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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

Evidentiary Hearing

August 14, 2023

Jefferson City, Missouri

Volume 9.5

IN THE MATTER OF CONFLUENCE)
RIVERS UTILITY OPERATING COMPANY,)
INC.'S REQUEST FOR AUTHORITY TO)
IMPLEMENT A GENERAL RATE INCREASE)
FOR WATER SERVICE AND SEWER)
SERVICE PROVIDED IN MISSOURI)
SERVICE AREAS)

FILE NO. WR-2023-0006

CHARLES HATCHER, Presiding
SENIOR REGULATORY LAW JUDGE

SCOTT RUPP, Chairman
JASON HOLSMAN, Commissioner
KAYLA HAHN, Commissioner
GLEN KOLKMEYER, Commissioner

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GLEN KOLKMEYER, Commissioner

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1 THE COURT: Today is August 14th, 2023. This is
2 Day 3 of the evidentiary hearing for the general rate case of
3 Confluence Rivers Utility Operating Company.

4 The case citation is WR-2023-0006.

5 We'll go ahead and make quick entries of appearance
6 for the counsel present. We'll start with Confluence Rivers.

7 MR. COOPER: Judge, Dean Cooper from the Law Firm
8 of Brydon, Swearngen and England appearing on behalf of
9 Confluence Rivers today. Along with Mr. Mitten and Mr.
10 Woodsmall who appeared last week in the case.

11 THE COURT: Thank you, sir. Glad to see that
12 you're feeling better.

13 For staff.

14 MR. THOMPSON: Good morning, Judge. Kevin
15 Thompson and Karen Bretz for the Staff of the Missouri Public
16 Service Commission, Post Office Box 360, Jefferson City,
17 Missouri 65101.

18 THE COURT: Thank you.

19 And the Office of the Public Counsel.

20 MR. CLIZER: John Clizer, your Honor. Thank you.

21 THE COURT: Thank you.

22 Quick announcement. Last week seemingly crossing
23 communications. The Commission had inquired about the
24 availability of witnesses to discuss options on rate
25 consolidation, and about the same time period it was reported

1 that there was a pending settlement among the parties, and to
2 summarize from Counsel that was two water, two sewer, and
3 divided by cost of technology, for lack of any term of art on
4 this.

5 The Commission is no longer interested due to the
6 parties having settled that, so just to let all the witnesses
7 know, I'm sure they're listening.

8 Today's schedule includes -- and this is the reason I
9 mention the Commission's interest -- includes Issue No. 5 rate
10 design and District consolidation.

11 However, the only live issue is the two competing
12 estimates of water usage. Staff's recommendation of five
13 thousand gallons estimated per month versus the Company's two
14 thousand seven hundred and fifty gallons.

15 The next issue for today is acquisition related costs
16 and then timesheets.

17 Okay. Let's go to mini --

18 MR. WOODSMALL: May I inquire?

19 THE COURT: Yes, please.

20 MR. WOODSMALL: I don't know -- just to delve a little
21 deeper into the rate design issue the parties had waived cross
22 of the witnesses. But, you indicated last week that the
23 Commission may have questions on the water usage issue.

24 Mr. Lyons is available to dial in tomorrow after we
25 finish costs of capital, about twelve-thirty he's available if

1 that fits the Commission's schedule.

2 THE COURT: Thank you for reminding me. Thank
3 you. I don't believe that the Commission has questions however,
4 I am going to leave that until tomorrow at twelve-thirty. Just
5 I want to double check on that.

6 Thank you, sir.

7 Speaking in the background was David Woodsmall,
8 Counsel for Confluence Rivers.

9 How does Counsel want to handle -- let's just move on
10 to Issue 6. Acquisition related costs. Okay. Let's start with
11 mini Opening Statements. We'll go with the Company first.

12 Mr. Cooper, the floor is yours.

13 MR. COOPER: Thank you, Judge. This is the issue
14 that I believe Mr. Woodsmall referred to in his Opening
15 Statement as preliminary legal and engineering costs.

16 As we've talked about several times in this case
17 already Confluence River, of course, acquires the assets of
18 small distressed water and sewer utilities. Sometimes
19 Confluence Rivers is acquiring assets from existing water and or
20 sewer corporations, and many times it is acquiring systems that
21 are either being run by nonregulated entities or entities that
22 have been regulated -- should have been regulated but have not
23 submitted themselves to such.

24 In acquiring these assets Confluence Rivers incurs
25 both costs both before and immediately subsequent to the

1 acquisition that primarily arise from necessary legal and
2 engineering expenditures, directly related to the acquisitions.

3 The engineering expenditures include costs for system
4 maps and surveys that are necessary to ultimately operate the
5 systems. These costs also include expenditures that allow the
6 company to determine the feasibility of capital improvements
7 that will need to be made to the system. The legal expenditures
8 include costs associated with securing clean title to the
9 property, confirming or in some cases acquiring proper easement
10 access to the system components and the costs to appropriately
11 file required acquisition cases with the Commission.

12 Consistent with the uniform system of accounts
13 Confluence Rivers books such legal and preliminary engineering
14 costs to Account 183 preliminary survey and investigation
15 charges.

16 The staff and the reason we're here today, of course,
17 is that staff seeks to disallow these costs.

18 Well, let me back up. First off, I think I want to
19 make clear that the costs in Account 183 ultimately are
20 capitalized and included in rate base. So when we talk about
21 the amount of costs that have been disallowed slightly more than
22 one point two million dollars in costs that is a rate based
23 number not a revenue requirement number.

24 Now, this approach represents a drastic shift in
25 course for staff. Specifically these costs have been allowed in

1 the previous rate cases related to Confluence Rivers and its
2 predecessors.

3 On Friday associated with a similar sort of issue I
4 think we ended up with some conversation about Staff-assisted
5 rate cases versus a general case such as this one.

6 And I do want to point out that Confluence Rivers
7 still qualifies to use the Staff-assisted rate procedure. This
8 is not a situation where it's outgrown that procedure. The
9 company filed this case as a general rate case because of an
10 agreement with staff in a prior acquisition case. So just a
11 point of clarification as we think about those issues.

12 Having said that, I don't believe there is any reason
13 that an answer to a question like this in a Staff-assisted rate
14 case would be any different than an answer in a general rate
15 case.

16 Now, Staff's reliance in this case on past Commission
17 cases concerning transaction costs related to mergers of
18 regulated well established electric corporations is misplaced.
19 Those cases bear no resemblance to the types of small distressed
20 water and sewer systems being acquired by Confluence Rivers nor
21 do they reflect consideration of the improvements to systems
22 that can be delivered as a result of Confluence Rivers'
23 acquisitions.

24 Given that Confluence Rivers' costs at issue are
25 recorded and capitalized consistent with the USOA and the

1 resulting improvements to the systems cannot occur without such
2 costs the Commission should reject Staff's disallowance.

3 That's all I have.

4 THE COURT: Thank you, Mr. Cooper.

5 Any questions from the Commissioners for Mr. Cooper?
6 Go ahead.

7 UNKNOWN SPEAKER: Who are the witnesses that you
8 have today?

9 MR. COOPER: We have Mr. Thies and then Mr. Cox.

10 UNKNOWN SPEAKER: All right. Thank you.

11 THE COURT: Thank you, Mr. Cooper.

12 And this is a good opportunity for the Judge to state
13 for the record the attendance of Chairman Scott Rupp and
14 Commissioners Jason Holsman and Kayla Hahn.

15 Commissioner Maida Coleman is in knee surgery today
16 and will be recovering. We wish her the best and will keep her
17 in our thoughts.

18 And I believe I have Commissioner Kolkmeier on the
19 Webex. But, we're pending on that.

20 Okay. Let's move on in our Opening Statements -- I'm
21 sorry, Commissioner Kolkmeier is also engaged in a medical
22 appointment this morning but he will be joining us later. I
23 just received that information. Thank you.

24 Let's move on to mini Opening Statements for staff.
25 Thank you.

1 MR. THOMPSON: Thank you, your Honor. Good
2 morning, may it please the Commission.

3 Today you're going to hear from Staff accountant Keith
4 Majors who is going to explain why Staff has taken the position
5 that it has with respect to the costs that Confluence would like
6 to recover, not only recover but put into rate base and receive
7 a return on.

8 As long ago as 2008 when a former electric company
9 KCP&L purchased Aquila there was a very comprehensive report and
10 order issued by the Commission, and one of the things that
11 report and order did was to distinguish between transaction
12 costs and transition costs. And the decision the Commission
13 made in that order was that transaction costs could not be
14 recovered and should not be paid by the rate payers, while
15 transition costs can be recovered and should be paid by the rate
16 payers. In fact, in that case no one opposed the recovery of
17 transition costs.

18 So what's the difference between these things? Well,
19 the transaction costs are costs that are incurred in order to
20 complete the transaction. They include legal fees. They
21 include engineering information. They include surveys, various
22 reports, various types of professional involvement that is
23 necessary for the transaction to go forward and be completed.

24 Transition costs, on the other hand, are the costs
25 that are incurred by the buyer in integrating the system into

1 their network, their system.

2 Now, in this case we're talking about small water and
3 sewer companies. There is not a contiguous water or sewer
4 network that they're being integrated into, but they're still
5 being brought within Confluence's system under its aegis.

6 And so one of the common threads in this case is that
7 these are all distressed and decrepit systems that are
8 purchased. They all need significant capital investment and
9 improvement to bring them up even to the minimum, the minimum
10 standard.

11 So what Staff is concerned about here is a little bit
12 of blurring of the lines between transaction costs and
13 transition costs. Clearly for a company like Confluence that's
14 buying systems at an incredible rate of speed the best thing for
15 them is if the rate payers are underwriting their purchases.
16 They can stretch their dollars further if they're getting
17 recovery of these costs from the rate payers.

18 So what Staff requests that you do is listen very
19 carefully to the witnesses and look for that distinction. Which
20 of these costs are necessary for the transaction to go forward
21 and be completed and that includes the initial information
22 that's going to drive the decision of even to go forward with
23 the transaction, right. And then distinguish that from the
24 transition costs which are the outlays that are going to support
25 all of the improvements that are going to be made to the system

1 by it's new owner Confluence.

2 Thank you.

3 Any questions?

4 THE COURT: Any commissioner questions?

5 Chairman.

6 CHAIRMAN RUPP: Just a high level, we can ask the
7 witnesses, but did Staff disallow any transition costs that the
8 company had labeled as transition costs?

9 MR. THOMPSON: It's my understanding Staff did
10 not.

11 CHAIRMAN RUPP: Okay. I'll ask the witness, too.
12 Thank you.

13 THE COURT: Thank you. And Mr. Clizer.

14 MR. CLIZER: Good morning, Commissioners. I will
15 endeavor to keep this relatively short.

16 I am going to clue in on something that Mr. Cooper
17 said with regard to the Opening for Confluence Rivers. He
18 characterized this as a drastic departure from what's happened
19 in the past. And I actually didn't think that's true.

20 Let's level set here. First of all, for every major
21 rate case, for every large rate case dealing with the water
22 company like Missouri American Water or a gas company or an
23 electric company Staff is doing exactly what it always has been
24 done and what its precedent has always been set by this
25 Commission. They are doing what you told them to do in the

1 past. So there's nothing really more to it than that.

2 Now there is a specific issue with regard to the past
3 Confluence rate cases and, again, Mr. Cooper and Confluence
4 tries to suggest that this is not how things have happened in
5 the past. But, that's also not true.

6 The past two Confluence rate cases were settled by
7 disposition agreement which explicitly stated that there was no
8 rate making principles decided in the terms of the amount
9 settled. In other words, they were black boxed. For Confluence
10 to now come back and attempt to claim that dollar amounts
11 included in those black boxes are simply related to certain
12 items is a violation of those agreements. Actually it's not the
13 first time that you are going to hear today that Confluence
14 violates its stipulation agreements or the Commission orders to
15 adhere to them. It's actually kind of a common theme for
16 Confluence, but I'll wait for the next issue to bring that back
17 up.

18 Moving on really quick. What is the logical reason
19 behind the precedent that's set here? Well it's relatively
20 simple.

21 I think that actually Mr. Thompson has already done
22 such a good job I'm not really going to cover it very much other
23 than to point you to the statement that Mr. Majors includes in
24 his surrebuttal testimony about how allowing these costs can
25 cause an increase in keep in the overall rate base of the system

1 if it changes hands multiple times without any significant
2 improvement on the part of the customers or, I'm sorry, for the
3 benefit of the customers.

4 That being said when Confluence acquires a system and
5 it does make improvements those improvements are included. They
6 are allowed to recover those and they start owning profit on
7 them as soon as they come in for a rate case.

8 So, again, we're not trying to disallow anything other
9 than the legal fees effectively that Confluence incurs in order
10 to expand its business, something that it's shareholders
11 ultimately earn a profit for.

12 Also I actually don't have much else beyond those
13 simple points, so I'm going to stop right there. Thank you.

14 THE COURT: Thank you, Mr. Clizer.

15 Are there any Commissioner questions for Mr. Clizer?

16 Hearing none, thank you, sir.

17 Let's move on to our first witness.

18 Confluence Rivers, go ahead.

19 MR. COOPER: We would call Mr. Thies.

20 THE COURT: As Mr. Thies makes his way to the
21 stand I would remind him and those listening in the audience
22 that Mr. Thies has already been sworn in so he will not be
23 re-sworn, however he is still under oath.

24 Thank you, sir. Go ahead and have a seat.

25 I would also like to take this quick break to announce

1 that there is a smell in the lobby. We do have an official
2 accounting of what that is. In the cafe that used to be open
3 outside there was some grease blockage in a drain and there are
4 workers clearing that out. It should be aired out fairly soon.
5 But, I know that there was some discussion of that earlier and I
6 wanted to give the official response and give everybody some
7 good news that that is not going to be permanent. Thank you.

8 Go ahead with your witness.

9

10

BRETT THIES,

11

called as a witness, upon first being previously sworn, was
12 examined and testified as follows:

13

14

MR. COOPER: Your Honor -- well, please state
15 your name for the record.

16

THE WITNESS: Brett Thies, T-h-i-e-s.

17

MR. COOPER: Your Honor, we would tender Mr.
18 Thies for a cross-examination.

19

THE COURT: Thank you. Let's go to Staff.

20

21

CROSS-EXAMINATION

22

BY MR. THOMPSON:

23

Q. Good morning, Mr. Thies.

24

A. Good morning.

25

Q. Have you been involved with any of the Staff assisted

1 rate cases that Confluence has brought?

2 A. I have.

3 Q. And would you agree with me that those rate cases
4 typically end with a negotiated disposition agreement?

5 A. I'm trying to remember. I know that the Confluence
6 Rivers and Elm Hills cases did. The first one I was involved
7 with was Indian Hills which did not and those are the three that
8 I remember so, you know, two to one I guess.

9 Q. Okay. Great. Thank you.

10 MR. THOMPSON: No further questions.

11 THE COURT: Mr. Clizer.

12 MR. CLIZER: No questions. Thank you.

13 THE COURT: Are there any Commissioner questions
14 for Mr. Thies? All right.

15 The bench does have just a couple of questions.

16

17

EXAMINATION

18 BY THE COURT:

19 Q. I want to direct you to Page 11 of your rebuttal
20 testimony. The very first sentence -- I'll go ahead and read
21 the sentence.

22 Once a particular system acquisition has been
23 completed it is the Company's procedure to transfer amounts
24 recorded in Account 183 to construction work in progress, and
25 ultimately to the appropriate utility plant in service account,

1 for inclusion in rate base.

2 Mr. Thies, my question is what is the appropriate
3 utility plant in service account? What do you mean by that?

4 A. Yes. So there are a couple of concepts in play there,
5 but ultimately the USOA instructs that the company capitalize
6 items to the utility plant in service account that is most
7 applicable to the source of the costs.

8 And so what we are talking about here generally is
9 what might be considered an indirect capital cost, meaning it's
10 engineering but it's not the cost of a plant or a pipe, right,
11 and so however, what the USOA instructs that you capitalize the
12 indirect costs like engineering with the pumps and pipes that
13 are the more firm or the hard costs, right.

14 So what Confluence Rivers' management team has decided
15 is that these costs -- so for right-of-way and access -- would
16 be capitalized to the accounts associated with the collection or
17 transmission system because that's what we're doing is making
18 sure we have easements and rights-of-way to service the land
19 area if you will associated with the systems.

20 Q. Do you have a list of the acquisition costs that have
21 been posted to Account 183 and then Account 107?

22 A. I don't have it in front of me. We have it in this
23 docket, yes.

24 Q. It's been filed?

25 A. It has, yes.

1 Q. Can you direct me -- it doesn't need to be specific,
2 but was it attached to one of your testimonies?

3 A. It was in a data request that we submitted requested
4 by Staff.

5 Q. Okay. That is essentially a transaction between the
6 parties and the Commissioners are not privy to that.

7 A. Okay.

8 Q. Would you please provide that list as an exhibit.

9 THE COURT: And I'll direct my request now to
10 Counsel for the company.

11 We had previously discussed a due date for Commission
12 requested and or late filed exhibits a week from the end of the
13 hearing. The last day is the seventeenth. That's a Thursday,
14 the following Thursday is the twenty-fourth.

15 Would that give you enough time?

16 MR. COOPER: I believe so, yes, your Honor.

17 THE COURT: Thank you, sir. The Commission
18 requests that as an exhibit.

19 MR. COOPER: Absolutely.

20 THE COURT: There is no more bench questions.

21 I'll ask if there's any Commission questions, and
22 we'll go to recross examination. Mr. Thompson.

23 MR. THOMPSON: No questions, thank you.

24 THE COURT: Mr. Clizer?

25 MR. CLIZER: Just briefly.

1

2

CROSS-EXAMINATION

3

BY MR. CLIZER:

4

Q. So I want to make sure that I understand this, and I'm going to use the specific example. Let's say the costs that you pay a lawyer to draft the contract for an acquisition. That's at least one of the examples of the cost that we're dealing with rear. Right?

9

Can we agree with that?

10

A. I don't know of a specific line item that applies to that. Generally we have in-house lawyers doing some things and those would be business development costs. So there is a distinction there in our, you know, in our accounting procedure about where those go. So I can't say unequivocally no. But, generally speaking those -- we don't seek to put those in in a case like this.

17

Q. So the cost of acquiring -- what's the cost of a clear title? That was one of the examples. Right?

19

A. Sure. Sure.

20

Q. So that would be the cost to a title company, for example, to do a title search?

22

A. I'm not sure all of it goes in there but potentially.

23

Q. Let's use that as an example then. So as I understand it correctly what you're saying is the cost of the money that you pay to the title company that's going to be booked as

25

1 basically pipe in the grounds?

2 A. It's going to be booked along with that according to
3 the USOA instructions, yes.

4 Q. So it's going to increase the value of pipe in the
5 grounds?

6 A. Yes.

7 Q. Even though there is no additional pipe. Right?

8 A. Yeah. I mean there are no more feet of pipe, that's
9 right.

10 Q. There are no more feet of pipe. Customers aren't
11 receiving any benefit from additional pipe. Correct?

12 A. I mean customers are receiving benefit of the title
13 and the access and the professional operations but there are no
14 more feet of pipe, you're absolutely correct.

15 Q. Right. So the customers don't receive the benefit for
16 any more additional feet of pipe, but they are going to pay for
17 that pipe and they're going to pay you profit on that pipe that
18 doesn't exist. Correct?

19 A. The service provided and the access to those pipes is
20 value. And so to say they're paying for nothing I would not
21 agree with.

22 Q. But, they aren't paying for the pipe.

23 We can agree with that?

24 A. That's correct.

25 Q. Okay.

1 MR. CLIZER: Thank you. I have no further
2 questions.

3 THE COURT: Thank you. Redirect.

4 MR. COOPER: Yes, your Honor. Thank you.

5

6 REDIRECT EXAMINATION

7 BY MR. COOPER:

8 Q. You were asked questions by Mr. Thompson concerning
9 whether some cases are -- some of the Staff assisted cases are
10 resolved by disposition agreement. Correct?

11 A. Correct.

12 Q. In those cases that are resolved by acquisition
13 agreements or disposition agreements are there still Staff work
14 papers that form the basis for the parties' work in those cases?

15 A. There are. The Staff still does their full EMS run
16 leading up to their report before negotiations begin generally.

17 Q. And when you made statements in your testimony about
18 how this issue was handled in prior cases was it based upon your
19 review of Staff work papers?

20 A. It was.

21 Q. Okay. Real briefly if you know, you were asked
22 questions by Mr. Clizer concerning sort of the title issues
23 involved here.

24 Do you have any examples of the title issues that the
25 company has ran into, has run into, in some of it's small

1 acquisitions?

2 MR. CLIZER: I would object that it's beyond the
3 scope of my cross-examination. I was using title as an example
4 to get to how it was booked. I had no interest in knowing what
5 the specific problems they are referring to are.

6 THE COURT: I will allow it. Go ahead.
7 Overruled.

8 A. That's a better question for Mr. Cox probably. I know
9 we have access issues, but those could be related more to
10 easements and those kinds of things so I would be slow to speak
11 on that.

12 Mr. THOMPSON: That's all the questions I have,
13 your Honor.

14 THE COURT: Thank you, Mr. Thies. You're
15 excused.

16 Let's have Confluence call your next witness.

17 MR. COOPER: We will call Mr. Cox to the stand.

18
19 JOSIAH COX,
20 called as a witness, upon first being duly sworn by the Court,
21 was examined and testified as follows:

22
23 THE COURT: Your witness.

24 MR. COOPER: Thank you, your Honor.

25

1

2

DIRECT EXAMINATION

3

BY MR. COOPER:

4

Q. Please state your name.

5

A. My name is Josiah Cox.

6

Q. By whom are you employed and in what capacity?

7

A. I'm employed by Confluence Rivers Utility Operating Company as the President. I'm also the President of Central States Water -- CSWR, LLC.

10

Q. Have you caused to be prepared for purposes of this proceeding certain direct testimony, rebuttal testimony in both public and confidential versions and surrebuttal testimony in question and answer form?

14

A. I have.

15

Q. Is it your understanding that that testimony has been marked as Exhibits 4, 5, and 5-C, and 6 for identification?

17

A. I believe it has.

18

Q. Do you have any changes that you would like to make to that testimony at this time?

20

A. I do not.

21

Q. If I were to ask you the questions which are contained in Exhibits 4, 5, and 6 today would your answers be the same?

23

A. Yes.

24

Q. Are those answers true and correct to the best of your information, knowledge, and belief?

25

1 A. Yes.

2 MR. COOPER: Your Honor, I would offer Exhibits
3 4, 5, 5-C, and 6 into evidence and tender Mr. Cox for
4 cross-examination.

5 THE COURT: Thank you. You've heard the motion.
6 Are there any objections?

7 Hearing none, the exhibits are so admitted 4, 5, 5-C
8 and 6.

9 The witness has been tendered and will go to
10 cross-examination.

11 Mr. Thompson.

12 MR. THOMPSON: No questions, Judge. Thank you.

13 THE COURT: Mr. Clizer.

14 MR. CLIZER: No questions. Thank you.

15 THE COURT: Any questions from the
16 Commissioners?

17 Mr. Chairman.

18 CHAIRMAN RUPP: Thank you, Judge. Good morning,
19 Commissioner.

20 THE COURT: Chairman.

21

22 EXAMINATION

23 BY CHAIRMAN RUPP:

24 Q. Let's start here. In your Counsel's Opening a lot of
25 emphasis was put on if the company were to wait till the

1 fifty-first day then whatever the investment that they had made
2 would be, would be allowable.

3 How much -- I'm trying to draw and I haven't seen the
4 data request with the list of transactions which maybe will
5 help.

6 So my question to you is how much of the disallowed
7 money in your opinion is from those investments that if you were
8 to wait until the fifty-first day we wouldn't even be talking
9 about.

10 A. I believe almost all of these investments are -- that
11 we're talking about in this particular issue right here are
12 needed just to run the system. And I'll give you a great
13 example. A number of years ago there was a water utility that's
14 north of Columbia, Smith U. The owner walked away from the
15 utilities, left the keys hanging in the box and said it's your
16 problem, right. So the staff calls us, says hey, we need to
17 check out this water utilities so think in that example, can't
18 get hold of the owner, there are literally no maps to the
19 utilities, no catalogue of the specific assets that exist, no
20 idea about ownership, easements, anything like that.

21 So we immediately launch engineering survey. We have
22 to figure out hey, where are all the assets, where are the meter
23 boxes, where are the lines, you know, what does it take to run
24 this system, how is the tower powered, where is the well, all
25 those kind of basics issues. Which by the way we have to have

1 for Missouri One Call. So, and that's a great example.

2 Those are the preliminary engineering things that
3 we're doing. We're mapping the systems and then we're saying
4 okay, what do we have to address Day 1 when we buy this system?
5 So this electric doesn't work. This pump is not working. I
6 mean you name it.

7 And that's exactly what we do in the thirty-five
8 transactions we've done in Missouri, it's basically seventy
9 systems, sixty-eight of them are out of compliance.

10 Q. So when does the fifty-one days start? When does the
11 fifty -- when you agree to purchase, when you close -- so when
12 does that fifty-first day come into play?

13 A. Yeah. So that was an artificial day that really the
14 Staff used whether to allow or disallow costs. So that
15 fifty-one days has nothing to do with the way we keep our books
16 and records. That was a cut off period that the Staff used.

17 You know from our perspective we are doing all this
18 work leading up to a transaction.

19 Q. And when did staff -- when do they start that
20 fifty-one day count? What is their Day 1? What do they
21 consider Day 1 the day that you agree verbally to take the --

22 A. No. No. So this is the way -- the way I understand
23 the Staff has done it. It's from the day we close on the
24 system, so we did all this mapping, engineering all that before
25 we close because we have to have all that information before we

1 close. Then there is Day 1, then we're doing improvements
2 immediately. Day fifty-one after we close is the day they start
3 re-allowing engineering and survey costs, you know, title work,
4 property work, all that.

5 Q. So after you take ownership is when they are starting
6 a fifty day delay?

7 A. That is my understanding.

8 Q. So the example of like clean title that has to be done
9 prior to a closing. Correct?

10 A. That's correct, Chairman. And it is shocking how
11 little -- how much real estate work we have to do. How these
12 owners don't actually own the assets, don't have any easements,
13 have no legal access to their assets. All those issues have to
14 happen before we close.

15 Q. So the issue of, you know, clean title that was used
16 as the example is irregardless of the fifty-one days since it
17 wouldn't even be considered in -- as a cost to the company post
18 closing?

19 A. There are occasionally costs that run over. So that
20 we have to do. We've got a really bad title issue, a really bad
21 or contested access issue. Those can last after Day fifty-one.

22 Q. So you close on a property with a contested title?

23 A. We have before. Not contested title of the assets,
24 but contested access is what we've closed over before.

25 Q. Access, okay. So walk -- in your opinion I'm going to

1 give you an example and I want you to tell me how it's either
2 right or wrong.

3 When a person goes to purchase a home they have title
4 costs and things of that nature which are done prior to the
5 transaction, usually you don't close on a home until you have
6 clear title. But, those costs are paid separately to the title
7 company. Some will allow you to roll it into your loan. But,
8 they are delineated separate from the assets of what you are
9 purchasing. Then if they were to sell that home the next owners
10 would have to do another title search before they close on the
11 home, and thereafter and thereafter. So there's no value
12 assigned to the home because that work has to continually be
13 done.

14 So how is that not a transaction cost?

15 A. Yes. So I -- here is the difference that we would
16 view it.

17 There are exact title insurance costs just like you're
18 talking about. They're very specific. That you could say hey,
19 these are transaction specific costs. So that makes -- I
20 understand.

21 But, we're talking about one point two million
22 dollars. We're talking about the majority of that is mapping,
23 engineering, naming the assets, the geo tagging those assets,
24 you know, finding where the easements are, getting -- so the
25 difference between in the house example you just gave me, if I

1 actually didn't own the real property the house was on getting,
2 getting real property attached to the house does have value and
3 stays with the house forever.

4 Q. So will the data request and the list of the
5 transactions delineate what was engineering costs and what was
6 title costs, will that be delineated for us?

7 A. We can delineate what exactly the title insurance
8 costs are very specifically as a post.

9 Q. I mean to me that would be helpful because we're --
10 since it was used as an example and stuff to try to help us
11 delineate between engineering and what adds value and what is
12 transaction because I mean I don't know if it was your counsel
13 or Staff but somebody this debate is over what is a transition
14 and what is a transaction cost. And the more we can have
15 information would be helpful.

16 A. Yes, sir.

17 CHAIRMAN RUPP: Thank you.

18 THE COURT: Mr. Holsman.

19 COMMISSIONER HOLSMAN: Thank you.

20

21 EXAMINATION

22 BY COMMISSIONER HOLSMAN:

23 Q. Good morning.

24 A. Good morning.

25 Q. I want to start with kind of a macro perspective. We

1 had a lot of testimony on taxes in the last discussion. Could
2 you tell us as the President of the company what is your
3 business model?

4 A. Yeah. I mean so our missions bring safe reliable
5 environmentally responsible water resources to every community
6 in the U.S. and that every community is really key because these
7 small communities have been kind of passed over for investment
8 for decades. So our business model is to find communities that
9 need us so those are distressed, you know, waste water systems
10 and then to go and go through the process of purchasing those,
11 rehabilitating those and coming before the Commission to get
12 rates commensurate with the investments we've made in those
13 systems.

14 Q. So going into that model you understand that there is
15 going to be some lag between the time that you purchased the
16 system and the time that you actually come in to make those
17 rates reflective of what they need to be for the investment to
18 make them up to Code?

19 A. Yes, Commissioner.

20 Q. So in our discussion yesterday we talked a lot -- not
21 yesterday, Friday, we talked a lot about the time that it -- and
22 I'm asking you now because we didn't have a chance to talk to
23 you about it directly, but I think it's important for that issue
24 as well to hear your thoughts on it.

25 We talked about the fact that you may not pay taxes

1 for a long time going forward because of the model that you
2 have.

3 When do you envision there coming a time for you to
4 have to start paying taxes on the investments you've made?

5 A. Yeah. I believe Mr. Thies testified on that.

6 I think it's a number of years from now. So it's, you
7 know, three, four, or five years from now is when, you know,
8 those NOL's, if you will, will run out.

9 I think our problem with -- which we've spilt a lot of
10 testimony ink on is, you know, historically these rates have
11 been normalized, you know.

12 I've got almost ten years of doing business in
13 Missouri. So when you understand the regulatory framework it
14 gives you further framework to do more investments. These are
15 long term investments, think all these assets --

16 I mean we talk here about the improvements we've made,
17 right, because we have to bring these systems back into
18 compliance. And I'm very proud of our record in Missouri. I
19 think we've taken fifty systems from noncompliance to
20 compliance. We think we are the largest movement of domestic
21 systems from noncompliance to compliance in state history.

22 But all of these symptoms need complete replacement
23 over a long time period, right. So every stick of pipe every
24 pump every -- not just the investments we're making today,
25 right, to bring these back into compliance, but it's the

1 investments that we need to keep these things running for a long
2 period of time. So it's a very long time horizon and that's why
3 we need a stable regulatory environment.

4 Q. And when did you start buying and acquiring systems?

5 A. I believe we filed our first case in 2014.

6 Q. 2014. So you're almost at the ten year mark and
7 you've acquired seventy systems and sixty-eight of those seventy
8 were distressed?

9 A. That is correct.

10 Q. What do you -- what's your five year outlook look like
11 in terms of how many systems. Will there ever come a time when
12 you've acquired enough or is this something that you will
13 continue to pursue?

14 I asked the question yesterday, how many systems are
15 there in the State of Missouri? Do we know?

16 A. Well, I think we talked earlier there are forty-five
17 hundred systems in Missouri that kind of fit this and the vast
18 majority of those are distressed.

19 You know, really from our perspective it's kind of
20 different. We're a private solution to a very public problem.
21 We are never going to solve all the problems in the state. We
22 are just going to continue to make the dent that we can make.

23 So in terms of how many systems we're going to
24 continue to acquire that's really just, you know, how
25 difficult -- I mean our problem is interesting, right. We go to

1 owners, it's like we've mapped every single water and waste
2 water system in the United States and then we've gone to the
3 states that have the highest amount of noncompliance so the most
4 systems that are not meeting, you know, EPA and DNR regulations
5 and the highest amount of fragmentation so which states have the
6 most small systems. And then we go to owners of distressed
7 systems and sometimes they're referred to us by DNA, they're
8 referred to us by Commission Staff I mean and on and on and on.

9 But, it's convincing the owners they need to get out
10 of the business. It's really interesting, you know, in rural
11 Missouri how many owners I've talked to that say well, I don't
12 believe EPA should be able to regulate me, you know, I don't
13 believe the Commission should have jurisdiction over me.
14 Statements that seem absurd in a hearing setting like this.

15 But, it is true about owners. So really there's a
16 learning curve and an enforcement curve. Right? Because you
17 know if you're the Department of Natural Resources every dollar
18 in fines you take from an owner is a dollar that doesn't go back
19 into the systems. So oftentimes they're slow to fine because
20 they're trying to cajole the owners into investing. And then
21 when they -- when the DNA realizes hey, there are interested
22 buyers they'll ramp up enforcement because they know hey, this
23 system is not just going to disappear into the ether like
24 receivership. We've seen systems languish for decades in
25 receivership. So all those factors kind of come into play when

1 we're going to buy these systems.

2 Q. So it's taken about ten years to get to seventy
3 systems. There's obviously a lot of systems that are going to
4 need help in the future.

5 This is your first large rate case. Right? Before
6 it's always been Staff assisted?

7 A. That is correct. And we did that at the request of
8 the Staff.

9 Q. Okay. And so I'm -- all of this is leading up to the
10 real primary question I have and that's about the incentive to
11 do this. You obviously have been incentivized enough over the
12 last ten years to execute this business model that you have. We
13 talked previously about rather the treatment of taxes and how
14 that is -- how that would occur would be an incentive or a
15 disincentive to invest in Missouri, whether it's your company or
16 anyone tells who would want to, you know, rescue these
17 distressed systems.

18 In your opinion, first question 1: Is there enough of
19 an incentive for -- in terms of the profit motive to continue to
20 invest in Missouri?

21 And 2, does the tax treatment incentivize or
22 disincentivize that overall I guess benefit to the investment?

23 A. Yeah. So I'll start with your first question. So the
24 first -- the answer to that is up until this general rate case I
25 would say there was enough stable regulatory environment that we

1 were incentivized to continue to buy these systems. I mean one
2 of the things we say around our company all the time we love
3 what we do. We don't run on love. We have to have profit
4 motive on this whole thing.

5 But you know it's interesting as you go through the
6 details on this case, since our last rate case we've acquired
7 nineteen systems and the Office of Public Counsel has requested
8 a net decrease in revenue.

9 So when you get outcomes like that that definitely
10 tells you that hey, this state is not welcoming to the type
11 investments we have to make, right.

12 So -- and it is even though it is about which states
13 are attracting capital, you know. So I've invested a lot more
14 money in Texas, a lot more money in Louisiana. Some of that is
15 a function of hey, the owners are different people so it's
16 harder to get them to the table but some of that is we
17 understand how fast the investments we recognize. And there is
18 a public policy especially like hey, we know that these symptoms
19 need to be invested collectively, commission staff,
20 environmental regulator and all of that. And we thought we had
21 that here in this state.

22 You know, frankly in some ways maybe we are victims of
23 our own success. You know we bought twenty regulated systems in
24 the State of Missouri a number of those we reduced receivership
25 by like eighty percent in the state. So in some ways you may

1 not just feel the pain of it any more because some of the worst
2 systems are kind of gone so that may be one.

3 On the tax issue I would say, you know, the -- of
4 course, you know, being disallowed at all is a major
5 disincentive. You know, the methodology recommended by Staff as
6 a secondary option we could live with.

7 Q. Okay. Thank you.

8 THE COURT: Commissioner Hahn.

9 COMMISSIONER HAHN: Thank you. Just a few
10 follow-up questions.

11

12 EXAMINATION

13 BY COMMISSIONER HAHN:

14 Q. You and your Counsel previously mentioned that you're
15 undergoing this rate case methodology even though you may not
16 qualify as far as size. How many customers are at issue in this
17 particular proceeding?

18 A. I think it's ninety-six hundred connections, which is
19 houses both water and sewer combined. That represents I would
20 say twenty thousand customers, just when you think how many
21 people live in every individual house. So around that number.

22 Q. And then how much exactly is -- in this case I think
23 you might have mentioned one point two million but the Staff
24 disallowance for a transaction costs.

25 A. Yeah. Approximately one point two million in

1 engineering, survey, and legal.

2 Q. And then do you ever conduct transaction costs for
3 systems that you don't purchase?

4 A. No. We never -- we do -- we have very little -- first
5 of all, ninety-four percent of all the owners we originally
6 engage conversations with we convert to contracts. So very high
7 percentage. We have a very low percentage of transaction costs.
8 And we don't -- we don't launch engineering, all of that until
9 we have a contract in place. So it's all done in-house so there
10 is no expenses hanging out there.

11 Q. Okay. So earlier when Mr. Thies testified that
12 perhaps there could be, you know, looking at systems that you
13 may not purchase that could potentially be booked to business,
14 development costs and attributable somewhere else where the rate
15 payers wouldn't be paying for it?

16 A. That is correct. Those expenses are -- we don't try
17 to recover those expenses.

18 Q. Okay. That's helpful.

19 COMMISSIONER HAHN: That's all my questions.

20 THE COURT: Thank you, Mr. Cox. That's going to
21 take us back to redirect. I do understand that we have -- I'm
22 sorry. Recross.

23 I do understand that we have opened up some extra
24 issues so I'm going to be mindful of that and give the parties a
25 little bit extra leeway here.

1 But, if we get too far afield on issues that are
2 upcoming later on in the week we need to be mindful of that,
3 too.

4 Recross. Mr. Thompson.

5 MR. THOMPSON: Thank you, Judge.

6
7 CROSS-EXAMINATION

8 BY MR. THOMPSON:

9 Q. You told the Chairman, I believe, that you incur
10 costs, engineering, legal, title costs, what have you, necessary
11 to run the system. These are necessary to run the system.

12 Do you recall saying that?

13 A. I do.

14 Q. And you further stated that we do all of this before
15 we close because we have to have it before we close.

16 Do you recall saying that?

17 A. I do.

18 Q. And you just now told Commissioner Hahn that you don't
19 incur these costs until you have a contract in place. Right?

20 A. Correct.

21 Q. So that kind of gives us a timeline, right? The
22 contract's in place, you spend money on legal fees, engineering
23 fees, survey, title, corrections, that kind of thing, and when
24 that's all finished and you've got the system to where you want
25 it then you close the contract.

1 Is that right?

2 A. It's a little more complicated than that.

3 So once we sign a contract then we launch all the
4 engineering so I think we're mapping the system, we're
5 determining all the assets, we're going through, you know,
6 making sure they actually own the assets they say they own and
7 then we're simultaneously filing an acquisition case with the
8 Commission. So we're running these two processes in tandem.

9 So as we're going through the acquisition case,
10 because those can take four to six months, we're finishing
11 mapping mapping all the assets and tagging all the individual
12 components of the system.

13 Q. Okay. Now --

14 THE COURT: Mr. Thompson, would you please speak
15 into the microphone? Thank you.

16 MR. THOMPSON: I apologize, Judge.

17 Q. (By Mr. Thompson) Now, with respect to the
18 distinction between transaction costs and transition costs you
19 said that one of the things you do is make sure they actually
20 own all the things they say they do.

21 Do you recall saying that?

22 A. I do.

23 Q. And it would be unusual to purchase something without
24 knowing exactly what it is you're purchasing.

25 Do you agree?

1 A. I would normally agree, but in this business that's
2 not really the case because of how terrible the assets are and
3 how little documentation.

4 Q. Okay. If you find out that they don't own all the
5 things they claim to own do you then not close?

6 A. No. We put them in a holding pattern as we go through
7 the process of getting title, you know, going through the real
8 property, surveys, determine where the assets really lay, all of
9 that.

10 Q. Okay. So you mentioned Smithview as an example. So
11 when did you first hear about Smithview? How did that come to
12 be on your radar?

13 A. The Commission Staff approached us I want to say it
14 was 2017, 2016, some point in there.

15 Q. Okay. And I can certainly understand that. I
16 remember Smithview very well. And so Staff said here is a
17 distressed system, you might think about buying this one,
18 something like that?

19 A. No. Here are the keys. Please run this.

20 Q. Okay.

21 A. We don't know what to do. We can't get a hold of the
22 owner. So literally we took the keys from the Staff at the
23 site, we had no contract with the owner, and we started
24 emergency operations.

25 Q. Okay. Would you agree with me that that was an

1 unusual acquisition?

2 A. No. I would say we've had a number of acquisitions
3 for emergency. I think Robertsville, I think a lot of these --
4 I mean a lot of the receivership systems were in similar levels
5 of disrepair, you know, where no one knew where anything was. A
6 lot of the DNR systems that we're doing we're doing emergency
7 operations on the front end. So it's decently typical across
8 our -- across Missouri and across the country.

9 Q. Okay. But, it's not every system you've acquired, is
10 it?

11 A. It is not every system. Correct.

12 Q. Can you give me a percentage?

13 A. I would say -- a percentage. I'm sorry, a percentage
14 of what?

15 Q. A percentage of the systems you've acquired what
16 percentage of them would you say were acquired on an emergency
17 basis like Smithview?

18 A. I don't know. I would have to think about that. I
19 don't know off the top of my head.

20 Q. Okay.

21 MR. THOMPSON: I have no further questions.
22 Thank you.

23 THE COURT: Mr. Clizer.
24
25

CROSS-EXAMINATION

1

2 BY MR. CLIZER:

3 Q. Good morning.

4 A. Good morning.

5 Q. Let's start by just cleaning up the record a little
6 bit on a couple of points.7 You were asked a question by the Commissioner Hahn --
8 I'm sorry, Hahn. I was about to say Holsman because I was
9 reading the names. You were asked a question by Commissioner
10 Holsman about the amounts of the disallowances and you said
11 about one point two million, right? Do you recall that?

12 A. I do.

13 Q. But that's one point two million a plant. Correct?

14 A. That's correct.

15 Q. And what we're actually disallowing here the effect on
16 the revenue requirement would be the plant multiplied by
17 whatever rate of return the Commission orders. Correct?

18 A. That is correct.

19 Q. So if we just assume hypothetically a ten percent rate
20 of return we're really talking about a hundred and twenty
21 thousand dollar disallowance.

22 A. I agree with you.

23 Q. Okay. I just wanted to make sure that everybody
24 understood the actual amount in question here.

25 Next there was a discussion on the number of water

1 customers and you said about nine thousand six hundred.

2 Is that right? I'm not sure if I got the number
3 right.

4 A. No. I meant water and sewer customers combined.

5 Q. Okay. So that's the point I needed, I think I want to
6 get clear here. If I'm a Confluence water and sewer customer
7 how many times are you counting me for purposes of getting to
8 that number?

9 A. Yeah, twice. Once as a sewer customer, once as a
10 water customer.

11 Q. Okay. All right. So if we were to count the people
12 who get both water and sewer as just one the actual number of
13 customers you serve would be much lower?

14 A. I think what we're talking about is the difference
15 between connections and customers. So connections are a house.
16 Customers are the people in the house. So DNR has a -- DNR says
17 it's three point five customers per house. And that's where we
18 get the general customer counts that we use.

19 Q. I'm not talking about the number of customer counts.
20 I just want to make sure that we understand how much different
21 connections are you serving. If you connect a house for both
22 water and sewer you're counting that as two different
23 connections?

24 A. That us correct.

25 Q. And the staff small assisted rate case I believe the

1 cut off limit is eight thousand?

2 A. It's eight thousand of an individual -- currently it's
3 eight thousand of an individual type of connection. So you have
4 to be eight thousand water or eight thousand sewer which is what
5 came up in that, yeah. That's it.

6 Q. Okay. And there was discussion regarding a net
7 decrease by the OPC and I just want to make sure. I understand
8 that OPC and Company disagree over whether or not this is
9 correct but OPC's argument you would agree with me is for a
10 million dollars decrease in an expense item. Correct?

11 A. No. The overall revenue requirement that OPC is
12 requesting is lower than our current rates.

13 Q. I agree with you. That's not my question.

14 Let's be clear here. The one point six million that
15 we're referring to that we would take a million off of that's
16 for contractor, third party operations. Right?

17 A. One point six -- I'm sorry. Can you say that again?

18 Q. The OPC's recommendation is based on taking a million
19 dollars off the one point six million spent on contract party
20 third party operators -- third party contractor operators. I'm
21 saying that confused. Let me start over?

22 A. Yes.

23 UNKNOWN SPEAKER: Judge, let me inject an
24 objection I think here for minute. I think getting into detail
25 on an issue that's coming up on the schedule and that Mr. Cox

1 will appear on in the future but --

2 MR. CLIZER: Let me back off the question. It's
3 not really important.

4 Q. (By Mr. Clizer) All right. Let's talk about the
5 incentive discussion that you had with Commissioner Holsman.
6 Now, I assume that you are aware that there is a rule in place
7 for acquisition incentives for small water rate cases. Correct?

8 A. I believe that's true. I don't think it's ever been
9 used in the state.

10 Q. You don't think it's ever been used in the state?

11 A. Not that I can remember.

12 Q. So you don't recall when your company made a request
13 for an accusation incentive?

14 A. We did but we didn't end up getting it.

15 Q. I know but let's go through that. So the first time
16 you made the acquisition incentive case do you remember which
17 case that was?

18 A. I do not.

19 Q. That would be the Osage case. I will go ahead and ask
20 for an exhibit to be marked. It should be 216, I think.
21 Someone correct me if I'm wrong.

22 THE COURT: So marked. Mr. Clizer, what is your
23 under ten word description?

24 MR. CLIZER: Amended Application and Motion for
25 Waiver for Case WA-2019-0185.

1 Q. (By Mr. Clizer) No. That's the right thing. I
2 didn't keep a copy for myself.

3 Are you familiar with this, Mr. Cox?

4 THE COURT: What exhibit number did this end up
5 being?

6 MR. CLIZER: I believe 216.

7 THE COURT: Yes, that's correct.

8 MR. CLIZER: Okay.

9 Q. (By Mr. Clizer) Then returning to this are you
10 familiar with this, Mr. Cox?

11 A. I am.

12 Q. Right. And this is a request by the Osage Utility
13 Operating Company. Right?

14 A. That is correct.

15 Q. And you would agree with me that that's one of the
16 predecessors to Confluence Rivers. Correct?

17 A. Correct.

18 Q. And that the Osage Utility Operating Company was one
19 of the companies that was ultimately combined to form the
20 current Confluence Rivers. Correct?

21 A. It was consolidated, the assets were consolidated
22 underneath Confluence Rivers, correct.

23 Q. And if you'll turn to Page 14 in the document you
24 would agree with me that that this document includes a request
25 for an acquisition incentive. Correct?

1 A. I do.

2 Q. And I think you've already said this earlier but let's
3 re-confirm. The Commission did not grant the acquisition
4 incentive in this case.

5 Do you recall that?

6 A. I don't remember if we withdrew it or -- I don't
7 remember the details.

8 Q. But, you would agree with me that it wasn't granted?

9 A. Yes.

10 Q. Now, at the time of this acquisition I think you had
11 about twenty systems in the state. Do you agree with me that's
12 fairly close?

13 A. I don't recall.

14 Q. Well, let's say at a minimum we can agree that this
15 case was from 2019. Correct? Using the number at the top.

16 A. Yes.

17 Q. Now you've gone on to acquire quite a few systems
18 since then, haven't you?

19 A. Correct.

20 Q. Which means that you have been able to acquire quite a
21 few systems in the state without receiving an incentive from
22 this Commission. Correct?

23 A. Correct. Under stable regulatory environment that we
24 thought we understood the rules of the road, yes.

25 Q. Yes. But, to simplify the answer you've acquired

1 quite a few systems in the state without receiving an incentive.

2 Correct?

3 A. We've acquired systems after this without receiving
4 incentive.

5 Q. Was this the only time that you requested an
6 incentive?

7 A. I do not recall.

8 MR. CLIZER: Your Honor, I would go ahead and
9 mark another exhibit so it would be 217.

10 THE COURT: So marked.

11 Q. (By Mr. Clizer) And because your Honor is going to
12 ask this would be the Application and Motion for Waiver that was
13 ultimately for Case WM-2020-0403, however, the docket number
14 does not appear on this document.

15 Mr. Cox, are you familiar with this document?

16 A. I am.

17 Q. And you would agree with me that this was the
18 application for Confluence Rivers to acquire the Terre du Lac
19 system?

20 A. I agree.

21 Q. And you would agree with me that on Page 7 there is
22 again a request for an acquisition incentive?

23 A. I agree.

24 Q. Now, do you recall what happened in this case?

25 A. I do not.

1 MR. CLIZER: I'll just go ahead and mark another
2 exhibit at this point. It should be 218. Correct?

3 THE COURT: 218, yes.

4 MR. CLIZER: Sorry. This will be Unanimous
5 Stipulation Agreement, same case number as previous.

6 Q. (By Mr. Clizer) Mr. Cox, do you recognize this
7 document?

8 A. I do.

9 Q. You would agree with me that this is a Unanimous
10 Stipulation Agreement resolving the acquisition of the Terre du
11 Lac system by Confluence Rivers?

12 A. I do.

13 Q. And you would agree with me that if you turn to the
14 stipulation beginning on Page 2 and look at the last item which
15 is No. 5 appearing on Page 4 it reads the signatories
16 acknowledge that Confluence is withdrawing it's request for an
17 acquisition incentive?

18 A. I'm sorry, could you point me to the area again?

19 Q. Of course. Stipulation beginning on Page 2?

20 A. Okay.

21 Q. But, the line is No. 5 on Page 4. So specifically
22 it's Line 5 on Page 4.

23 A. I see it now.

24 Q. And you would agree with me that it says the
25 signatories acknowledge that Confluence is withdrawing its

1 request for an acquisition incentive?

2 A. I do.

3 Q. So you would agree with me that twice now Confluence
4 has come to this Commission requesting an incentive to continue
5 acquiring systems, twice now it has not gotten that incentive,
6 and yet the company continues to acquire systems in this state.

7 Is that correct?

8 A. I believe that is correct. I think we realized that a
9 one percentage point ROE difference in a contested acquisition
10 case the costs are prohibitive.

11 Q. Regarding the type of costs which are included in the
12 acquisition issue at hand -- I want to be general -- does that
13 include costs that Confluence incurs to bring it's CCN
14 application?

15 A. For -- I don't know the answer to that question.

16 Q. Do you have a copy of the rebuttal testimony of Mr.
17 Thies?

18 A. I do not.

19 Q. I believe one is being provided, so I will just wait a
20 second.

21 A. I now have it.

22 Q. Can you turn to Page 10 of his rebuttal testimony for
23 me?

24 A. I have it.

25 Q. On Page -- Page 10, Lines 11 through 12 it reads: And

1 the cost to appropriately file required acquisition documents
2 with the Commission. Do you agree with me?

3 A. I do.

4 Q. And he is referring to the costs and expenditures that
5 allow the company -- I'm sorry. Apologies; I'm having problems
6 all of a sudden.

7 You would agree with me that the costs that he is
8 referring to are the ones that are being included in this
9 acquisition issue at hand?

10 A. Yes. I agree with that. And some of those are
11 transfer CCN, some are creating a new certificate area.

12 Q. You would agree with me that every time a system is
13 transferred the company requesting transfer has to file a rate
14 case, sorry, not a rate case, a case with the Commission?

15 A. That is correct.

16 Q. So legal fees would be incurred by any company seeking
17 transfer of an asset. Correct?

18 A. Yes. Whether or not it was unregulated or regulated,
19 yes.

20 MR. CLIZER: I have no further questions. Thank
21 you.

22 THE COURT: Thank you. Any redirect?

23 MR. COX: Thank you, your Honor. Can I put away
24 this testimony?

25 MR. CLIZER: I'm sorry. Your Honor, I would move

1 for the admission of 216, 217, and 218 before I forget.

2 THE COURT: I understand that you used these to
3 refresh the witness's recollection.

4 Can you tell me why you want to introduce these as
5 evidence?

6 MR. CLIZER: You are going to ask an interesting
7 question. In as far as I personally have always taken the
8 position that the Commission's records is something the
9 Commission should take administrative notice of at a minimum and
10 shouldn't actually be required to be entered into the record
11 because it's part of the Commission's overall record.

12 So to establish the fact that they are -- to establish
13 the facts that we discussed is my ultimate answer to your
14 question. However, if the Commission would prefer to simply
15 take administrative notice of its past Orders and the contents
16 of its own files I'm happy with that as well.

17 THE COURT: Are you going to cite to these?

18 MR. CLIZER: Yes. To establish the question of
19 the incentive which is the purpose of our discussion yes, I
20 intend to cite to these, whether they are exhibits or whether
21 I'm sighting to the records.

22 THE COURT: I don't need any more. I'm
23 convinced. Any objections?

24 UNKNOWN SPEAKER: No, your Honor.

25 THE COURT: Seeing no objections all three

1 Exhibit 216, 217, and 218 are hereby admitted onto the hearing
2 record.

3 Mr. Cooper.

4

5 REDIRECT EXAMINATION

6 BY MR. COOPER:

7 Q. Mr. Cox, let's start with the subject of those
8 documents that were just admitted into evidence. The incentive
9 that is referenced in those documents is a very specific
10 incentive, isn't it?

11 A. It is.

12 Q. And the basis of that particular incentive is a
13 regulation?

14 A. That's correct.

15 Q. Okay. And when we generally talk about incentives for
16 the company or disincentives for the company is it more of a
17 general discussion than that particular regulation?

18 A. That is correct. I don't even think about that
19 particular regulation when I think about incentives to invest.

20 Q. Mr. Clizer was kind of clarifying the one point two
21 million dollar plant number that had been referenced in your
22 testimony. I think it was also -- I know it was also referenced
23 in my Opening.

24 In pointing out that it is again, it's a plant number,
25 correct, not a revenue requirement number?

1 A. Correct.

2 Q. And he asked you about the revenue requirement impact
3 generally. But, in regard -- in addition to the revenue
4 requirement impact is there a write off issue that also arises
5 if these costs are disallowed in this case?

6 A. Yes.

7 Q. And how does that impact the company?

8 A. I mean it impacts us in two-fold. One it is another
9 tax issue. In another it's telling us these costs are not
10 reasonable.

11 Q. Something that you would take into account on a going
12 forward basis?

13 A. Absolutely. Especially as we're buying these
14 distressed systems that lack basic books and records, maps,
15 inventory of assets, all of that.

16 Q. You got into a conversation about connections versus
17 what you think of as customers with Mr. Clizer. Going back to
18 kind of where we started this number of connections combined
19 water and sewer are about how many in Missouri?

20 A. I believe about ninety-six hundred.

21 Q. Okay. And at least -- well, I don't remember the
22 exact breakdown. But, it's closer to fifty-fifty in terms of
23 water versus sewer, isn't it?

24 A. I believe it's skewed towards waste water.

25 Q. But, in any case neither water nor sewer would exceed

1 eight thousand connections. Correct?

2 A. Correct.

3 MR. COOPER: I don't have any other questions,
4 your Honor. Thank you.

5 THE COURT: Thank you. Thank you, Mr. Cox. You
6 are dismissed.

7 Staff, go ahead and call your next witness.

8 MR. THOMPSON: Staff calls (indiscernible).

9 THE COURT: Thank you. And Mr. Majors, please
10 raise your right hand.

11

12 KEITH MAJORS,

13 called as a witness, upon first being duly sworn by the Court,
14 was examined and testified as follows:

15

16 THE COURT: Thank you. Please have a seat. And
17 your witness.

18 MR. THOMPSON: Thank you, Judge.

19

20 DIRECT EXAMINATION

21 BY MR. THOMPSON:

22 Q. Please state your name and spell it for the Reporter?

23 A. Keith Majors. K-e-i-t-h, M-a-j-o-r-s.

24 Q. Thank you. How are you employed, Mr. Majors?

25 A. As a Utility Regulatory Audit Unit Supervisor with the

1 Missouri Public Service Commission.

2 Q. And where is your work station?

3 A. In Kansas City, Missouri.

4 Q. And, Mr. Majors, did you prepare or cause to be
5 prepared exhibits that have been marked as 110, 117, and 129
6 public and confidential being direct rebuttal and surrebuttal
7 testimony?

8 A. Yes.

9 Q. And are those items -- well, first let me ask you do
10 you have any corrections?

11 A. No.

12 Q. Are those items true and correct to the best of your
13 knowledge and belief?

14 A. Yes.

15 Q. If I asked you the same questions today would your
16 answers be the same?

17 A. Yes.

18 MR. THOMPSON: At this time I move for the
19 admission of Exhibits 110, 117, 129 public and confidential.

20 THE COURT: You've heard the motion and the
21 exhibit numbers. Are there any objections to the admission of
22 those exhibits onto the hearing record? Hearing none they are
23 so admitted.

24 Go ahead.

25 MR. THOMPSON: Thank you, Judge. I tender the

1 witness for cross-examination?

2 THE COURT: Mr. Clizer.

3

4 CROSS-EXAMINATION

5 BY MR. CLIZER:

6 Q. Good morning, Mr. Majors.

7 A. Good morning.

8 Q. Do you have a copy of Mr. Theis's rebuttal testimony
9 before you?

10 A. I do.

11 Q. Can you turn to Page 12?

12 A. I am there.

13 Q. Would you agree with me that on Pages 8 -- I'm sorry.
14 I keep saying that. Lines 8 through -- the one I want is up
15 through 11. Mr. Thies is referring to two rate cases where he
16 claims the company can confirm that acquisition costs of this
17 type were included in past Staff-assisted rate cases.

18 A. Yes. I see that.

19 Q. And I am sorry to make you jump around, but turning to
20 your surrebuttal testimony you provided a response to this.
21 Correct?

22 A. Yes. I'm sure I do. But, let me get to there.

23 I've got my surrebuttal.

24 Q. Specifically I'm referring you to Page 8 Lines 10
25 through 19.

1 A. Yes. I'm there.

2 Q. I don't mean to paraphrase you. Well I am going to
3 paraphrase you but I'm hopefully doing it correctly. But
4 effectively your position is that those disposition agreements
5 most likely contained agreements that they weren't necessarily
6 binding with regard to the specific -- help me out here.

7 What were you trying to say there?

8 A. Well, I think that in the small water case process
9 there was some -- similar costs that were included in not only
10 these systems but also Hillcrest and what I'll call Legacy
11 Confluence systems but those were in a -- in the context of a
12 disposition agreement which is much like a stipulation
13 agreement. I'm not -- I wasn't a party to those and wasn't
14 involved in the cases.

15 Q. That's good.

16 MR. CLIZER: Thank you very much. Actually I'm
17 going ahead to continue to ask that these things be marked so we
18 should be at 219 now. Right.

19 THE COURT: Yes.

20 Q. (By Mr. Clizer) I'm not sure it matters which order
21 but the first one will be disposition agreement for Case No.
22 WR-2020-0275.

23 A. (Inaudible).

24 Q. Can you turn to the last -- well, first of all let's
25 identify this document. You would agree with me that this is

1 the Nonunanimous Disposition Agreement regarding disposition of
2 small utility company revenue increase request for Elm Hills
3 Utility Operating Company?

4 A. Yes. I reviewed this as part of Staff's audit, and
5 particularly these costs.

6 Q. And you would agree with me that under the additional
7 matters section found on the last page which is not numbered but
8 it's the last one with words on it it reads other than the
9 specific conditions agreed upon and expressly set out herein the
10 terms of this disposition agreement reflect compromise between
11 OPC and the company and no party has agreed to any particular
12 rate making principle in arriving at the amount of annual
13 operating amount increase specified herein?

14 A. You read that correctly.

15 Q. And you would agree with me the purpose of that
16 provision is to prevent any party in future in attempting to
17 rely on the amounts agreed to in this to set some kind of
18 precedential value for this case?

19 A. Yes.

20 Q. I'll go ahead and mark another exhibit -- oh, put
21 those back.

22 This is, again, Unanimous Agreement regarding
23 disposition of small water case, etc., for WR-2020-0053. Mr.
24 Majors, can you identify this document?

25 A. This is the unanimous agreement regarding disposition

1 of small utility company revenue increase request. This is the
2 disposition agreement for -- I think this is what I'll call the
3 Legacy Confluence systems, Auburn and there's probably ten
4 others in there.

5 Q. And on the additional matters again this time it's on
6 Page 3 although unnumbered that first paragraph you see is
7 substantially the same although I believe the word Staff has
8 been inserted, I won't bother reading it in the record again.
9 You would agree with me that it's substantially the same.
10 Correct?

11 A. Yes.

12 Q. So once again we have an agreement whereby the parties
13 said we are not going to agree that any specific rate making
14 principle is being adhered to here?

15 A. Yes.

16 Q. So there was no agreement at all between the parties
17 when these cases were settled that specific acquisition costs
18 would or would not be included in rate base?

19 A. I think that's the general premise of the agreement.

20 Q. All right.

21 MR. CLIZER: I will at this time remember to move
22 for the admission of 20 -- 219 and 220.

23 MR. THOMPSON: Judge, the only clarification I
24 guess I would like to make is that commonly these agreements
25 have attachments that are associated with them. So, for

1 example, on I think it's the 220 document on the last page
2 there's an assortment of attachments that are a part of this.
3 As long as we're considering those attachments to be a part of
4 what we're able to reference and what's coming in with 219 and
5 220 I don't have any objection.

6 MR. CLIZER: The documents if you include the
7 attachments gets to like a hundred and seventy pages and our
8 printer is having enough trouble as it is.

9 MR. COOPER: And I certainly am not asking for
10 those pages. I just want to make sure that what we're admitting
11 is that entire package.

12 THE COURT: The Judge has heard the combined
13 request to admit Exhibit 219 and 220 and take administrative
14 notice of the various attachments thereto in the official EFIS
15 record.

16 Any objection to the admission of those two exhibits?
17 Hearing none they are so admitted. Go ahead.

18 MR. CLIZER: Thank you.

19 Q. (By Mr. Clizer) So let's have a quick discussion on
20 some of the types of costs that we're talking about here. You
21 reference in your surrebuttal Mr. Thies', I hope I'm pronouncing
22 his name correctly, rebuttal testimony when he identifies those
23 costs.

24 Do you recall that?

25 A. Yes.

1 Q. So the costs that we're talking about we have let's
2 break them down. We've got some engineering costs, we've got
3 title costs and we've got basically the cost of filing a CCN.
4 Is that a fair way that we can break that down?

5 A. Yes. I have the -- some information on the breakout
6 that's being referenced. I think it's going to be filed with
7 the Commission on data request 66. So I can provide some detail
8 on that.

9 Q. I assume the Commission is going to ask for it so
10 I'll -- can you just tell us what the breakout is?

11 A. So there is -- first of all there is some discrepancy
12 between the numbers. Mr. Thies' testimony is -- if you'll
13 pardon me a moment. Okay.

14 So Mr. Thies has one million two hundred and eighteen
15 thousand nine hundred and sixty-nine listed in his rebuttal
16 testimony. In the response to data request 88 which had all the
17 plan improvements we -- I identified one million two hundred and
18 four thousand nine hundred seven in acquisition costs. And that
19 was a data request for all planned improvements. The specific
20 data requests on acquisition costs which is DR 66 lists nine
21 hundred eighty-seven thousand eight hundred fifty-two dollars.

22 So about a two hundred and twenty-five thousand dollar
23 discrepancy on costs that aren't in this data request that
24 aren't delineated. But I can go through the costs that I can
25 identify if you would like.

1 Q. I think even if I didn't ask the Commission almost
2 certainly would but before I get to that I want to make sure I
3 understand. Who is DR 66? That's to whom from whom?

4 A. That would be Staff data request 66 from the Staff to
5 Confluence Rivers.

6 Q. Okay.

7 A. And the same token data request 88 from Staff to
8 Confluence Rivers.

9 Q. So the nine eighty number, and again I'm rounding
10 here.

11 A. Yes.

12 Q. Was the Confluence's number reported to Staff?

13 A. On specific acquisition costs, yes.

14 Q. Okay. And then you said you can break down that nine
15 eighty number?

16 A. Yes.

17 Q. If they'll permit me to continue asking open questions
18 because again I feel like this is a point that the Commission
19 will want to ask, can you please give us that breakdown?

20 A. So in the description line you have Engineering-Survey
21 of one thousand one hundred and ninety-five dollars.
22 Engineering-Admin two hundred eight thousand five hundred
23 twenty-five. Engineering-GIS fifty-nine thousand eight hundred
24 twenty-eight. Engineering-Survey one hundred sixty-five
25 thousand one hundred fifty-eight. Legal-Real Estate four

1 hundred thirty thousand six hundred sixty-seven.

2 Legal-Regulatory is one hundred fourteen thousand two hundred
3 seventy-two.

4 There is a blank on the description so that would have
5 to be by vendor of eight thousand two hundred seven dollars.

6 Q. You read those off relatively fast and it is not my
7 intention to attempt to confuse the record. But, what I heard
8 was roughly five hundred thousand dollar legal, the rest falling
9 into the engineering category. Again I'm doing my best, that's
10 what I thought I heard. Am I wrong there?

11 A. No. That's relatively accurate.

12 Pardon me one moment. This isn't my calculator.

13 I've got five hundred forty-four thousand nine hundred
14 thirty-nine in legal costs. And that's a breakdown of four
15 hundred and thirty thousand dollar -- four hundred thirty
16 thousand six hundred sixty-seven of Legal-Real Estate and one
17 hundred fourteen two seventy-two Legal-regulatory.

18 Q. Okay. Now is all that breakdown in Staff DR 66?

19 A. So the Staff DR 66 response is I believe a one tab
20 spreadsheet with lots of lines.

21 And what I've created are what are called pivot tables
22 to summarize the data. So those totals will be right. I think
23 that would be quite a lengthy process to take that spreadsheet
24 and manually add each line.

25 So for my convenience and the Commission's I've added

1 those in a pivot table and separated the data.

2 MR. CLIZER: Your Honor, I'm going to -- this is
3 going to be a bit unorthodox so bear with me here because I
4 think this is going to align with what I imagine you were going
5 to do anyways.

6 But I would imagine that this document that Mr. Majors
7 has created is something the Commission would like to have. And
8 so I don't know if you were going -- if this is what you
9 intended to make a Commission request or I can move for it to be
10 an exhibit. How best would you like to proceed with that?

11 THE COURT: Let's see if you get any objections.

12 Any objections to the admission of --

13 MR. CLIZER: It would be 221 if it were an OPC
14 exhibit or if Staff would like to make it an exhibit since it's
15 their work paper.

16 MR. THOMPSON: I don't mind if it's yours.

17 MR. CLIZER: Fine. Then let's call it 221 OPC
18 exhibit.

19 THE COURT: 221 work -- are we going to call
20 these work papers associated with DR 66?

21 THE WITNESS: I can certainly print off another
22 copy. It's saved. It's taking the data from DR 66 --

23 THE COURT: No. You are already in. I just need
24 the title of it.

25 THE WITNESS: Oh. Staff data request 66 summary.

1 MR. CLIZER: And so the one trick here is that
2 you've tasked the parties with sending you the exhibits by
3 email. And this will not be a document that I currently
4 possess, so --

5 THE COURT: Mere details.

6 MR. CLIZER: I'm going to move on then.

7 THE COURT: Any objection? No objection, so
8 admitted.

9 Mr. Majors, would you please be in contact with either
10 Mr. Clizer or your counsel to figure out how to submit this
11 exhibit outside of our session today?

12 THE WITNESS: Of course.

13 THE COURT: Thank you, sir.

14 Q. (By Mr. Clizer) Okay. So I think I only have a hand
15 full of things left really quick. Those legal fees that were
16 kind of in that table, about a hundred thousand of that was
17 related to the cost of bringing CCN applications.

18 Is that right?

19 A. Yes.

20 Q. And you agree with me that every time a system is
21 transferred you're going to have to request some kind of CCN
22 application?

23 A. Yes.

24 Q. And the four hundred thousand of that that was costs
25 for acquiring title?

1 A. Title. And I believe Confluence's referenced
2 right-of-way establishment, things like that.

3 Q. And you would expect that that would be a cost
4 incurred every time property is transferred. Correct?

5 A. To some extent, yes.

6 Q. Is that part of why you would characterize those costs
7 as a transaction -- I had a mind blank for a second.

8 Which -- that's why those were transition costs.
9 Correct?

10 A. I would categorize them as transaction costs.

11 Q. Okay.

12 A. They're related to the changing of ownership and
13 establishing I think as Mr. Cox and Mr. Thies said who owns
14 what, what the assets actually are.

15 Q. Okay. So just to clarify the record because of my
16 screw up you would identify those as transaction costs?

17 A. Yes. Correct.

18 Q. Okay. One last thing. Any plant investments that
19 were made to bring a system back online -- for example, putting
20 a new pump in, etc. -- would those fall into transaction or
21 transition costs?

22 A. I don't believe so. No, those are costs of plant
23 improvements that provide a utility service.

24 Q. And that doesn't matter if it would happen within that
25 first fifty-one days or not? If it was in that fifty-one days

1 it would be plant improvements?

2 A. No. I think that -- well, if it was related to a
3 distinct plant improvement it's really not categorizable as a
4 transaction cost or a transition cost or a cost of acquisition.

5 Q. And those aren't included in the breakdown that you
6 have? There is no direct plant improvements?

7 A. No, none that I'm aware of.

8 Q. Actually, I lied about one last thing. I apologize.

9 You would agree with me that there is a way that you
10 could potentially recover costs that were deemed transaction
11 costs outside of rate basing them. Correct?

12 A. Yes. I think that by the same token we've had these
13 other systems I think some of them have had rate based
14 treatments, some of them haven't, for these costs. I think we
15 would be more open to doing some kind of perhaps an amortization
16 like the other systems. But, I think they're certainly not
17 directly categorizable as plant costs. Certainly they're
18 current reasonable costs to -- that were incurred to acquire the
19 systems to eventually make improvements to the system.

20 Q. So if I understand you correctly your ultimate
21 recommendation is to not allow these costs to be included, but
22 if the Commission would allow recovery of these costs at some
23 level a secondary recommendation would be to have them be
24 amortized instead of rate based?

25 A. I think that's -- that would be a fair conclusion

1 considering we have allowed some amount in prior cases and can
2 be heard from the testimony of the Company these costs were
3 incurred in efforts to acquire these systems and get them
4 operating in compliance.

5 Q. If the Commission were to order an amortization what
6 would be the proper amortization period?

7 A. Well, I think part of the -- part of our consternation
8 about including these as plant items is that the plant items
9 they were capitalized to -- collection, sewers, distribution
10 lines, things of that nature -- can have a fifty year life span.
11 I don't think it's -- certainly not fair to the customers who
12 really these costs don't, they're not plant costs and so I don't
13 think it's appropriate to include them on a fifty year life span
14 and get rate based treatment for the next forty, fifty years.

15 I think perhaps five years is a nonarbitrary number.
16 When you look at other acquisitions in the state we've had a
17 five year amortization of transition costs, not transaction
18 costs, and so I think that might be an appropriate amortization.
19 Certainly for one or two of the other systems that these costs
20 were allowed it was a five year amortization.

21 Q. You were in the room earlier when Mr. Cox was
22 testifying. Correct?

23 A. Yes. I was.

24 Q. And he referenced a tax write off that would occur as
25 a result of your disallowance.

1 Do you recall that testimony?

2 A. I do.

3 Q. Do you agree with his testimony?

4 A. I think that if you were to take Staff's approach and
5 completely write -- not include these costs at all that's a
6 fair, that's a fair assumption that you would write off those
7 assets.

8 Q. And Mr. Cox provided an example of a situation where
9 the Company had had to perform work because somebody had I think
10 left the keys in the door was kind of the way it was described.

11 Do you recall that?

12 A. Yes.

13 Q. I might have missed the name of that. What system was
14 that?

15 A. Smithview. I've got it --

16 Q. That's okay. I just wanted to know the name for now.

17 Is Smithview what you would consider to be a fairly
18 typical example of the acquisitions that Confluence undertakes?

19 A. Having not been intimately familiar with all the
20 acquisitions I think that's a fair assumption that -- I have no
21 reason to dispute that the majority of Confluence's acquisitions
22 are distressed systems.

23 Q. What is the situation that Mr. Cox was referring to
24 where there is no information whatsoever and no one to contact?
25 Do you believe that's typical?

1 A. I think I recall his testimony being it's not
2 atypical. So I have no reason to not believe that.

3 Q. All right.

4 MR. CLIZER: I have no further questions.

5 Thank you.

6 THE COURT: And Confluence.

7 MR. COOPER: Thank you, your Honor.

8

9

CROSS-EXAMINATION

10 BY MR. COOPER:

11 Q. There was some questions from Mr. Clizer about -- it
12 was related to the title work and I think he, he suggested that
13 title work would have to be done in every case.

14 Is that generally your memory as well?

15 A. Yes.

16 Q. If that title work involves straightening out title so
17 that it's clear who owns it and it's clear that Confluence
18 Rivers owns it going forward or it involves the acquisition of
19 an easement for access to the property aren't those things that
20 will be a benefit in the future and would not have to be re-done
21 in the future?

22 A. I think the latter would be acquisition of an easement
23 for sure that would go on to benefit the company. I think I
24 would consider those -- if they were categorized as trans --
25 acquisition costs. I really don't think a new easement for an

1 acquisition -- that's really not an acquisition cost. So I
2 think in those cases those may have been miscategorized.

3 Q. But, certainly there is something that would benefit
4 the system on a going forward base. Correct?

5 A. Yes.

6 Q. Okay. Because I don't have DR 0066 in front of me
7 what time period is Staff asking about in that DR?

8 A. That's a really good question. I really don't -- I
9 don't recall. If I were to hazard a guess it would be from the
10 last Confluence case forward.

11 Q. So if there were any amounts left over from prior
12 cases on the Company's books they wouldn't necessarily be shown
13 in a response to that type of a data request or that time
14 period. Correct?

15 A. Right. There's, you know, two hundred and twenty-five
16 thousand is a pretty substantial gap so I mean that would have
17 to be remedied, yeah.

18 Q. And I think I heard you say a couple of times that you
19 acknowledge that these types of costs had been included to some
20 extent in the prior Staff-assisted rate cases for the companies.
21 Correct?

22 A. Yes. I went back and researched after watching Mr.
23 Woodsmall's opening the five cases that were referenced in
24 the -- in his opening concerning these costs.

25 Q. Okay. Now I want to go back actually to where your

1 counsel started in his Opening Statement. And in your testimony
2 you cite to Commission case EM-2007-0374 in regard to the
3 treatment of transition and transaction costs. Correct?

4 A. Yes.

5 Q. And, again, as your counsel said I believe that case
6 involved the proposed merger of Aquila, Inc. and an entity that
7 ultimately associated with Kansas City Power and Light.

8 Correct?

9 A. Yes.

10 Q. And those were both large then operating regulated
11 electric utilities at the time of the merger. Correct?

12 A. Yes.

13 Q. And then you further cite I think in your surrebuttal
14 testimony to case No. EM-2000-292.

15 A. Yes. That was the St. Jo Power and Light purchase,
16 yes.

17 Q. And by Utilicor. Correct?

18 A. Yes.

19 Q. Which was an earlier name of Aquila. Correct?

20 A. One of their many names, yes.

21 Q. And, again, both those entities were then established
22 regulated electric corporations, weren't they?

23 A. Yes.

24 Q. And really all four of those entities that we've
25 mentioned were being traded on the Stock Exchange at the time.

1 Correct?

2 A. Yes.

3 Q. Now --

4 A. Or their parent companies.

5 Q. Now, the quote you used from the St. Joseph Utilicor
6 case includes the following. It says the net original cost rule
7 was developed in order to protect rate payers from having to pay
8 higher rates simply because ownership of utility plant has
9 changed without any actual change in the usefulness of the
10 plant.

11 Do you see that?

12 A. Yes.

13 Q. Would you agree with me that in almost every -- almost
14 every if not every Confluence Rivers' acquisition the usefulness
15 of the plant to be acquired is in question at the time of
16 acquisition?

17 A. Likely.

18 Q. And certainly true in any existing system that's in a
19 receivership or is saddled with DNR violations. Correct?

20 A. Yes.

21 Q. Now, on Page 5 of your surrebuttal you state that any
22 costs related to the filing of an acquisition case before the
23 Commission are owners' costs as there is no benefit to rate
24 payers for these costs and these costs are not required for
25 utility service. Correct?

1 A. Yes.

2 Q. Now, when you say acquisition case are you referring
3 to merger cases under Section 393.190 such as the St. Joe
4 Utilicor-KCPL-Aquila cases that you've cited?

5 A. No. I think those are really related to the legal
6 work for the CCN case or the acquisition case or there have been
7 several I would call them technical merger cases that Confluence
8 has filed to consolidate rates. And anything -- any of those
9 before the Commission to acquire assets would be under the legal
10 regulatory costs and those, I can't recall any time those have
11 been capitalized or deferred in any way. And so I think that's
12 the clearest example of costs that really are ownership costs.

13 Q. Well, let's start with that a little bit and it's
14 toward -- this question will get to a little bit of what you
15 were saying there which is technically other than the case where
16 Confluence merged with Osage and Hillcrest and Indian Hills its
17 companies have not been involved in any true merger cases, have
18 they, for acquisitions?

19 A. I think they've been legally structured as asset
20 purchases. And so yes. I would agree with you -- with your
21 statement.

22 Q. And in addition to the purchase of the assets of an
23 existing regulated company they also have cases where they've
24 purchased assets from a homeowner's association or some entity
25 that's not regulated. Correct?

1 A. Yes.

2 Q. And they also have purchased some assets from some
3 entities that perhaps should have been regulated but have never
4 either been -- have never been brought into the fold. Correct?

5 A. Yes.

6 Q. And in those latter two types of cases the function or
7 the acquisition case really takes the form of a basic initial
8 CCN case. Correct?

9 A. Yes.

10 Q. Because neither of those examples does the existing
11 utility have a CCN. Correct?

12 A. Yes.

13 Q. And so in those instances Confluence Rivers goes for a
14 new CCN pursuant to Section 393.170. Correct?

15 A. I'm going to take your word that's the right section
16 of the rules and regulations, but sure. Yeah.

17 Q. And in those instances the CCN is required for the
18 provision of utility service, isn't it?

19 A. Yes.

20 Q. And perhaps in the future getting another CCN will not
21 be necessary. Correct?

22 A. For those systems that were purchased no, I don't
23 think you would need another CCN or anything like that.

24 Q. Now you also recite definitions of transaction and
25 transition cost used in the KCPL-Aquila case. Correct?

1 A. Yes.

2 Q. And the definition of transaction cost includes the
3 statement that they are not to facilitate the provision of
4 utility service. Correct?

5 A. Yes.

6 Q. And it also includes the statement or also states that
7 transaction costs are not used or useful nor necessary for the
8 provision of safe and adequate service. Correct?

9 A. Yes.

10 Q. Now, would you agree with me that steps necessary for
11 Confluence Rivers to acquire the assets of small distressed --
12 hold on just a second. Small distressed water and sewer
13 utilities ultimately facilitates the provision of utility
14 service and aids in the provision of safe and adequate service
15 as to those systems?

16 A. I think as a general premise yes, the transfer of
17 ownership prior to the acquisition -- prior to the acquisition
18 and post acquisition there is an improved, definite improvement
19 in safe and adequate service. No question.

20 Q. Did Staff make any attempt to determine whether the
21 individual costs that it disallowed facilitated the provision of
22 utility service or aided in the provision of safe and adequate
23 service?

24 A. No. I think that following that Commission's general
25 rule on these kind of costs that was really the genesis of the

1 questioning of why these were capitalized and so the removal
2 from capital, that's really what justified it in my mind.

3 Q. And without any sort of detailed examination of the
4 particular costs?

5 A. No. I think we had the response to data request 66 so
6 that was -- did provide some detail. But, I think as the big
7 picture has been discussed. The Commission has routinely denied
8 pre and immediately post ownership transfer costs as transaction
9 costs in both the examples that were in my testimony, the St.
10 Joe merger and the acquisition of Aquila.

11 Q. And I take from that that -- that it sounds like --
12 and let me confirm this first. That it's generally testimony
13 and a position taken as a result of just the normal transaction
14 rules as you said that were found in the two cases we've talked
15 about. Correct?

16 A. Right. Yes.

17 Q. So any steps such as, you know, going to the
18 engineering department and talking about, you know, what
19 usefulness there might be to surveys or mapping or anything like
20 that wouldn't have taken place?

21 A. No. I can't say they did.

22 MR. COOPER: That's all the questions I have,
23 your Honor.

24 THE COURT: Thank you. And before we ask for
25 Commissioner questions I just wanted to note that we will be

1 ending for lunch after the conclusion of Mr. Major's testimony.

2 Are there any Commissioner questions? Chairman.

3 CHAIRMAN RUPP: Thank you, Judge.

4
5 EXAMINATION

6 BY CHAIRMAN RUPP:

7 Q. Good morning.

8 A. Good morning.

9 Q. Still morning. The DR 66 and 88 that you have
10 referenced were any of those data requests the ones that were
11 difficult to get information from the Commission -- from the
12 Company that worked us all the way up to the agenda where we had
13 to make a ruling on compelling --

14 A. No. Neither one of those were from my recollection
15 not at issue on a discovery dispute.

16 Q. Thank you. You saved me from going back through
17 agenda notes to look and see if those were one because we had
18 quite a few of those in this case.

19 Secondly, during a Staff assisted case would these
20 costs that were uncategorized or maybe generally categorized
21 would those have been worked out with the company to properly
22 categorize them working with the Company during a Staff-assisted
23 rate case?

24 A. I think so. And from just the work papers and the
25 materials that I reviewed we have been relatively open in the

1 cases that they've referenced, the five cases of including those
2 costs with looking at the invoices and categorizing them. I
3 think for the majority they've been more of 301 or 303
4 organization costs. In two cases they were included in the
5 plant and service accounts. Does that answer your question?

6 Q. Yes. So if Staff is working with the company through
7 the assisted rate process there is more communication back and
8 forth well, let's put this one this one here and you end up with
9 maybe a better classification of different costs into different
10 accounts?

11 A. Yes, I think it's a fair statement. I also think that
12 the distinction here is we have agreed to reflect those costs in
13 costs of service. It wasn't a blanket proposal to wholesale
14 defer all acquisition related costs such as is the case here. I
15 don't think that's really -- that's really not an appropriate
16 way to approach the issue. I think it's really on more of a
17 case by case basis in determining really which costs are
18 ownership versus these costs have some kind of future benefit we
19 could come up with some kind of amortization for those but not
20 include them in plant.

21 Q. So is this issue boiling down to the Company is now
22 going through a regular rate case where there's not the amount
23 of communication between Staff and anything that is unclear
24 Staff may be erring on the side of declining or not including
25 because of ambiguity in what is -- what costs and what is, which

1 should be categorized this?

2 A. Yes. I think that's a fair statement.

3 Q. Okay. And how long have you been with the Commission?

4 A. Sixteen years.

5 Q. All right. You're a great American. We appreciate
6 you.

7 A. Thank you.

8 Q. You've seen a lot of black box settlements in your
9 day?

10 A. Many, yes.

11 Q. We've had a lot of discussion about, you know, black
12 box settlements and my impression and the Company's impression.
13 And I recall on several occasions asking companies questions
14 about the black box settlement and being told well, your answer
15 will depend on who you talk to. Or we can't really calculate
16 that, it just kind of depends on your position.

17 So in these black box settlements is it fair to say
18 that one party may be viewing things a certain way of how they
19 got to a resolution and the other party viewing it differently
20 but in the big picture thing it's like yeah, we're good, we're
21 just going to move on?

22 A. Oh, absolutely. I think if you ask five different
23 parties you'll get ten different answers about what was in
24 the -- what was in this number, what was in that number, how did
25 we arrive at this figure? Yeah. I think it's very ambiguous.

1 Q. So the statements that everybody has in all their
2 cases that this does not spell out any agreement to any type of
3 a rate casing principle is more put in there to reflect that
4 ambiguity and differences of viewpoints of how you got to where
5 you got?

6 A. Absolutely. And I think we've -- parties have relied
7 on that language to go back and say we're going to re-litigate X
8 issue because we didn't have a definitive answer or definitive
9 rate making treatment in that rate case or proceeding.

10 Q. Okay. Great. Thank you for your testimony.

11 CHAIRMAN RUPP: Thank you, Judge.

12 THE COURT: Commissioner Holsman.

13

14 EXAMINATION

15 BY COMMISSIONER HOLSMAN:

16 Q. How did you come up with the fifty days?

17 A. That's a very interesting question. I think the fifty
18 days has really been incidental to the invoice dates that was
19 data request response. I didn't come up with some kind of
20 arbitrary fifty day cutoff. And, in fact, I'm really curious as
21 to how they came up with a fifty day cutoff. My only guess is
22 that that's the invoice date on fifty days past the closing date
23 of some other systems that got charged acquisition costs.

24 Q. Okay. So do you think that it will be fifty days in
25 the next rate case?

1 A. No. I think we would look at whatever costs they
2 would have incurred for their next batch of acquisitions. And
3 whether -- and look at what treatment we would recommend for
4 those. I think depending on what decision the Commission comes
5 up with will determine how Staff approaches that issue.

6 Q. Why would you have a period of time where if it is,
7 you know, transitioned -- I understand that we're discussing
8 transition versus transaction here.

9 Why wouldn't from the time -- is it if they don't
10 close on the system that you end up having an issue?

11 I mean I don't understand if it does go to closure and
12 they had to start doing maps and engineering and a lot of the
13 expenses, you know, before they got that why wouldn't those
14 necessarily be -- why wouldn't they count? Like why wouldn't --
15 why do you have that time period?

16 A. Well, depending on the nature of the costs I think
17 they could count. But, I think in this case all these costs
18 were deemed acquisition costs. And so when you're looking at
19 whether or not you would include those you've got transition and
20 transaction. Let's discuss that. Transition costs are costs to
21 really combine the operations. You've got three accountants in
22 total in the old company and four in the other and now you only
23 need, you know, five. And so all the costs to integrate the
24 systems and so there really aren't any transition costs for
25 these systems that create the synergies that would cover

1 transition and transaction costs.

2 Does that answer your question?

3 Q. Yes. No, that does. Thank you.

4 COMMISSIONER HOLSMAN: Thank you, Judge.

5 THE COURT: And I want to make sure that the
6 record reflects the attendance of Commissioner Glen Kolkmeier
7 who arrived some time ago and by my negligence was not
8 mentioned.

9 Are there any other Commissioner questions?

10 The bench has no questions.

11 Let's move to recross examination, Mr. Clizer.

12

13 RE CROSS-EXAMINATION

14 BY MR. CLIZER:

15 Q. I didn't have any questions and then you said
16 something that I was just curious about.

17 So you're saying that Staff didn't come up with the
18 fifty days?

19 A. No. I'm not again entirely sure how anybody came up
20 with the fifty days. I was curious about Mr. Woodsmall's
21 Opening on that, but I haven't inquired of the company as to
22 what the fifty day cutoff really means.

23 Q. So what did you use to determine a cutoff?

24 A. I don't think there was really any cutoff. The
25 company had identified these specific costs at issue as

1 acquisition costs. And so if it was labeled as an acquisition
2 cost that was part of the removal. And I think the fifty days
3 may be incidental to the information on the data request but
4 again I think you would have to ask the Company or Mr. Thies
5 about that.

6 Q. All right. You said that you watched Mr. Woodsmall's
7 Opening and I was there for it and I could have sworn that he
8 said that you were slapping a label on things. So I want to
9 make sure this is clear.

10 You're telling me the Company self identified these as
11 acquisition costs?

12 A. Yes.

13 Q. And you didn't say these are the acquisition costs?

14 A. Not independently. I mean the Company said -- there
15 is an accounting chart field in the data request 88 that has a
16 general cost category. I think it includes on the, for the
17 improvements repaired main or refurbished pump, what have you.
18 And one of those accounting chart fields was acquisition costs.
19 And so that's how the Company identified those in the response
20 to data request 88.

21 Now, they had a separate one -- a separate response to
22 data request 66 that had more detailed information.

23 Q. And so Staff is not saying cut it off after fifty
24 days?

25 A. No. Again, if you find out how they came up with

1 fifty days tell me, please. But, I'm not quite sure what that's
2 referring to. The company has identified independently these
3 are acquisition costs and so that's what we had to go -- that's
4 what I used.

5 MR. CLIZER: I don't have further questions.

6 Thank you.

7 THE COURT: Mr. Cooper.

8

9

RECROSS-EXAMINATION

10 BY MR. COOPER:

11 Q. One question, Mr. Majors. You talked a little bit
12 about black box settlements with the Chairman. And I just want
13 to kind of make one point of clarification.

14 Would you agree with me that Staff-assisted rate case
15 resolution documents, the disposition agreements, are a little
16 different usually than a general rate case settlement or
17 stipulation and agreement in that many times those disagreements
18 in the small company cases include the Staff's EMS run?

19 A. Oh, for sure. And I think of the ones I reviewed I
20 think only one didn't have a EMS run so I had to go hunt for
21 that. But typically we include some kind of EMS run whether
22 it's partial or a full disposition agreement.

23 Q. Yes, that's included as an attachment to --

24 A. True. Yes.

25 Q. Thank you very much.

1 MR. COOPER: That's all I have, your Honor.

2 THE COURT: Thank you. Thank you very much, Mr.
3 Majors. You are excused from the -- oh, I'm sorry. Redirect.
4 Redirect. Mr. Thompson.

5 MR. THOMPSON: Thank you, Judge. I'll try to
6 make this as brief as humanly possible.

7

8 REDIRECT EXAMINATION

9 BY MR. THOMPSON:

10 Q. Well, let me work backwards. First of all, can you
11 explain to the Commissioners what an EMS run is?

12 A. Yes. It's exhibit modeling system. It's the computer
13 program through Microsoft Excel that we use for virtually all
14 revenue requirement calculations.

15 Q. So the staff accounting schedules are those an example
16 of an EMS run?

17 A. Yes.

18 Q. And black box settlements -- there was some discussion
19 of those. Now, those are the result of negotiations.

20 Isn't that true?

21 A. Yes.

22 Q. And do parties sometimes settle simply on the basis of
23 the total revenue requirement amount?

24 A. Frequently.

25 Q. So there is no specification of what that amount

1 includes?

2 A. Yes.

3 Q. And that makes it hard to answer Commissioner
4 questions about what particular items are worth?

5 A. In those cases, yes.

6 Q. And you've already answered Mr. Clizer repeatedly
7 about the fifty days and that's not a figure that staff uses or
8 comes up with. Correct?

9 A. It is not.

10 Q. Now, when you have an amount that the company has
11 identified as acquisition costs how do you decide how to treat
12 those costs?

13 A. Well, I think the examination is how is the Commission
14 treated. If they're not transition costs then they really have
15 to be transaction costs. How has the Commission treated those
16 historically. And to go back to, in plain English the
17 Commission had the report order in the Great Plains Energy
18 Equivalent merger case. I think going back to more black box
19 merger agreements that those really have -- it's unprecedented
20 to recover any kind of explicit transaction costs and so that's
21 the -- what I relied upon to make my recommendation.

22 Q. So you just employed the categories the Commission had
23 set up in that particular decision?

24 A. And other decisions, yes.

25 Q. Okay. So in this case Confluence is requesting rate

1 based treatment of those items?

2 A. Yes.

3 Q. Now, rate based treatment means they get a return on
4 that amount.

5 Is that correct?

6 A. Yes.

7 Q. And you spoke of an alternative treatment that you
8 called amortization. Can you tell me how that's different from
9 rate based treatment?

10 A. Well, you can have an amortization without rate based
11 treatment. A good example of this would be there is a five year
12 amortization of transition costs for the GBE West Star, call it
13 combination. I would call it a merger tentatively. I'm not
14 sure what the legal structure of it was. But, there was a five
15 year amortization of those costs without rate based treatment.

16 And so you would include one-fifth per year of
17 whatever amount you were amortizing without including those
18 costs in rate base as opposed to the treatment requested here we
19 should be including it in various plan accounts that would both
20 earn a return of through depreciation expense from anywhere from
21 twenty to fifty year life span and a return on through the rate
22 base rate of return calculation.

23 Q. So it sounds to me like rate based treatment is the
24 most favorable treatment?

25 A. Yes. Rate base and -- yes. Rate base and inclusionary

1 plan you could have rate base and an amortization. Any rate
2 base and inclusion plan they would get the longest period of
3 time where they would earn a return on the un-depreciated
4 balance of those amounts.

5 Q. So when you talk about the amortization as an
6 alternative treatment do you mean amortization to expense?

7 A. Yes. And no rate base -- I think that's been done in
8 two or three of the example systems that were brought up in
9 those cases in this case. So amortization to those expense. I
10 think I've thrown out five years. Could be longer, could be
11 shorter. Typically the shortest amortization period we've
12 talked about in rate cases is around three years would be the
13 shortest. It's kind of a -- it's not an exact science on how
14 long you set an amortization period for.

15 Q. In your opinion would it be just and reasonable to
16 include these costs in rates as expenses?

17 A. Some of these costs. I think it's kind of a fair
18 happy medium. I mean the Commission has heard the testimony
19 today about how these costs were incurred for the betterment of
20 the entire system and for customers. And so I think at least
21 some of those costs depending on the category I think would be a
22 fair outcome to have some kind of amortization. No rate based
23 treatment. But, the company would recover some of those costs
24 over a period of time.

25 Q. And when you say some are you talking about a

1 percentage? Say fifty of them? Sixty percent?

2 A. I think you could do, you could do a percentage. I
3 think definitely the -- the costs, the regulatory costs, the
4 legal costs for coming in and applying for a CCN those are
5 really analogous to rate case expenses. I would not -- they're
6 not, they're certainly not normal as in rate cases every three
7 years. They're sporadic. So whenever they come in for a CCN to
8 purchase a system, so I really don't think, those are just
9 normal costs, no deferential treatment should be allowed for
10 those.

11 The engineering costs and the GIS have a lot of merit.
12 I think some of the real estate if it's for establishing
13 right-of-ways I think those definitely have merit. I think the
14 schedules I have been asked to provide to the Commission would
15 have some delineation as to which costs would be allowed and are
16 more appropriate to put in an amortization.

17 Q. Thank you very much.

18 MR. THOMPSON: No further questions.

19 THE COURT: Thank you. Now, Mr. Majors, you are
20 excused. I appreciate your testimony.

21 Let's go ahead and as you see everyone has meetings to
22 get to. For those scheduled meetings let's call it at one
23 thirty. One thirty for everyone leaving the room. One thirty.

24 MR. CLIZER: Before you go off the record I would
25 like to address a matter of business. The Commission ordered

1 for Confluence to apply -- or provide us documents in our last
2 Motion To Compel. We still have not received those. If I could
3 get the Commission to direct the Company to provide the
4 documents which I believe were the memoranda at some point
5 today.

6 MR. COOPER: Judge, may I respond?

7 THE COURT: Yes, please.

8 MR. COOPER: We began collecting the documents
9 that the Commission ordered us to provide shortly after the
10 agenda session last Thursday. I have not had an opportunity to
11 communicate with the folks in St. Louis to see where they stand
12 with that. I would like to report to you after lunch and we
13 will produce those documents just as quickly as possible.

14 MR. CLIZER: And I understand that's almost
15 certainly what you are going to rule on, but I just want to
16 remind the Commission that the address that this is addressing
17 goes up tomorrow so keep that in mind. Thank you.

18 THE COURT: Understood. And I would also state
19 for the record that Counsel for Confluence approached the
20 Presiding officer to state at the beginning of this hearing that
21 they were working on that and would get it to them as soon as
22 possible.

23 Any other business before we go off the record for
24 lunch? Again, one thirty. One thirty. No questions. We are
25 adjourned and off the record.

1 (Break in the Proceedings.)

2 THE COURT: Let's go back on the record. The
3 hour of recess having expired.

4 This is a continuation of the generate case of
5 Confluence Rivers file No. WR-2023-0006. We are beginning the
6 issue of timesheets. And we are going to start with mini
7 Opening Statements.

8 Confluence Rivers.

9 MR. MITTEN: Thank you, your Honor, if it please
10 the Commission.

11 Since this is the first opportunity I have had to
12 appear in this case I want to introduce myself. I'm Russ Mitten
13 and I have the pleasure to serve as General Counsel of both CSWR
14 and Confluence Rivers.

15 That said my Opening Statement regarding this issue is
16 going to begin a bit unconventionally because on behalf of both
17 Confluence Rivers and CSWR I need to offer a public apology to
18 both the Commission and the parties in this case.

19 In two small Staff-assisted rate cases decided in 2020
20 and 2021 involving two pre merger Missouri affiliates Elms Hills
21 Utility Operating Company and Confluence Rivers Utility
22 Operating Company CSWR was ordered to implement a time keeping
23 system to track work conducted on behalf of those two
24 affiliates. CSWR complied with that order by implementing a
25 time keeping system that tracks and records time not just for

1 those affiliates but for all its affiliates nationwide.

2 However, at some point after the time keeping system
3 was implemented seven of CSWR's senior executives stopped
4 recording time into the system. The rationale for that decision
5 is explained in Mr. Cox's pre-filed testimony in this case, and
6 he will be happy to further explain when he takes the stand to
7 testify on this issue.

8 He also will acknowledge that the unilateral decision
9 of these executives to stop recording time was a mistake for
10 which he will personally offer his apologies.

11 But, despite that fact insofar as this case is
12 concerned the effects of the company's executives' decision to
13 stop recording time were of minimal consequence in this case at
14 best.

15 There are several reasons I believe this. Some of
16 those I will describe later in my Opening Statement. But, for
17 now I want to focus on two.

18 First, the two orders only required CSWR personnel to
19 record time for work done for the two pre merger affiliates.
20 The order did not apply to CSWR's other Missouri affiliates or
21 for work done on behalf of affiliates outside Missouri.

22 Second, those two pre merger affiliates account for
23 fewer than seventeen hundred of the almost ten thousand
24 connections Confluence Rivers currently serves in Missouri. So
25 despite what Staff stated in its testimony the lack of timesheet

1 data from the seven CSWR executives pose no real threat to
2 Staff's ability to prepare its case.

3 It's understandable that when dealing with a business
4 structure like the one presented in this case where CSWR
5 performs all executive, managerial, engineering, legal, and
6 other similar functions for its utility affiliates, including
7 Confluence Rivers, regulators want to insure that the portion of
8 CSWR's costs that are directly charged or allocated to
9 Confluence Rivers are both reasonable and appropriate. To aid
10 regulators in that effort CSWR created a cost allocation manual,
11 or CAM as it's sometimes referred to, that prescribes how time
12 spent by CSWR personnel is to be a-portioned to its state
13 utility affiliates. And based on our experience in rate cases
14 in Kentucky, Mississippi, Louisiana, and Texas regulators appear
15 satisfied that either the three factor formula set out in the
16 CAM or some alternative allocation formula are alone sufficient
17 to properly a portion CSWR's costs for rate making purposes.

18 I believe those utility commissions reached that
19 conclusion for the same reason. They recognize that because of
20 the dynamic nature of CSWR and its regulated affiliates it would
21 be impossible in the short run to try to determine a normalized
22 level of service by CSWR for any of its state affiliates.

23 My own experience at CSWR illustrates the wisdom of
24 that conclusion. When I joined the company in 2019 CSWR had
25 fewer than twenty employees and served less than four thousand

1 customers in two states. When I celebrated my fourth
2 anniversary the month before last, CSWR had more than eighty
3 employees and served almost a hundred and fifty thousand
4 customers in twelve states. And the growth I've witnessed in
5 the past will continue in the future because I'm personally
6 involved in acquisition cases in all but one of the states where
7 our affiliate group currently serves, and in addition our group
8 has filed its first acquisition application in the state of
9 California.

10 Over the course of my tenure not only has our
11 affiliate group grown at an unbelievable pace which has resulted
12 in ever shrinking allocation factor applicable to Confluence
13 Rivers, but I have both observed and experienced significant
14 changes in the nature and scope of day to day responsibilities
15 of CSWR's executive team. Certainly year to year, if not month
16 to month, those executives are required to devote more and more
17 of their time to the enterprise as a whole and not to each of
18 its individual components.

19 While as I noted other state utility commissions have
20 recognized the evolving circumstances I just mentioned and have
21 dealt with the operational realities they represent using a
22 formula to allocate CSWR's costs. However, we recognize that at
23 least as -- so far as the Commission Staff is concerned an
24 allocation formula alone isn't enough for Missouri. But,
25 prospectively we believe changes in the time keeping system

1 ordered in the prior two cases I discussed earlier are both
2 justified and warranted.

3 Over the more than two years the current time keeping
4 system has been in place CSWR has been able to identify its
5 strengths and weaknesses. Based on that experience detailed
6 daily time reports appear to have some value in documenting time
7 spent by many lower level employees whose day to day activities
8 are easily identified to one or more of CSWR's state affiliates.
9 This allows their time to be directly charged to the states
10 receiving the benefits of their efforts.

11 However, even for those folks time keeping is far from
12 perfect because a portion of their time is devoted to activities
13 that benefit the entire affiliate group, which must ultimately
14 be allocated.

15 But, daily time keeping is not so easily rationalized
16 for CSWR's senior management team because the scope and focus of
17 their job responsibilities more often than not are enterprise
18 wide rather than on an individual state affiliate basis. That's
19 obviously not true for all their activities because as the
20 Commission has seen several of our senior executives have been
21 in attendance at this rate case hearing since it began and have
22 focused their attentions almost exclusively on Confluence Rivers
23 over that period of time.

24 But, these sorts of situations are very much the
25 exception and that fact makes it hard to justify the time,

1 effort, and expense involved in requiring those senior
2 executives to fill out daily timesheets because even if they
3 were required to do so the largest portion of their time would
4 be charged to the all companies category in our current time
5 keeping system which means it, too, would need to be allocated.

6 As an alternative to keeping daily timesheets
7 Confluence Rivers is proposing exception time keeping for all
8 CSWR employees at the director level and above. As proposed in
9 this as proposed in this case these senior leaders would create
10 a time record only for activities directly related to a
11 particular property or project, like participation in this rate
12 case. All non-reported hours for these employees would be
13 presumed to apply to all of the affiliates and would then be
14 allocated using some sort of allocation formula.

15 The company's proposal strikes a rational and
16 appropriate balance between the Company -- between the
17 Commission and Staff's need for information and the desire for
18 those executives to be freed from the obligation to fill out
19 daily timesheet. At the very least it's a proposal that ought
20 to be tried.

21 For all the reasons I just stated Confluence Rivers
22 urges the Commission to adopt the Company's exception time
23 keeping proposal.

24 Our witnesses on this issue are Josiah Cox, CSWR's
25 President, and Brent Thies, the Company's Vice President and

1 controller. Each of whom will be available to answer your
2 questions regarding this issue in just a moment.

3 That concludes my Opening statement and I'm available
4 to answer questions.

5 THE COURT: Thank you. Are there any
6 Commissioner questions? Mr. Holsman.

7 COMMISSIONER HOLSMAN: Thank you. So I think --
8 how do you then, so what is the Company's proposal then to
9 insure that Missouri rate payers are only compensating for time
10 spent on Missouri investments without being burdensome to the
11 executives to have to fill out a daily timesheet?

12 MR. MITTEN: With regard to the lower level
13 employees they will continue to fill out timesheets and to the
14 extent they can they will identify Confluence Rivers and direct
15 charge their time to that affiliate.

16 For the senior leadership team whenever they devote
17 time to Confluence Rivers as they're doing with this rate case
18 that would be reported as an exception and that time would be
19 direct charged. But, because probably the majority and in many
20 cases a significant majority of their time is devoted on
21 enterprise wide projects you would then use an allocation factor
22 to apportion that time to all the affiliates, including
23 Confluence Rivers.

24 We think that's the best way to do it. In fact, we
25 think that's the only way you can do it. Because for this

1 company what does a normal year look like? What happened last
2 year is going to differ from this year, what happened last month
3 is going to differ from next month.

4 So there really isn't a consistent way that these
5 executives can identify (technical difficulties --
6 indiscernible) Kentucky, Mississippi, and Louisiana the
7 Commission can use that methodology or came up with an
8 allocation factor on their own.

9 COMMISSIONER HOLSMAN: Okay. Thank you.

10 THE COURT: Thank you, Mr. Mitten.

11 That takes us to Mrs. Bretz for staff.

12 MS. BRETZ: Good afternoon. May it please the
13 Court. My name is Karen Bretz and I'm here on behalf of
14 Commission Staff on the issue of timesheets.

15 What Staff recommends is that Confluence do nothing
16 greater, nothing less, than it already agreed to which is to
17 keep timesheets for all employees.

18 Most employees are keeping timesheets, the lower level
19 employees are, and Staff is fine with how that's being done.
20 However, as Mr. Mitten mentioned there are seven executive level
21 employees and these are listed in Mrs. Serber's direct testimony
22 on Page 17 who are not keeping timesheets.

23 First I would like to go through a little history just
24 briefly.

25 The parties reached an agreement in a prior Confluence

1 rate case, this was Case No. WR-2020-0053. The Commission
2 approved it and ordered all parties to comply with it. And on
3 Pages 2 of 3 of this agreement Mr. Cox agreed to begin tracking
4 time for Confluence activities conducted on behalf of CSWR, LLC.

5 And during this time as Mr. Cox was acquiring systems
6 and sought Commission approval for these acquisitions he signed
7 agreements stating that all employees would keep timesheets for
8 the amount of time spent on each system. These five
9 acquisitions are listed in Mrs. Serber's surrebuttal testimony
10 on Page 6.

11 And Mr. Cox readily acknowledges in his rebuttal
12 testimony in this case that Confluence did not follow through on
13 that. But, it's not a matter of Confluence admitting we didn't
14 do what we seed we were supposed to, we promise to do better in
15 the future.

16 What Confluence suggests moving forward is to apply a
17 general allocator to time spent on Missouri systems. But, for
18 special projects such as I guess this rate case to allocate time
19 on an actual basis and this is what Confluence calls exemption
20 reporting.

21 Confluence suggests that this apply to executive and
22 director level employees. There are more than seven executive
23 level employees listed in Mrs. -- this would be more than the
24 seven executive level employees listed in Mrs. Serber's direct
25 testimony. To summarize Confluence's request fewer employees

1 would be keeping timesheets than currently are. Staff finds
2 this problematic.

3 Staff also finds Confluence's methodology, this
4 exemption reporting, is backwards. The standard practice is for
5 items to be directly charged when possible because this is the
6 most accurate way of charging. And to indirectly charge only if
7 the items cannot be directly charged.

8 What Confluence suggests is for executive and director
9 level employees to charge their time on Missouri systems using a
10 general allocator except for the special projects which I guess
11 is going to be at Confluence's discretion which at time they
12 would begin directly -- directly charging.

13 Confluence's reason for this request is that because
14 it's rapidly growing a general allocator is more representative
15 of the time spent on Missouri projects than the actual
16 timesheets. But, the reality is that as Confluence expands not
17 only in Missouri but across the United States to California
18 having the most accurate information is critical to insure that
19 Missouri rate payers are being charged the correct amount.
20 Employee timesheets which produces a direct charge is the most
21 accurate way to track and charge time spent on Missouri
22 projects.

23 Furthermore, Confluence executives are already keeping
24 calendars, staff received copies of these calendars through a DR
25 request. It would not be a significant additional burden for

1 the executives to use these calendars as a means of filling out
2 their timesheets. That's what we do upstairs. That's not a big
3 deal.

4 And, lastly, I add that what these seven executives
5 are doing is inconsistent with CSWR's employee handbook. If
6 thank you will indulge I will just briefly read a section of
7 that. This was -- Staff got a copy of this through a DR
8 request.

9 And this is under the heading personnel -- Personnel
10 administration, Section B, timesheets.

11 All employees are required to accurately complete and
12 confirm a timesheet in the HRIS system Paycor. Failure to
13 submit a properly executed timesheet may cause a delay in the
14 processing of the payroll check. All hours worked as well as
15 non- worked hours, i.e., PTO, holiday, etc., should be accounted
16 for on the timesheet for that payroll period. Under no
17 circumstances should hours be saved or banked for a later date
18 by not reporting them in the period they were worked.

19 Mrs. Saver brought up in her testimony that these
20 seven executives are not following the employee handbook and no
21 Confluence witness testified to the contrary. Just as Staff
22 looks to you, the Commission, for direction and leadership CSWR
23 employees look to Mr. Cox and the other executives for
24 leadership. This is not good leadership if most CSWR employees
25 are doing what they're supposed to be doing filling out these

1 timesheets but some people, namely the people at the top, are
2 not. It's only prudent business practice for CSWR to keep
3 timesheets.

4 Staff's recommendation is that all CSWR employees keep
5 timesheets. When Confluence was before you for their
6 acquisitions and to get their rate increases they were happy to
7 say they were going to do that. But, they didn't follow
8 through. Please hold Confluence to its word.

9 Mrs. Saver is available for any questions you may
10 have. Thank you.

11 THE COURT: Are there any questions? Mr.
12 Holsman?

13 COMMISSIONER HOLSMAN: Thank you.

14 What do you see as the main difference between an
15 hourly employee and a salaried employee?

16 MS. BRETZ: Well, speaking as a salary employee I
17 know that if I work more than eight hours a week I -- I mean
18 eight hours a day that I don't get overtime or anything for
19 that.

20 COMMISSIONER HOLSMAN: Isn't the purpose of a salaried
21 employee to provide the flexibility and the overage in a day
22 because sometimes a salaried employee, especially an executive
23 level employee, could potentially be presented problems that
24 they would have to require their time outside of a traditional
25 workday, outside of an eight to five workday?

1 MS. BRETZ: It provides flexibility, surely.

2 COMMISSIONER HOLSMAN: Do you believe that
3 executives could potentially wake up in the middle of the night
4 and contemplate business decisions at three a.m. and not want to
5 have to necessarily take it down fifteen minute increments for
6 how they're spending their time?

7 MS. BRETZ: Sure. Of course that's true. But,
8 just as we have to account for our time -- us employees have to
9 account for our time here, so that gets allocated to the
10 different, to the different utilities CSWR should keep their
11 time, too, so that it can be allocated to the different systems.

12 COMMISSIONER HOLSMAN: Would you, would you
13 consider CSWR a private or public company?

14 MS. BRETZ: It's privately owned.

15 COMMISSIONER HOLSMAN: Privately owned. So do
16 you think a privately owned company should be able to set their
17 employees whether they're salaried or hourly?

18 MS. BRETZ: Sure. Yes.

19 COMMISSIONER HOLSMAN: Thank you.

20 MS. BRETZ: And they have. They have set the
21 rules out in the handbook which says that all employees should
22 keep timesheets.

23 COMMISSIONER HOLSMAN: Thank you, Judge.

24 THE COURT: Thank you.

25 Any further questions for Ms. Bretz?

1 Hearing none, thank you.

2 And, Mr. Clizer.

3 MR. CLIZER: May it please the Commission.

4 A lot of what I was going to say before has already
5 been covered and I don't feel like its needing to re-hash this.
6 Honestly when I was sitting there I kind of scrapped my original
7 Opening because as I thought about it I started to think gosh,
8 this such a silly, silly argument that we're dealing with right
9 now.

10 I mean, let's think about it. There's no dollar
11 disallowance involved here. No money being asked of the company
12 whatsoever. Purely prospectively.

13 And all Staff is asking is for this company's
14 employees to do what just about every company's employees ask
15 them to do which is keep timesheets, that's what's asked of us
16 at OPC. It's what's asked of your staff. Every single one of
17 them has to keep timesheets. Apparently, though, this is too,
18 too difficult a task which frankly seems a little bit
19 concerning.

20 I want you to think for a moment. Just imagine that
21 you are going to a lawyer's office to acquire services. Let's
22 say you are going to have a will drafted, right, and you get
23 your will, it's drafted, and the lawyer turns around and he says
24 hey, instead of charging you the number of hours I spent working
25 for you we spent about twenty percent of our time drafting wills

1 so I'm just going to send you twenty percent, I'm going to
2 charge you twenty percent of whatever it cost me for that month.
3 Is that reasonable?

4 Are you okay with that kind of pricing structure?
5 Because I wouldn't be. I would want to be charged for the work
6 that was actually spent on me.

7 And that's exactly what Missouri customers are asking
8 of you right now. Missouri customers want to be charged for the
9 work that Confluence does for Missouri.

10 Okay. How do we figure out what Confluence does for
11 Missouri? Well, it's pretty simple. We ask hey, how much time
12 did you spend working on Missouri. That's it. That's literally
13 all they have to do is just write down working for Missouri
14 that's it that's literally all they have to do is just write
15 down we spent this much time working on Missouri. So if they
16 come to Missouri for an acquisition they write down Missouri.
17 If they go to Texas for an acquisition they write down Texas.

18 What happens if they didn't do anything? What if it's
19 just a group meeting that wasn't specific? They write down
20 company wide. It's literally that simple.

21 All we're asking them to do is something that
22 literally every single one of your staff has to do on a daily
23 basis. It is the most basic thing that you could ask of this
24 company.

25 So please order them to do so. That's it. Thank you.

1 THE COURT: Questions? Commissioner Hahn.

2 COMMISSIONER HAHN: Thank you. Thank you, Mr.
3 Clizer.

4 Bear with me for just a moment as I kind of walk
5 through something before I ask you a question.

6 In my previous employment experience I worked on
7 multiple issues all in a day, sometimes all in a night or IN a
8 weekend. I was a salaried employee so I didn't get overtime or
9 comp time but that was just part of my responsibilities.

10 And as Commissioner Holsman noted sometimes it plagues
11 your brain and so you think of things in the middle of the
12 night, you know, at three a.m. or two a.m. or you don't sleep
13 that night because you have things on your mind.

14 So in the hypothetical or the OPC position on this of
15 requiring executives to have timesheets how would you account
16 for those hours and that time? How would you propose that Mr.
17 Cox or his executive team account for the time that they spent
18 after hours working on issues that are relevant to their
19 operations in Missouri?

20 MR. CLIZER: I think it's very care -- we need to
21 be very careful here. We are not asking to compensate them on
22 every hour spent. The reason for the timesheets is to come up
23 with percentages, right. And yes, there is going to be a
24 percentage that it probably goes to all company and that is
25 going to be allocated out individually.

1 So to answer your question if they record it on a
2 timesheet as Missouri it would be allocated to Missouri. If
3 they record it as something else it would be allocated somewhere
4 else. And if it's recorded as company wide it would be
5 allocated out according to general allocators.

6 COMMISSIONER HAHN: So if it's after hours and
7 there is a situation that comes up that's Missouri for fifteen
8 minutes at seven o'clock at night how is that allocated?

9 MR. CLIZER: Did they record it on their
10 timesheet?

11 COMMISSIONER HAHN: How would you even record it?
12 How would you --

13 MR. CLIZER: By writing it down on the timesheet.

14 COMMISSIONER HAHN: Okay. So you would have a
15 timesheet at your house -- I'm just trying to figure out how
16 this in practice would work. Do you have a timesheet at your
17 home?

18 MR. CLIZER: No. You would go to the office the
19 next day and say I worked on something for Missouri, so I'm
20 writing that down on my timesheet.

21 COMMISSIONER HAHN: For the following day for the
22 evening hours?

23 MR. CLIZER: I can tell you I have also worked
24 quite a lot of time after hours and I also record that to my
25 timesheet because I come in the next day and I say I spent four

1 hours after five working on this.

2 It's not that difficult to write something down on a
3 timesheet.

4 COMMISSIONER HAHN: And I just want to follow up.
5 One more question.

6 Imagine that you're on the phone because I imagine
7 they have lots of phone conversations. And one hour of their
8 executive meeting as Mr. Woodsmall mentioned that they have an
9 executive meeting, you know, maybe five minutes of fifty-five
10 minutes was allocated to Missouri for those executives.

11 So do you think that they should be required to break
12 down the minutes in which they spent on specific Missouri issues
13 during that executive meeting or how would you allocate that
14 time.

15 MR. CLIZER: I wouldn't personally ask for it as
16 granular on a minute by minute basis. I think an hour by hour
17 basis. And if you're in an hour long meeting that touches on
18 multiple different subjects then you are going to record that
19 entire hour for that meeting as general company. You wouldn't
20 have to break it down on a minute by minute basis. I don't
21 think Staff is asking for that either. I might be wrong. I
22 guess I'll ask Staff in Cross.

23 COMMISSIONER HAHN: I think how -- I guess then
24 would Staff propose giving them clear guidelines on how to
25 allocate time? Because I think I can think of several scenarios

1 where it might not be clear how to allocate time.

2 MR. CLIZER: Well, let me start off by saying
3 that I'm not Staff so I can't speak on their behalf.

4 But, and I encourage you probably to ask this directly
5 of Mrs. Saver I'm sure that Staff if necessary could provide
6 guidelines to the company assuming that the company's own
7 internal guidelines aren't sufficient. Again, we're talking
8 probably on an hour by hour basis.

9 And to a certain extent, like if you spent fifteen
10 minutes after hours if you want to write that down as company
11 wide not. If you don't then it's probably just going to go to
12 the company wide because that's what your default is going to
13 be. So it's not that difficult.

14 Does that answer your question? I don't think I did
15 so let's --

16 COMMISSIONER HAHN: It's okay.

17 MR. CLIZER: Can I get clear guidelines?

18 COMMISSIONER HAHN: Yes. I think perhaps I'll
19 ask Staff.

20 MR. CLIZER: Okay.

21 COMMISSIONER HAHN: Thank you.

22 MR. CLIZER: All right.

23 THE COURT: Commissioner Holsman.

24 COMMISSIONER HOLSMAN: Thank you.

25 So, Ameren operates in Illinois and Missouri. Are

1 Ameren executives also required to keep timesheets and turn them
2 in?

3 MR. CLIZER: I want to say yes, but honestly I
4 would not be a hundred percent sure. I would want to double
5 check that. But, to my knowledge the answer is yes but I would
6 feel more comfortable if I could double check. But I'm almost
7 certain the answer is yes.

8 COMMISSIONER HOLSMAN: Okay. The same with
9 Evergy and all of the utility companies that their executives
10 have to turn in timesheets?

11 MR. CLIZER: I know for a fact Spire for example
12 because I've seen the timesheets and I believe I've seen
13 Evergy's.

14 COMMISSIONER HOLSMAN: Okay. Would you think --
15 is there, is there a difference between an investor owned
16 utility and a private entity? I mean is there a material
17 difference in those two in your mind?

18 MR. CLIZER: Do you mean specifically with regard
19 to the timesheet issue? Because there is clearly a material
20 difference between being regulated and not regulated. I mean
21 that's the obvious difference. But, I think you meant something
22 more specific to timesheets is that what you're going for?

23 COMMISSIONER HOLSMAN: I'm going -- I'm looking
24 at it from your perspective as saying we as a government entity
25 do this so they should have to do it, too. Even though they're

1 a private entity.

2 MR. CLIZER: Let's think about the logic, though.
3 Why does your staff keep timesheets?

4 COMMISSIONER HOLSMAN: Well, I assume -- and it
5 depends -- I think that we have such a variety of staff, like
6 some will be on salary and some will be an hourly employee. If
7 you're an hourly employee clearly you're keeping track of your
8 hours worked.

9 MR. CLIZER: No. The reason that your staff
10 keeps timesheets is because that's the mechanism that's used to
11 assign the Commission's appraisal -- its not appraisal, it's
12 costs -- assessment. Thank you, Fe.

13 It's literally the exact same thing that's happening
14 in reverse. So every utility has to pay a certain amount based
15 on what the commission does for each utilities. So it's
16 literally the exact same thing we're asking of Confluence.

17 COMMISSIONER HOLSMAN: But, do you -- so what's
18 the enforcement mechanism if they turn in a timesheet and they
19 miss an hour or they were, you know, estimating? What's the
20 consequence or how is that going to be tracked or enforced or
21 oversighted?

22 MR. CLIZER: That would be part of the general
23 auditing process that your staff would perform if they received
24 the timesheets. If there were questions they would ask
25 questions. If they felt like there was a problem they would try

1 to address it. If there wasn't a problem or they couldn't find
2 it then there wouldn't be anything.

3 COMMISSIONER HOLSMAN: So if you were spending
4 half an hour at three a.m. on an idea and you said you were
5 there for an hour, you know, how are you going to justify the
6 difference between that half hour and that hour whether it was
7 enforced or not?

8 MR. CLIZER: Staff is going to perform an audit
9 of the timesheets that they receive to try and determine what
10 percentage of time was spent for each --

11 COMMISSIONER HOLSMAN: How are they going to
12 know? I mean it's three in the morning. This is why you're a
13 salaried employee. This is why as an executive you don't have
14 regular business operating hours. So how is someone going to do
15 going to know if it's enforceable or not, rather someone claimed
16 that they were working at three a.m. or not?

17 MR. CLIZER: They're going to rely on the company
18 to be honest.

19 COMMISSIONER HOLSMAN: Okay. So in that same
20 token why wouldn't an allocation system that's being proposed be
21 relied on to be honest without having the burdensome of tracking
22 time that is -- that appears to be difficult to enforce?

23 MR. CLIZER: Because it's better than the
24 alternative which is to say allow the company to have all of its
25 executives working on outside of Missouri things. For example,

1 expanding operations in Louisiana, Texas, Mississippi, etc.
2 But, then not charging or having Missouri pay for that, which is
3 what will happen under a general allocator because it doesn't
4 matter how much time they spend in Missouri or otherwise with a
5 general allocator. Missouri pays about eight percent no matter
6 what. And unless you have something that says hey, this is how
7 much time we spend in Missouri --

8 COMMISSIONER HOLSMAN: Is it possible that then
9 Missouri could get a better return on the time that that
10 executive might spend in this state that they're not paying for?
11 Is that possible?

12 MR. CLIZER: If you want to believe that somehow
13 Confluence --

14 COMMISSIONER HOLSMAN: I'm just asking if it's
15 possible.

16 MR. CLIZER: If Confluence were to spend more
17 time in Missouri than its other states, the ten other states
18 somehow yes, that could be possible.

19 COMMISSIONER HOLSMAN: Okay. Thank you. Thank
20 you, Judge.

21 THE COURT: Thank you. No other questions?

22 Thank you, Mr. Clizer.

23 Confluence, please call your first witness.

24 MR. MITTEN: I'm going to call Josiah Cox.

25 THE COURT: That was the order that I had was Mr.

1 Thies first.

2 MR. MITTEN: Mr. Thies first then, excuse me.

3 THE COURT: And Mr. Thies, welcome back. Just a
4 reminder you are still under oath. Please go ahead and have a
5 seat.

6

7 BRETT THIES,
8 called as a witness, upon first being previously sworn, was
9 examined and testified as follows:

10

11 THE COURT: Mr. Mitten, your witness.

12 MR. MITTEN: Your Honor, I believe Mr. Thies'
13 pre-filed testimony has already been received into evidence and
14 I'm -- he's available for Cross-examination.

15 THE COURT: Mrs. Bretz.

16 MS. BRETZ: Okay. Thank you.

17

18 CROSS-EXAMINATION

19 BY MRS. BRETZ:

20 Q. Good afternoon. How are you?

21 A. Doing well, thank you.

22 Q. Do you recall a unanimous agreement that I think
23 settled most of the rate case in WR-2020-0053?

24 A. Can you be -- can you give me an explanation of what
25 that docket number was?

1 Q. This was a prior rate case, WR-2020-0053, a great deal
2 of the case was, if not all of it was settled by a unanimous
3 agreement.

4 A. Okay. I'm not sure whether that was the one that was
5 kind of the Legacy Confluence systems or it would have been
6 under the name of Elm Hills Operating Company.

7 Q. It says Confluence Rivers Operating Company.

8 A. Yes. I'm familiar with that. Thank you. Thank you.

9 Q. You've seen this agreement before?

10 A. Yes. Yes.

11 Q. Okay. In this document Confluence agreed to do
12 certain things. Right?

13 A. Yes.

14 Q. On the bottom of Page 2 I've highlighted some?

15 A. Yes. I see that.

16 Q. I know it's a little long, but could you please read
17 that?

18 A. Continuing onto the next page?

19 Q. Yes.

20 A. Okay. Yeah. Within ninety days of the effective date
21 of an order approving this disposition agreement the company
22 shall begin tracking all work conducted on its behalf by CSWR,
23 LLC in the form of a time record. This time record will include
24 a description of the job performed, length of time to complete,
25 name, title of the employee who conducted the work, and tracked

1 by each system. The time record information shall be maintained
2 in sufficient detail to capture the amount of time each employee
3 spends on operation and maintenance activities as opposed to
4 construction activities. The company also agrees that detailed
5 timesheets will be maintained for any future employees
6 Confluence Rivers Utility Operating Company, Incorporated may
7 retain. The Company agrees to provide proof of implementing the
8 recommendations to the Manager of the Commission's auditing
9 department.

10 Q. Did Confluence do any of these things?

11 A. So it's a little confusing because Confluence has
12 never had its own employees. But, CSWR has a time tracking
13 system, yes.

14 Q. So did CSWR do any of these things?

15 A. We began tracking work conducted, yes. I'm not sure
16 about -- I don't know what the form of the proof required to the
17 Manager of the Commission's auditing department was so I can't
18 speak to that.

19 Q. Okay. But, CSWR began tracking time but not for all
20 employees. Correct?

21 A. Clearly there is a group of employees that we are not
22 tracking time most recently, yes.

23 Q. And why wasn't the time tracked for them?

24 A. So I think Mr. Cox will speak to the why. I think
25 there is an executive decision about that that, you know, he is

1 more familiar with than me.

2 Q. Did you track your time?

3 A. I did up through approximately the end of the
4 company's test year, not the staff's -- or not the test year the
5 end of January thirty-first, but the test year we proposed that
6 ended June thirtieth.

7 Q. June 30th of?

8 A. 2022.

9 Q. 2. So why did you discontinue tracking time?

10 A. Honestly I kept it up and, you know, based on kind of
11 the rate case schedule and then got behind and failed to catch
12 up.

13 Q. You just got too busy on things?

14 A. Yeah. I mean that would be the explanation, yes.

15 Q. Would you agree that the items in this agreement are
16 basically promises that Confluence agreed to keep?

17 A. You could describe them as such, yes.

18 Q. When did you begin working for CSWR?

19 A. I began working for the company in 2017.

20 Q. Okay. So you're familiar with the agreement -- you're
21 familiar with the Indian Hills case?

22 A. I am more of the -- I was very new, so I certainly
23 wasn't part of any negotiation or any settlement of that case
24 but I am familiar with it at a certain level.

25 Q. Okay. I'm going to show you a copy of the partial

1 disposition agreement in that case.

2 A. Okay.

3 Q. So on the second page of that I again highlighted a
4 paragraph. Can you please read that?

5 A. I can. Within ninety days of the effective date of an
6 order setting new rates for Indian Hills the Company shall
7 develop improved timesheets for employee hours spent working on
8 each system. This timesheet shall provide a description of the
9 job performed, number of hours spent and break out the hours by
10 system.

11 Q. So did CSWR employees follow this?

12 A. At the time we were using Microsoft Excel for
13 timesheets so I -- again, I was new.

14 MR. MITTEN: Your Honor, could I get some
15 clarification? The document that Mrs. Bretz just handed the
16 witness, the word "company" is defined as Indian Hills Utility
17 Operating Company. I don't see anything in this agreement that
18 obligates CSWR to do anything.

19 MS. BRETZ: The document is signed by Josiah Cox.
20 I can just wait and ask Josiah Cox the same question since it's
21 his signature on the document.

22 THE COURT: That sounds like problem solved.

23 Q. (By Ms. Bretz) Are you familiar with the rate case in
24 WR-2020-0053?

25 A. Would that be for Elm Hills?

1 Q. No. Confluence Hills Utility Operating Company.

2 A. Yes. I believe that was the -- yeah. I have some
3 documents from that right here.

4 Q. Okay. I'm going to show you the unanimous agreement
5 in that one.

6 A. Thank you.

7 MS. BRETZ: (Indiscernible.)

8 THE COURT: Mrs. Bretz, did you just hand out
9 0053?

10 MS. BRETZ: Yes. Mr. Mitten just brought that
11 up.

12 THE COURT: Okay.

13 MS. BRETZ: I guess I need to talk to my
14 secretary.

15 Q. (By Ms. Bretz) So you have before you the Unanimous
16 Agreement regarding disposition of small utility company revenue
17 increase request, Confluence Rivers Utility Operating Company.
18 Right?

19 A. Yes.

20 Q. Okay. So at the bottom of the second page I
21 highlighted some -- wait, we did -- did just do that. Okay.
22 I'm sorry. Let me -- let's scratch that.

23 Well, anyway, Mr. Thies, thanks for your patience with
24 my disorganization.

25 So we can agree that Confluence Hills did not follow

1 what it said it would do in its last rate case?

2 A. Indian Hills, are you talking about the one that's
3 highlighted in green?

4 Q. No. In the last rate case -- the rate case
5 WR-2020-0053.

6 A. As Mr. Woodsmall -- I'm sorry Mr. Mitten described
7 most employees have kept but there are certainly some employees
8 who have not kept timesheets properly.

9 Q. And you are aware that your employee handbook says
10 that you are supposed to keep timesheets?

11 A. Yes.

12 Q. And you agreed in this rate case that you would keep
13 timesheets?

14 A. Our company did, yes.

15 Q. So there has been promises made in this hearing
16 already specifically having to do with customer relations and
17 customer -- customer service. It's clear from these documents
18 that Confluence did not keep the promises it said that it would
19 keep so how are we -- how can we believe you that you are going
20 to keep the promises regarding customer service?

21 A. I mean I think promise singular, not promises. I mean
22 this is the only one that's before us as a broken promise so
23 far. So, you know, certainly we're willing to stand before the
24 Commission and own that and so, you know, never say never in
25 terms of like, you know, missing something or something going a

1 little sideways in the future but certainly we're talking about
2 one promise here.

3 Q. Okay. Thank you.

4 MS. BRETZ: I don't have anything else.

5 THE COURT: Mr. Clizer.

6 MR. CLIZER: I have no questions. Thank you.

7 THE COURT: Any Commissioner questions for Mr.
8 Thies? The bench has no questions.

9 I believe that takes us to recross -- no. Redirect.

10 MR. MITTEN: Redirect, your Honor.

11 THE COURT: Yes.

12

13 REDIRECT EXAMINATION

14 BY MR. MITTEN:

15 Q. Mr. Thies, just a couple of questions. Do you still
16 have a copy of the document Mrs. Bretz handed you which is the
17 unanimous agreement which was reached in case No. WR-2020-0053?

18 A. Yes.

19 Q. Now, she directed your attention to Pages 2 and 3.
20 Let me first direct your attention to Page 1. Confluence Rivers
21 Utility Operating, Inc. is defined as "Company" in that
22 agreement.

23 Is that correct?

24 A. Correct.

25 Q. So let's turn to Page 2 if you will. And the language

1 Mrs. Bretz had you focus on it says within ninety days of the
2 effective date of an order approving this disposition agreement
3 the company -- Confluence Rivers Operating Company -- shall
4 begin tracking all work conducted on its behalf by CSWR, LLC.

5 Is that what it says?

6 A. Yes.

7 Q. Do you see anything in this agreement that obligates
8 either CSWR or Confluence Rivers to track time for any other
9 affiliated company?

10 A. Other than Confluence Rivers itself?

11 Q. Yes.

12 A. No. I don't.

13 Q. And by Confluence Rivers this was the pre merger
14 Confluence Rivers Utility Operating Company. Correct?

15 A. That's correct.

16 Q. Let me -- do you still have the document that Mrs.
17 Bretz gave you with regard to WR-2017-0259?

18 A. I do.

19 Q. Again could you turn to the first page of that
20 agreement? How is the word "company" defined in the first line?

21 A. Indian Hills Utility Operating Company in parenthesis
22 company as defined as Indian Hills.

23 Q. Could you turn to the second page that she talked to
24 you about?

25 A. Yes.

1 Q. Within ninety days of the effective date of the order
2 setting new rates for Indian Hills, the company again, Indian
3 Hills Utility Operating Company shall develop improved
4 timesheets for employee hours spent on each system.

5 That's what it says.

6 Is that correct?

7 A. Yes.

8 Q. Do you see any obligation in that agreement for CSWR
9 to do anything?

10 A. I do not.

11 Q. And do you see anything in that agreement that
12 obligates Indian Hills to keep time for any entity other than
13 itself?

14 A. Not down in this section, no.

15 MR. MITTEN: I don't have any further questions.
16 Thank you, your Honor.

17 THE COURT: Thank you. And thank you, Mr.
18 Thies. You are excused.

19 Confluence, go ahead and call your next witness.

20 MR. MITTEN: Josiah Cox.

21

22 JOSIAH COX,
23 called as a witness, upon first being previously sworn, was
24 examined and testified as follows:

25 THE COURT: As Mr. Cox makes his way to the stand

1 I'll just remind him and everyone listening he has already been
2 sworn in so he will be seated and go ahead and start his
3 examination then.

4 MR. MITTEN: Your Honor, since as you mentioned
5 his testimony has already been received he is available for
6 cross-examination.

7 THE COURT: Mrs. Bretz.

8

9 CROSS-EXAMINATION

10 BY MS. BRETZ:

11 Q. Good afternoon, Mr. Cox.

12 A. Good afternoon.

13 Q. I'm going to show you the agreement between Hillcrest
14 Utility Operating Company and Staff for the acquisition of
15 Hillcrest. It bears your -- well, it bears Mr. Cooper's
16 signature on your behalf. Could you please turn to the third
17 page.

18 A. I'm there.

19 Q. And in the paragraph that I highlighted you promised
20 that Hillcrest Utility Operating Company would keep timesheets
21 for employees, all employees?

22 A. I see where the company would develop and utilize
23 timesheets, yes.

24 Q. Is there anyone exempt from that?

25 A. Not that I see.

1 Q. So all employees is all employees. Right?

2 A. I believe that's what it says, correct.

3 Q. Was that done?

4 A. I do not know.

5 Q. I'm going to show you the agreement for Raccoon Creek,
6 this also bears your signature, the agreement for the
7 acquisition.

8 I turn your attention to the top of the third page.
9 Again it says that all employees would keep timesheets.

10 A. I see it.

11 Q. Was that done?

12 A. I do not know.

13 Q. How could you not know?

14 You are the executive of the company. Right?

15 A. Because I just don't remember. It's been quite a few
16 cases ago, it's almost ten years ago.

17 I know we'd started to set up timesheets. We've been
18 working on this all the way through the history of the company.
19 You know, eighty-one of my eighty-eight employees have kept
20 detailed timesheets so we've been trying diligently but have not
21 as we stated at the first the executives have not done a good
22 job of doing this since it's become onerous in Missouri only
23 activity.

24 Q. You may up there the agreement for Indian Hills. It's
25 a 2017 case.

1 Do you have that before you?

2 A. I do not.

3 Q. I think we have it here, yeah. If you turn to the
4 second page, again the company agreed to keep timesheets.

5 Do you recall if any were kept for that?

6 A. I don't recall. But, I do see it.

7 Q. Moving more up to current times here is the agreement
8 for Elm Hills. Can you turn to the -- if you turn to the third
9 page you see again there is an agreement to keep timesheets?

10 A. I do.

11 Q. And you're aware in the WR-2020-0053 rate case that
12 Confluence Rivers Utility Operating Company agreed to keep
13 timesheets?

14 A. Is that this case number? I apologize. You said --
15 you quoted a number that wasn't on top so that's the only thing.

16 Q. WR-2020-0053.

17 A. That's not what I have in front of me. This is Elm
18 Hills.

19 Q. Right. I gave my copy to Mr. Thies.

20 A. Oh.

21 Q. But, you recall the testimony on that? That Mr. Thies
22 agreed that there was a part of that agreement where Confluence
23 agreed to keep timesheets?

24 A. Yes.

25 Q. Mr. Thies testified that people -- well, he said that

1 he kept timesheets until about June of 2022.

2 A. I heard that. Correct.

3 Q. How long -- or how long has it been since you've kept
4 a timesheet?

5 A. I do not remember.

6 Q. You do not know when you stopped filling out
7 timesheets?

8 A. I do not.

9 Q. So you heard me ask Mr. Thies this question. I'll ask
10 it to you, too.

11 Already in the course of this rate case Confluence has
12 made promises specifically having to do with customer service.
13 Confluence didn't keep promises it made in its prior rate case
14 and certainly didn't -- you didn't keep promises that you made
15 in the acquisitions.

16 How can we believe it when you make promises now in
17 this rate case?

18 A. I would quibble with that. I would say that we're
19 ninety-two percent accurate on keeping timesheets. Only seven
20 employees have not done it. I would say that each one of these
21 orders were a moment in time. These customers represent one
22 one-hundred fiftieth of the entire customer base we serve across
23 the country.

24 I would say that the time keeping function alone since
25 Missouri is the only state that requires it if you allocated the

1 timesheet time keeping function would go over the percentage
2 we're actually allocating towards the State of Missouri.

3 So I think we've done a very good job of keeping our
4 promises, especially when it comes to customer service and when
5 it comes to service -- safe, reliable service. Unfortunately,
6 we fell short on this and that's why we're proposing another
7 methodology so we don't fall short going further.

8 MS. BRETZ: I don't have anything else.

9 Judge, I would ask to admit these exhibits and I'm not
10 sure where we are on numbering.

11 Mr. Clizer reminded me that the agreement in the 2020
12 rate case has already been admitted as an OPC exhibit. I would
13 like to enter the other -- the agreements or we could take
14 notice of them.

15 MR. MITTEN: I think there were two of them that
16 have already been received into evidence, Judge, the Confluence
17 Rivers case WR-2020-0053 and the Elm Hills case, case No.
18 WR-2020-0275.

19 MR. CLIZER: Your Honor, I can confirm the
20 unanimous agreement regarding disposition of small utility
21 company revenue increase request from MO PSC. file No.
22 WR-2022-0053 is OPC Exhibit 220 which has been offered and
23 accepted and the Non-Unanimous Agreement regarding
24 disposition -- I'm sorry, of utility -- small utility company
25 revenue increase request from MO PSC. WR-2020-0275 has been

1 offered and admitted ad OPC Exhibit 219.

2 THE COURT: Thank you. The two that I have
3 remaining are for WR-2016-0064 Hillcrest and SR-2016-0202 for
4 Raccoon Creek.

5 Counsel, is that correct? Because these aren't my
6 exhibits?

7 MS. BRETZ: Sure.

8 THE COURT: Okay.

9 MS. BRETZ: Okay. What numbers are they going to
10 be?

11 THE COURT: I'll look on your list.

12 MS. BRETZ: They're not on the list. We'll file
13 them late.

14 THE COURT: I'll look on your list for the next
15 numbers.

16 MS. BRETZ: Okay.

17 THE COURT: 134 and 135, Hillcrest will be 134,
18 Raccoon Creek will be 135.

19 I would like to correct Staff's assertion that
20 SR-2016-0202 represents an acquisition case. It does not. This
21 is a rate case. The acquisition case was prior to that.

22 MS. BRETZ: Thank you. Where are we.

23 MR. CLIZER: Where are we at?

24 THE COURT: Commissioner questions. Oh. No.
25 Mr. Clizer, questions?

1 MR. CLIZER: It doesn't matter. I have no
2 questions.

3 THE COURT: Commissioner questions.

4 COMMISSIONER HOLSMAN: Thank you.
5

6 EXAMINATION

7 BY COMMISSIONER HOLSMAN:

8 Q. I want to clear up a couple of things. One, you said
9 no other state requires timesheets.

10 Is that no other state requires timesheets of anyone
11 in your organization or just executives?

12 A. No timesheets for any employees.

13 Q. So how do those states make sure that their rate
14 payers aren't being billed for time you're -- being spent in
15 Missouri?

16 A. They use a corporate allocation method. It's -- I
17 mean it's essentially an addition division by the number of
18 customers across the country whereas Missouri is only paying for
19 the number of customers they have compared to other states.

20 Q. As a Missouri rate payer I would want to be assured
21 that I'm not paying for time that you are spending in Texas.
22 Earlier in this proceeding you said you do more business in
23 Texas because of the climate or other states because of the
24 incentives.

25 How is your company going to ensure the Missouri rate

1 payer that they are not being billed for time that you are
2 spending in these other states?

3 A. Yeah. I answered that two ways. First of all I would
4 talk about the history of this, you know. Originally the first
5 case that was mentioned earlier, Hillcrest, a hundred percent of
6 the time was dedicated to Missouri. Currently less than eight
7 percent is dedicated to Missouri. And I would say just the
8 general rule of thumb from our perspective Missouri takes more
9 compliance work than any other state in the country so if we
10 weren't using the corporate allocation method, in fact if we
11 were recording time for recording time, it would be more to the
12 State of Missouri than it would be to any other state in the
13 country.

14 Q. So the question I asked of the OPC is it possible that
15 under an allocation where only eight percent is being billed to
16 Missouri that Missouri rate payers could be receiving more of
17 your company's time than what that eight percent represents?

18 A. I believe very much so that Missouri is receiving more
19 of the time than the other states on a per capita basis.

20 Q. Have you heard from any of your employees that are
21 dissatisfied because executives are not keeping timesheets and
22 they're required to?

23 A. No.

24 COMMISSIONER HOLSMAN: Thank you, Judge.

25 THE COURT: Any other Commissioner questions?

1 The bench has just one. I want to -- this is going to
2 be a little bit of a change of a topic.

3
4 EXAMINATION

5 BY THE COURT:

6 Q. Page 2 of your direct testimony -- you don't have to
7 look it up -- you said starting in 2008 you took over operations
8 of an existing rural sewer district. The next sentence is what
9 I'm curious about. I still act as the administrator of this
10 system. What system is this?

11 A. Oh, that should have been -- that's a mistake. That
12 ceased two years ago so I apologize. That's a remnant. I've
13 not seen that.

14 Q. Not a problem. Thank you.

15 THE COURT: That will take us to recross. Mrs.
16 Bretz.

17 Mr. Clizer.

18 MR. CLIZER: No questions.

19 THE COURT: Redirect.

20 MR. MITTEN: Just briefly, your Honor.

21
22 REDIRECT EXAMINATION

23 BY MR. MITTEN:

24 Q. Do you recall Commissioner Holsman's question about
25 how you would charge your time if you were spending time in

1 Texas working on matters directly related to that state?

2 A. Yes.

3 Q. Under the exception time reporting that we're
4 proposing in this case how would that time be recorded?

5 A. I would say I spent -- I spent so much of a percentage
6 of my time that's over and above normal allocation in Texas.

7 MR. MITTEN: Thank you. That's all.

8 THE COURT: Thank you, Mr. Cox. You are excused.

9 I am going to take a break now before we begin with
10 Ms. Saver. We are just over an hour in and instead of everyone
11 needing to take a break in the middle of Ms. Serber's testimony
12 let's stop now. We'll come back I've got 2:36. Let's make it
13 2:45. Just under ten minutes.

14 (Whereupon, recess was taken.)

15 THE COURT: The time for recess having expired we
16 are set to take up the testimony of Staff witness Saver.

17 Before we do that I have two quick announcements, two
18 quick items to take care of.

19 Yesterday OPC witness John Riley testified and I
20 recall specifically that we discussed his pre filed testimony
21 because there was a remark made that it was the only testimony
22 he filed was surrebuttal.

23 However, off the top of my head I cannot recall and I
24 did not write it down if we took in his pre filed testimony.
25 This is Exhibit 203. I do not expect any opposition, but I'll

1 give counsel a few minutes to look through that while I make my
2 other announcement.

3 Advanced meter infrastructure investments: This is an
4 issue for tomorrow. The parties had indicated that they were
5 prepared to waive Cross-examination.

6 I would like to state that the Commission has a
7 question and I would like to state that question so then either
8 the parties can come up with some way to get that answer into
9 the record and continue with the waiver or we'll proceed and
10 question the witness.

11 The Commission's question is, this is on AMI, an issue
12 for tomorrow. When were the AMI type meters installed at
13 Hillcrest and Indian Hills respectively? Specifically the
14 Commission is looking to find if those were installed before or
15 after the acquisition.

16 MR. MITTEN: Your Honor, our witness on that is
17 Todd Thomas. He is here. He will be able to provide that
18 answer to you if you want to take that up today.

19 THE COURT: No, tomorrow. But, thank you.

20 MR. MITTEN: Okay.

21 MR. CLIZER: Your Honor, I think that we should
22 try and keep tomorrow -- let's try and keep that issue off
23 tomorrow so I think that the parties can convene and see if we
24 can't get you a way to answer that without having to call
25 witnesses, that way we don't have to worry about taking up even

1 more time.

2 THE COURT: That is my sincere hope, the magic of
3 attorneys will make the issue go away.

4 Let's move back to today Mr. Riley's testimony which
5 is actually from yesterday, Exhibit 203. Go ahead.

6 MR. CLIZER: I can't recall whether or not I
7 offered it, I thought I did, but for the sake of the record I
8 offer the surrebuttal testimony of John S. Riley, Exhibit 203.

9 THE COURT: You heard the motion by counsel. Any
10 objection to the exhibit being admitted? No objections. It is
11 so admitted. Again that is Exhibit 203. Thank you.

12 Let's proceed now with Mrs. Saver. Thank you for your
13 patience. A quick reminder to our listeners Mrs. Saver is still
14 under oath and she is seated and it is Staff's witness. Go
15 ahead.

16
17 ASHLEY SAVER,
18 called as a witness, upon first being previously sworn, was
19 examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MS. BRETZ:

23 Q. You previously testified?

24 A. Yes.

25 Q. And your testimony was previously entered as

1 Exhibits --

2 THE COURT: Counsel, can you also -- speak
3 into your mic? Thanks.

4 Q. (By Ms. Bretz) -- Exhibit 107 and 131?

5 A. Yes.

6 MS. BRETZ: I have nothing else, your Honor.
7 Tender Mrs. Saver for cross-examination.

8 THE COURT: Mr. Clizer.

9

10 CROSS-EXAMINATION

11 BY MR. CLIZER:

12 Q. Good afternoon, Mrs. Saver. Were you here earlier for
13 the Opening Arguments?

14 A. Yes.

15 Q. So I've got asked a couple of really good questions
16 and frankly I probably am not the best person to answer them
17 especially since I didn't actually make the recommendation. So
18 I would like to turn around and offer those questions to you so
19 that the Commission can hear from the person who actually made
20 the recommendation.

21 So let's start with the level of granularity. What
22 level of granularity is Staff proposing for timesheets?

23 A. Just the same that all the employees, how they keep
24 their time that's what we want the executives and directors to
25 keep theirs. We're not here to micromanage them on their time.

1 Q. What level of granularity is that for the record? Is
2 that an hourly, minute by minute, fifteen by fifteen increment?
3 What are we talking about?

4 A. Right now the current employees do fifteen minute.

5 Q. And you said that that's -- okay.

6 What happens if an executive has an idea at two in the
7 morning and jots it down on a piece of paper? How would you
8 expect that to be reported?

9 A. Just sometime before they submit the timesheet they
10 need to write it down and record it somewhere within the
11 timesheet so they can just record that time.

12 Q. So the next day?

13 A. Yes. The next day will be fine.

14 Q. Trying to think through all the questions that were
15 posed to me and I'll probably just leave it all for the
16 Commissioners to ask those questions again themselves.

17 You have previously seen timesheets submitted by
18 CSWR's executive group. Correct?

19 A. Yes.

20 Q. And that includes, for example, Mr. Josiah Cox?

21 A. Yes.

22 Q. So he has previously in the past been able to provide
23 you with timesheets?

24 A. In the past, yes.

25 Q. And you have to keep a timesheet yourself. Correct?

1 A. Correct.

2 Q. Is your timesheet broken down by utility type?

3 A. By the case I'm working on so yes, utility type.

4 Q. So you report your timesheet by the case that you're
5 working on?

6 A. Yes.

7 Q. And that breakdown is used to establish an assessment
8 that the PSC. levees against utilities.

9 Is that correct?

10 A. That is correct.

11 Q. And that's because the PSC assessment fees are
12 contingent upon the amount of hours worked by utility. Right?

13 A. Correct.

14 Q. So stated differently electric utilities pay more in
15 assessment fees because there are more PSC employee hours
16 devoted to electric utilities than say a manufactured housing?

17 A. Correct.

18 Q. Would you agree with me that the cost causation
19 principle means establishment of a causal -- causal link between
20 a specific customer class, how that class uses the utility
21 system and the cost incurred by the water utility for the
22 provision of service does maintaining a -- would you agree with
23 me that's a fair definition of the cost causation principle?

24 I can read it again.

25 A. Yeah. Say it again.

1 Q. All right. Would you agree with me that the causation
2 principal means establishment of a causal link between a
3 specific customer class, how the class uses the utility system
4 and the cost incurred by the utility provided service?

5 A. There is a cost relation between all those. So yes.

6 Q. And does maintaining a proper timesheet help ensure
7 that cost causation ties between the employees and the system
8 that cause --

9 A. Yes.

10 Q. -- costs to be incurred?

11 A. Yes.

12 Q. Would you agree with me that a failure to keep
13 timesheets would undermine this basic regulatory principle?

14 A. Yes.

15 Q. And also I would assume creates much of a challenge
16 for auditors?

17 A. Yes. It does.

18 Q. So you had a significant challenge in working this
19 case because of the lack of timesheets.

20 Is that correct?

21 A. It was just harder for us to allocate the cost to the
22 appropriate system without timesheets.

23 Q. Now, you're familiar with Confluence Rivers' business
24 model in general. Right?

25 A. Yes.

1 Q. And you would agree with me that they set out and
2 embarked on a rapid expansion program. Is that right?

3 A. Yes.

4 Q. In fact, Mr. Cox's testimony I believe suggests that
5 that rate of rapid expansion is one of the reasons they're not
6 performing the timesheet function. Is that right?

7 A. That is correct.

8 Q. Based on that rapid expansion isn't it highly likely
9 that they are continuing to do far more work outside of the
10 state than inside of the state related to the acquisitions
11 across the ten other states they currently serve?

12 A. We don't know that since we don't have timesheets or
13 we don't know the time spent on that.

14 Q. You would agree with me that it is quite possible,
15 though, that the company is actually spending far more time in
16 other states than it is in Missouri given its rate of rapid
17 expansion in other states?

18 A. Yes, that's possible.

19 Q. So right quite now Missouri customers could
20 effectively be paying for the work that Confluence is doing to
21 acquire systems in other states?

22 A. Yes.

23 Q. And the only reason that we would really be able to
24 know that for certain is if we have some kind of mechanism to
25 know exactly what Confluence is spending its time on?

1 A. Yes.

2 Q. And the best mechanism to have for doing that would be
3 the timesheets. Correct?

4 A. Correct.

5 Q. All right.

6 MR. CLIZER: I think that's it for me. Thank you
7 very much.

8 THE COURT: Thank you. And Confluence Rivers.

9

10 CROSS-EXAMINATION

11 BY MR. MITTEN:

12 Q. Just one question, Mrs. Saver. Do you agree that over
13 the last four years the percentage of costs allocated to
14 Missouri has gone down?

15 A. Based on the work papers and based on the corporate
16 allocation that they have provided I believe that the same is
17 true.

18 MR. MITTEN: Thank you.

19 THE COURT: Thank you. Are there any
20 Commissioner questions? Commissioner Hahn.

21

22 EXAMINATION

23 BY COMMISSIONER HAHN:

24 Q. Thank you, Mrs. Saver. Earlier I posed a question to
25 Mr. Clizer and perhaps I should instead direct it to you.

1 In a scenario where an executive is spending going
2 back and forth between subjects perhaps in an hour long
3 conversation maybe five minutes or ten minutes of that time was
4 devoted to Missouri how would you in your mind have them
5 allocate that time or would you give them specific instructions
6 on how to properly record their time?

7 A. Well, we're not here to micromanage them. If they
8 feel like they spent it on all utilities, all the states, then
9 they could just write that down. Their timesheet right now
10 allows for all utilities so they could just mark it down as that
11 if it's an hour long meeting and they talk about everybody.

12 Q. Thank you. Just to follow up are you familiar with
13 the Commission structure here at the Missouri Public Service
14 Commission, the organizational structure?

15 A. Yes.

16 Q. And so would you agree that then all Staff keep
17 timesheets?

18 A. All staff, yeah.

19 Q. What about Commissioners?

20 A. I'm not sure about Commissioners.

21 Q. Would you agree that Commissioners don't keep
22 timesheets here?

23 A. I have no idea.

24 Q. Okay. Thank you.

25 THE COURT: Thank you. The bench has no

1 questions.

2 We'll go to recross. Mr. Clizer.

3 MR. CLIZER: No questions.

4 THE COURT: Confluence.

5 MR. MITTEN: No questions.

6 THE COURT: And Redirect.

7 MS. BRETZ: Just a few brief questions. Thank
8 you.

9

10 REDIRECT EXAMINATION

11 BY MS. BRETZ:

12 Q. Do you think it would be an undue burden on the
13 Confluence -- for all Confluences' employees to keep timesheets?

14 A. It's not a burden to the employees.

15 Q. You told Mr. Clizer that you keep your own timesheet?

16 A. I do, yes.

17 Q. Can you estimate per week how long it takes you to
18 fill out the timesheet?

19 A. Not very long. I mean probably two minutes or less.

20 Q. Would you anticipate that it would take more than a
21 couple of minutes for Confluence execs to fill out timesheets on
22 a weekly basis?

23 A. I wouldn't think. Around that.

24 Q. Okay. You said after Commissioner Hahn asked you a
25 question about how the Commissioners -- whether Commissioners

1 filled out timesheets are you aware that the Commissioners' time
2 is based on the allocation from the judges?

3 A. It could be.

4 Q. Okay. Thank you.

5 THE COURT: Thank you. Mrs. Saver. You're
6 excused.

7 That is going to take us to the end of issues for
8 today. Monday, the fourteenth. Before I dismiss everybody
9 let's take a few minutes to level set. Yes, Mr. Clizer.

10 MR. CLIZER: From your topic earlier my understanding
11 is that the only issue that the Commission has with regard to
12 the AMI meter issue is to determine when AMI meters were
13 installed in the Hillcrest and Indian Hills system.

14 Is that accurate?

15 THE COURT: I wouldn't have said that's the
16 Commission's issue.

17 MR. CLIZER: Not the issue, the question. I
18 apologize.

19 THE COURT: Yes. Yes. I do not anticipate any
20 other Commissioner questions and I understand that the parties
21 have waived their own cross-examination which means if the
22 Commissioners and the bench also do not have any then the issue
23 is submitted on the pre filed testimony and the briefs.

24 What I'm trying to do is get the information that was
25 requested of me from you onto the record which could be by a

1 joint stipulation.

2 MR. CLIZER: I was going to say a joint
3 stipulation of facts.

4 THE COURT: Yes.

5 MR. CLIZER: Would it be possible for the
6 Commission to write out its questions so we make sure we get it
7 answered exactly? And if not I'll just take what you've said
8 and then try my best to answer it.

9 THE COURT: Yes. I'll put it into writing this
10 afternoon.

11 MR. CLIZER: And email to parties.

12 THE COURT: Do you want an email or an order or a
13 notice, something? Something in EFIS.

14 MR. MITTEN: An email is fine with the company,
15 your Honor.

16 MR. CLIZER: Email is done.

17 THE COURT: Okay. The issues I have on schedule
18 for tomorrow, Tuesday, August fifteenth, cost of capital,
19 advance the metering infrastructure which we just discussed, and
20 the water estimation, is that what we want to call it? We'll
21 call it something else tomorrow. Those three.

22 And just to let everyone listening know with the
23 estimate of the water usage one of those witnesses is going to
24 be available at twelve-thirty so we may be taking an adjusted
25 lunch, almost certainly we will be taking a different time

1 period for lunch tomorrow.

2 Mr. Woodsmall.

3 MR. WOODSMALL: Yeah. Just to be really clear
4 he's available from twelve-thirty on, so you don't have to
5 schedule lunch around him if lunch falls at one, whatever. We
6 can accommodate him.

7 THE COURT: Understood. Thank you. Are there
8 any other issues before we adjourn for the day? Excellent.
9 We're off the record and adjourned. Thank you all.

10 * * * * *

11 (Conclusion of Proceedings.)

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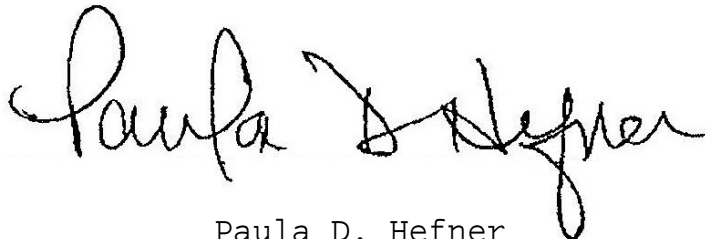
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C E R T I F I C A T E

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