY: No, Judge.

24 JUDGE CLARK: Any cross-examination from
25 Silverleaf?

1 MR. HARDEN: Thank you, Your Honor.

2 CROSS-EXAMINATION BY MR. HARDEN:

3 Q. Generally speaking, would you agree that
4 the -- when a commodity charge is -- is higher than
5 the customer charge, the customer has greater control
6 over their bill. Would that be an accurate statement?

7 A. When the commodity charge -- I assume --
8 I assume that you're referring to -- or intending to
9 say that when the commodity charge in total applied
10 towards the usage results in a higher portion of the
11 customer's bill than the fixed charge?

12 Q. Right. Yes.

13 A. Theoretically, I understand what you're
14 suggesting. I don't necessarily think that that's
15 always true though. To some extent customers will use
16 a certain amount of water or, you know, for water
17 consumption or for wastewater purposes regardless;
18 really almost out of their control.

19 Q. All right. So it's inelastic to some
20 degree, the demand?

21 A. I think so.

22 Q. Would you agree that the higher the cus--
23 the customer fixed charge is, the less risk that the
24 utility bears?

25 A. I think that to the extent that there is

1 a higher customer charge, there is more stability for
2 customers in their monthly bills as well as the
3 company in their monthly revenues.

4 **Q. Okay. Is -- so I think maybe you**
5 **answered my question. So there -- there's more**
6 **stability in the revenues received by the utility**
7 **company?**

8 A. Generally, yes.

9 **Q. Okay. I have no further questions.**

10 JUDGE CLARK: Any cross-examination from
11 the Office of the Public Counsel?

12 MS. SHEMWELL: We have no questions for
13 this witness. Thank you.

14 JUDGE CLARK: Commissioner Kenney, do you
15 have any questions?

16 COMMISSIONER KENNEY: No, thank you.

17 JUDGE CLARK: Any redirect by Liberty
18 Utilities?

19 MR. BOUDREAU: I don't believe so. Thank
20 you.

21 JUDGE CLARK: Ms. Schwartz, you may step
22 down.

23 Next witness is Staff's.

24 MR. WESTEN: Thank you, Judge. Staff
25 calls Matthew Barnes.

1 JUDGE CLARK: Mr. Barnes, will you raise
2 your right hand to be sworn.

3 (Witness sworn.)

4 JUDGE CLARK: Please be seated.

5 MATTHEW BARNES, being first duly sworn, testified as
6 follows:

7 DIRECT EXAMINATION BY MR. WESTEN:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Can you please spell -- spell. Can you
11 please state and then spell your name for the court
12 reporter?

13 A. Matthew Barnes, M-a-t-t-h-e-w
14 B-a-r-n-e-s.

15 Q. By whom are you employed and in what
16 capacity?

17 A. I'm employed by the Missouri Public
18 Service Commission. I'm an auditor four in the Water
19 and Sewer Department.

20 Q. Are you the same Matthew Barnes who
21 caused to be prepared Direct Testimony, Rebuttal
22 Testimony and Surrebuttal Testimony marked as Exhibits
23 100, 101 and 102 in this case?

24 A. Yes, I am.

25 Q. Do you have any changes or corrections to

1 **that testimony?**

2 A. I do not.

3 **Q. Is your testimony true and correct to the**
4 **best of your knowledge and belief?**

5 A. Yes, it is.

6 **Q. And if I were to ask you those same**
7 **questions again today, would your answers be the same?**

8 A. Yes, they would.

9 MR. WESTEN: At this time I'd like to
10 offer Exhibits 100, 101 and 102 as evidence.

11 JUDGE CLARK: Any objections to admitting
12 Exhibit 100, 101, and 102 onto the hearing record?

13 Seeing none, 100 101 and 102 are admitted
14 onto the hearing record.

15 (Exhibits 100, 101 and 102 were received
16 into evidence.)

17 MR. WESTEN: Thank you. At this time I
18 tender the witness for cross-examine.

19 JUDGE CLARK: Any cross-examination by
20 Liberty Utilities?

21 MR. BOUDREAU: I have no questions for
22 this witness. Thank you.

23 JUDGE CLARK: Any cross-examination by
24 Ozark Mountain?

25 MS. GIBONEY: No, Judge.

1 JUDGE CLARK: Any cross-examination by
2 the Office of the Public Counsel?

3 CROSS-EXAMINATION BY MS. SHEMWELL:

4 Q. I'm going to -- okay. In recommending
5 district-specific pricing, does that mean that Staff
6 does not want to see consolidation of the utilities?

7 A. We -- we chose district-specific pricing
8 because we don't see a need right now to consolidate,
9 but we do have an alternative proposal if the
10 Commission were to choose any consolidation, that the
11 KMB Systems be consolidated into one tariff rate.

12 Q. Okay. Thank you.

13 JUDGE CLARK: Any cross-examination by
14 Silverleaf?

15 CROSS-EXAMINATION BY MR. HARDEN:

16 Q. Your Surrebuttal Testimony, page 3, line
17 12 through 14, you state that Staff generally does not
18 disagree with the approach used by Mr. Stannard in
19 terms of an across-the-board rate increase as opposed
20 to -- well, just I'll just leave it at that. Is
21 that -- is that an accurate statement?

22 A. It is. The Staff has recommended
23 across-the-board increases in previous rate cases.

24 Q. But in this particular rate case, you're
25 recommending an increase of the fixed customer charge

1 of about 60 -- a little over 60 percent; is that
2 correct?

3 A. Yes.

4 Q. Now, let me ask you the same question I
5 asked Ms. Schwartz. Would you generally agree that
6 when the commodity charge is higher than that of the
7 customer charge, that customers have a greater control
8 over their bills?

9 A. I -- I would have to agree with the way
10 she answered it as regardless if the customer has a --
11 say an average use every month of 4,000 gallons and
12 they've made everything -- they've done everything
13 possible to conserve as much water as they could,
14 their bill's going to go up if the commodity charge is
15 higher.

16 Q. Well, does an increase in the commodity
17 charge have a greater effect on consumer behavior than
18 an increase in customer charge? How about that?

19 A. It could to the extent that they haven't
20 already made every effort to conserve as much water or
21 use less water as they could.

22 Q. Would you agree that an increase in --
23 substantial increase in the customer charge as opposed
24 to the commodity charge would have a greater impact on
25 smaller customers than it would on larger customers?

1 A. Could you define smaller customers for
2 me?

3 **Q. Residential.**

4 A. Based on usage or -- again, residential
5 customers tend to use different variances of water,
6 so --

7 **Q. Right.**

8 A. -- I don't know if I can answer that
9 with -- without you defining what a small customer is.

10 **Q. Okay. I have no more questions. Thank**
11 **you.**

12 JUDGE CLARK: Any redirect by Staff?

13 MR. WESTEN: I have no redirect. Thank
14 you.

15 JUDGE CLARK: Thank you, Mr. Barnes.

16 Next witness is Silverleaf's.

17 Mr. Stannard, I'll remind you you're still under oath.

18 THE WITNESS: Thank you.

19 MR. HARDEN: Tender Mr. Stannard for
20 cross-examination on the issue of customer charge and
21 commodity charge.

22 JUDGE CLARK: Thank you. Any
23 cross-examination by the Office of the Public Counsel?

24 MR. HALL: Yes, Your Honor.

25 WILLIAM STANNARD, having been previously sworn,

1 testified as follows:

2 DIRECT EXAMINATION BY MR. HALL:

3 Q. Good afternoon, Mr. Stannard.

4 A. Good afternoon.

5 Q. Would it be fair to describe your refiled
6 testimony as -- as debating the proposed rate design
7 of various commodity charges?

8 A. Yes. As well as the -- the balance of
9 customer charge and -- and the commodity charge.

10 Q. Okay. So when Silverleaf gets their
11 customer charge, they're presented with the rates,
12 their use and their ultimate final bill. Correct?

13 A. That is correct.

14 Q. Silverleaf wouldn't -- Silverleaf would
15 not accept just a flat charge without being told what
16 their rates were?

17 A. I'm not sure if I understand what you
18 mean by accept.

19 Q. If they were presented a bill that just
20 said, You owe the utility X amount and given no
21 background as to how much water was supposedly used,
22 would Silverleaf accept that?

23 A. The -- if -- if the approved tariff
24 included a commodity component, then the answer would
25 be no. There are some systems that only charge on

1 flat rates across the board so there is -- where they
2 are not metered.

3 **Q. So that type of rate -- the type of rate**
4 **I just described, would you describe that as**
5 **transparent?**

6 A. No. It is not transparent.

7 **Q. Thank you. No further questions.**

8 JUDGE CLARK: Any cross-examinations from
9 Ozark Mountain?

10 MS. GIBONEY: No, Judge.

11 JUDGE CLARK: Any cross-examination by
12 Liberty Utilities?

13 MR. BOUDREAU: I have no questions on
14 this topic of this witness. Thank you.

15 JUDGE CLARK: Any cross-examination from
16 Staff of the Commission?

17 MR. WESTEN: Yes, Judge. Thank you.

18 CROSS-EXAMINATION BY MR. WESTEN:

19 **Q. Good afternoon, Mr. Stannard.**

20 A. Good afternoon.

21 **Q. Just a refresher, I'm Jacob Westen. I'm**
22 **with the Staff counsel's office. I do have a few**
23 **questions about your rate design. And actually I**
24 **think -- I think my questions start off a little bit**
25 **broader than the specifics of your rate design. I**

1 understand you proposed a -- what's being called as an
2 across-the-board 76 roughly percent increase on all
3 aspects of Silverleaf's bills -- or the Silverleaf
4 bills?

5 A. The Silverleaf utility system's proposing
6 that Commission consider an across-the-board increase
7 that is applying the same percentage increase --

8 Q. Increase --

9 A. -- to all components of their existing
10 rate structure, which includes a fixed service charge,
11 customer charge by meter size --

12 Q. Right.

13 A. -- plus a commodity rate.

14 Q. And that -- that's specifically for the
15 Silverleaf area, the Silverleaf system?

16 A. Yes.

17 Q. And that -- that's kind of the scope of
18 your recommendation at this point?

19 A. Yes.

20 Q. Okay. Are you familiar with the exhibits
21 that were just offered by your attorney and admitted
22 into evidence, the affidavits from Mr. Rosenblum,
23 Ms. Howell and Mr. Hall?

24 A. I have not seen those.

25 Q. You've not seen those.

1 MR. WESTEN: Counsel, do you happen to
2 have a second copy of those?

3 MR. HARDEN: I apologize, Jacob. I
4 actually don't.

5 MR. WESTEN: Well, I -- I apologize to
6 the -- the parties here. I don't have the exact
7 exhibit number. This is the affidavit of
8 Mr. Rosenblum. Which exhibit number is that?

9 MS. SHEMWELL: 304.

10 MR. WESTEN: 304?

11 JUDGE CLARK: That's correct.

12 BY MR. WESTEN:

13 **Q. Okay. I'm handing the witness what's**
14 **been marked as Exhibit 304 and I'll just give you a**
15 **moment to review this. Have you seen this document**
16 **before?**

17 A. No, I have not.

18 **Q. You've not seen this document before?**
19 **Okay. Do you have any reason to doubt the information**
20 **on this document?**

21 A. No, I do not.

22 **Q. Okay. I'm going to ask you a question.**
23 **So there's a line in here that says, A portion of the**
24 **funds collected from the owners -- and owners in this**
25 **document are identified as timeshare owners. A**

1 portion of the funds collected from owners as
2 maintenance fees are used to pay the invoices from
3 Liberty Utilities.

4 Do you have any understanding of how the
5 timeshare owners actually pay Liberty Utilities for
6 the water used?

7 A. I do not, no.

8 Q. So you have -- you can't speak to that
9 information at all?

10 A. No, I cannot.

11 Q. Okay. In the course of conducting the
12 rate design, did you speak with any customers about
13 their usage directly, any customers? Did you speak
14 with any customers?

15 A. I did speak with Silverleaf Resorts to
16 get a copy of their -- portion -- well, their bills.

17 Q. So you've spoken with Silverleaf. You
18 haven't spoken --

19 A. Silverleaf. Not -- not with --

20 Q. Not individual timeshare owners?

21 A. -- individual timeshare owners. Just
22 Silverleaf. Reviewing all the bills for 2017.

23 Q. Okay. And are you at all familiar with
24 the Data Request Response DR 131 that Silverleaf
25 provided in response to Staff? Does that sound

1 **familiar?**

2 A. It sounds familiar. I'd have to -- I'm
3 not sure if I -- if that was -- if I reviewed that or
4 if that was material we -- we drilled into as opposed
5 to other data that we got relying from the billing
6 data from Liberty.

7 **Q. Okay. Bear with me one moment, please.**
8 **Handing out what Staff has marked on its exhibit list**
9 **as Exhibit 131.**

10 JUDGE CLARK: Exhibit 118?

11 MR. WESTEN: I'm sorry, yes. Exhibit
12 118. I'm sorry, Judge. I'm getting the DR numbers
13 and the exhibit numbers confused.

14 BY MR. WESTEN:

15 **Q. And just real quickly, have you seen this**
16 **document or are you familiar with this document?**

17 A. Yes, I am.

18 **Q. Did you prepare the answer in this**
19 **document?**

20 A. No, I did not.

21 **Q. How are you familiar with this document,**
22 **sir?**

23 A. This was information that we were
24 provided as well as part of this. So we utilized this
25 information to analyze the -- the data from Liberty

1 with regard to usages in the Silverleaf system during
2 the calendar year 2017.

3 **Q. So you relied on this as part of your**
4 **work?**

5 A. Some -- some of the information on here.
6 Trying to align the account numbers --

7 **Q. Okay.**

8 A. -- with the data from Liberty. So we had
9 the -- make sure we're looking at the same data
10 points.

11 **Q. Okay. I understand.**

12 MR. WESTEN: At this time Staff would
13 like to offer Exhibit 118 as evidence.

14 MS. SHEMWELL: May I have a description
15 of that?

16 MR. WESTEN: Yes. This is Staff's Data
17 Request 131 to Silverleaf Resorts.

18 MS. SHEMWELL: Thank you.

19 JUDGE CLARK: Any objections to admitting
20 Exhibit 118 onto the hearing record?

21 MR. HARDEN: No objection from
22 Silverleaf.

23 JUDGE CLARK: Seeing no objections,
24 Exhibit 118 is admitted onto the hearing record.

25 (Exhibit 118 was received into evidence.)

1 BY MR. WESTEN:

2 Q. Mr. Stannard, if you can turn to -- these
3 don't have page numbers, which I apologize, but by my
4 count if you turn to the fourth page of this document,
5 in the upper right-hand corner there's something that
6 says meter count. And then it has identification
7 numbers, which I'm assuming are meters, and then a
8 total number of meters. Is that your understanding,
9 that that is a total number of meters for -- for the
10 Holiday Hills?

11 A. It says meter count so it -- that was --
12 I would presume that that is the count of the meters
13 in Holiday Hills.

14 Q. And a similar question on the next --
15 let's see. Turning three more pages, you'll turn to a
16 similar document that says Timber Creek on the upper
17 left-hand corner and on the right-hand corner it also
18 has a meter count. Same assumption? Those are
19 meters --

20 A. Yes.

21 Q. -- for the Timber Creek system?

22 And then on the very next page, same
23 idea. Ozark Mountain in Kimberling City and another
24 meter account --

25 A. Yes.

1 Q. -- 137?

2 So by my math, 210 plus 24 plus 137, we
3 come up with -- is that 371? Is that the -- is that
4 the math that you have?

5 A. Yeah, I was -- in my head I came
6 around -- a little over 370.

7 Q. 370.

8 A. So we're pretty close.

9 Q. We're pretty close.

10 A. Since you're using a pencil and paper,
11 I'll -- I'll rely on your exact number.

12 Q. Well, that's always a dangerous thing to
13 do with an attorney, sir.

14 A. I will agree with that.

15 Q. But I -- I appreciate that.
16 So around 370?

17 A. Yes.

18 Q. And some of these meters obviously are
19 commercial and are some identified as residential?

20 A. Yes.

21 Q. But these are all meters that are billed
22 to the Silverleaf Resorts' system or Orange Lake
23 Country Club property manager?

24 A. Yes.

25 Q. So these bills from Liberty all go to

1 **that entity and then according to the Exhibit 304, it**
2 **sounds like those bills are actually paid by Orange**
3 **Lake and Silverleaf. Is that your understanding?**

4 A. That is my understanding.

5 **Q. And so then the timeshare owners pay a**
6 **maintenance fee that covers those water bills. Is**
7 **that -- is that also your understanding?**

8 A. Bas-- based on the affidavit which is
9 what it says, that would be my understanding.

10 **Q. And are you familiar -- I think your**
11 **testimony indicated that there are approximately**
12 **almost 36-, 35,000 different timeshare owners related**
13 **to the Silverleaf systems?**

14 A. That's the information that I was
15 provided by Silverleaf properties.

16 **Q. Okay. So -- so those 35- or 36,000**
17 **roughly different timeshare owners approximately pay a**
18 **portion of roughly 370 bills that happen each month?**

19 MR. HARDEN: Your Honor, I'm going to go
20 ahead and object. I think I just got done hearing
21 that we had foreclosed on this issue, that it was
22 done, that the Commission had made a decision. So I
23 guess I would ask what the relevance of Mr. Westen's
24 line of -- line of questioning here is, which even
25 despite that it's been already ruled on by the

1 Commission, even if it hadn't been, is well outside
2 the scope of his Rebuttal or Surrebuttal Testimony.

3 MR. WESTEN: Judge, Silverleaf has raised
4 the issue of rate shock. And rate shock has to apply
5 to customers paying bills. They've provided
6 information that suggests that the timeshare owners
7 are paying maintenance fees that cover the cost of
8 water rather than bills from Liberty directly.

9 And so I'm simply trying to establish how
10 many bills and how many timeshare owners per bill is
11 it about the case. And I think those numbers are
12 already present in the record.

13 MR. HARDEN: If the purpose is rate
14 shock, I withdraw my objection.

15 JUDGE CLARK: I'll note that it's
16 withdrawn.

17 BY MR. WESTEN:

18 Q. So, Mr. Stannard, the question I think
19 was there are approximately 36,000 timeshare owners
20 and they pay a -- they each pay a portion of roughly
21 4-- 371 bills it would appear based on the information
22 in front of us; isn't that right?

23 A. 371 bills each month.

24 Q. Yes. Thank you.

25 A. And -- and they are --

1 **Q. There's no qu-- question pending. I**
2 **appreciate that though. Thank you.**

3 JUDGE CLARK: Any further
4 cross-examination?

5 MR. WESTEN: I may have one other
6 question, Judge, if you'll bear with me. I -- I
7 apologize. Thank you.

8 JUDGE CLARK: Take your time.

9 BY MR. WESTEN:

10 **Q. The one last question I have is actually**
11 **related to your testimony. You mention that**
12 **there's -- let's see. On page 20 of your Refiled**
13 **Rebuttal you have a usage table, Table 9. Does that**
14 **look familiar?**

15 A. Yes, sir. And it was updated in my --

16 **Q. Yes, it was.**

17 A. -- Surrebuttal.

18 **Q. You're absolutely right.**

19 A. I'd like to --

20 **Q. Let's -- let's ch-- let's turn to that**
21 **table instead. And what's your -- what's the usage**
22 **table in your Surrebuttal? Is that on page 15?**

23 A. Yes, sir.

24 **Q. Okay. And I think -- I think in your --**
25 **your Rebuttal Testimony you identified that a majority**

1 of the 20th percentile bills are no-use bills, where
2 there's no usage reported.

3 A. That is correct.

4 Q. And I don't know if you had an
5 opportunity to review what is Liberty Utilities
6 Exhibit 5. Have you seen a copy of that?

7 A. No, I have not.

8 MR. WESTEN: Do you happen to have a
9 spare copy of that? Thank you.

10 BY MR. WESTEN:

11 Q. I'm handing the witness what's been
12 marked as Exhibit 5.

13 A. Oh, yes.

14 Q. And now obviously this bill has some
15 usage, but there's this handy little graph in the
16 middle of the page. Do you see that?

17 A. Yes.

18 Q. And it shows for some of the winter
19 months, November, December, January, February, there's
20 no usage whatsoever?

21 A. That is correct.

22 Q. And it shows that this particular bill,
23 the service is irrigation water meter; isn't that
24 right?

25 A. Yes.

1 **Q. And obviously usage is higher during the**
2 **summer months?**

3 A. When an irrigation meter is irrigating,
4 there would be usage.

5 **Q. Absolutely. I think that's right. So**
6 **obviously some of these low-use bills that you've**
7 **identified where there's no use, they could also be**
8 **high-use bills in the 90th or 80th percentile of your**
9 **chart as well, aren't they?**

10 A. They could be, yes.

11 **Q. Thank you. I have no further questions.**

12 JUDGE CLARK: Any questions from the
13 Commission?

14 COMMISSIONER KENNEY: No questions,
15 Mr. Stannard.

16 JUDGE CLARK: Any redirect by Silverleaf?

17 MR. HARDEN: No, Your Honor.

18 JUDGE CLARK: That finishes up all issues
19 relating to rate design. And I'm sorry. Was there
20 something I needed --

21 MS. SHEMWELL: I just said to him he
22 might as well stay because he's up next.

23 THE WITNESS: First one on the next
24 issue.

25 JUDGE CLARK: It's the only one I've had

1 out of order all day. Okay. So we are moving onto
2 the next issue, which is the Silverleaf, Orange Lake
3 exception from a future rate case. First witness on
4 that is Silverleaf's.

5 MR. HARDEN: Tender Mr. Stannard for
6 cross-examination on that issue.

7 JUDGE CLARK: Thank you, Mr. Harden. Any
8 cross-examination from the Office of the Public
9 Counsel?

10 MS. SHEMWELL: I have no questions for
11 this witness. Thank you.

12 JUDGE CLARK: Any cross-examination from
13 Ozark Mountain?

14 MS. GIBONEY: No, Judge.

15 JUDGE CLARK: Any cross-examination from
16 Liberty Utilities?

17 MR. BOUDREAU: No questions. Thank you.

18 JUDGE CLARK: And cross-examination from
19 Commission Staff?

20 MS. KLAUS: No questions. Thank you.

21 JUDGE CLARK: Any questions from the
22 Commission?

23 COMMISSIONER KENNEY: No questions.

24 Thank you.

25 JUDGE CLARK: And that does away with any

1 need for redirect, so Mr. Stannard, you can -- you're
2 excused.

3 THE WITNESS: Thank you.

4 JUDGE CLARK: Next witness is Liberty
5 Utilities.

6 MR. BOUDREAU: I will ask Jill Schwartz
7 to re-take the stand, please. And I'd be pleased to
8 tender her for cross-examination

9 JUDGE CLARK: Ms. Schwartz, I'll remind
10 you're still under oath.

11 THE WITNESS: Thank you.

12 JUDGE CLARK: Thank you, Mr. Boudreau.
13 Any cross-examination by Commission Staff?

14 MS. KLAUS: No questions. Thank you.

15 JUDGE CLARK: Any cross-examination by
16 Ozark Mountain?

17 MS. GIBONEY: No, Judge.

18 JUDGE CLARK: Any cross-examination by
19 Silverleaf?

20 MR. HARDEN: Yes, shortly.

21 May I approach the witness and give her
22 her deposition testimony?

23 JUDGE CLARK: Yes.

24 JILL SCHWARTZ, having been previously sworn, testified
25 as follows:

1 CROSS-EXAMINATION BY MR. HARDEN:

2 Q. I don't know if you need it, but --

3 A. Thank you.

4 Q. Ms. Schwartz, is it your understanding
5 that Staff's recommendation that Liberty Utility
6 Missouri Water come in for a rate case some time in
7 the next 12 to 24 months?

8 A. It's my understanding that the Staff has
9 recommended that the Company come in within the next
10 18 to 24 months.

11 Q. Thank you for that correction. And to
12 your knowledge, is that based on -- is that based on
13 Liberty Utilities acquisition of Ozark International?

14 A. I believe that's part of the
15 recommendation. There are also some other factors in
16 that recommendation, as I understand it from their
17 testimony. They would like to see that the Company
18 addressed, for example, the conversion to the chart of
19 accounts, the Commission prefer-- adopted version of
20 the chart of accounts.

21 Q. But to your knowledge, Staff's
22 recommendation that Liberty Utility come in is not
23 based upon there being any cost-of-service change to
24 any Liberty -- existing Liberty utility water and
25 service systems; is that correct?

1 A. Could you rephrase the question? I'm not
2 sure I understood.

3 **Q. Sure. Is it your understanding that**
4 **Staff's recommendation that Liberty Utility come back**
5 **in 18 months for -- for a rate case, that that is not**
6 **based upon a change in cost-of-service to any**
7 **Liberty -- any existing Liberty Utility system?**

8 A. Well, I wasn't involved in any
9 discussions with Staff and their recommendation --
10 when they developed their recommendation, but I
11 believe that they would expect and anticipate that any
12 rate case would include any changes to the
13 cost-of-service.

14 **Q. Okay. Ms. Schwartz, can you -- does**
15 **Liberty Utility Missouri Water have a business plan?**

16 A. As I -- as I stated in my deposition and
17 we've discussed --

18 **Q. You're going to need to repeat it.**

19 A. Okay. I believe that the Company does
20 have -- I guess I asked you to define -- can you
21 define a business plan?

22 **Q. Right. That would be a plan that sets**
23 **forth the business activities of Liberty Utilities**
24 **Missouri Water going into the future?**

25 A. And so I believe that you previously

1 referred to it as like the IRP for an electric
2 utility.

3 **Q. We can start -- let's start with -- with**
4 **that. Does Liberty Utility Missouri Water have**
5 **anything remotely similar to an integrated resource**
6 **plan?**

7 A. I do not believe that Liberty Utilities
8 Missouri Water has -- has anything similar to an
9 integrated resource plan.

10 **Q. Okay. So do you know if Liberty Utility**
11 **Missouri Water is planning on any additional**
12 **acquisitions in the near future beyond Ozark**
13 **International?**

14 MR. BOUDREAU: Well, I just kind of -- I
15 don't know whether this will get into matters that are
16 confidential in terms of business plans or whatnot.
17 I'll -- I'll ask the witness to flag it for me because
18 we can -- then I can ask the Hearing Examiner to go
19 in-camera.

20 THE WITNESS: I am not involved in all of
21 the -- the discussions and the acquisitions that the
22 Company looks at on a regular basis. I know that the
23 Company is always looking to grow its operations
24 through acquisitions, but I am not personally involved
25 in all of the discussions related to the acquisitions

1 that the Company is looking at.

2 BY MR. HARDEN:

3 **Q. Are those made -- are those -- are those**
4 **business decision made at the level of Liberty Utility**
5 **Missouri Water?**

6 A. I'd say that they're made at the Liberty
7 Utility Central Region level.

8 **Q. And is that the owner of Liberty**
9 **Utilities Missouri water?**

10 A. Liberty Utilities Central Region is not a
11 legal entity. It's more like the operating division,
12 the business division.

13 **Q. Okay. The business division of what**
14 **company?**

15 A. Of Liberty Utilities.

16 **Q. Okay. Of -- and is that Liberty**
17 **Utilities North America or is it just Liberty**
18 **Utilities?**

19 A. Liberty Utilities is a division of
20 Algonquin Power and Utilities -- Utilities Corp.

21 **Q. Let's say hypothetically that the**
22 **Missouri Public Service Commission wanted to find out**
23 **whether or not Liberty Missouri -- or Liberty Utility**
24 **Missouri Water was planning on more acquisitions.**
25 **Okay. Who would they contact to do that?**

1 A. I would imagine they would submit a Data
2 Request to the Company, to Lib-- if they were
3 specifically wondering if Liberty Utilities Missouri
4 Water, LLC is looking to acquire a company, they would
5 submit that request to Liberty Utilities Missouri
6 Water, LLC.

7 **Q. And what would -- and where would -- and**
8 **what would Missouri -- or Liberty Utilities Missouri**
9 **Water do with that question?**

10 A. I would contact the business development
11 team that is involved in the acquisitions.

12 **Q. Okay. And is that business development**
13 **team part of Liberty Utilities Central Division?**

14 A. There are business development employees
15 that support the Liberty Utilities Central Region.

16 **Q. Okay. With the exception of corporate**
17 **allocations and shared services, would the addition**
18 **of -- additional systems to the Liberty Utility**
19 **Missouri Water, would they affect the cost-of-service**
20 **to Silverleaf?**

21 A. As it stands today, Silverleaf being a
22 separate stand-alone tariff and -- and rate schedule,
23 and cost-of-service calculation, I don't know that
24 other than the allocations of shared services and
25 corporate allocations, that the cost-of-service for

1 Silverleaf would be impacted by future acquisitions;
2 however, I do believe that you have to consider the
3 impact and the changes that any acquisitions have on
4 shared service allocations or corporate allocations
5 because it can change things definitely.

6 I mean theoretically, the more that the
7 Company grows, the more customers that we add, the
8 allocation of those costs theoretically -- if
9 everything else remains unchanged, the allocation of
10 those costs would go down for Silverleaf. And I would
11 think that you would want to capture that in the next
12 rate case.

13 **Q. That is reassuring, Ms. Schwartz. And I**
14 **have no other questions. Thank you.**

15 JUDGE CLARK: Any cross-examination from
16 the Office of the Public Counsel?

17 MS. SHEMWELL: No further questions. No
18 further questions. Thank you.

19 JUDGE CLARK: Any questions from the
20 Commission?

21 COMMISSIONER KENNEY: No questions,
22 Ms. Schwartz.

23 JUDGE CLARK: Any redirect by Liberty
24 Utilities?

25 MR. BOUDREAU: None. Thank you.

1 JUDGE CLARK: Ms. Schwartz, you're
2 excused.

3 THE WITNESS: Thank you.

4 JUDGE CLARK: I believe our final witness
5 of the day is Staff's witness.

6 MS. KLAUS: Recalling Mr. Jim Busch.

7 JUDGE CLARK: Mr. Busch, I'll remind you
8 you're still under oath

9 THE WITNESS: Yes, sir.

10 JAMES BUSCH, having been previously sworn, testified
11 as follows:

12 DIRECT EXAMINATION BY MS. KLAUS:

13 Q. Mr. Busch, this is the last topic which
14 you are providing testimony on at this hearing.
15 Correct?

16 A. That is correct.

17 MS. KLAUS: Your Honor, at this time I
18 would offer Exhibit 103 to be admitted into evidence.

19 JUDGE CLARK: Any objection to admitting
20 Exhibit 103, the Surrebuttal of James Busch onto the
21 hearing record?

22 Seeing no objections, Exhibit 103 is
23 admitted onto the hearing record.

24 (Exhibit 103 was received into evidence.)

25 MS. KLAUS: I tender the witness for

1 cross-examination.

2 JUDGE CLARK: Any cross-examination by
3 Liberty Utilities?

4 MR. BOUDREAU: No, I don't have any.
5 Thank you.

6 JUDGE CLARK: Any cross-examination by
7 Ozark Mountain?

8 MS. GIBONEY: No, Judge.

9 JUDGE CLARK: Any cross-examination by
10 the Office of the Public Counsel?

11 MS. SHEMWELL: No. Thank you.

12 JUDGE CLARK: Any cross-examination by
13 Silverleaf?

14 MR. HARDEN: Yes. Thank you.

15 CROSS-EXAMINATION BY MR. HARDEN:

16 **Q. Mr. Busch, is it your understanding that**
17 **Staff's recommendation that Liberty Utilities come in**
18 **for a rate case in 18 months is driven primarily or**
19 **solely by its acquisition of Ozark International?**

20 A. Well, in our -- the Stipulation and
21 Agreement that we have signed with Liberty, I think it
22 states that no later than 24 months. But I think in
23 our Direct Testimony, Mr. Harrison, it was 18 to
24 24 months.

25 And as I point out in my testimony, the

1 drivers were the acquisition of the Ozark
2 International companies which should -- we have
3 information is supposed to close sometime later this
4 month, which will add over 33 percent to their total
5 customer base.

6 And because, as was discussed earlier
7 today, the issues with the accounting and the USOA
8 accounts, that 24 months should give the Company the
9 opportunity to make the -- the appropriate changes
10 that they've agreed to make and that 24-month period
11 should be enough time for us then to go in there and
12 make sure that they have accomplished what they have
13 agreed to accomplish.

14 **Q. Have -- have you seen a business plan of**
15 **Liberty Utility Missouri Water?**

16 A. I heard the discussion about what is a
17 business plan. Very seldom do I get to see any
18 business plans for any utilities in the state of
19 Missouri.

20 **Q. So that's a no?**

21 A. That's a no.

22 **Q. So you don't know if they're planning any**
23 **additional acquisitions?**

24 A. I do know that they are planning -- about
25 a week or so ago they filed a 60-day notification for

1 the intent to acquire the assets of Franklin County
2 Water. So I'm anticipating that we will see a full
3 application within 60 days.

4 **Q. Will -- will that be included in the --**
5 **in the rate case in 18 to 24 months?**

6 A. Well, if the -- if the acquisition and
7 the transfer is approved by this Commission, then --
8 and that utility or those assets are a part of the
9 Liberty system, yes. Anything that would be a part of
10 Liberty system would be included in a rate case at
11 that time.

12 **Q. Let's assume horrifically for a second**
13 **that it was not. Would Staff then recommend another**
14 **rate case after -- after that to deal with that**
15 **particular acquisition?**

16 A. Are you suggesting that for some reason
17 the Staff has not made a recommendation and the
18 Commission has not approved the application that I
19 anticipate to be filed in the next two months is not
20 completed in 24 months?

21 **Q. Right. So -- so if -- I guess this is**
22 **what I'm getting at. If there is -- there's a --**
23 **there's a new acquisition, Franklin County --**

24 A. Uh-huh.

25 **Q. -- and so 18 months from now we have this**

1 new rate case dealing with the Ozark International.
2 Let's say the Franklin County deal is not complete.
3 Okay? It's not done, it's not signed, there's no
4 acquisition yet but it's in the making. Will Staff's
5 recommendation then be we need a rate case to deal
6 with that -- that Franklin County acquisition?

7 MR. BOUDREAU: Well, I'll object on the
8 ground it calls for speculation.

9 JUDGE CLARK: I'll sustain that.

10 MR. HARDEN: No further questions.

11 JUDGE CLARK: Any questions from the
12 Commission?

13 COMMISSIONER KENNEY: Mr. Busch, I have
14 no questions for you.

15 THE WITNESS: Thank you, sir.

16 COMMISSIONER COLEMAN: No questions.

17 JUDGE CLARK: Any redirect by the
18 Commission Staff?

19 MS. KLAUS: No redirect. Thank you.

20 COMMISSIONER KENNEY: That's what I like
21 to hear.

22 JUDGE CLARK: Okay. That concludes --
23 are any other matters that need to be taken up with
24 regard to this?

25 MR. BOUDREAU: Judge, just one house

1 cleaning matter with respect to Exhibits 304 through
2 308. I never really got a good indication of -- of
3 the identity of those documents on -- it's just for my
4 records. What is 304? It was an affidavit of?

5 JUDGE CLARK: Affidavit of Hugh
6 Rosenblum. Number 305 is the affidavit of Lori
7 Howell.

8 MR. BOUDREAU: Howell, H-o-w-e-l-l?

9 JUDGE CLARK: Correct. 306 is the
10 affidavit of Michael Hall.

11 MR. BOUDREAU: H-a-l-l?

12 JUDGE CLARK: Correct.

13 MR. BOUDREAU: Thank you.

14 JUDGE CLARK: 307 is listed as deeds.
15 And 308 is listed as declaration of rights.

16 MR. BOUDREAU: I wonder if I could impose
17 on counsel for Silverleaf to make sure that copies of
18 those exhibits are circulated. I don't have copies
19 and none were provided at the time the documents were
20 offered.

21 MR. HARDEN: Yeah. I mean -- do you want
22 them marked? I don't have copies of the marked
23 exhibits, so --

24 MR. BOUDREAU: I think if you can -- if
25 you can indicate to me that -- which one is which,

1 I'll be able to figure it out I think from this.

2 JUDGE CLARK: You'll provide numbered
3 copies to the parties?

4 MR. HARDEN: Yeah. I'm going to need to
5 make a copy.

6 JUDGE CLARK: That I think would be fine.
7 Well, would you need to make a copy or would you
8 just -- I think you said it was available in EFIS.

9 MR. HARDEN: It is available in EFIS.

10 MR. BOUDREAU: Well, they're probably not
11 marked. I think the distinction is it's probably not
12 marked.

13 JUDGE CLARK: I understand. So I -- I
14 would just try and clarify if you can't, they would
15 need to be returned to the court reporter because
16 these are the exhibits. And so if he needs to make
17 copies for you and number those, I think you can print
18 those off from EFIS and still provide you with --

19 MR. BOUDREAU: That would be fine with
20 me. Thank you.

21 JUDGE CLARK: Okay. I'm going to go
22 briefly down the exhibits that have -- since we have
23 heard from our last witness and nobody's indicated
24 anything else, I'm going to continue with house
25 keeping matters or house cleaning matters.

1 And I'm going to go briefly through the
2 exhibits that have been offered, whether or not they
3 have been admitted. And those would be 1, 2, 3, 4, 5,
4 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110,
5 111, 112, 113 was not offered, 114 was not offered,
6 115 was not offered. 301 was offered, 302, 303, 304,
7 305, 306, 307, 308 we just went through. 401 was
8 offered. 116 was not offered, 117 was not offered,
9 118 was offered and 309 was offered.

10 Any disagreement?

11 When do you think -- Court Reporter, when
12 do you think the transcripts will be available?

13 THE COURT REPORTER: Can we go off?

14 JUDGE CLARK: That would be fine. We'll
15 go off the record.

16 (Off the record.)

17 JUDGE CLARK: The court reporter
18 indicated off the record that expedited transcripts
19 will be available by the end of the day tomorrow and
20 that it was indicated to her, I'm not sure by who,
21 that they were needed the day after the case
22 concluded.

23 I'll note that initial briefs are due on
24 August 31st, 2018 and that reply briefs are due on
25 September 11th, 2018. I enumerated possible

1 additional things that the parties may wish to brief
2 in relation to the myriad of -- of motions that were
3 filed on the 13th and 14th. Does anybody disagree
4 with those August 31st and September 11th dates?

5 Are there any other matters that need to
6 be addressed before we adjourn? Yes, Ms. Giboney.

7 MS. GIBONEY: I'm sorry. I missed what
8 you said about on the additional briefs on the matters
9 that were filed, you know, on the 13th.

10 JUDGE CLARK: There were -- anything --
11 the parties I indicated are welcome to brief anything
12 in relation to the filed Stipulation and Agreement.

13 MS. GIBONEY: Do you want those things
14 briefed separately or just as part of the brief I
15 guess is my question?

16 JUDGE CLARK: I think just as part of it.

17 MS. GIBONEY: Okay. Thank you. Anything
18 else before we adjourn? Okay. I want to thank
19 everybody for their time and for their professionalism
20 today. It's been a long day. We will adjourn this
21 proceeding and we will go off the record.

22 (Off the record.)

23 (Exhibits 1, 2, 3, 4, 5, 100, 101, 102,
24 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 118,
25 301, 302, 303, 304, 305, 306, 307, 308 and 401 were

1 marked for identification.)

2 (Whereupon, the hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy T. Taylor

Tracy Thorpe Taylor, CCR



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