

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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5 TRANSCRIPT OF PROCEEDINGS  
6 Evidentiary Hearing  
7 May 2, 2017  
8 Jefferson City, Missouri  
9 Volume 3  
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12 In the Matter of the Petition )  
13 for an Interim Receiver and for )  
14 an Order Directing the General )  
15 Counsel to Petition the Circuit) File No.  
16 Court for the Appointment of a ) WO-2017-0236  
17 Receiver for Ridge Creek Water )  
18 Company, LLC, and for Ridge )  
19 Creek Development, LLC. )  
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23 MORRIS L. WOODRUFF, Presiding,  
24 CHIEF REGULATORY LAW JUDGE.  
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28 DANIEL Y HALL, Chairman  
29 COMMISSIONER.  
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FOR: Staff of the Missouri Public  
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning,  
3 everyone. We're here for an evidentiary hearing in  
4 Case No. WO-2017-0236, which is Staff's petition  
5 for appointment of an interim receiver and for an  
6 order directing general counsel to petition the  
7 circuit court for the appointment of a receiver for  
8 Ridge Creek Water Company and for Ridge Creek  
9 Development.

10 We'll begin today by taking entries  
11 of appearance, beginning with Staff.

12 MR. WESTEN: Good morning, your  
13 Honor. My name is Jacob Westen. I am Deputy  
14 Counsel for Staff Counsel's Office. I represent  
15 Staff. My contact information has been provided to  
16 the court reporter.

17 JUDGE WOODRUFF: The Office of Public  
18 Counsel.

19 MR. SMITH: Good morning, Judge.  
20 Ryan Smith. I'm Senior Counsel with the Office of  
21 the Public Counsel.

22 JUDGE WOODRUFF: And is there anyone  
23 here from Ridge Creek? I'm looking around the  
24 room. I see a lot of familiar faces, but I do not  
25 see anyone from Ridge Creek. They have been

1 notified of this hearing?

2 MR. WESTEN: Yes, Judge. I actually  
3 spoke with Mr. Mike Stoner just last week. He had  
4 a question about whether or not the company needed  
5 to continue operating or if a receiver was going to  
6 be appointed. I told him one had not yet been  
7 appointed and that there was a hearing scheduled  
8 today at nine o'clock. He indicated he understood,  
9 but he did not indicate whether or not he would be  
10 present.

11 JUDGE WOODRUFF: Well, then, let's go  
12 ahead and get started. We'll begin with opening  
13 statements, beginning with Staff.

14 MR. WESTEN: Thank you, Judge.  
15 Before I begin, just a couple quick matters. I  
16 brought these to you just before we started, but I  
17 wanted to reiterate that it's acceptable. Because  
18 of the live nature of this testimony rather than  
19 prefiled testimony, my plans for exhibits are to  
20 follow circuit court procedure, which is to present  
21 it to opposing counsel, other counsel in the room,  
22 the witness, and then, once it's admitted, present  
23 it to the Commissioners for review.

24 JUDGE WOODRUFF: That's acceptable.

25 MR. WESTEN: And may I enquire from

1 the witness from my table, your Honor?

2 JUDGE WOODRUFF: If you prefer.

3 MR. WESTEN: Thank you. Good  
4 morning. May it please the Commission?

5 Today Staff is asking the Commission  
6 to exercise its statutory authority to appoint an  
7 interim receiver over Ridge Creek Water Company,  
8 LLC and Ridge Creek Development, LLC, in particular  
9 the assets of Ridge Creek Development, LLC.

10 The pursuit of a receiver is one of  
11 the most severe and significant actions that the  
12 Staff can bring in front of the Commission, and  
13 this is an action that the Staff takes very  
14 seriously. We do not take this lightly. The  
15 appointment of an interim receiver and the pursuit  
16 of that is something the Staff only seeks when it  
17 is absolutely necessary. And, Chairman, Judge, in  
18 this case it is absolutely necessary that the  
19 Commission appoint an interim receiver.

20 The events that bring us to this  
21 action started back in spring 2015. In the spring  
22 of 2015, Staff filed a complaint against Ridge  
23 Creek Development, LLC and its owners, Mr. and  
24 Mrs. Stoner. We brought the complaint alleging  
25 that they were operating a regulated water

1 corporation without a certificate of convenience  
2 and necessity from the Commission.

3 As a result of that complaint, the  
4 Stoners formed Ridge Creek Water Company and filed  
5 for a CCN with the Commission. So by their actions  
6 they agreed that they were, as the development  
7 company, conducting regulated behavior. That  
8 application was granted in October 2015.

9 The water system that Ridge Creek  
10 Water Company and Ridge Creek Development Company  
11 serve is located just north of Waynesville and  
12 St. Robert, north of I-44. It's approximately 130  
13 different customer connections, 130 different  
14 homes. These are single-family residences that  
15 primarily serve as rental properties for soldiers  
16 that are posted at Fort Leonard Wood.

17 Once they obtained their certificate  
18 of convenience and necessity in October, they began  
19 operating, and Staff worked with them. We tried to  
20 assist them with their billing operations. We  
21 tried to assist the operations of the company to  
22 continue. There were some ongoing water quality  
23 problems. There were some ongoing service  
24 problems.

25 And it wasn't until that the water

1 company filed for a rate case in November 2016 and  
2 Staff began its initial investigation that it  
3 became completely clear truly how bad things were  
4 going on the operation side of this company.

5 Pursuant to the statute, the  
6 receivership statute, Section 393.145.1, to appoint  
7 a receiver the Commission must determine that Ridge  
8 Creek Water Company, LLC and Ridge Creek  
9 Development, LLC are either unwilling to provide  
10 safe and adequate service or unable to provide safe  
11 and adequate service or, alternatively, that the  
12 utility system has either been actively or  
13 effectively abandoned by the owners.

14 I just want to point out that the two  
15 companies have consented to the receivership  
16 already. On April 14th, Friday, two weeks ago,  
17 Ms. Stoner and Mr. Stoner filed on behalf of both  
18 companies, for both entities, a document with the  
19 Commission in this case identifying that they agree  
20 that both Ridge Creek Water and Ridge Creek  
21 Development agree and consent to the appointment of  
22 an interim receiver and for general counsel to  
23 pursue a receivership action in circuit court  
24 without the receipt of a hearing.

25 So clearly I think that this shows

1 the companies understand that this is not only in  
2 their best interests but the customers' best  
3 interests.

4 The other legal question that the  
5 Commissioners are going to have to determine is  
6 whether or not Ridge Creek Development, LLC meets  
7 the criteria for a water corporation that we  
8 regulate under the definition of 386.020, sub 59.  
9 Staff asserts and we agree that the facts show that  
10 they absolutely do meet that criteria.

11 I'm not going to read this verbatim.  
12 It's a statute. It's a definition, so it's long,  
13 but please bear with me. A water corporation  
14 includes every corporation, company, association,  
15 joint stock company or association, partnership or  
16 person, their lessees, their trustees or receivers  
17 appointed by any court whatsoever that own,  
18 operate, control, manage plant or property, a dam  
19 or water supply, canal, power station that  
20 distribute or sell for distribution or selling or  
21 supplying for gain any water.

22 Under that definition, Ridge Creek  
23 Development, LLC is a regulated water corporation.  
24 Despite their name, which says development company,  
25 if you look at what they actually do, they meet

1 this definition. You'll hear testimony today about  
2 this in particular. Development company owns and  
3 operates utility plant, the 22 wells that provide  
4 service to the subdivision, and they operate for  
5 gain because the development company actually  
6 receives compensation from customer payments for  
7 utility service into their bank account.

8           Moreover, if there is still some  
9 concern about this service provision, there's a  
10 statute, Section 393.140.12, RSMo. that identifies  
11 as part of the powers of the Commission that it  
12 authorizes the Commission to regulate the entity  
13 that is providing both regulated and non-regulated  
14 service.

15           Let me read some excerpts of that  
16 statute. When a water corporation is conducting  
17 non-regulated business, such as developing land, it  
18 must keep the non-regulated, quote, operations  
19 substantially separate and apart from the owning,  
20 operating, managing or controlling of such water  
21 system, end quote. And if the corporation does not  
22 keep these -- does keep these operations separate,  
23 if they do keep these operations separate, then  
24 those operations, quote, shall not be subject to  
25 any provisions of the Commission chapter, end

1 quote.

2 Now, I believe the evidence will show  
3 you today that those operations are not being kept  
4 separate from the water operations that are  
5 currently happening. And just to reiterate,  
6 nevertheless, we are not seeking an interim  
7 receiver, receiver over the entire development  
8 company.

9 What needs to happen is the receiver  
10 needs to have control over the water utility  
11 assets. So we don't want the receiver managing  
12 parcels of land that are undeveloped or not. We  
13 don't want him or her selling things. We need him  
14 or her to be able to control the assets that are  
15 actually providing current service to customers  
16 right now.

17 This morning you are going to hear  
18 from four Staff witness experts who will provide  
19 the facts that support these conclusions that the  
20 water and development companies are currently  
21 unable and unwilling to provide safe and adequate  
22 service and that the development company is  
23 actually a regulated water corporation.

24 First this morning you are going to  
25 hear from Mr. Curt Gateley, who is with the Water

1 and Sewer Department. He is going to testify about  
2 the setup and arrangement of the water system, why  
3 it has 22 wells or why Staff believes it has 22  
4 wells, which is unnecessarily complex. He can  
5 testify to the development company owning all the  
6 plant in service, and he will testify about the  
7 current water quality violations, which are quite  
8 significant, that DNR has identified and actually  
9 filed an affidavit in this case describing,  
10 including the fact that we have a well that has  
11 been tested positive for E-coli and also other  
12 bacteria and that the sampling to make sure that  
13 that well is pulling clean water has not been done  
14 by either company.

15                   Next you will hear from Mr. Paul  
16 Harrison this morning. He's our Staff regulatory  
17 auditing expert, and he's going to talk about the  
18 company's lack of financial documentation, both  
19 water company lack of financial documentation and  
20 the problems that that creates. He's going to talk  
21 about the water company's use of the development  
22 company's bank account. He's also going to talk  
23 about the mingling of customer funds that he has  
24 seen in conducting his rate case investigation.

25                   Third, we'll have Ms. Deborah

1 Bernsen. She's with the Consumer and Management  
2 Analysis Unit. She's our expert there, and she's  
3 going to discuss the water company's lack of  
4 responsiveness to its own customers as well as the  
5 development company's lack of responsiveness, and  
6 that she has actually observed as part of her  
7 working on the rate case that customer funds are  
8 actually being deposited into the development  
9 company's bank account.

10 Finally, lastly, you will hear from  
11 Mr. Jonathan Dallas of the Water and Sewer  
12 Department, and he's going to testify about the  
13 condition of the water system. And, finally, he's  
14 going to describe for you today a canary in the  
15 coal mine scenario where, due to these other  
16 issues, the lack of documentation, the odd  
17 arrangement of the system, the lack of ownership or  
18 clear delineation of who is responsible for the  
19 system and where all the lines are located, lack of  
20 responsiveness, that all of that led to a customer  
21 going without water for over ten days and what  
22 Mr. Dallas has described as what should have been a  
23 15 to a 30 minute fix.

24 Once you've heard all this evidence,  
25 I believe, Commissioners, Judge, that you will also

1 conclude with Staff that water company and  
2 development company are either unwilling or unable  
3 to provide the safe and adequate service and that a  
4 receiver is absolutely necessary.

5                   If you have specific fact questions,  
6 I'd like to direct you to Staff. I am happy to try  
7 to address any legal questions or other questions  
8 you may have. I just want to reiterate this one  
9 point. The only difference factually speaking  
10 between the time that Staff filed their complaint  
11 back in 2015 against the development company and  
12 today is the fact that water company's doing  
13 billing. They're reading the meters. They're  
14 doing billing. That's it.

15                   None of the other facts have changed.  
16 Development company owns everything. It's the  
17 develop company's bank account. They have an  
18 employee out there. Water company has an employee  
19 out there. It's not clear who's supposed to be  
20 controlling and doing what. That's the only  
21 difference between then and now.

22                   And to the extent that the consents  
23 of the two companies satisfy your concerns, I'm  
24 happy to simply make Staff available for group  
25 questions, but otherwise I'm happy to put on our

1 case. Thank you.

2 JUDGE WOODRUFF: Questions?

3 CHAIRMAN HALL: Yes. Good morning.

4 You are recommending that the Commission appoint  
5 Mr. Jarrett as an interim receiver; is that  
6 correct?

7 MR. WESTEN: Yes.

8 CHAIRMAN HALL: Are you planning on  
9 putting forth evidence as to qualifications?

10 MR. WESTEN: Mr. Jarrett has spoken  
11 with Staff. I don't have any specific evidence on  
12 his qualifications. He's a previous Commissioner.  
13 He's familiar with the operations of small systems  
14 generally.

15 Staff has spoken with Mr. Jarrett  
16 ahead of time. He actually volunteered prior to  
17 the existence of this case, saying that he would be  
18 interested in being a receiver in future cases.  
19 And he has been made aware of the issues with this  
20 system and has continued to show support for  
21 potentially being the receiver.

22 CHAIRMAN HALL: But you're not  
23 planning on putting him on as a witness?

24 MR. WESTEN: I had not planned on  
25 putting him on as a witness. If that would satisfy

1 concerns of yours, Chairman, I'd be happy to see if  
2 I can reach him and see if he could be available  
3 today. I don't know if he is.

4 CHAIRMAN HALL: I think that would be  
5 appropriate.

6 MR. WESTEN: Okay.

7 CHAIRMAN HALL: The Commission is  
8 also, if it were to grant Staff's request, would  
9 need to include some type of payment provision for  
10 Mr. Jarrett; is that correct?

11 MR. WESTEN: That is correct.

12 CHAIRMAN HALL: Will you be putting  
13 on evidence as to the appropriate compensation?

14 MR. WESTEN: Yes. We do have a  
15 schedule that I can present, and I can have  
16 Mr. Busch discuss that.

17 CHAIRMAN HALL: And my understanding  
18 is that the compensation that the Commission would  
19 establish would be and the appointment would be  
20 interim until such time as a circuit court put a  
21 receivership in place, and then the system would be  
22 under the jurisdiction of the court; is that  
23 correct?

24 MR. WESTEN: Yes, Chairman, that's  
25 exactly correct. This action is just for an

1 interim receiver. General counsel would have to be  
2 directed by the Commission to seek appointment of a  
3 full receiver in circuit court. That would be  
4 overseen by that circuit court judge.

5 CHAIRMAN HALL: Do you have a sense  
6 as to how long that typically takes in order to get  
7 an order from a circuit court?

8 MR. WESTEN: Based on past  
9 receivership cases, not very long. Several weeks.  
10 Less than a week in some cases. It's been a while  
11 since the Commission's had a receivership case, but  
12 in the past several, I think it's only been 30 days  
13 from the time that the Staff filed a petition to  
14 the time that the circuit court actually ordered.

15 CHAIRMAN HALL: Is it your  
16 understanding that Mr. Jarrett is also willing to  
17 play the role of receiver, of court-appointed  
18 receiver as well?

19 MR. WESTEN: Yes. Yes.

20 CHAIRMAN HALL: I have no further  
21 questions. Thank you.

22 MR. WESTEN: Thank you.

23 JUDGE WOODRUFF: I have one legal  
24 question for you.

25 MR. WESTEN: Yes, Judge.

1 JUDGE WOODRUFF: And it's purely a  
2 question. I have no idea if there's -- what the  
3 answer to it might be.

4 MR. WESTEN: I'll do my best.

5 JUDGE WOODRUFF: Is there any means  
6 under the law for the receiver to take control of  
7 the water-related assets of this development  
8 company without actually having him as receiver for  
9 the development company?

10 MR. WESTEN: I do not think that  
11 there is a mechanism for that. The closest thing  
12 that comes into play is the earlier statute that I  
13 mentioned, 393.140, which talks about the  
14 Commission oversight of both regulated and  
15 non-regulated activities when a company mingles  
16 those activities.

17 I am very wary of the issuance of  
18 such an order because that creates for me, I think,  
19 an unintended exception where if -- if it was  
20 identified that both entities met the standards or  
21 a receiver was at least needed but development  
22 company did not meet the criteria for being  
23 appointed a receiver, being regulated, I'm  
24 concerned that because our actual facts are they do  
25 own all of the plant and they are receiving money

1 for that service, that there would be some kind of  
2 unintended exception created that would say, well,  
3 we still don't regulate you because we didn't put a  
4 receiver over you.

5 And I don't want that impression made  
6 of other small systems which may have problems.  
7 That's my response. I don't think there's a  
8 mechanism for it, however.

9 CHAIRMAN HALL: I have a follow-up to  
10 that --

11 MR. WESTEN: Sure.

12 CHAIRMAN HALL: -- question. We  
13 don't have the statutory authority to appoint a  
14 receiver with duties and responsibilities related  
15 to non-regulated services; is that correct?

16 MR. WESTEN: I believe that's  
17 correct.

18 CHAIRMAN HALL: So if we were to  
19 grant this application and we made it clear that  
20 our -- that the authority of the receiver did not  
21 go beyond regulated services, that would bootstrap  
22 our statutory authority?

23 MR. WESTEN: I agree, Chairman. I  
24 think that's absolutely correct.

25 CHAIRMAN HALL: Thank you.

1 MR. WESTEN: Thank you.

2 JUDGE WOODRUFF: Thank you.

3 MR. WESTEN: Thank you, Judge.

4 JUDGE WOODRUFF: For Public Counsel.

5 MR. SMITH: Good morning. May it  
6 please the Commission? I am Ryan Smith, Senior  
7 Counsel with the Office of Public Counsel.

8 Public Counsel is supportive of  
9 Staff's order for its general counsel to petition  
10 the circuit court of either Cole County or Pulaski  
11 County for a general receiver for the water  
12 company, a limited receiver for the development  
13 company.

14 There were questions earlier about  
15 the scope of the receivership. There is a  
16 commercial receivership act elsewhere in the  
17 statutes, 515.515, which does so distinguish  
18 between a general receiver and a limited receiver.  
19 As the name suggests, a general receiver has  
20 general powers over either the majority of a  
21 company's assets or all of a company's assets. A  
22 limited receivership, as the name suggests, is  
23 limited and does not include all of the assets.

24 So Office of Public Counsel is  
25 supportive of Staff's position that a limited

1 receivership for the water company would be  
2 appropriate. I'm sorry. A limited receivership  
3 for the development company would be appropriate, a  
4 general receivership for the water company would be  
5 appropriate.

6                   In representing the public, our duty  
7 extends to the public in this situation, which  
8 includes 390 people that -- those are families, 130  
9 service connections. Reading through the affidavit  
10 on file of Lance Dorsey was like nails on a  
11 chalkboard for me because I saw all of these  
12 painful facts about the safety concerns going on  
13 with these people, violations relating to E-coli  
14 where the water tested dirty November 2015 through  
15 January 2016 and they failed to notify the public.  
16 Coliform, a known threat to the public's health,  
17 also tested dirty for that during October 2015  
18 through February 2016. They failed to test samples  
19 after the fact. And a boil water order was issued  
20 starting June 17, 2016 and continues, and after  
21 that boil water issued, this company failed to  
22 provide the requisite notice to all of those  
23 families.

24                   There are management concerns already  
25 in the record through this affidavit. There is no

1 chief operator with a valid certificate for the  
2 class of system required from April 2016 to  
3 present. These concerns are alarming, and Public  
4 Counsel commends Staff's efforts in this case and  
5 is fully supportive.

6 The law requires under 393.145.1 that  
7 the Commission have the authority to request from  
8 its general counsel to petition for a receiver in  
9 the circuit court, but it has to meet all of the  
10 elements. The elements in this case involve 8,000  
11 or fewer service connections, because there are 130  
12 service connections, which is already in the record  
13 through the affidavit.

14 Another secondary element is a  
15 disjunctive. Either the company is failing or  
16 unwilling to provide safe and adequate service or  
17 they have actually or effectively abandoned the  
18 company by its owners. There is a filing either  
19 April 13th or April 14th, signed by the owners and  
20 operators of the development company and the water  
21 company, that does just that, consents to this  
22 receivership. They recognize that they have  
23 problems. They acknowledge it, and they requested  
24 a receivership also. All parties agree  
25 receivership is appropriate.

1                   Now, 393.145.2 also specifies that an  
2     interim receiver may be appointed. Public Counsel  
3     believes this is appropriate. An interim receiver  
4     is limited even beyond the limited nature I was  
5     telling you about earlier because, under the  
6     statute, they may not transfer the sale of assets  
7     or liquidate assets. So an interim receiver would  
8     be limited.

9                   393.145.5 says that the receiver  
10    would be a responsible person, a knowledgeable  
11    person, and I believe such a person just entered  
12    the room, Mr. Terry Jarrett. Mr. Jarrett has  
13    agreed to the receivership. He has an impressive  
14    background as six years as a Commissioner on the  
15    Missouri Public Service Commission. He is an  
16    attorney and consultant in private practice and  
17    well known in the area of energy and utility law.

18                  The duration of this receivership is  
19    also defined in 393.145.7, and the duration  
20    basically says, well, we're going to look at the  
21    best interests of the customers. And so it doesn't  
22    have a time period, but it does have a legal  
23    standard.

24                  As to the power of the Commission  
25    over a development company, Staff pointed out

1 earlier the statute of 386.020, subpart 59, which  
2 talks about water corporations. That's where water  
3 corporations are defined. Basically, you need a  
4 company. This is a company. You need them to own,  
5 operate, control or manage plant -- in this case  
6 there will be evidence that they are doing just  
7 that, and by they I mean the development company --  
8 for gain.

9                   And for gain has been defined in case  
10 law, Hurricane Deck Holding Company versus the  
11 Public Service Commission. Cite to that is  
12 289 SW 3d 620. It's a 2009 Western District  
13 opinion. That case, it was a complaint case, not a  
14 receivership case, but they did say that a  
15 development company fell within the jurisdiction of  
16 the Commission. And they also said that for gain,  
17 even if the system's operating at a loss, maybe  
18 they're not actually making profit, that that for  
19 gain part of the statute would be met simply by  
20 receiving compensation.

21                   And, of course, the last part is that  
22 they would be providing water, as the name  
23 suggests, a water corporation.

24                   Public Counsel anticipates that Staff  
25 will put on sufficient evidence. We are impressed

1 by the evidence already in the record through the  
2 affidavit, through the consent filed by the owners  
3 and operators. Public Counsel expects Mr. Curt  
4 Gateley to talk about some of the history of the  
5 companies, the ownership, some of the titling  
6 perhaps.

7 And Public Counsel also anticipates  
8 Mr. Paula -- Paul Harrison -- sorry, Paul --  
9 Mr. Paul Harrison to testify about his review of  
10 the bank accounts, some of the finances of the  
11 company; that Ms. Debbie Bernsen will also testify  
12 for Staff about some of the records she has  
13 reviewed and recovered, including accounting  
14 concerns, possible customer correspondence issues.  
15 Mr. Jonathan Dallas should also testify for Staff  
16 about a customer who went without water.

17 Public Counsel does not wish to waste  
18 this Commission's time. However, Public Counsel  
19 does have Keri Roth available. She has prepared.  
20 She has reviewed a lot of the same documents that  
21 Staff's witnesses have reviewed, and she is  
22 knowledgeable about this case. She's knowledgeable  
23 about the rate case, which is active by the way,  
24 WR-2017-0042. She is knowledgeable about the  
25 complaint case that Staff filed on January 20th,

1 WC-2017-0200.

2 We would offer her as an optional  
3 witness. We don't know yet what the testimony will  
4 be since we are doing live testimony, and so we  
5 would reserve our right to offer her as a witness  
6 for this Commission's consideration.

7 And at this time I have nothing  
8 further. If the Judge or the Commission has any  
9 questions for me, I'm happy to take those sorts of  
10 questions.

11 CHAIRMAN HALL: Good morning.

12 MR. SMITH: Good morning.

13 CHAIRMAN HALL: Have you had contact  
14 or has your office had contact with any of the 390  
15 people in the service territory?

16 MR. SMITH: I believe so. Keri would  
17 probably be maybe the best person to speak to some  
18 of those customer contacts with our office. As  
19 you, I think, are aware, I came to the office in  
20 January of this year, and I believe James Owens,  
21 former acting Public Counsel, also had some  
22 contacts, some letters may have been sent to him,  
23 but I don't know for sure because I -- I'd have to  
24 ask him.

25 CHAIRMAN HALL: I'm just curious

1 about generally whether the ratepayers are familiar  
2 with this proceeding, familiar with the relief  
3 requested, familiar -- if all of them are having --  
4 I mean, are they -- well, I'm curious about whether  
5 the boil order is affecting all of them or just  
6 some of them. But I can maybe ask some Staff  
7 witnesses and we'll see if that satisfies my  
8 curiosity. Thanks.

9 MR. SMITH: Thank you.

10 JUDGE WOODRUFF: Thank you. As  
11 previously indicated, there's no one here from  
12 Ridge Creek, so there will be no opening from Ridge  
13 Creek. Staff, you can begin your testimony.

14 MR. WESTEN: Thank you, Judge.  
15 Because Mr. Jarrett has arrived, would it be  
16 appropriate for us to go ahead and have him  
17 approach and go on the stand and try to address  
18 questions of the Chairman? Staff would like to  
19 call Commissioner Terry Jarrett, please.

20 (Witness sworn.)

21 TERRY JARRETT testified as follows:

22 DIRECT EXAMINATION BY MR. WESTEN:

23 Q. Mr. Jarrett, counsel for OPC kind of  
24 gave the Commission kind of a brief background for  
25 you. Could you just go ahead and discuss your

1     **qualifications as a receiver?**

2             A.     Sure.  Certainly I have an  
3     understanding of utility law, working as a  
4     Commissioner for six years and then in private  
5     practice now for almost, I guess, four years,  
6     primarily practicing in the energy regulatory law  
7     area.  Certainly remember receiverships in dealing  
8     with receiverships as a Commissioner when I was on  
9     the Commission.

10            Managerial background, I've  
11    supervised employees before.  I have 30 hours  
12    toward my MBA from University of Missouri -  
13    Columbia.  So I have a basic understanding of  
14    business practices and certainly understand the  
15    rules regarding good business practices for  
16    providing safe, reliable, adequate service to water  
17    customers.

18            **Q.     Mr. Jarrett, are you familiar with**  
19    **this water system, this location?**

20            A.     Yes, I am.

21            **Q.     Can you describe your familiarity**  
22    **with it?**

23            A.     Right.  I took a tour of the system  
24    several weeks ago with members of Staff.  We drove  
25    around the system.  We actually got out and walked

1 some of the system, looked at some of the well  
2 houses. Took a pretty thorough tour. Staff  
3 described the system to me as we -- as we viewed  
4 it.

5 I've certainly talked with Staff on  
6 more than one occasion about the system and about  
7 the needs. Met with DNR and talked with DNR folks  
8 about their concerns and the several violations  
9 that have been piling up with the water system.

10 MR. WESTEN: Thank you. No further  
11 questions.

12 JUDGE WOODRUFF: Did Public Counsel  
13 have any questions before we go to the Commission?

14 Mr. SMITH: No questions.

15 QUESTIONS BY CHAIRMAN HALL:

16 Q. Good morning.

17 A. Good morning, Mr. Chairman.

18 Q. Do you have any kind of expectation  
19 or understanding right now as to how many hours a  
20 week this receivership will require?

21 A. I am -- can only estimate at this  
22 point. I would imagine at the beginning it will  
23 take quite a few hours. I have been in contact --  
24 again, I haven't been appointed as receiver yet, so  
25 there's not a whole lot I could do other than kind

1 of background work, but I have spoken with a water  
2 operator that is known by the Staff and is actually  
3 operating a couple of water systems that are  
4 regulated by the Commission about taking over the  
5 operations and being the operator for the system.

6 So, you know, obviously the first  
7 thing on the plate would be to get that operator in  
8 place to start addressing some of the issues of,  
9 for example, customers being on a boil order,  
10 getting that taken care of, starting to address the  
11 DNR situation, taking care of the billing, making  
12 sure the billing is running correctly.

13 The operator that I anticipate hiring  
14 here would be a full-service operator. They would  
15 handle the billing. They would handle the  
16 operations. They would handle the testing that DNR  
17 requires and would take care of all of that.

18 So I would imagine the first -- at  
19 least the first month or two it will be a situation  
20 of getting that operator in place and making sure  
21 that things are starting to run right. After it is  
22 running well and we have a plan in place to take  
23 care of all the violations and get the system to  
24 where it needs to be, I would imagine that the time  
25 spent would be more of a monitoring situation with

1 the operator, filing regular reports on the  
2 receivership and so forth. So I think the first  
3 month or two will be the large amount of work that  
4 will need to be done.

5 CHAIRMAN HALL: Okay. I have no  
6 further questions. Thank you.

7 THE WITNESS: Thank you.

8 JUDGE WOODRUFF: I have no questions.  
9 Any recross from Public Counsel?

10 MR. SMITH: No.

11 JUDGE WOODRUFF: Any redirect?

12 MR. WESTEN: No redirect. The  
13 Chairman earlier asked about compensation. Would  
14 you like me to address that now or discuss that  
15 with Mr. Busch as a witness or Mr. Jarrett?

16 CHAIRMAN HALL: Both.

17 REDIRECT EXAMINATION BY MR. WESTEN:

18 Q. Mr. Jarrett, did you provide a fee  
19 schedule to Staff?

20 A. Yes, I did.

21 Q. And can you -- I'm handing the  
22 witness -- let's mark this as Staff's Exhibit --  
23 pardon me, your Honors. Let's mark this as Staff  
24 Exhibit No. 16. I realize it's out of order.

25 Mr. Jarrett, do you recognize this

1 document?

2 A. Yes, I do.

3 Q. And what is that document?

4 A. That is my proposed fee schedule for  
5 being a receiver in this case.

6 Q. And is that a fair and accurate copy  
7 of the document you provided to Staff?

8 A. Yes, it is.

9 MR. WESTEN: At this time Staff would  
10 like to offer this into evidence.

11 JUDGE WOODRUFF: All right. No. 16  
12 has been offered. Any objections to its receipt?

13 MR. SMITH: No objections.

14 JUDGE WOODRUFF: It will be received.

15 (STAFF EXHIBIT 16 WAS MARKED AND  
16 RECEIVED INTO EVIDENCE.)

17 MR. WESTEN: There is an e-mail  
18 attached to that from Mr. Jarrett to Mr. Busch.  
19 I'm just offering the last page of that exhibit.  
20 BY MR. WESTEN:

21 Q. That fee schedule, Mr. Jarrett, is it  
22 your understanding that that's consistent with  
23 other receiver fee schedules that have been  
24 appointed by circuit courts?

25 A. Yes. Yes. I didn't try to invent

1 the wheel on this. I did do some research on prior  
2 receiverships and what the fees are, and I believe  
3 these -- this is in line with those.

4 Q. And do you have any expectation that  
5 this fee schedule will change at all during the  
6 course of your receivership if you are to be  
7 appointed?

8 A. I don't anticipate that, no.

9 MR. WESTEN: No further questions.  
10 Thank you.

11 JUDGE WOODRUFF: All right. Then you  
12 can step down.

13 THE WITNESS: Thank you.

14 JUDGE WOODRUFF: Call your next  
15 witness.

16 MR. WESTEN: At this time Staff would  
17 like to call its second witness, Mr. Curtis  
18 Gateley.

19 (Witness sworn.)

20 JUDGE WOODRUFF: Thank you.

21 CURTIS GATELEY testified as follows:

22 DIRECT EXAMINATION BY MR. WESTEN:

23 Q. Good morning.

24 A. Good morning.

25 Q. Can you please state your name for

1 the record and spell it, please.

2 A. Curtis Brent Gateley, C-u-r-t-i-s,  
3 B-r-e-n-t, G-a-t-e-l-e-y.

4 Q. And, Mr. Gateley, where are you  
5 employed?

6 A. Staff of the Missouri Public Service  
7 Commission in the Water and Sewer Department.

8 Q. And, Mr. Gateley, would you mind  
9 speaking up to the microphone just a little bit.  
10 Thank you.

11 Have you testified and -- testified  
12 in cases before the Commission previously?

13 A. I have.

14 Q. I am handing you what's marked as  
15 Staff's Exhibit No. 1. Mr. Gateley, do you  
16 recognize this document?

17 A. I do.

18 Q. And what is that document?

19 A. This is a list of my education and  
20 work experience and some of the cases I've  
21 testified before the Commission.

22 Q. Is this the document that you  
23 regularly file along with your testimony in other  
24 cases?

25 A. I have, yes.

1           **Q.     And is this a fair and accurate copy**  
2     **of that document?**

3           A.     It is.

4           MR. WESTEN:   At this time Staff would  
5     like to offer Staff's Exhibit 1.

6           JUDGE WOODRUFF:   Exhibit 1 has been  
7     offered.   Any objection to its receipt?

8           MR. SMITH:   No objections.

9           JUDGE WOODRUFF:   It will be received.

10          (STAFF EXHIBIT 1 WAS MARKED AND  
11     RECEIVED INTO EVIDENCE.)

12          MR. WESTEN:   And at this time Staff  
13     would like to ask that the witness be treated as a  
14     regulatory expert in water and sewer policy utility  
15     operations.

16     BY MR. WESTEN:

17          **Q.     Mr. Gateley, are you familiar with**  
18     **Ridge Creek Water, LLC and Ridge Creek Development,**  
19     **LLC?**

20          A.     I am.

21          **Q.     And can you describe your familiarity**  
22     **with these entities?**

23          A.     The Ridge Creek Water Company filed  
24     for a rate increase, which was one of the  
25     conditions of their previous CCN case.   As part of

1     our investigation of the company and its current  
2     situation, I learned a great deal about the  
3     development company and their partnership with the  
4     water company.

5             **Q.     Can you kind of just generally**  
6     **describe the layout of the water system that the**  
7     **water company and development company are involved**  
8     **with?**

9             A.     The subdivision that the water system  
10    serves, and it's only one subdivision, is near  
11    Waynesville, Missouri, just north. It has homes,  
12    not rental properties, not commercial properties  
13    but homes that would be the traditional residential  
14    customers.

15            It has -- rather than a centralized  
16    distribution system, it has 22 individual wells  
17    with, according to the companies, an unknown  
18    distribution system amongst the wells to those  
19    homes and in many cases an unknown number of homes  
20    connected to each well.

21            **Q.     Do we have an approximation of how**  
22    **many connections, service connections there are?**

23            A.     I believe it's approximately 138.

24            **Q.     And you said, according to the**  
25    **company, it's an unknown distribution system. Can**

1     **you explain that a little bit?**

2             A.     Over the course of the rate case  
3     process, there were other incidents at the system  
4     where they experienced water line breakages, well  
5     outages, and while attempting to respond to those  
6     problems, the companies were not able to suggest  
7     where to begin looking, for example, for water main  
8     breaks because they didn't know where the water  
9     mains were.

10            **Q.     Is that a common circumstance for**  
11     **water companies?**

12            A.     In some cases, especially with older  
13     companies, we do encounter situations where they  
14     don't necessarily have an accurate map, but they  
15     have an idea of where their water lines lie. In  
16     this case, they really have no idea. They don't --  
17     based on the communications I received from the  
18     company, there are no easements. The water  
19     distribution lines may lie along roadways or  
20     through yards or they may have a manifold system  
21     spidering out from a well or they may have lines  
22     coming out from a well that then are more  
23     conventional that provide service connections from  
24     that line. They just don't know.

25            **Q.     This size of system, how many wells**

1     **would commonly be located on a system of this size?**

2             A.     I don't remember the exact threshold  
3     that DNR requires a backup water supply, but I  
4     believe it would be common to have two wells on a  
5     system like this.

6             Q.     **And this system has 22, as you**  
7     **stated?**

8             A.     Yes.

9             Q.     **Do you know why there are 22 wells?**

10            A.     Based on what I've reviewed and based  
11    on discussions with DNR staff and other staff  
12    within the Commission, it appears that 22 wells  
13    were intentionally constructed so as to remain  
14    below the threshold for DNR regulation of community  
15    wells.

16            Q.     **What is that threshold, do you know?**

17            A.     I don't remember the number off the  
18    top of my head.

19            Q.     **But these wells have -- appear to**  
20    **have been built to be below that threshold?**

21            A.     That appears to be the intent.  
22    Otherwise, I wouldn't be able to come up with  
23    another reason why someone would go to the  
24    additional expense of drilling multiple wells.  
25    There's just no other reason because it's going to

1 be a lot more expensive to drill multiple wells  
2 than it would be to drill a more common setup.

3 Q. So these companies, are the water  
4 company and the development company only a water  
5 system?

6 A. Correct.

7 Q. And these are both registered  
8 companies with the Secretary of State?

9 A. They are.

10 Q. Do you know who owns or operates  
11 these companies?

12 A. Mr. Stoner, Mr. Mike Stoner and  
13 Ms. Denise Stoner.

14 Q. Do you know if either one or both  
15 runs either or both companies?

16 A. I can't say for absolute certainty.  
17 However, based on communications from the two  
18 companies, it appears that Ms. Stoner is the  
19 primary operator of the water company and  
20 Mr. Stoner is the primary operator of the  
21 development company.

22 Q. Are either of the companies  
23 certificated from the Commission?

24 A. The water company has a certificate.

25 Q. And do you know when that occurred?

1           A.     I don't remember the date off the top  
2     of my head. I'm sorry.

3           **Q.     Would it happen to be October 2015?**

4           A.     That sounds appropriate.

5                   MR. WESTEN: Okay. At this point I  
6     would like to ask the Commission just to take  
7     judicial note of the order approving the  
8     Nonunanimous Stipulation & Agreement in that case.  
9     That case number is WA-2015-0182. I do have copies  
10    of that order that I'd be happy to hand out.

11                   JUDGE WOODRUFF: We'll take notice of  
12    it.

13    BY MR. WESTEN:

14           **Q.     Mr. Gateley, do you know if that**  
15    **order applied to the development company?**

16           A.     The original complaint was against  
17    the development company because it was operating  
18    the system. The creation of the water company  
19    resolved that. Therefore, the complaint was  
20    dismissed against the development company. The  
21    order was for the water company.

22           **Q.     So in this system out there, do we**  
23    **know who actually owns the plant assets, the plant**  
24    **in service?**

25           A.     The development company.

1           **Q.     How do we know this information?**

2           A.     We initially learned that the wells  
3     were owned by the development company from  
4     communications from Ms. Stoner. When there were  
5     problems with the wells, she said that we were to  
6     contact Mr. Stoner because they were -- they were  
7     his, he was responsible for them.

8                     Because that not only ran counter to  
9     our expectations of what the creation of the water  
10    company was originally intended for, it also  
11    creates some obvious logistical problems not  
12    controlling your own wells. So in order to confirm  
13    some of this information, we retained the services  
14    of a title search company to review the documents  
15    and see if the assets had indeed been transferred  
16    to the water company.

17           **Q.     Were the assets transferred to the**  
18    **water company?**

19           A.     They were not.

20           **Q.     So the development company still owns**  
21    **all of the wells, the distribution system,**  
22    **et cetera?**

23           A.     Yes.

24           **Q.     And I am handing out what's been**  
25    **marked as -- this is Staff's Exhibit No. 4.**

1     **Mr. Gateley, there's a lot of pages there, but I'd**  
2     **ask you to flip through them and let me know if you**  
3     **recognize those documents.**

4             A.     Yes, I recognize them.

5             **Q.     And what are these documents?**

6             A.     These documents, which were -- copies  
7     of which were provided by the title search company,  
8     include deeds, and I believe they also include some  
9     of the -- some of the well agreements. For  
10    example, Agreement for Joint Use of Well No. 4.

11            **Q.     And do these appear to be the**  
12    **complete copies of the Joint Well Agreements and**  
13    **deeds that you've seen?**

14            A.     They do appear to be.

15                   MR. WESTEN: At this time Staff would  
16    like to offer the Joint Well Agreements for  
17    admission.

18                   JUDGE WOODRUFF: No. 4 has been  
19    offered. Any objection to its receipt?

20                             (No response.)

21                   JUDGE WOODRUFF: Hearing none, they  
22    will be received.

23                             (STAFF EXHIBIT 4 WAS MARKED AND  
24    RECEIVED INTO EVIDENCE.)

25    BY MR. WESTEN:

1           Q.     Mr. Gateley, if you could find a  
2     Joint Well Agreement and let's direct the -- if you  
3     could direct everyone to one so we can see where it  
4     says that the development company's the owner, I  
5     think that would be useful.

6           A.     For the sake of convenience, I have  
7     flipped to the last grouping of pages, which would  
8     be the last four pages, which is the Agreement for  
9     Joint Use of Well No. 4.

10          Q.     Okay. So the first of the last four  
11     pages -- I'll wait till everyone's arrived. If you  
12     look at this last page, says legal description on  
13     page 4. Are we looking at the same page, Agreement  
14     for Joint Use of Well No. 4?

15          A.     Yes, it includes the legal  
16     descriptions on the last page.

17          Q.     All right. It says, this  
18     agreement -- see if you can follow along with me --  
19     this agreement made and entered into on the 31st  
20     day of March 2010 by and between Ridge Creek  
21     Development, LLC, a Missouri limited liability  
22     company, herein after referred to as the first  
23     party grantor, and I'm going to -- I'm going to try  
24     not to identify any specific ownership, customer  
25     information if there's a non-company party on this

1 document. But below the now therefore, the first  
2 party hereby agrees as follows. Do you see where I  
3 am?

4 A. I do.

5 Q. Number one, the said well and related  
6 equipment shall be owned by first party or its  
7 successors and assigneds. Is that what that says?

8 A. That is what this says.

9 Q. And the first party is identified at  
10 the beginning of this document as Ridge Creek  
11 Development, LLC?

12 A. Yes.

13 Q. And as far as you know, there have  
14 never been any successors or assigneds for this  
15 property?

16 A. To the best of my knowledge, no.

17 Q. Thank you, Mr. Gateley. Is your  
18 understanding that all of those joint well  
19 agreements have similar language in them?

20 A. Yes, that's my understanding.

21 Q. Do you know if any of the company  
22 asset -- any of the water system assets are owned  
23 by Ridge Creek Water Company at all?

24 A. To the best of my knowledge, none.  
25 It's possible that some tools or equipment might

1 be, but the actual wells and well houses and such  
2 are not owned by the water company.

3 **Q. Why is the ownership of the system**  
4 **assets noteworthy to you?**

5 A. An inability to control the source of  
6 the water or have any kind of ability to affect  
7 maintenance or repairs on the wells, an inability  
8 to say that those wells are going to continue  
9 supplying water, an inability to even say that the  
10 development company's definitely going to pay their  
11 electric bill and keep electric service onto them  
12 is physically logistically problematic.

13 The water company is required to do  
14 sampling from those wells, and if you have samples  
15 from customers' taps which are typically collected,  
16 you need to be able to also sample that well. If  
17 you don't own the wells, you also don't necessarily  
18 even have access to them. The owner could lock out  
19 the water company.

20 **Q. Now, there are some regulated**  
21 **entities in the state of Missouri that provide**  
22 **water that don't necessarily directly own the**  
23 **source assets?**

24 A. That's my understanding, yes.

25 **Q. But in those cases is there usually**

1    some kind of agreement or arrangement that's in  
2    place that allows the serving company to have  
3    access to the supply?

4           A.     There are situations where companies  
5    either have a contract as a wholesale customer to  
6    receive water. I'm told there's situations where  
7    some companies have an easement to a well to be  
8    able to access it and maintain it and such even  
9    though they don't own the well itself.

10           Q.     Do we know if that kind of situation  
11   exists in this case?

12           A.     We aren't sure that either of the  
13   companies actually know what they have in this case  
14   based on communications with the company. What I  
15   have observed is that some of the wells are fenced  
16   in by the lot owners, the folks who have the homes  
17   where, if they so choose, it appears that no one  
18   would have access to some of those well houses.

19           Q.     Because the wells are actually  
20   located on customer lots?

21           A.     Yes, appears to be, and then fencing  
22   constructed, some very nice robust metal fencing  
23   around it. Some of the wells appear to have, based  
24   on just looking at it, an obvious easement where  
25   the property owners have constructed their fences

1 up to that easement and access to the well house is  
2 available. Some of them it appears to be a pretty  
3 clear intent to keep people away from them because  
4 of the fencing constructed and such.

5 Q. Do you know if that -- do you believe  
6 that fencing, based on your observation, is owned  
7 by the property owners, not necessarily the --

8 A. Yes.

9 Q. Is the ownership the only issue that  
10 exists for this system?

11 A. There are many issues with the  
12 system.

13 Q. And in particular do you know, do you  
14 have familiarity with any kind of water quality  
15 concerns of this system?

16 A. The primary concern at this point is  
17 Well 7, which is contaminated with bacteria. DNR's  
18 requirements are to test for total coliform and  
19 E-coli. E-coli is -- it can be a dangerous  
20 pathogen on its own, but it's an indicator --  
21 because it's easy to test, reliable to test, it can  
22 be an indicator of much more dangerous pathogens.

23 So at least Well 7 we know is  
24 supplying water that's not fit to drink, but the  
25 remaining 21 wells in theory are similarly

1 constructed, in theory are probably in the same  
2 aquifer, and are not being tested at all at this  
3 time and, therefore, that causes me grave concern  
4 as well.

5 Q. Do you know, when DNR issues a boil  
6 water order for one well in a multi-well system  
7 like this, does it apply to all the wells in the  
8 system?

9 A. In this situation, they issued the  
10 boil order only for the well that tested positive  
11 for bacteria. I don't know what is more typical  
12 for them.

13 Q. Okay. So at least for right now the  
14 boil water order applies just to Well 7 is our  
15 understanding?

16 A. Yes, that's my understanding.

17 Q. But no testing is happening on any of  
18 the wells currently?

19 A. Correct, because they don't have a  
20 certified operator who's qualified to take the  
21 test, but they also -- even if someone else just  
22 decided to collect the test, DNR requires them to  
23 be collected by someone qualified to collect the  
24 samples.

25 Q. Do either entity have any kind of

1 qualified personnel to do that at the moment?

2 A. No.

3 Q. Do we know why they don't have any  
4 qualified personnel?

5 A. It's my understating that as part of  
6 resolving the complaint case and receiving the  
7 certificate, the water company did retain the  
8 services of a certified operator, and I am told  
9 that they stopped paying them and, therefore, that  
10 operator quit. They have apparently chosen not to  
11 hire another certified operator.

12 Q. Curt, in your expert opinion, do you  
13 believe that the water company LLC is able or  
14 willing to provide safe and adequate service?

15 A. No.

16 Q. And why not?

17 Q. Based on our interactions with the  
18 company and their responses to other more minor  
19 issues, such as water line breaks, based on the  
20 statements that the water company and their  
21 employees have made to me, they lack an  
22 understating of what it takes to operate a water  
23 company. They certainly lack qualified  
24 professionals to be able to run it.

25 And despite plenty of guidance as to

1     what needs to happen, they have chosen not to take  
2     appropriate steps. Until they hire someone who is  
3     qualified to operate that system, I don't think  
4     they're able to provide safe and adequate service,  
5     particularly given that some of their water has  
6     been demonstrated not to be fit to drink.

7             Q.     And, Mr. Gateley, do you believe that  
8     Ridge Creek Development, LLC is able or willing to  
9     provide safe and adequate service?

10            A.     I do not.

11            Q.     And why not?

12            A.     Despite the development company  
13     occasionally riding to the rescue when there was a  
14     problem, despite them sending out some employees to  
15     physically problems, they also don't have adequate  
16     qualified staff to run a system. And they by  
17     themselves, simply owning the wells and  
18     occasionally sending someone out to fix a broken  
19     water line, that doesn't mean that they're running  
20     a system either.

21                    The only thing from the previous  
22     problem of the development company running a water  
23     system that has changed is the billing and some of  
24     the responding to customer complaint calls has been  
25     carved out to the water utility. Well, that's a

1 critical piece, and splitting off the communication  
2 of the customers and billing away from the folks  
3 who reportedly are responsible for fixing the wells  
4 creates a critical problem. Think can't on their  
5 own run the system and yet not talk to customers,  
6 not bill the customers. I don't think they're able  
7 in their current setup to provide safe and adequate  
8 service.

9 Q. Something you said about the water  
10 company made me think of the following question.  
11 You said that until they have a certified operator.  
12 Do you think that if either company were given more  
13 time, that they would be able to comply or do you  
14 think that's not a possibility?

15 A. I think that even prior to the  
16 company's filing and saying that they consent to a  
17 receiver, they had plenty of feedback from the  
18 Department of Natural Resources and from Staff as  
19 to what was necessary to bring the facility into  
20 compliance, and they have chosen not to.

21 The boil order, it's my understanding  
22 that this is the 14th month that the boil order has  
23 been in effect. It's my understanding that DNR is  
24 taking enforcement action. They have chosen not to  
25 hire an operator up to this point. I don't think

1     that any further amount of time would make a  
2     difference.

3             **Q.     I am handing the witness what's been**  
4     **marked as Staff'S Exhibit No. 14.  Sir, do you**  
5     **recognize this document?**

6             A.     I do.

7             **Q.     And what is that document?**

8             A.     Affidavit of Lance Dorsey.  He's the  
9     chief of the Drinking Water Enforcement Section at  
10    DNR.

11            **Q.     And are you familiar with this**  
12    **document?**

13            A.     I am.

14            **Q.     This is the document that was filed**  
15    **in EFIS in this case?**

16            A.     Yes.

17                   MR. WESTEN:  It's already been filed  
18    and it's an affidavit.  I move for its admission  
19    into the record.

20                   JUDGE WOODRUFF:  Any objection?

21                   MR. SMITH:  No objection.

22                   JUDGE WOODRUFF:  It will  
23    be received.

24                   (STAFF'S EXHIBIT 14 WAS MARKED AND  
25    RECEIVED INTO EVIDENCE.)

1 BY MR. WESTEN:

2 Q. Curt, would you just identify on here  
3 what you believe are the key items that the  
4 Commission should be aware of in reaching its  
5 determination?

6 A. I find all of the violations of the  
7 law to be important. However, Lance outlines some  
8 of the -- some of the violations that highlight  
9 that the water is not fit to drink at least from  
10 Well 7.

11 For example, Item 6 lists the  
12 violations for E-coli during two separate sampling  
13 periods, which it's common for DNR to do a  
14 follow-up sampling period when they find violation  
15 for bacteria.

16 They failed to keep customers updated  
17 and aware that they're under a boil order, which is  
18 Item 11. That's been a significant concern of  
19 mine, human nature being what it is. The law  
20 specifically requires that companies provide an  
21 updated notice when customers are still under a  
22 boil order. It's been a long time. It's possible  
23 that new customers have moved in, have bought some  
24 of those homes or are renting some of those homes  
25 that were unaware of the initial notice of the boil

1 order and have been consuming contaminated water up  
2 to this point. And then failure to sample the rest  
3 of the wells. Those are the most critical  
4 violations, in my opinion.

5 MR. WESTEN: Thank you, Mr. Gateley.  
6 Staff has no further questions.

7 JUDGE WOODRUFF: Any questions from  
8 Public Counsel?

9 MR. SMITH: Just a few.

10 CROSS-EXAMINATION BY MR. SMITH:

11 Q. Good morning, Mr. Gateley. Staff's  
12 Exhibit No. 4 is a title search; is that correct?

13 A. Correct.

14 Q. Now, are these titles all of the  
15 titles held in Pulaski County by the development  
16 company or are these only the titles for the water  
17 company assets?

18 A. What we asked for from the title  
19 company was documents associated with the wells.  
20 In particular we wanted if the wells had been  
21 separately platted, which according to the Pulaski  
22 County website they have a GIS program where you  
23 can see some of them appear to be separately  
24 platted. Some of them appear to be part of a lot  
25 that could be purchased by someone else.

1                   We wanted the information limited to  
2   the wells in particular. Obviously the development  
3   company could still own some lots within the  
4   subdivision. The development company had also  
5   separately put in a sewer system that's connected  
6   to the sewer district. So there are other  
7   ownership items within the subdivision I'm sure the  
8   development company has.

9                   **Q.     And through your review of the**  
10                   **records, have you seen any of those assets**  
11                   **belonging to the development company; for example,**  
12                   **any of the title paperwork or anything like that?**

13                   A.     My review of the report from the  
14   title company was more cursory. John Dallas did  
15   the more detailed review. I only found documents  
16   related to the development company and none owned  
17   by the water company.

18                   MR. SMITH: Thank you. Nothing  
19   further.

20                   JUDGE WOODRUFF: Questions from the  
21   Bench.

22   QUESTIONS BY CHAIRMAN HALL:

23                   **Q.     Good morning.**

24                   A.     Good morning.

25                   **Q.     The boil order that is in place**

1 concerns exclusively Well 7; is that correct?

2 A. That's correct.

3 Q. So none of the other wells have had  
4 violations identified?

5 A. That's my understanding.

6 Q. And how many homes are served by  
7 Well 7?

8 A. The company was unable to tell us.

9 Q. Do you have a guess?

10 A. I would guess approximately seven or  
11 eight.

12 Q. Do we know if the residents of those  
13 seven or eight houses are complying with that boil  
14 order?

15 A. When I was out there with John Dallas  
16 just becoming familiar with the physical layout of  
17 the subdivision and the well houses, we did make  
18 contact with some of the homeowners, in particular  
19 ones that the well house was in their. Before we  
20 traipsed in their backyard, we went and knocked on  
21 their doors. And we did talk to some of the  
22 customers who said that -- what they told me was  
23 that they had switched to bottled water, that they  
24 were not boiling water before they drink it. They  
25 were aware of the contamination problem and that

1     they couldn't -- felt that they couldn't drink the  
2     water.

3                     But I did not attempt to try to reach  
4     out to every person who might be connected to each  
5     well. As you might expect, during the middle of  
6     the day, most of the people weren't there. They  
7     were at work.

8             **Q.     When was the subdivision built, do**  
9     **you know?**

10            A.     I don't know off the top of my head.

11            **Q.     Do you have an estimate?**

12            A.     I would estimate within -- well, it's  
13     less than ten years old would be my estimate, but I  
14     don't know if it's been five years, six years. I  
15     would have to look that up. The actual platting of  
16     it would have been sometime before that, before the  
17     subdivision would have actually started to take  
18     hold.

19            **Q.     Is the subdivision adding houses, do**  
20     **you know?**

21            A.     It is possible to add houses, but I  
22     don't know if there are a lot of homes being  
23     constructed at this time. The -- in driving  
24     through the subdivision, there are areas that had  
25     obvious utility service and streets and such and

1 had not been constructed. And in looking at the  
2 GIS system from Pulaski County, it was obvious  
3 there were large lots that could be further  
4 subdivided that would have been platted at some  
5 point that in theory going forward would have homes  
6 constructed on them.

7                   There were some wells that we  
8 couldn't tell if they were serving any customers  
9 yet at all. One well in particular had trees and  
10 shrubs growing in front of it where it was hard to  
11 even access the door. That one was set back far  
12 enough that it might not have any customers on it.  
13 That area looked like it could have more houses  
14 added to it.

15               **Q. Is there a homeowners association for**  
16 **this subdivision?**

17               A. I don't know.

18               **Q. Do you know if there are any other**  
19 **regulated utilities close to the subdivision?**

20               A. At one point -- and I'm familiar with  
21 this because of the customer complaint we had where  
22 someone didn't have water. At one point in the  
23 subdivision there's a water district across the  
24 street. Their water tower is actually -- the homes  
25 are in the shadow of the water tower. It appears

1 it would have been easy to have obtained supply  
2 from other entities, but I don't believe those are  
3 regulated by the Commission. I believe they're not  
4 for profits, public water supply districts. City  
5 of Waynesville, city of St. Robert might be  
6 available.

7 **Q. Do you know what the status is of any**  
8 **DNR enforcement actions?**

9 A. It's my understanding that DNR has  
10 referred the case to the Attorney General's Office,  
11 but I don't know if they have any other actions  
12 about to take place. It's typical once they don't  
13 believe that they can achieve compliance through  
14 working with an entity, for them to refer to the  
15 Attorney General's Office anticipating legal action  
16 even if they were then able to work something else  
17 out and bring them into compliance. I don't know  
18 what the plans are that DNR has as far as any  
19 future filings.

20 CHAIRMAN HALL: That's all I have.  
21 Thank you.

22 QUESTIONS BY JUDGE WOODRUFF:

23 **Q. I just had a question about**  
24 **Exhibit 4, which is this large packet of documents**  
25 **from the title search.**

1 A. Yes, sir.

2 Q. I assume these documents were  
3 obtained from Pulaski County records?

4 A. Yes.

5 Q. So they're public documents?

6 A. Yes.

7 JUDGE WOODRUFF: That's all the  
8 questions I had. Any recross from Public Counsel?

9 MR. SMITH: No.

10 JUDGE WOODRUFF: Any redirect?

11 MR. WESTEN: Actually, just one  
12 question.

13 REDIRECT EXAMINATION BY MR. WESTEN:

14 Q. Public Counsel asked you,  
15 Mr. Gateley, about other assets. You mentioned a  
16 sewer system. I just want to be clear, are either  
17 the water company or development company operating  
18 a regulated sewer system at this time?

19 A. I'd like to give a broader answer to  
20 that.

21 Q. Sure.

22 A. The sewer system was, it's my  
23 understanding, installed by the development company  
24 and illegally connected to the Pulaski County Sewer  
25 District, and since then the sewer district has

1 agreed to directly bill customers and take the  
2 wastewater. Therefore, the development company is  
3 not now operating a regulated sewer system. They  
4 might have been for some time, but I'm not familiar  
5 with if that happened.

6 The development company appears to  
7 respond to problems with the sewer system now as  
8 far as blockages and such and doing maintenance,  
9 but they are not billing for that service. They're  
10 not receiving gain, to the best of my knowledge.

11 **Q. Do you know if they actually own**  
12 **those collection lines for the sewer that go to**  
13 **Pulaski County or does Pulaski County own it?**

14 A. It's my understanding that the sewer  
15 district did not take over the collecting sewers,  
16 the sewer mains and service connections from the  
17 development company, that they still own it.

18 **Q. And I also want to just make sure**  
19 **we're clear. When you say they illegally**  
20 **connected, can you explain what you mean by that?**

21 A. When one wants to have their waste  
22 treated by an entity, it's customary to first  
23 obtain some kind of contract or agreement with that  
24 entity, and then as part of that process you find  
25 out how they want you to connect physically. You

1 find out, quite frankly, all their other rules for  
2 the quality of that wastewater, how much can you  
3 send, et cetera.

4 It's my understanding that none of  
5 that was done before the connection happened. They  
6 made the connection, and then I don't know how the  
7 sewer district was made aware, if the company made  
8 the connection and then went to the sewer company  
9 or if someone else made them aware or if an  
10 operator simply noticed a large increase in flow.

11 MR. WESTEN: Okay. Thank you. I  
12 appreciate that. No further questions.

13 JUDGE WOODRUFF: You can step down.  
14 Let's go ahead and take a break now. We'll come  
15 back at 10:30.

16 (A BREAK WAS TAKEN.)

17 JUDGE WOODRUFF: We're back from our  
18 break and ready to proceed with the next Staff  
19 witness.

20 MR. WESTEN: Yes, Judge. Before I  
21 call the next Staff witness, I'd like to ask that  
22 since Mr. Gateley has completed his testimony, that  
23 he be physically excused from this proceeding and  
24 allowed to leave.

25 JUDGE WOODRUFF: He is allowed to

1 leave.

2 MR. WESTEN: Thank you so much. Next  
3 Staff will call Mr. Paul Harrison.

4 (Witness sworn.)

5 JUDGE WOODRUFF: You may be seated.  
6 You may inquire.

7 PAUL HARRISON testified as follows:

8 DIRECT EXAMINATION BY MR. WESTEN:

9 Q. Can you please state and spell your  
10 name for the record.

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

13 Q. And, Mr. Harrison, what is your  
14 current and previous employment?

15 A. Up until December 31st, 2016, I was a  
16 regulatory auditor for the Commission. I retired  
17 on December 31st. I'm back as a miscellaneous  
18 professional now.

19 Q. And how long have you worked for the  
20 Commission?

21 A. I went to work January 18, 2000, so  
22 about 17 years, 4 months.

23 Q. Have you worked on previous cases  
24 before the Commission?

25 A. Yes, I have.

1           Q.     And you've filed your history,  
2     education, training, background on those cases  
3     previously?

4           A.     Yes, I have. That's Schedule 1.

5           Q.     All right. I'm currently handing the  
6     witness what is marked as Staff's Exhibit 5.  
7     Mr. Harrison, do you recognize this document?

8           A.     Yes, I do.

9           Q.     And what is that document?

10          A.     This is a document that we put  
11     together that we normally attach to our direct  
12     testimony. It gives our education, background,  
13     case participation for all the rate cases that we  
14     have worked.

15          Q.     And is this a fair and accurate copy  
16     of that schedule?

17          A.     It is.

18                 MR. WESTEN: At this time Staff would  
19     move for the admission of Staff's Exhibit 5.

20                 JUDGE WOODRUFF: Exhibit 5 has been  
21     offered. Any objections?

22                 MR. SMITH: No objections.

23                 JUDGE WOODRUFF: It will be received.

24                 (STAFF'S EXHIBIT 5 WAS MARKED AND  
25     RECEIVED INTO EVIDENCE.)

1 MR. WESTEN: And at this time Staff  
2 would like to ask that Mr. Paul Harrison be treated  
3 as a regulatory expert in utility auditing.

4 JUDGE WOODRUFF: Yes.

5 BY MR. WESTEN:

6 Q. Mr. Harrison, are you familiar with  
7 Ridge Creek Water Company, LLC and Ridge Creek  
8 Development, LLC?

9 A. I am.

10 Q. And can you describe how you are  
11 familiar with these entities?

12 A. I worked a CCN case in 2015, also the  
13 current rate case before the Commission, reviewing  
14 all the company's books and records and developing  
15 a cost of service for the utility.

16 Q. And so you've actually reviewed  
17 documentation involving rate base and other company  
18 information?

19 A. I have.

20 Q. And why do you normally kind of  
21 review that information as part of your job?

22 A. Normally to develop the rate base,  
23 look at the revenues and all the expenses that the  
24 utility incurs to develop a cost of service to  
25 determine rates.

1           Q.     And did you work on that during the  
2     rate case?

3           A.     I did.

4           Q.     And in your review of those  
5     documents, did you determine how many companies  
6     Mr. Stoner and Ms. Stoner own?

7           A.     They have about five companies, that  
8     I'm aware of.

9           Q.     That you're aware of.

10          A.     I believe there's some more out  
11     there.

12          Q.     How do you know this information?

13          A.     We've had meetings with the utility  
14     and with some of the employees. We've actually  
15     looked at their books and records. And also in the  
16     CCN case they brought up about eight boxes of  
17     documents and dropped them off. We went through  
18     those documents and we identified the different  
19     companies that was associated with the water  
20     company.

21          Q.     Now, are the other non-regulated  
22     companies, are they part of the water system? Do  
23     they participate in the water system at all?

24          A.     The development company is definitely  
25     part of the water company. The other company --

1 the other companies, they have employees. For  
2 instance, they've got two car washes, one in Rolla,  
3 one there in Waynesville. One of the employees  
4 performs work for both the development company,  
5 water company and these two car washes.

6 Q. And Staff isn't seeking or requesting  
7 the Commission appoint an interim receiver over the  
8 car washes or any of those entities; is that right?

9 A. That's correct.

10 Q. We're just pursuing a receivership  
11 over the development company LLC and water company  
12 LLC?

13 A. That is correct.

14 Q. So you've looked -- you've learned  
15 this information through reviewing financial  
16 records. Does the water company have a -- which  
17 entity actually keeps track of the financial  
18 records?

19 A. The development company.

20 Q. Development company. Why do you say  
21 that?

22 A. Because all of the assets belong to  
23 the development company. All of the revenues that  
24 come in from customer payments, they go into one  
25 bank account. That is the development company.

1 The only documents that the water company has are  
2 their time sheets and billing and collection that's  
3 in their name. Everything else is in the name of  
4 the development company.

5 Q. So the water company doesn't have  
6 like a general ledger that it keeps track of  
7 expenses at all?

8 A. They do not have a general ledger.  
9 They are not in compliance with the NARUC USOA.  
10 They maintain less documents than you would expect  
11 a water/sewer utility to use. They either do not  
12 maintain the documents or they don't have the  
13 knowledge to be able to come up with and make  
14 available for review the documents that we  
15 requested.

16 Q. The water company you said does do  
17 some billing. Do you know how they keep track of  
18 the billing that they do?

19 A. There's a document that Ms. Sherry  
20 Jones puts together, and it identifies the  
21 customers with the revenue that's coming in.

22 Q. I'm handing Mr. Harrison what's been  
23 marked as Staff Exhibit No. 7. This is an HC  
24 document. We do not have to go into HC. I'm not  
25 going to ask about information on this document,

1 but I do want to identify that it is HC.

2 Mr. Harrison, do you recognize this?

3 A. I do.

4 Q. And what is this, without identifying  
5 any names or information?

6 A. These are the customers with their  
7 move-in dates, the owner's name, and then it also  
8 shows what they collected from the customers.

9 Q. So this appears to be some kind of  
10 ledger involving customer payments and location?

11 A. Yes, for the -- for the Ridge Creek  
12 Water Company. However, it's identified under  
13 Ridge Creek Development Company.

14 Q. And have you seen this document  
15 before?

16 A. I have.

17 Q. And is this a fair and accurate copy  
18 of that document?

19 A. It is.

20 Q. Did this document come from the  
21 company itself?

22 A. It did.

23 MR. WESTEN: At this time Staff would  
24 like to move for the admission of Staff's HC  
25 Exhibit No. 7.

1 JUDGE WOODRUFF: Exhibit 7 has been  
2 offered. Any objections to its receipt?

3 MR. SMITH: No objection.

4 JUDGE WOODRUFF: Hearing none, it  
5 will be received.

6 (STAFF EXHIBIT 7HC WAS RECEIVED INTO  
7 EVIDENCE.)

8 BY MR. WESTEN:

9 Q. Mr. Harrison, can you identify what  
10 month this document is for?

11 A. It identifies all of the customers  
12 that is part of Ridge Creek. It shows the date  
13 that they moved in and started receiving service,  
14 and it also shows monthly payments that they have  
15 collected from the customers.

16 Q. And this appears to be a water  
17 company document, but it has Ridge Creek  
18 Development water billing on the title?

19 A. That is correct.

20 Q. The water company funds -- or the  
21 customer funds that are deposited, do you know  
22 where they are deposited?

23 A. Yes. They are deposited in the  
24 Mid America Bank account under Ridge Creek  
25 Development Company.

1           Q.     So the development company  
2 actually -- does that mean the development company  
3 actually owns that account?

4           A.     Yes.

5           Q.     Since it's in their name?

6           A.     It's in their name.

7           Q.     And have you observed the, let's say  
8 the transactions that occurred in that account?

9           A.     Yes.

10          Q.     And can you tell which entities use  
11 that account?

12          A.     No, because there's accounts to where  
13 funds are transferred out, they're transferred in.  
14 They only give the last three, four digits of the  
15 account number. So there's no way of knowing that.  
16 There are invoices that's paid out of it for the  
17 water company, for the development company, for the  
18 car washes and for the realtor company.

19                 So it's impossible to identify which  
20 documents, which payments, which invoices are paid  
21 by what company.

22          Q.     Is there any other income beside  
23 customer payments that go into that account?

24          A.     None that I'm aware of.

25          Q.     So most of the money that goes into

1     that account that's deposited appears to be  
2     customer funds?

3             A.     Yes.

4             Q.     Now, you've had 17-plus years working  
5     with the Commission. I imagine you've seen other  
6     small utility systems that have not followed NARUC  
7     standards. Is that a fair assumption?

8             A.     Yes, we have.

9             Q.     And do other non-regulated  
10    entities -- well, actually, answer this first. How  
11    does Staff usually deal with entities that aren't  
12    following NARUC standards and might be mingling  
13    funds like this?

14            A.     We normally go in and pull bank  
15    statements. We go ahead and pull all invoices  
16    being paid out. We look at all the revenue that's  
17    being paid in. If we can't get that, then we look  
18    at what the tariff says that the monthly rate is  
19    that the customers pay and the usage rate and try  
20    to develop revenues based on that.

21                   Expenses, we look at all the outside  
22    vendors and the services that's being paid and all  
23    the invoices and receipts being paid out, and we  
24    build a cost of service from scratch based on that  
25    information.

1           Q.     Were you able to do that in the rate  
2     case for Ridge Creek Water and Ridge Creek  
3     Development Company?

4           A.     No.

5           Q.     Why not?

6           A.     Because they do not maintain their  
7     documents. Like purchased power, they don't have  
8     documents of that. Property taxes, they don't have  
9     that. We had meetings with the engineer and the  
10    legal firm that provided service to the company.  
11    We had to have meetings with them to get what the  
12    costs were and the services that was provided  
13    because the water company could not provide it.

14          Q.     Do you know, in working with other  
15    small systems that have kind of similar issues,  
16    does this -- where does this company compare, these  
17    companies compare? Are they worse or are they  
18    better than other systems?

19          A.     Well, normally if we cannot get the  
20    documentation, we normally sit down with several  
21    meetings with the company. We identify what we  
22    need. We submit the data requests. If they have  
23    questions on what we're looking for, we sit down  
24    with them, go through the documents, identify the  
25    documents that we do need, make copies of and bring

1     them back to the Commission and we put together a  
2     cost of service. However, in this case we're not  
3     able to do that.

4             **Q.     And why not?**

5             A.     The documents are not available.  
6     Either they are not available or the company is not  
7     willing to give them to us.

8             **Q.     You mentioned that you don't believe**  
9     **that either the water company or development**  
10    **company are compliant with the NARUC USOA**  
11    **accounting requirements. Did I hear you say**  
12    **correctly, they weren't compliant at the time of**  
13    **the CCN; is that right?**

14            A.     They were not complying at the time  
15    of the CCN, and when we put together the stip and  
16    agreement, they agreed, and that was one of the  
17    conditions, they agreed that they would comply with  
18    NARUC USOA. They also agreed to install 22 master  
19    meters for their 22 wells, and they also agreed to  
20    contract with a certified operator, which they have  
21    not done any of those.

22            **Q.     So they're still not compliant at**  
23    **least on any of those items?**

24            A.     They were in compliance with the  
25    certified operator as of December 2015 when rates

1     went into effect.  However, they terminated that  
2     service at the end of March 2016.  So since 2016 --  
3     March -- April 1st, 2016, they have not had a  
4     certified operator.

5             **Q.     And again, just to reiterate, you**  
6     **know this because you've actually reviewed the bank**  
7     **accounts and you've seen whatever invoices or**  
8     **receipts they have?**

9             A.     And discussions with Mrs. Stoner.

10            **Q.     And her statements?**

11            A.     And her statements.

12            **Q.     Mr. Harrison, in your expert opinion,**  
13     **do you believe the water company is able or willing**  
14     **to provide safe and adequate service?**

15            A.     No.

16            **Q.     And why not?**

17            A.     Well, certified operator for  
18     instance, they haven't had one for over a year.  
19     They are not doing any type of sampling, no type of  
20     testing and no type of treatment for the water.  
21     That in itself is unsafe.

22            **Q.     Do you believe that the development**  
23     **company is able to or willing to provide safe and**  
24     **adequate service?**

25            A.     Same answer.

1           **Q.       Same answer.**

2                   MR. WESTEN:  No further questions.

3   Thank you.

4                   JUDGE WOODRUFF:  Any cross from  
5   Public Counsel?

6                   MR. SMITH:  No questions.

7                   JUDGE WOODRUFF:  Questions from the  
8   Bench.

9                   CHAIRMAN HALL:  Yeah, just a few.

10   QUESTIONS BY CHAIRMAN HALL:

11           **Q.       Good morning.**

12           A.       Good morning.

13           **Q.       Looking through Exhibit 7, there is a**  
14 **wide range of billed amounts being paid by**  
15 **customers, everything from \$30 up to \$250.  Do you**  
16 **have reason to believe that the meters are**  
17 **functioning?**

18           A.       I did review about six months of  
19 meter reading.  Five of those months was incorrect  
20 because they had dropped a digit off of it.  There  
21 was only one month of actual meter reading that we  
22 could get to determine what the usage was, and it  
23 was incomplete.

24           **Q.       So the answer is yes, you do have**  
25 **some reason to believe that the meters are --**

1           A.     Yes.

2           Q.     According to the tariff, customers  
3 without meters are to be charged 32.50. Everyone  
4 else has a customer charge and a commodity charge.  
5 I haven't gone through the entire document yet, but  
6 is it your understanding that everybody -- every  
7 customer that's being billed is being billed a  
8 customer charge and a commodity charge?

9           A.     I believe that there is a few  
10 customers that does not have a meter installed, but  
11 for the majority, I would say yes. When we -- when  
12 Staff reviewed the deposit ledger that was going  
13 into the bank, we were able to get about six, seven  
14 months of actual payments that was going in that  
15 customers were paying.

16                     Based upon that, what the cost was  
17 per thousand gallons and what the monthly charge  
18 was, we were able to develop revenue based on what  
19 they were collecting from the customers, but not by  
20 what the company was actually tracking in their  
21 records.

22           Q.     Do you know which customers are  
23 connected to Well 7?

24           A.     I have no clue. We did have several  
25 meetings with the engineer. The engineer has been

1     paid about \$55,000 for advising the utility and for  
2     also trying to map the system to identify where the  
3     service lines were, which well went to each one of  
4     the homes, and how many customers was receiving  
5     service from each well, and he was not even able to  
6     do that.

7             **Q.     \$55,000 from when to when?**

8             A.     That was from the time, about midway  
9     of the CCN case, which would have been the middle  
10    of 2015 to current.

11            **Q.     So you, in the rate case, attempted**  
12    **to determine what the -- what the rate base of the**  
13    **company should be?**

14            A.     In the CCN case we -- the company was  
15    not able to provide us any documentation whatsoever  
16    on the plant in service, depreciation reserve,  
17    CIAC}, CIAC amortization, plant improvements or  
18    anything else.

19                    There was four of us that spent --  
20    made several trips to the utility, inspecting the  
21    system, monitoring it, then looking at what the  
22    cost would be, looking at the installation date,  
23    and we developed rate base based upon what the  
24    costs should have been based upon when those assets  
25    were put in place. There was no documentation at

1 the utility that they're willing to share with us  
2 on rate base.

3 Q. I believe you said that the bank  
4 account where customer payments are being deposited  
5 is in the name of the development company?

6 A. That is correct.

7 CHAIRMAN HALL: No further questions.  
8 Thank you.

9 QUESTIONS BY JUDGE WOODRUFF:

10 Q. I just have one question. I missed  
11 it when you were testifying. You said there's not  
12 been a certified operator since 2016. Was that  
13 March?

14 A. Since April 1st, 2016.

15 JUDGE WOODRUFF: All right. Any  
16 recross?

17 MR. SMITH: No.

18 JUDGE WOODRUFF: Redirect?

19 MR. WESTEN: Just a couple quick  
20 questions.

21 REDIRECT EXAMINATION BY MR. WESTEN:

22 Q. Mr. Harrison, you referred to \$55,000  
23 for the engineer. Do you know if that amount has  
24 been paid?

25 A. Could you repeat, please?

1           Q.     Sorry. You mentioned an amount owed  
2     by the companies to an engineer, and I believe I  
3     heard you say 55,000; is that correct?

4           A.     Right. It was actually pretty close  
5     to 61,000 because the company actually paid  
6     \$15,000, and the rest of it is unpaid.

7           Q.     So there is currently some -- you  
8     said 61, so --

9           A.     About \$46,000 that has not been paid.

10          Q.     Thank you. An attorney doing math on  
11     the fly in his head is not always a safe thing. I  
12     appreciate that, Mr. Harrison.

13                     Do you recall the months of the  
14     meters that were inaccurate, do you recall which  
15     months that was for those meters? It's okay if you  
16     don't.

17          A.     I would -- I'm thinking it was like  
18     September/October time frame of 2016.

19                     MR. WESTEN: Okay. Thank you. No  
20     further questions.

21                     JUDGE WOODRUFF: You may step down,  
22     Mr. Harrison.

23                     THE WITNESS: Thank you.

24                     JUDGE WOODRUFF: The next witness.

25                     MR. WESTEN: Staff would like to call

1 Ms. Deborah Bernsen.

2 (Witness sworn.)

3 MR. WESTEN: Thank you, Judge.

4 DEBORAH BERNSEN testified as follows:

5 DIRECT EXAMINATION BY MR. WESTEN:

6 Q. Could you please state and spell your  
7 name for the record.

8 A. My name is Deborah Bernsen,  
9 B-e-r-n-s-e-n.

10 Q. And, Ms. Bernsen, where are you  
11 employed?

12 A. I work for the Missouri Public  
13 Service Commission.

14 Q. How long have you worked for the  
15 Commission?

16 A. A very long time. 37, 38 years,  
17 something like that.

18 Q. Would you rather not answer?

19 A. Just a long time.

20 Q. Ms. Bernsen, have you filed testimony  
21 in cases before the Commission before?

22 A. Yes, I have.

23 Q. And as part of that testimony that  
24 you filed, have you filed a schedule with your  
25 education, training, et cetera?

1           A.     I have. I have filed -- I have  
2     completed a Schedule 1.

3           Q.     I'm handing out what has been marked  
4     as Staff's Exhibit No. 10. Ms. Bernsen, can you  
5     identify this document? Do you recognize it?

6           A.     Yes, I do. That's a copy of my  
7     Schedule 1 that has my responsibilities,  
8     experience, education, and then a listing of cases  
9     that I've prepared testimony and filed in.

10          Q.     Does that appear to be a fair and  
11     accurate copy of that document?

12          A.     Yes, it is.

13                 MR. WESTEN: At this time Staff would  
14     move for Staff's Exhibit 10's admission.

15                 JUDGE WOODRUFF: It's been offered.  
16     Any objections to its receipt?

17                 MR. SMITH: No objections.

18                 JUDGE WOODRUFF: Then it will be  
19     received.

20                 (STAFF'S EXHIBIT 10 WAS MARKED AND  
21     RECEIVED INTO EVIDENCE.)

22                 MR. WESTEN: At this time Staff would  
23     request that Ms. Bernsen be treated as a regulatory  
24     expert in consumer and management analysis.

25                 JUDGE WOODRUFF: She will be treated

1 an expert.

2 MR. WESTEN: Thank you.

3 BY MR. WESTEN:

4 Q. Ms. Bernsen, are you familiar with  
5 Ridge Creek Water Company, LLC and Ridge Creek  
6 Development, LLC?

7 A. I am familiar with both companies.

8 Q. Can you describe how you're familiar  
9 with them?

10 A. I worked on the original CCN case and  
11 then also on the rate case and then also on the  
12 receiver case.

13 Q. And can you just kind of generally  
14 describe the kind of activity you do on a CCN case  
15 when you work with a company?

16 A. On the CCN cases, we normally like to  
17 work with the companies, helping them to understand  
18 the Commission rules, what will be expected of  
19 them. We also try to assist them in making sure  
20 their bills are compliant with those rules and  
21 just, you know, basically credit/collections kinds  
22 of activities, just operating practices for the  
23 business, keeping good customer records, that sort  
24 of thing.

25 So the CCN is mainly our work there

1 while we're -- we're doing discovery and fact  
2 finding, we also try to assist them in being  
3 prepared to make the transition to a regulated  
4 utility.

5 **Q. And you performed all those**  
6 **activities with this company, with the water**  
7 **company?**

8 A. Yes. Yes, I did, and made several  
9 trips there on site as well as lots of phone calls,  
10 lots of e-mails over that time.

11 **Q. Can you describe generally what you**  
12 **do in a rate case, what consumer management**  
13 **analysis does in a rate case?**

14 A. In the rate case it was more of a  
15 traditional discovery process with data requests,  
16 also on-site visits, contact with the -- with the  
17 manager of the company at the time, a lot of  
18 e-mails. Also working and communications with the  
19 engineering firm that the company had retained over  
20 a number of years and even an occasional phone call  
21 from the legal counsel for them regarding questions  
22 or something. So we had a lot of interaction.

23 **Q. You mentioned a manager of the**  
24 **company. Can you say who that was?**

25 A. The manager of the company?

1           **Q.     Yes.**

2           A.     At the time of the -- I knew that  
3     there was a Mr. Stoner and Mrs. Stoner that  
4     actually owned the development company and then  
5     were associated with the water company. At the  
6     time of the LPH, the local public hearing, it was  
7     announced to us that Mrs. Stoner would be  
8     responsible for all the activities with respect to  
9     the water company. So all of our interaction has  
10    been with Mrs. Stoner.

11           **Q.     Has Mr. Stoner reached out to you at**  
12    **all throughout the process of the rate case,**  
13    **current rate case?**

14           A.     No, he never has.

15           **Q.     Have you tried to reach out to him at**  
16    **all?**

17           A.     You know, I -- there were issues that  
18     would come up and Mrs. Stoner may say, well, Mike  
19     might have those records. I certainly don't. I  
20     would ask her to contact him regarding that, but I  
21     have not personally tried to contact Mr. Stoner.

22           **Q.     And after those kinds of**  
23    **conversations, did Mr. Stoner ever reach out to you**  
24    **in response?**

25           A.     No. No. I would not recognize

1 Mr. Stoner if he walked in. I've never met him.

2 Q. Okay. So you've worked a lot with  
3 the water company and reviewed a lot of documents  
4 and records. Generally speaking, what are your  
5 observations, what are your concerns from a  
6 consumer management perspective?

7 A. Well, from a management and customer  
8 service kind of perspective, there are I guess two  
9 chief concerns over this period of several years,  
10 actually, that we've been involved. You know, and  
11 we did work in the past to assist the company in  
12 developing a good bill that met our rules,  
13 et cetera, and tried to impart all that, but in  
14 spite of some improvements in that billing process  
15 where customers are actually getting bills now on a  
16 regular basis, there's still two chief things that  
17 are still very much a concern to us.

18 And I guess I have to -- the first  
19 one, I would have to summarize it as just a basic  
20 lack of communication and contact with the  
21 customer, taking responsibility, contact with the  
22 regulatory folks, which that should be ongoing, as  
23 exhibited by some complaints that were not ever  
24 responded to, trying to get in contact with them,  
25 leaving messages, not getting returns for a long

1 period of time. And that's bad, but it's worse  
2 when you don't recontact your customers.

3 Issues there, you know, changes in  
4 personnel that were going to be handling complaint  
5 issues or outages, changes in phone numbers.  
6 Customers would try to use a phone number that was  
7 provided on their bill. Well, that person was no  
8 longer taking care of those things. Customer would  
9 leave phone messages and not get calls back.

10 Q. Do you know, can customers -- if  
11 there is an emergency right now, would customers be  
12 able to reach someone live?

13 A. There is a chance of that because  
14 recently Mr. Bobby Jones, people were being told to  
15 call him, and he appears to try to respond to  
16 things, but Mr. Jones is -- he's simply a meter  
17 reader and he is not trained or qualified as  
18 anything else.

19 Q. That was going to be my next  
20 question. Can you describe who Mr. Jones is and  
21 what he does for the company?

22 A. He is --

23 Q. And I'm sorry. I keep saying the  
24 company. Which company?

25 A. We're walking Ridge Creek Water.

1           **Q.     Water company. Thank you.**

2           A.     Mr. Jones is actually the husband of  
3     Mrs. Sherry Jones, and Sherry Jones is the lady  
4     that Mrs. Stoner hired back in February of 2016 to  
5     assist with the billing.

6           **Q.     So these are employees of Water**  
7     **Company?**

8           A.     Right. We would call them contract  
9     employees, but there's no contracts here.  
10    There's -- and that's a problem, too.

11          **Q.     Okay.**

12          A.     But -- and so because Mrs. Jones knew  
13    that the prior meter reader, who also worked for  
14    the car wash, he was pulled by Mr. Stoner not to do  
15    that anymore, so Mr. Bobby Jones then said, well,  
16    I'll read the meters. So now Mr. Jones is reading  
17    the meters, but that is who customers call if they  
18    have an emergency. He also works a full-time job.

19          **Q.     Aside from --**

20          A.     Outside from working for the water  
21    company.

22          **Q.     And do you know Mr. Jones, does he**  
23    **have any kind of certification, any kind of**  
24    **plumbing training? Does he have any kind of**  
25    **training like that?**

1           A.     No. Mr. Jones is a -- he's a  
2 maintenance man, but he does like building  
3 maintenance kinds of things. He's not a plumber.  
4 He's not an operator. He appears to try to fix  
5 things, but I don't think he has the  
6 qualifications. He's not a plumber.

7           Q.     So if there were an emergency right  
8 now, we don't know if it would actually be able to  
9 be addressed by the current staff?

10          A.     No, we don't. And there have been  
11 some issues where he's tried, but he was unable to  
12 solve the problems.

13          Q.     You mentioned customer communications  
14 being one major issue. It sounded like you had  
15 two. What was the second one?

16          A.     The customer communications, that  
17 extends to, you know, as simple as being there to  
18 respond to a bill and things. And, of course, this  
19 goes back to Chapter 13. The company's required to  
20 have people there and available to respond to calls  
21 and complaints and issues. So really, you know,  
22 that's the first issue.

23                 The second issue of great concern to  
24 me is the mingling of funds within the accounts,  
25 the bank accounts of the company. It's very

1     difficult. I spent quite a bit of time looking  
2     through those. It's very concerning.

3             **Q. I am going to hand the witness what's**  
4     **been marked as Staff's HC Exhibit No. 11, and these**  
5     **documents are again all HC. I'm going to try to**  
6     **avoid asking HC questions so we don't have to go**  
7     **into HC.**

8             **Ms. Bernsen, do you recognize this**  
9     **document?**

10            A. Yes, I do.

11            **Q. And what is it?**

12            A. These are bank statements from  
13     Mid America Bank and Trust Company labeled Ridge  
14     Creek Development, LLC, and they are checking  
15     account statements.

16            **Q. And have you seen these documents**  
17     **before?**

18            A. I have. We received these from the  
19     company via data request and brought them back.

20            **Q. And this is a fair and accurate copy**  
21     **of the documents you received from the company?**

22            A. Yes, it is.

23            MR. WESTEN: At this time Staff would  
24     offer Staff's HC Exhibit No. 11.

25            JUDGE WOODRUFF: 11HC has been

1 offered. Any objections?

2 MR. SMITH: No objections.

3 JUDGE WOODRUFF: Hearing none, it  
4 will be received.

5 (STAFF'S EXHIBIT 11HC WAS RECEIVED  
6 INTO EVIDENCE.)  
7 BY MR. WESTEN:

8 Q. So, Ms. Bernsen, you said you've  
9 worked with these records before, you're familiar  
10 with them. Without saying any of the identifying  
11 information on here but being able to direct the  
12 Chairman and the judge and counsel to what you  
13 reviewed that helped you determine that it was  
14 customer funds that were being deposited into this  
15 account.

16 A. Well, the checking account statement  
17 consists, as most do, of a number of pages showing  
18 transactions, and then also there's an image  
19 statement page at the back, and that -- on that  
20 there are copies of deposit tickets as well as  
21 electronic transfer statements, receipts and then  
22 also canceled checks that were written.

23 I did an analysis of -- the deposit  
24 tickets had actually included customer names and  
25 customer amounts next to each of the customer

1 names.

2 Q. And can you just say on what page of  
3 this document?

4 A. That is page 3. It's the last page  
5 of the -- of each month's statement.

6 Q. So for each month of statements on  
7 here, the third page will show some kind of deposit  
8 slip?

9 A. Yes.

10 Q. Okay. And how were you able to  
11 identify that these were customer amounts on those  
12 deposit slips, customers and customer amounts?

13 A. You know, it seemed like it probably  
14 was, but we wanted to be sure.

15 Q. Right.

16 A. Because these were individual names,  
17 and I even recognized some of the names from  
18 looking at customer records. But we tried to  
19 increase the size of these -- as you can see,  
20 they're quite small -- and then went to the  
21 customer records that showed address, customer  
22 name, and then also had the billing histories on  
23 them.

24 Q. That customer record document, is  
25 that the Staff's already admitted HC Exhibit 7, are

1     **you familiar? This is Staff's HC Exhibit 7?**

2             A.     Yes. Yes. That is one of the  
3     documents. And as you see, at the top it says  
4     Ridge Creek Development water billing, months due  
5     from March, December 2016. This document continued  
6     to be used for a while. You can see the -- I think  
7     the one we have here was through May, but it  
8     continued to be used.

9             Q.     And you could compare the customer  
10    names from that document to these deposit slips?

11            A.     Right, I could. And I did -- I  
12    pulled some randomly just to see if that truly was  
13    what was going into this account, and it was.

14            Q.     Ms. Bernsen, did these bank records  
15    show anything besides customer deposits, customer  
16    utility funds being deposited in this account owned  
17    by Ridge Creek Development?

18            A.     Yes, they do. They also have items  
19    such as Internet transfers in and out from some  
20    accounts to another account, but part of that is  
21    blanked out. Also things like electronic debits  
22    and -- and then, of course, also the checks that  
23    were written.

24            Q.     And can you identify the owner of  
25    those checks from this document?

1 A. I'm sorry. What?

2 Q. Can you identify who the owner of the  
3 account is from those checks?

4 A. The owner of the checks is Ridge  
5 Creek Development Company. That's stated on there.

6 Q. The transfers in on out, is there any  
7 way to tell where they're going or for what purpose  
8 they're made?

9 A. That's -- that's not possible from  
10 looking at the checking account. What it will show  
11 is an Internet transfer from checking account and  
12 then it Xs out and it just gives like the last two  
13 or three digits. So I can't tell. I tracked which  
14 accounts they came out of and what they went to.

15 Q. But we don't know what those are?

16 A. But we don't know what those are. We  
17 don't.

18 Q. So you've talked about customer  
19 responsiveness and the management of this account.  
20 Are there any other issues that have caused you  
21 concern as you've worked on the rate case?

22 A. You know, overall, from working with  
23 this company over this time, you know, I have a lot  
24 of other things that are just concerning, you know.  
25 Obviously the lack of response to customers is

1 huge. The lack of response to regulatory  
2 personnel, that's a big issue. I am concerned  
3 about the safety issues, but we have a very good  
4 water and sewer department that watches that sort  
5 of thing. I'm not as qualified in that area.

6 There are basic things that aren't  
7 being done. For instance, you know, they're  
8 using -- if you're using subcontractors, outside  
9 parties, very important to try to have some kind of  
10 written contract so the expectations and the  
11 dollars are lined out ahead of time, so there's no  
12 concerns over possible arguments in the future.  
13 That has already happened. I recommended to them  
14 time after time, you need to write this down on  
15 paper. So things like that.

16 **Q. Is the water company or development**  
17 **company compliant with Chapter 13 requirements**  
18 **involving customers?**

19 A. In spite of all the time we spent  
20 with them on that, their billing records, their  
21 billing is -- their bills are good. They're  
22 meeting most requirements on billing. But a lot of  
23 other things they are not meeting on Chapter 13,  
24 and we've brought those up continually. You know,  
25 the existence of a good brochure with accurate

1 information for customers to understand what's  
2 going on, contacting customers during various  
3 issues that might come up they need to be told.  
4 Things like the water quality, they should have  
5 contacted people. Recently the company, you know,  
6 the contractor for billing moved. I said, you've  
7 got to get something out to customers. You've got  
8 a drop box out there.

9 Just, you know, a lot of those things  
10 that just are good policies and a requirement of  
11 Chapter 13, and they are not -- just having people  
12 available is in Chapter 13. That's not happening.

13 **Q. Do you believe, in your expert**  
14 **opinion, that the water company and the development**  
15 **company are able or willing to provide safe and**  
16 **adequate service?**

17 **A.** No, I don't. At this time, I feel  
18 like it is in the best interests of the company as  
19 well as the customer for this company to go into a  
20 receivership and be operated.

21 **Q. Do you think that if they were given**  
22 **more time, that they could become compliant and be**  
23 **able or willing?**

24 **A.** I may have thought that a year ago.  
25 There's been too many additional things that have

1 occurred that have been concerns. I just don't  
2 think it's getting any better. And I really think  
3 that the companies' final decision to sign an  
4 agreement that they, you know, were in agreement  
5 with going into receivership, I think maybe that's  
6 an indication, too, of their belief that they  
7 really are ready for this, they cannot deal with it  
8 and run this company the way they should.

9 MR. WESTEN: Thank you. Staff, has  
10 no further questions.

11 JUDGE WOODRUFF: Any questions from  
12 Public Counsel?

13 MR. SMITH: Just a few.

14 CROSS-EXAMINATION BY MR. SMITH:

15 Q. When you made your on-site visit,  
16 where did you go to make the site visit?

17 A. Actually to the home of Denise  
18 Stoner.

19 Q. Okay. And so did Mrs. Stoner keep  
20 the records of the business in her home?

21 A. Mrs. Stoner had some of the records.  
22 I had also asked her to have Sherry Jones come to  
23 her house. That's the lady that was doing billing,  
24 because we had concerns about the billing, and to  
25 have Mrs. Jones bring records that she used on a

1 daily basis. So some of the records relating to  
2 maybe some invoices and things Mrs. Stoner had  
3 there in boxes or scattered.

4 Q. And there has been through the record  
5 evidence and some of the HC exhibits an address of  
6 P.O. Box KK. Is that an on-site location someone  
7 can go to or is that just a P.O. Box?

8 A. That KK location is actually  
9 Mrs. Stoner's home, and some time ago when Sherry  
10 Jones began doing the billing, she also would do  
11 the collections. So there's actually a collection  
12 box or there was a collection box outside of Sherry  
13 Jones' home, and that's where customers would leave  
14 bills if they wanted to.

15 But that's actually Mrs. -- a  
16 customer could not come to Mrs. Stoner's home to,  
17 say, have a question or ask about a bill. It's  
18 gated with security at the front, and it's not  
19 really -- it's their home.

20 Q. Through your review of the records,  
21 did the development company and the water company  
22 share the same address, which would be her home?

23 A. You know, I haven't looked -- yes, I  
24 think they did, because, of course, that's on the  
25 checking account. That's Denise Stoner's home and

1 Mike's home, was Mike's home.

2 MR. SMITH: Thank you. No further  
3 questions.

4 JUDGE WOODRUFF: Mr. Chairman.

5 QUESTIONS BY CHAIRMAN HALL:

6 Q. Good morning.

7 A. Good morning.

8 Q. Have you spoken with or had contact  
9 with customers?

10 A. We have -- we have spoken to some  
11 customers. I've gotten phone calls directly from  
12 some customers that the gentleman at Pulaski County  
13 Water and Sewer gave them my number, which was  
14 fine, and we ended up -- I talked to them, and we  
15 put those into the complaint system to customer  
16 services, but I was also kept aware of what  
17 occurred.

18 There were some customers we were --  
19 there was an engineer that worked on some of this  
20 stuff right before the CCN case started. He had  
21 some files from contacts from customers. We  
22 checked back with some of those customers at  
23 various points to see if they were getting bills.  
24 We wanted to make sure they were actually getting  
25 the bills because they told me they were sending

1     them out. So we have talked to, I don't know,  
2     maybe between five and ten customers at least about  
3     if they've gotten bills, if they had issues. So,  
4     yes, some.

5             **Q.     Have you had any contact with any of**  
6     **the homes that are under the boil order, as far as**  
7     **you know?**

8             A.     I don't remember right now. I'd have  
9     to go back and look at the notes from the various  
10    phone calls. I'm not sure if any of those  
11    customers were under that boil order or not. There  
12    might have been one or two that had been. I  
13    can't -- I can't say for sure. I'd have to go back  
14    and look. I just -- I was concerned about the  
15    quality stuff, but I know we've had a lot of  
16    interaction with DNR over these -- especially over  
17    the last year, and I don't -- I look at that end of  
18    the quality, but I'm not the expert in that area.

19            CHAIRMAN HALL: Okay. Thank you.

20            JUDGE WOODRUFF: I have some  
21    questions.

22    QUESTIONS BY JUDGE WOODRUFF:

23            **Q.     You've been talking about Michael and**  
24     **Denise Stoner. I'm assuming they're husband and**  
25     **wife?**

1           A.     They -- they were. I believe a  
2     divorce is pending, and I don't know what stage  
3     it's at right now, but there's a lot of  
4     separations. He is no longer and has not for a  
5     while been living at their home.

6           Q.     Does the ongoing divorce have any  
7     impact on the operation of the water company?

8           A.     You know, it shouldn't, but I believe  
9     there's even less cooperation between the two  
10    parties because of the pending divorce, and,  
11    therefore, there were occasions where Denise felt,  
12    Ms. Stoner felt like she needed help with something  
13    and Mr. Stoner did not want to assist. So I'm  
14    afraid -- I'm afraid it probably does have some.

15          Q.     You talked about contact with  
16    customers. What's the mood of the customers?

17          A.     What's the what? I'm sorry.

18          Q.     The mood. Are they having concerns  
19    about the operation of the water company?

20          A.     You know, I think they are. I go  
21    back to when we were doing -- we went to local  
22    public hearing, and we talked informally with a lot  
23    of customers after that hearing. There were a  
24    number of people that had moved there from  
25    St. Louis, and they were -- and some of them were

1 young people, and they were expecting a certain  
2 level of service because that's what they were used  
3 to. They wanted bills electronically, you know,  
4 the -- and they were quite upset they couldn't get  
5 any of those things here with this company because  
6 they hadn't gotten any bills for a long time. We  
7 told those --

8 **Q. You said they're not getting bills?**

9 A. They weren't getting any bills for at  
10 least six months. The company was --

11 **Q. So the company was not getting**  
12 **revenue from them?**

13 A. Huh-uh. No. The company wasn't even  
14 sending a bill out. They weren't reading the  
15 meters. And we learned of all that ahead of that  
16 LPH, so at least -- and then we heard actual  
17 testimony from customers about it. So there were a  
18 lot of concerns about that. That's why billing  
19 became such an important issue to try to get  
20 squared away once they came under our CCN. So we  
21 did talk to customers then.

22 We've looked at the -- we keep an eye  
23 on the complaint logs. We check that. We look for  
24 customer comments. We did contact some of the  
25 customers that had been in touch with one of the

1 prior members of the water and sewer department  
2 that doesn't work in there, but he gave us his  
3 records, and so we were able to contact some of  
4 those customers.

5 I think the overall mood is, and  
6 I'm -- I've talked to -- of the three complainants  
7 that we have in the system, I've talked to all  
8 three of them, too. People are frustrated. People  
9 are actually paying their bills now, and so the  
10 company is getting good revenues in.

11 This Mrs. Jones that's handling it,  
12 she's doing a pretty good job. We're making sure  
13 that she follows the rules, but she's doing a  
14 pretty good job of getting bills out and getting  
15 payments in. But nothing else seems to be going  
16 very well.

17 Q. You also mentioned the people who  
18 might be under the boil order. There was earlier  
19 testimony that nobody really knows who's being  
20 served by that well that's being subjected to the  
21 boil order. How do the customers know whether  
22 they're subject to the boil under?

23 A. That's an excellent question. I know  
24 that the water and sewer folks have been out there  
25 and tried to determine exactly who is this Well

1 No. 7, which is somewhat legendary, I guess. Maybe  
2 at the time the company informed customers, but  
3 that area has a lot of turnover. They get some  
4 Leonard Wood people coming in and out. And they  
5 didn't even know who their customers were when we  
6 started this whole billing process. They actually  
7 had someone go around to each location and ask who  
8 was even living there and found they -- they had  
9 some -- well, they didn't have good records to  
10 begin with, but they found out they didn't know.  
11 So it's hard to --

12 **Q. So is it a situation where really**  
13 **everyone in the system should be assuming they're**  
14 **under a boil order?**

15 A. Well, from, you know, that quality  
16 side of it is not -- is not my expertise. But the  
17 idea of informing customers of what's going on,  
18 that's -- that's a concern. If that well  
19 continued, you know, if they didn't fix it, which I  
20 don't think they did, and that well continues to be  
21 a problem, they should be putting something out on  
22 every bill saying, you know, you are under Well  
23 No. 7 that is under a boil order. That's my  
24 feeling. It should be on every bill to those  
25 particular customers. Now, do they know who those

1 customers are? I'm not sure they do.

2 Q. And you mentioned the consent to  
3 appointment as well. I'll ask you about that. You  
4 may not be the perfect person for it. If not, tell  
5 me. There was a consent filed by the Stoners in  
6 this case file. Did you have any involvement with  
7 that?

8 A. Not really. I had -- I have  
9 continued talking to Mrs. Stoner over issues that  
10 would arise, and then all of a sudden I never would  
11 get any responses back. No phone calls were  
12 returned, no e-mails returned. And I think really  
13 it was our counsel that helped to keep that on  
14 track, and apparently at some point they decided  
15 they were going to do it, they were going to sign  
16 it.

17 Q. Do you know if Staff prepared that  
18 for them or you don't have any knowledge of that?

19 A. I don't -- I think obviously Staff  
20 feels much more comfortable with the fact that the  
21 Stoners have agreed to this and that we are not  
22 going to be fighting over it.

23 To me it says they finally sat down  
24 and looked at what was going on and felt like this  
25 was the best thing even for them. So in that

1 sense, I think that's a good thing. It's certainly  
2 a good thing for the customer.

3 JUDGE WOODRUFF: Let me ask a  
4 question of your counsel. That consent, is that  
5 going to be an exhibit?

6 MR. WESTEN: I am happy to offer that  
7 exhibit. I was going to bring it up at the end in  
8 closing since it's a filed document. It is not  
9 prepared by Staff. It was not prepared by counsel  
10 for Staff. It is not a document that Staff had any  
11 hand in crafting.

12 JUDGE WOODRUFF: I just want to make  
13 sure it gets into the record. Thank you,  
14 Ms. Bernsen. Any recross?

15 MR. SMITH: No.

16 JUDGE WOODRUFF: Redirect?

17 MR. WESTEN: None, thank you.

18 JUDGE WOODRUFF: You can step down.  
19 Call your next witness.

20 MR. WESTEN: Staff's final witness is  
21 Mr. John Dallas.

22 (Witness sworn.)

23 JONATHAN DALLAS testified as follows:

24 DIRECT EXAMINATION BY MR. WESTEN:

25 Q. Can you please state and spell your

1     **name for the record.**

2             A.     Jonathan, J-o-n-a-t-h-a-n, Dallas,  
3     D-a-l-l-a-s.

4             **Q.     And, Mr. Dallas, where are you**  
5     **employed?**

6             A.     I am employed by the Public Service  
7     Commission as a staff member.

8             **Q.     And what are your job duties with the**  
9     **Staff?**

10            A.     I am a utility technical specialist  
11     with the Water and Sewer Department.

12            **Q.     And do you have any specialized**  
13     **training or education?**

14            A.     I have a bachelor's degree in  
15     construction management from the University of  
16     Central Missouri. I also possess my DS1 water  
17     distribution certificate from Department of Natural  
18     Resources.

19            **Q.     And what does a water distribution 1**  
20     **certificate do?**

21            A.     That is DNR's training and  
22     certificate for water operators to assure that they  
23     understand and know how to operate small water  
24     systems.

25            **Q.     What kind of process do you have to**

1 go through to obtain that certification?

2 A. Just to obtain it, you simply have to  
3 take a test, but DNR strongly recommends that you  
4 go through a course training, which could be  
5 anywhere from a day or two to several weeks of  
6 training.

7 Q. And do you have to get continuing  
8 education to maintain that certificate?

9 A. You do. You have to have so many  
10 hours every three years, I believe.

11 Q. And how about prior employment  
12 experience before the Commission?

13 A. Before the Commission, I worked at  
14 the City of Columbia Water and Light as a water  
15 main inspector.

16 Q. What did you do there?

17 A. I oversaw the construction of new  
18 water mains either by contractors or development  
19 companies, and then I was solely responsible for  
20 sampling those water mains and pressure testing to  
21 make sure they were safe for public consumption.

22 Q. Did you have any other history or  
23 experience working with water systems?

24 A. Prior to that I worked for Twehous  
25 Excavating out of Jeff City as a laborer and

1 operator installing water and sewer utilities.

2 Q. So you've had installing and testing  
3 and you're certified to operate these systems and  
4 you now review and investigate them as part of your  
5 Commission duties?

6 A. Yes.

7 Q. This is your first time testifying  
8 before the Commission; is that correct?

9 A. It is.

10 Q. I'm just handing the witness what's  
11 been marked as Staff's Exhibit 12. Have you seen  
12 this document?

13 A. I have.

14 Q. What is it?

15 A. It's a written history of my  
16 education and prior work experience and training.

17 Q. Everything we just talked about?

18 A. Pretty much, yes.

19 Q. Is it a fair and accurate copy of  
20 that?

21 A. It is.

22 MR. WESTEN: At this time Staff would  
23 move to have Staff Exhibit 12 admitted.

24 JUDGE WOODRUFF: Any objection?

25 MR. SMITH: No objections.

1 JUDGE WOODRUFF: Then it will be  
2 received.

3 (STAFF'S EXHIBIT 12 WAS MARKED AND  
4 RECEIVED INTO EVIDENCE.)

5 MR. WESTERN: At this time Staff  
6 would like to ask the Commission please treat  
7 Mr. Dallas as a regulatory expert in water and  
8 sewer utility operations.

9 JUDGE WOODRUFF: He will be treated  
10 as an expert.

11 MR. WESTEN: Thank you, Judge.

12 BY MR. WESTEN:

13 Q. Mr. Dallas, we've been talking about  
14 Ridge Creek Water Company, LLC and Ridge Creek  
15 Development Company, LLC. Are you familiar with  
16 those entities?

17 A. I am.

18 Q. And can you describe how you are  
19 familiar?

20 A. I first became familiar with them a  
21 little over a year ago when I accompanied Mark  
22 Kiesling from consumer management down to help the  
23 previous meter reader, Mr. Shepherd understand how  
24 to properly read the water meters. He was  
25 underreading them by a digit, essentially sending

1 out bills for \$30 instead of \$300 or such.

2 Q. Have you been working with the  
3 company since that time?

4 A. I have been in contact with them  
5 since due to the rate case, the complaint case and  
6 the receivership case.

7 Q. Can you describe what kind of work  
8 you've done during the rate case?

9 A. As part of the rate case, water and  
10 sewer staff has made an inspection of the company's  
11 water facilities, all 22 wells, and the subdivision  
12 and spoken with customers.

13 Q. Can you just, since you -- so you've  
14 actually seen the wells, been at the well houses?

15 A. Yes. We visited all of them.

16 Q. Can you just describe for the record  
17 the condition of the system?

18 A. It is becoming run down rather  
19 quickly. Some of the well houses were never --  
20 construction was never completed. Some of them are  
21 in various states of disrepair, electrical wiring  
22 hanging everywhere. The insides of the walls  
23 received moisture damage and are rotting away.  
24 Insulation is falling out.

25 Q. Is this -- I mean, this doesn't sound

1     **like a good situation for this kind of materials?**

2           A.     No, it's not. They are rotting away  
3     rather fast, at an accelerated rate.

4           **Q.     What should a water corporation do to**  
5     **maintain its wells, its well houses?**

6           A.     They need to -- it looks like most of  
7     the roofs on these need to be repaired so they  
8     become -- to make them a waterproof structure, and  
9     insulation either be added to reinstalled to make  
10    sure they -- in the winter they stay above freezing  
11    so the water lines and the tanks in the well houses  
12    and don't freeze and burst.

13          **Q.     Do you know -- I understand these**  
14    **distribution lines are buried?**

15          A.     Yes.

16          **Q.     So are you able to see what the**  
17    **quality of the buried lines are?**

18          A.     Not the ones that are buried. The  
19    only ones I've witnessed are the actual meter pit,  
20    what's in the meter pit, the setter for the meter.

21          **Q.     And what kind of condition are those**  
22    **in?**

23          A.     They are all -- every one I've seen  
24    is -- appears to be approximately one-inch PVC  
25    pipe, which are prone -- which are rather shallow

1 and prone to freezing and then bursting.

2 Q. Okay. Mr. Dallas, did you take  
3 photos during your site inspection?

4 A. I did.

5 Q. And I'm handing the witness what's  
6 been marked as Staff Exhibit 16. Is that correct?

7 JUDGE WOODRUFF: You already marked  
8 16.

9 MR. WESTEN: Then this will be marked  
10 as Staff Exhibit 17. My apologies.

11 BY MR. WESTEN:

12 Q. Mr. Dallas, do you recognize what  
13 I've just handed to you?

14 A. I do.

15 Q. And what are these?

16 A. They are pictures that I took on our  
17 inspection back in January.

18 Q. And can you look through these and  
19 let me know, are these fair and accurate copies of  
20 the photos that you took?

21 A. They are.

22 Q. And you took those photos yourself?

23 A. I did.

24 Q. And are these -- do these fairly  
25 depict what you observed at the time, these photos?

1           A.     These are very typical of, yes, of  
2 everything we saw that day.

3           Q.     The angle, the view looks like what  
4 you observed?

5           A.     Yes.

6           MR. WESTEN: At this time Staff would  
7 move for the admission of Staff's Exhibit 17.

8           JUDGE WOODRUFF: 17 has been offered.  
9 Any objections?

10          MR. SMITH: No objections.

11          JUDGE WOODRUFF: They will be  
12 received, then.

13                (STAFF'S EXHIBIT 17 WAS MARKED AND  
14 RECEIVED INTO EVIDENCE.)

15 BY MR. WESTEN:

16          Q.     John, can you just take us through  
17 these one by one and tell us what you're looking at  
18 and what that shows?

19          A.     The first picture here is looking  
20 down in a meter pit where we discovered a meter  
21 setter had froze and burst during the -- sometime  
22 in January, approximately, and water is just -- you  
23 can see it's gushing out, but it's not actually  
24 coming out the top of the meter pit. Due to all  
25 the gravel and rocky nature of the soil, it's going

1 subsurface and surfacing elsewhere, just being  
2 absorbed.

3           The second picture is inside of one  
4 of the well houses, and it is an example of just  
5 the mess of wiring. And then in the upper  
6 right-hand corner you can see where the roof is  
7 probably rotted away and some of the insulation has  
8 gotten wet and started to sag down inside the well  
9 house.

10           **Q. That insulation is actually from the**  
11 **roof, not from the walls?**

12           A. Just based on the picture, I assume  
13 that, yes, it's from the roof, I think.

14           And then the final picture is one of  
15 the well houses that had previously been -- we were  
16 guessing that it had been rebuilt sometime prior  
17 just due to all the trash laying around the side of  
18 it. It looked like they tore the old well house  
19 down several years before and then built this new  
20 one but never finished it. You can see there's no  
21 siding on it. It's just simply OSB plywood, which  
22 will rot away quickly.

23           **Q. That was going to be my question is,**  
24 **if it's not finished, is that going to be**  
25 **sufficiently protective of the material and the**

1 equipment?

2 A. Not for very long, no.

3 Q. Are these -- are these pictures  
4 typical of what you saw at the system or are these  
5 just like the worst examples?

6 A. These are very typical. We had many  
7 more to go with this.

8 Q. I want to ask you a little bit more  
9 about the actual inspection you did and your  
10 interactions with the company. So you scheduled --  
11 these photos are from the site visit that you  
12 scheduled for the rate case?

13 A. Yes. Correct.

14 Q. And can you describe how that was set  
15 up?

16 A. I called on, I believe it was  
17 January 10th to set up a site inspection with the  
18 current meter reader, Mr. Bobby Jones. That was  
19 the 10th. I talked to him then. He made me aware  
20 at that time that he was on his way to see a  
21 customer about a low pressure issue. I advised him  
22 then to, yes, make contact with the customer and  
23 try and ascertain what the problem was, was it a  
24 company concern or it could potentially be on the  
25 customer side of the meter and make it a customer

1 issue.

2 Q. Did they know at that time when you  
3 spoke to Mr. Jones?

4 A. He did not. He was on his way then.

5 Q. Do you know if they -- Mr. Jones  
6 found out what the actual issue was?

7 A. Not that day. He contacted me the  
8 following day to let me know that he had made  
9 contact with the customer and was back there again,  
10 and the customer at that time had had a plumber out  
11 and the plumber looked at the issue and actually  
12 pulled the water meter out of the meter pit and  
13 could tell that there was no water coming from the  
14 customer's meter. So the problem was further up  
15 the line in between the meter pit and the company's  
16 well, presumably.

17 Q. Was that the end of the -- was that  
18 the end of the issue?

19 A. At that time we contacted the water  
20 company, Ms. Stoner, and made her aware of the  
21 problem, that she would need to -- either Mr. Jones  
22 would need to fix it or, based on his experience  
23 and knowledge or lack thereof, she would need to  
24 hire a competent plumber or someone to potentially  
25 come and look for the water main break and dig it

1 up and repair it.

2 Q. And the reason why the company would  
3 have to do this rather than the customer is why  
4 again?

5 A. It was apparent that no water was  
6 making it to the customer's meter. So, therefore,  
7 it was on the company's part of the main line or  
8 main.

9 Q. Okay. Was the customer's service  
10 restored when you went out for the site visit?

11 A. It was not. It was our impression  
12 after we talked to the company that they were going  
13 to hire a plumber at that time and remedy the  
14 problem. We went on -- that went on for the rest  
15 of that week.

16 And we were out there the following  
17 Monday, I believe it was, and upon our arrival  
18 Mr. Jones asked if we would like to go visit the  
19 customer who was still without water, and myself  
20 and Mr. Gateley were shocked that that was still  
21 the case. We were under the assumption that it had  
22 been fixed that day that a plumber had been called.

23 Q. Because they had called and said they  
24 were going to hire a plumber?

25 A. The company had stated they were

1 going to hire a plumber that day, and we heard  
2 nothing from a customer or the company in regards  
3 to anything different.

4 Q. Did you find out why that plumber  
5 wasn't able to fix the outage issue?

6 A. I don't believe a plumber ever was  
7 called. To my knowledge at that time, the company  
8 decided to call a well company, who was actually  
9 present when we were there. They thought it could  
10 be a well issue. Apparently some of the wells had  
11 been prone to pumps burning up and going out. They  
12 had a well company on site then looking into the  
13 problem, but they discovered that the well was  
14 functioning properly.

15 Q. But when you were out there, you  
16 discovered that there was no service, did Mr. Jones  
17 or anyone from either company contact the owners,  
18 Mr. Stoner and Mrs. Stoner?

19 A. He did after Staff made him aware of  
20 our great displeasure.

21 Q. Were you present for that  
22 conversation?

23 A. I was not. He was on the phone in  
24 his car.

25 Q. Okay. Do you know if he actually did

1     **contact both Stoners?**

2             A.     I believe he got ahold of both of  
3     them, yes.

4             Q.     Do you know if -- Mr. Jones is just  
5     an employee of the water company; is that correct?

6             A.     That is my understanding, yes.

7             Q.     Do you know if the development  
8     company did anything to try to remedy the  
9     situation?

10            A.     The development company had sent out  
11     its employee, the former meter reader,  
12     Mr. Shepherd, and was out -- supposed to be out  
13     there with the plumber, and they could not fix the  
14     line at that time. They were supposed to be  
15     back -- that's who was supposed to be back the next  
16     day.

17            Q.     And this is prior -- can you identify  
18     when Mr. Shepherd attempted to fix it? Is that  
19     after or before you were out there?

20            A.     That was before we were there.  
21     That's when we were at the understanding that  
22     the -- a plumber was going to be called and fix it,  
23     and then they changed to the well company the next  
24     day.

25            Q.     Did the customer not have water

1     **service this entire time?**

2             A.     They ran -- upon Mr. Shepherd's  
3     arrival, when he realized it was not going to be a  
4     quick and easy fix that after-- it was getting late  
5     in the afternoon, they ran a temporary water  
6     service to the customer's house from the nearby  
7     well.

8             **Q.     Was that the actual well that was**  
9     **providing service to the customer?**

10            A.     It is not the well that provides  
11    service to the customer. At the time it was the  
12    thinking of the company that it was.

13            **Q.     And why was it the thinking and why**  
14    **didn't they actually know?**

15            A.     It was the nearest well to the home.  
16    It was one house away, so it was the general  
17    assumption that this is where they're served from.

18            **Q.     Did they have any kind of**  
19    **documentation which showed which line went to which**  
20    **home?**

21            A.     They do not.

22            **Q.     Mr. Dallas, would a map of the**  
23    **subdivision of this customer assist kind of in**  
24    **discussing?**

25            A.     It would.

1           Q.     Okay. With the Commission's leave,  
2 I'd like to put up a document on display. Let me  
3 first show it to opposing counsel.

4           Mr. Dallas, can you describe what  
5 you're looking at?

6           A.     An aerial image of part of Ridge  
7 Creek Subdivision.

8           Q.     And do you know, does this appear to  
9 be a fair and accurate depiction of the layout of  
10 the area that you're discussing?

11          A.     It does, yes.

12          MR. WESTEN: And with the  
13 Commission's leave, could I please put it up on the  
14 screen so you can all see?

15          JUDGE WOODRUFF: You may.

16 BY MR. WESTEN:

17          Q.     Mr. Dallas, can you identify the  
18 customer's home?

19          A.     It's the last home at the end of the  
20 street right here (indicating).

21          Q.     And can you identify the well that  
22 they believed was serving that customer's home?

23          A.     You can just barely see it in the  
24 shadow of the house right here (indicating).

25          Q.     So that little dot?

1           A.     That little dot right there. It's  
2 not much bigger than a doghouse.

3           Q.     Okay. Where's -- is the well that  
4 actually serves that customer on this map?

5           A.     It is.

6           Q.     Can you identify where it is?

7           A.     I can point approximately where it is  
8 from my knowledge, but you can't see it on this  
9 aerial.

10          Q.     Okay. So where is it approximately  
11 located?

12          A.     Way up here, approximately right here  
13 (indicating).

14          Q.     And that's the well that ultimately  
15 ended up serving that customer?

16          A.     Correct. Yes.

17          Q.     Was either company aware of that at  
18 the time that you and Mr. Gateley were doing your  
19 site visit?

20          A.     They were not. They had no clue.

21          Q.     Can you describe ultimately how that  
22 was resolved, how that customer's service was  
23 restored?

24          A.     Upon our inspection, once leaving the  
25 customer's home, we went up to -- Well 22 is the

1 one up in the woods to the north there. It was one  
2 of the wells we still had to visit. We stopped up  
3 there. Mr. Jones stated that the house way up  
4 there at the end of the gravel road, the furthest  
5 to the north, was vacant. It was the only one that  
6 was fed off of that well, so the meter was pulled  
7 from that meter pit, which is actually the first  
8 picture here, the leaking water meter.

9 Q. So Staff's Exhibit 16, that first  
10 photo was the meter that's located at that vacant  
11 home?

12 A. Yes. I believe it's Exhibit 17.

13 Q. I'm sorry. Exhibit 17. Thank you.

14 A. Yes. Upon exiting our vehicle, when  
15 we got out I could hear water running. So that set  
16 off alarms immediately in my mind. And I walked  
17 over to the meter pit which was visible right by  
18 the edge of the road and lifted -- I removed the  
19 lid and this is what I saw.

20 Q. How far were you from the meter  
21 setting when you stopped the vehicle, first stepped  
22 out and heard the water?

23 A. 25 foot approximately.

24 Q. So far enough distance that it had to  
25 be fairly loud?

1 A. Yes. It was audible.

2 Q. And that was with the lid on it even?

3 A. Yes.

4 Q. So how did this leaking meter relate  
5 to the customer without water?

6 A. This meter leaking and the customer  
7 being hooked into the same well, as far as I know,  
8 they're the only two homes fed off of it. When the  
9 company was under the impression just the single  
10 home up there to the north was fed from this well.  
11 By this meter leaking this much, the well was not  
12 able to pump water down the hill and back up  
13 another hill to the customer with low pressure  
14 concerns.

15 Q. How did the -- well, do you know  
16 which company ultimately fixed the issue for the  
17 customer?

18 A. I believe the development company  
19 finally hired a plumber to come out and look, to  
20 fix this problem after many phone calls from Staff  
21 and voicemails. That plumber had -- knew the  
22 actual plumber who installed the system, so he made  
23 a phone call, I believe, to him to ask and try and  
24 gain information, and that is the plumber that  
25 said, oh, this house is actually hooked way back

1 here to Well 22.

2 Q. So it wasn't -- that information came  
3 from a plumber that another plumber called and not  
4 from anyone --

5 A. That's my understanding, yes. That's  
6 what we were told by the company.

7 Q. So how did this ultimately restore --  
8 how did this fix ultimately restore service to the  
9 customer?

10 A. It's hard to see in this picture, but  
11 all that was required to fix this was a new piece  
12 of pipe and a little bit of glue and the water to  
13 be shut off at that well.

14 Q. How long would that have taken?

15 A. If you had parts on hand,  
16 approximately 15 or 30 minutes.

17 Q. And how long was the customer without  
18 water?

19 A. 14 days, I believe.

20 Q. Is there some kind of safety  
21 procedure that the company would have follow once  
22 they restored water service?

23 A. Yes. Any time you drop below water  
24 pressure below 20 PSI in a water main, you should  
25 have to -- DNR requires you to re-hydrochlorinate

1 it, and then two consecutive days of passing  
2 samples.

3 Q. Do you know if that occurred in this  
4 case?

5 A. I do not believe it did.

6 Q. Have you had any other customer  
7 complaints or heard of any other customer  
8 complaints about service at the system?

9 A. We've had several other similar  
10 instances that did not take two weeks to get  
11 remedied but multiple other water meters, water  
12 service lines freezing in the cold months after  
13 this.

14 Q. Do you have any idea why it took  
15 nearly two weeks for this one fix to get resolved?

16 A. It essentially took that long to  
17 be -- the company was unwilling to call a competent  
18 plumber to look into the issue, or the company --  
19 and the company also did not know which customer  
20 was served from which well or where their lines  
21 run.

22 Q. The two -- you mentioned two  
23 different employees, Mr. Jones and -- I believe  
24 Ms. Bernsen spoke to this, but do you know  
25 Mr. Jones' training or background? Is he

1     **certified? Is he a plumber at all?**

2             A.     In speaking with and working with  
3     Mr. Jones, he's very willing to get out there and  
4     work, but he does not -- to my knowledge he does  
5     not have a -- he's stated he does not have any  
6     certificate from DNR to be a qualified water  
7     operator for this system. He's simply a  
8     maintenance man for a local college. Works nights  
9     there.

10            **Q.     The other employee, you mentioned a**  
11     **Mr. Shepherd. Do you know if he has any kind of**  
12     **training or certifications?**

13            A.     He was a formal - the employee of the  
14     development company and the former meter reader for  
15     the company. He just simply works at the car  
16     washes and then I think does some handyman work  
17     around the rental properties the development  
18     company owns, but he is not trained by DNR.

19            **Q.     Mr. Dallas, in your expert opinion,**  
20     **do you think either company is able or willing to**  
21     **provide safe and adequate service?**

22            A.     I do not, no.

23            **Q.     And why not?**

24            A.     It's -- they've been without a water  
25     operator for more than a year. They've got a well

1     that's E-coli positive, one of the worst things you  
2     can have in the water. When you run a test, that's  
3     what you do not want to see is it to show E-coli  
4     positive. They've had more than a year to correct  
5     these measures and, to the best of my knowledge,  
6     they have made no effort whatsoever to hire.

7             **Q.     Do you think that, if given more**  
8     **time, they would be able to correct and become**  
9     **compliant?**

10            A.     No, I do not.

11            **Q.     And why not?**

12            A.     They've had over 12 months to do  
13     those things, which to hire a water operator you  
14     simply have to go on DNR's website and they have a  
15     list of people willing to -- this is my job, this  
16     is what I want to do, I want to be a contract  
17     operator. You just need to call them.

18                   MR. WESTEN: No further questions.

19                   JUDGE WOODRUFF: Any questions from  
20     Public Counsel?

21                   MR. SMITH: No questions.

22                   JUDGE WOODRUFF: Chairman.

23                   CHAIRMAN HALL: A few.

24     QUESTIONS BY CHAIRMAN HALL:

25             **Q.     Hello.**

1 A. Hi.

2 Q. So how many of the 22 wells did you  
3 visit?

4 A. We visited all 22.

5 Q. So you inspected all 22?

6 A. Yes. And they're all of similar  
7 construction, similar design, similar build.

8 Q. Including Well 7?

9 A. Yes.

10 Q. Was there anything different or  
11 unique about Well 7 compared to the other 21?

12 A. No, nothing different.

13 Q. Do you have any understanding as to  
14 why the water coming from Well 7 tested positive  
15 for e-coli and coliform?

16 A It could have been contaminated some  
17 way. Something could have got into the water. It  
18 could simply be the water supply, which would  
19 therefore mean potentially all other 21 wells could  
20 be contaminated. That's, I believe, DNR's concern,  
21 because DNR has an agreement if one well tests  
22 positive for E-coli, they will not only have to  
23 chlorinate that well, but all 21 other wells shall  
24 be chlorinated.

25 Q. So pardon my ignorance about this,

1 but the water that's coming out of Well 7, is that  
2 the same water supply that is -- that is being  
3 accessed in the other 21 wells?

4 A. If the other wells are drilled to the  
5 same approximate depth, potentially, yes, it is.  
6 Theoretically, yes, it would be the same water.  
7 Without knowing the geology of the well and how  
8 deep they went on all of them, I could not say for  
9 sure.

10 Q. So it is a legitimate concern of  
11 yours and Staff that the violations on Well 7 are  
12 also occurring on the other 21 wells?

13 A. Without monthly sampling that DNR  
14 requires, yes, that's our concern is every -- all  
15 21 other wells could be. If they were taking their  
16 monthly samples, though, you would be proving that,  
17 no, the water is safe to drink. That's why they  
18 require every month to take, I believe, probably  
19 two samples from these wells since they are such a  
20 small population served by each.

21 Q. And do you know what -- what are the  
22 health concerns related to E-coli and coliform?

23 A. Not specifically. It would basically  
24 be stomach issues could be -- would be your primary  
25 concern. A lot of times people may misinterpret,

1 oh, I ate something bad, when in reality you could  
2 have had some waterborne illness from a coliform  
3 test positive or E-coli's a little longer lasting  
4 effect. It's the big one that you don't want to  
5 have.

6 CHAIRMAN HALL: I have no further  
7 questions. Thank you.

8 QUESTIONS BY JUDGE WOODRUFF:

9 Q. On that map, on the photograph behind  
10 you, is Well 7 on that map?

11 A. No, it is not. This is the older  
12 part of the development. The development's  
13 actually split into sections. Well 7 is to the  
14 north and west of here. I could point it out if we  
15 pulled it up on Google Earth.

16 Q. That's not necessary. But you  
17 mentioned that, I think you said it was Well 22 was  
18 a good distance away from the customer?

19 A. Yes.

20 Q. And nobody had any idea he was being  
21 served off of Well 22?

22 A. No. I mean, just pointing here,  
23 Well 22 is way up here. So Staff's assumption, the  
24 company, I think even DNR's assumption was this was  
25 the only house that would be served by it. Nobody

1 ever dreamt that this house right here would be  
2 served by it when there's a well one property away.

3 Q. So the same thing could be true of  
4 Well 7?

5 A. It could be, but Well 7 is more in an  
6 area like this where it's built out. So we  
7 would -- I would guess that Well 7 just serves like  
8 a cluster here, that it would not bypass houses to  
9 another one.

10 Q. But nobody knows for sure?

11 A. Nobody knows for -- I mean, without  
12 digging up lines or -- you know, I guess  
13 potentially the company could shut off that well  
14 and then go see who was without water is how you  
15 would determine. To my knowledge, they have not  
16 done anything like that.

17 Q. And you mentioned that if one of the  
18 wells is contaminated, all the wells are supposed  
19 to be chlorinated?

20 A. That is -- DNR has a -- I'm not sure  
21 what the term of the agreement is that DNR has with  
22 Ridge Creek right now, but they are in violation of  
23 it because they have not chlorinated Well 7. But  
24 that was DNR's understanding of how their agreement  
25 was wrote. They may be willing to back pedal on

1 that agreement if I think somebody got in there and  
2 took samples and proved that the other 21 wells do  
3 have safe water and they don't test positive.

4 Q. So none of the wells have a  
5 chlorinator at this point?

6 A. No. There was a chlorinator on  
7 Well 7 for a short period of time that was a loaner  
8 from DNR, but they took it back.

9 Q. Okay. What's involved in actually  
10 adding chlorination to a well?

11 A. That would depend on what DNR  
12 requires. If they were to require contact time,  
13 which mean the chlorine would have to be in the  
14 water for so many minutes before it makes it out  
15 into the distribution system for consumption, and  
16 that would be done by an engineer from DNR and I'm  
17 not sure if they have crunched the numbers on it or  
18 not.

19 Q. Would you have to have a storage tank  
20 or something?

21 A. Potentially, yes.

22 JUDGE WOODRUFF: Okay. I have no  
23 other questions. Any recross?

24 MR. SMITH: None.

25 JUDGE WOODRUFF: Redirect?

1 MR. WESTEN: Just one quick question.

2 REDIRECT EXAMINATION BY MR. WESTEN:

3 Q. You said, you mentioned an agreement  
4 between the companies and DNR and you were  
5 searching for the term. Is the term that you were  
6 searching for an abatement order or consent?

7 A. I believe it is, yes.

8 Q. Okay. And do you know if the  
9 companies actually signed such an agreement?

10 A. I believe they have, yes, and they're  
11 in violation of it.

12 MR. WESTEN: Thank you. No further  
13 questions.

14 JUDGE WOODRUFF: All right. You can  
15 step down.

16 MR. WESTEN: Judge, the only other  
17 witness that Staff could call is Mr. Jim Busch if  
18 the Commission thought he would be appropriate to  
19 discuss past receiverships or Mr. Jarrett, but at  
20 this time Staff has no other witnesses in chief for  
21 its receivership case.

22 JUDGE WOODRUFF: Any questions for  
23 Mr. Busch?

24 CHAIRMAN HALL: Yeah, very briefly.

25 JUDGE WOODRUFF: Mr. Busch, come on

1 up.

2 MR. WESTEN: Before he takes the  
3 stand, can we have just a brief recess of just a  
4 few minutes?

5 JUDGE WOODRUFF: Sure. Let's take  
6 about ten minutes. We'll be back at 12:05.

7 (A BREAK WAS TAKEN.)

8 JUDGE WOODRUFF: All right. We're  
9 back from our break.

10 (Witness sworn.)

11 JAMES BUSCH testified as follows:

12 DIRECT EXAMINATION BY MR. WESTEN:

13 Q. Can you please state and spell your  
14 name for the record?

15 A. My name is James Busch. Busch is  
16 spelled B-u-s-c-h.

17 Q. And are you currently employed?

18 A. I am.

19 Q. Who are you employed with?

20 A. I am employed by the Missouri Public  
21 Service Commission as the manager of the Water and  
22 Sewer Department.

23 Q. How long have you been in that  
24 position?

25 A. I have been in that position just

1 over nine years.

2 Q. And have you done regulatory work  
3 prior to being the manager?

4 A. I first started working at the Public  
5 Service Commission in 1997, so I have just over 20  
6 years experience in the field of utility  
7 regulation.

8 Q. Is that all primarily with water and  
9 sewer or from various utilities?

10 A. No. My first couple years at the PSC  
11 Staff I worked in the procurement analysis  
12 department, looking at natural gas issues. After  
13 that I went to the Office of Public Counsel. I  
14 worked there for about five years. These were all  
15 as economists. At Public Counsel I worked on all  
16 four industries. I worked in electric, gas,  
17 water/sewer and telecommunications.

18 After my employment ended there, I  
19 came back to the Staff. I worked in the energy  
20 department starting in April of 2005. I worked in  
21 the energy department until February 1st of 2008  
22 when I assumed my current duties.

23 Q. So you've got a lot of experience in  
24 all the different utility types?

25 A. Yes, I have a lot of experience.

1           **Q.     And you mentioned that you're trained**  
2     **as an economist. Can you just briefly discuss your**  
3     **education and training?**

4           A.     I have a bachelor of science and a  
5     master's of science degree in economics from The  
6     Southern Illinois University at Edwardsville. I  
7     have been a member of the adjunct faculty at  
8     Columbia College teaching micro, macro and  
9     managerial economics both in-seat and online, and  
10    I've also taught at Stephens College,  
11    macroeconomics classes.

12          **Q.     Do you have any other specialized**  
13    **training and certifications?**

14          A.     I don't have any other specialized  
15    training or certifications. I am also a board  
16    member of a local credit union.

17          **Q.     The experience you've had as the**  
18    **department manager, can you kind of just give a**  
19    **brief history of receivership cases? Can you kind**  
20    **of just discuss how Staff has previously addressed**  
21    **receivership cases?**

22          A.     I will not address the three or four  
23    cases that were prior to my appointment as the  
24    manager. Since 2008 we have put or have asked to  
25    have put into receivership Gladlow water and sewer

1 utility. We have put -- asked to put in Mill Creek  
2 sewer utility, NPB and PCB, which are sewer  
3 utilities. And then we've also had some dealings  
4 with Rogue Creek. It had been in receivership.  
5 We've had to move some receivers around.

6 As you pointed out, Mr. Westen, in  
7 your opening, this is the one aspect of our job  
8 that we take as serious as any others. Taking a  
9 company away from the owners and putting it into  
10 receivership is something that Staff does not take  
11 very lightly. We spend many hours working with the  
12 companies, weeks, months. We work with the  
13 Department of Natural Resources, generally  
14 speaking, because by the time it gets to that level  
15 the systems are in really bad shape and probably  
16 have some sort of violations of DNR rules and  
17 regulations.

18 And so we try to work with and try to  
19 find solutions with the current ownership or maybe  
20 find somebody else who might be willing to take  
21 over ownership, work on trying to find somebody  
22 who's willing to purchase that system to -- who has  
23 the capabilities of operating it properly and  
24 providing safe and adequate service.

25 When all those are exhausted, then

1 Staff -- and I do say Staff. I work together with  
2 the auditing department, with the CMAU department.  
3 I work with finance. I work with -- we work  
4 with -- all departments work together to come up to  
5 a final determination that we think a company  
6 should go into receivership. We bring it up to  
7 senior management, and then that decision is made  
8 to go forward.

9 Q. How are receivers found by Staff or  
10 do they approach Staff? How does that work?

11 A. It's my understanding that the  
12 original -- one of the original receivers was  
13 appointed by the circuit court. Wasn't even done  
14 by Staff. And then I think that gentleman was  
15 utilized for a couple other receiverships before I  
16 got my role.

17 The Row Creek receivership, the  
18 gentleman who took over that receivership  
19 originally worked with the company, was like a --  
20 he might have been a certified operator.  
21 Definitely was a maintenance person with that.  
22 Unfortunately, he passed away, and then his wife  
23 became the receiver, then she was unable to do it.  
24 That's when we found another person.

25 Mr. -- Heartland Utilities is a

1 receiver for two of our systems, Gladlow and Mill  
2 Creek. It's a Missouri utility but the ownership  
3 is out of Colorado. And somewhere along the line  
4 Mr. Williamson, who is the owner, and I became  
5 acquainted with each other. He owns and operates  
6 systems in the Colorado and Arizona area, and he'd  
7 indicated some desire to be receivership. And so  
8 Staff had utilized Mr. -- Heartland Utilities,  
9 Mr. Williamson's company.

10 At one point in time I made some  
11 inquiries to different agencies, one being Missouri  
12 Rural Water Association, asking for anybody who  
13 might be willing to be a receiver. We got a couple  
14 of people, a couple of names of people who might be  
15 willing, but it's people we were not familiar with.  
16 We asked some of our other receivers, we asked some  
17 of our other companies and operators, and nobody  
18 was really interested in being receivers.

19 One receiver that we've utilized is  
20 Mr. Dale Johansen, part of Johansen Consulting. He  
21 was a former manager. As you pointed out,  
22 Mr. Westen, Mr. Jarrett reached out to me three or  
23 four years ago indicating that if there was ever  
24 another need for receivership, that he might be  
25 interested.

1                   Generally speaking, when you have  
2     these systems that are in dire need, we need to  
3     have very good communication with the receiver. We  
4     have to be in constant contact with them to know  
5     what's going on.

6                   So one aspect that Staff really  
7     considers is what's the chance, what's the ability  
8     that we're going to be able to be in contact and  
9     that person's going to respond to us when there's a  
10    situation. When you have somebody else who just  
11    kind of sends you, hey, I might be interested, but  
12    you have no idea who they are, if the going gets  
13    tough we may not be able to get ahold of them.

14                  And so that's a very big concern with  
15    Staff because, as we've heard today, having contact  
16    with the person who's in charge of the system is  
17    very important. We don't think they can always  
18    solve all the problems because of limited  
19    resources, but being able to contact and be in  
20    constant communication is a very important factor.

21                  Plus somebody who is familiar with  
22    how the Public Service Commission works. This is a  
23    very unique agency. What we do is different. Most  
24    people have no idea what we do and how they have to  
25    deal with Staff, how to go through a rate case, how

1 to get rates increased, how to have to come in  
2 front of the Commission. That is specialized  
3 knowledge that I value highly. And also has to be  
4 familiar with the Department of Natural Resources  
5 because they're going to have to work with the  
6 Department of Natural Resources, understand what  
7 the requirements are from the Department of Natural  
8 Resources.

9 So there's two distinct regulatory  
10 agencies in Missouri that need -- the person who's  
11 in charge has to have, you know, some knowledge of  
12 that when we're going to make a receiver. So those  
13 are two other aspects that we look for as well.

14 **Q. Mr. Busch, in this instance, did**  
15 **Staff review other options other than receivership**  
16 **prior to filing this petition?**

17 **A.** Yes. We -- as has been mentioned in  
18 other previous cases, we have a listing of  
19 companies that do -- are interested in purchasing  
20 small water and sewer systems. We reached out to  
21 all of them and said, are you interested in  
22 purchasing those systems or this -- the Ridge Creek  
23 system? We got zero indication that any of those  
24 people were willing at that time to purchase the  
25 system.

1                   As was mentioned earlier as well, the  
2     system is very near the cities of St. Robert and  
3     Waynesville. We've reached out to especially the  
4     city of St. Robert. We had communications with the  
5     city manager trying to find a way if their -- a way  
6     that they could purchase, take over the system.

7                   But it's a -- as Mr. Dallas pointed  
8     out, there's some areas that are in between and  
9     where the city of St. Robert comes and this  
10    development, there's going to have to be a lot of  
11    construction to get those two things connected.

12                  We even talked to the city of  
13    St. Robert if they'd be willing to contract operate  
14    the system because they're right there local, and  
15    again we -- I understand it's very difficult for a  
16    municipality to take over the operations of a  
17    system that's not even in their city limits.

18                  So I respect the fact that they  
19    reached out and talked to us and that they were  
20    interested, but ultimately I completely understand  
21    about a municipality not wanting to burden their  
22    citizens for a system that doesn't really include  
23    in their city limits.

24                  **Q.     In your opinion, do you believe Staff**  
25    **has exhausted all of the other possibilities that**

1     **exist to try to bring the system back into**  
2     **compliance?**

3             A.     I do. I wouldn't have brought it up  
4     to my boss to bring it in front of the Commission  
5     if we hadn't exhausted everything possible before  
6     we took this action.

7             Q.     In the previous receivership cases,  
8     had the companies that owned or operated, had they  
9     already abandoned the system? Had they notified  
10    Staff somehow that they were ready for  
11    receivership? How had previous companies  
12    approached being -- receiving a receivership  
13    petition?

14            A.     The ones that I'm most familiar  
15    with --

16            Q.     Yes, just the ones you have knowledge  
17    of.

18            A.     Gladlow is the first one that we  
19    brought this type of action to, and that owner sold  
20    it to a very young man who had zero desire to be a  
21    water/wastewater owner. Again, we worked with this  
22    young man to try to make him understand what needed  
23    to be done. We couldn't reach him, had a very  
24    difficult time reaching him.

25                    After a while when he just -- there

1 were issues going on at that system. We could not  
2 reach anybody to do anything, and so we felt that  
3 he effectively abandoned the system. We brought an  
4 action in front of the Commission. He never  
5 responded to any of the notifications that were  
6 sent out, and a receivership was ultimately  
7 appointed.

8 The next one was Mill Creek. Again,  
9 the person who had ownership of it had purchased it  
10 or was given to them from the previous owner, a  
11 developer in the St. Louis County area. Had DNR  
12 violations. Had not paid DNR bills. Had not paid  
13 bills, assessments from PSC. We had previous cases  
14 trying to get the company to pay.

15 Again, had problems with that  
16 gentleman responding to Staff. We had a rate case.  
17 Our auditing Staff could not get in touch with him.  
18 They tried. They worked with him. And eventually  
19 same situation where we eventually went for a  
20 receivership. The gentleman never did respond to  
21 any of the inquiries. We actually had a hearing,  
22 and we had to put on some evidence. He never did  
23 show up and we were good to go.

24 NPB and PCB, those are two very  
25 similar companies. They're owned by the same

1 people. Very much -- they were owned by two  
2 gentlemen, and then when they got out of the  
3 business, they gave the systems to one of the  
4 gentlemen's son and daughter. They ran it for a  
5 while, but again they got tired of running it and  
6 all that.

7                   They approached Staff about wanting  
8 to get out of the business. We told them they had  
9 to continue until we could find appropriate place.  
10 We tried to find people who would purchase the  
11 system. Nobody wanted to purchase the system. And  
12 then we went ahead and asked for a receivership and  
13 the receivership was appointed.

14               **Q.     If any of those cases, did any of the**  
15 **prior owners actually file in those cases a consent**  
16 **saying that they were agreeing to receivership?**

17               A.     The only one that was similar would  
18 be the NPB and PCB owners which sent an e-mail, and  
19 I believe it came straight to me, saying that we no  
20 longer wish to provide safe and adequate service  
21 and will abandon the system.

22                   This case, we actually did get a  
23 letter filed from the owners, Mr. and Mrs. Stoner,  
24 of both the development company and Ridge Creek  
25 Water Company, that they are effectively abandoning

1 it. We have been in contact with them and through,  
2 as pointed out, the attorney who they had hired at  
3 the CCN case who was basically doing free work for  
4 them and the engineer, you know, they had talked  
5 about going into receivership in the past. So that  
6 was another reason we kept waiting, if we can get  
7 something like that. Then they would keep going  
8 back and forth, and eventually, to our surprise,  
9 this was filed.

10 Q. I'm going to mark this as Staff's  
11 Exhibit 17 -- 18. I appreciate everyone keeping  
12 track. This is the document that was filed in EFIS  
13 on April 14th. Mr. Busch, do you recognize this  
14 document?

15 A. I do.

16 Q. And what is it?

17 A. This is the filing from Mr. and  
18 Mrs. Stoner as members of both the Ridge Creek  
19 Water Company, LLC and Ridge Creek Development, LLC  
20 that indicate that they are giving their consent  
21 and agreement to the Commission granting an order  
22 of appointing Mr. Jarrett to be a receiver, interim  
23 receiver.

24 Q. This appears to be a fair and  
25 accurate copy of that document filed in EFIS?

1           A.     Yes, it does.

2                     MR. WESTEN:  It's filed and signed by  
3     the parties to this case.  I'd like to move for its  
4     admission.

5                     JUDGE WOODRUFF:  Exhibit 18 has been  
6     offered.  Any objection?

7                     MR. SMITH:  No objection.

8                     JUDGE WOODRUFF:  It will be received.

9                     (STAFF'S EXHIBIT 18 WAS MARKED AND  
10    RECEIVED INTO EVIDENCE.)

11    BY MR. WESTEN:

12                    Q.     Mr. Busch, has any document like this  
13    ever been filed in a receivership case on behalf of  
14    a party that you were familiar with?

15                    A.     I am not familiar with that, no.

16                    Q.     And is this document, does it appear  
17    to be on behalf of both entities, Ridge Creek Water  
18    Company, LLC and Ridge Creek Development, LLC?

19                    A.     It does.

20                    Q.     Is there any reason -- do you have  
21    any reason to believe, based on your experience  
22    with these companies, that this document does not  
23    actually purport to say what it does or that they  
24    will not follow up with this document?

25                    A.     I'm sorry.  Could you repeat that a

1 little bit, please?

2 Q. Yes. Do you have any reason to  
3 believe, based on your experience with this  
4 company, that this document will not be followed by  
5 the Stoners or the companies?

6 A. I believe this document will be  
7 followed by the Stoners.

8 Q. Mr. Busch, based on your experience  
9 with Mr. Jarrett, do you believe that he's  
10 qualified to operate as a receiver these two  
11 systems?

12 A. I believe he is, yes.

13 Q. And do you think that he's going to  
14 be able to fix the numerous problems or at least be  
15 able to address the numerous problems that are  
16 currently here?

17 A. I believe he will. As he pointed out  
18 when he testified earlier today, that he is already  
19 in contact with an organization that Staff is  
20 familiar with to take over the contract operations  
21 and to -- has engineering abilities and backgrounds  
22 that will be able to look at all the various  
23 problems that are going on at Ridge Creek and will  
24 be able to address them.

25 Will it happen overnight?

1 Unfortunately, it won't happen overnight. But I  
2 believe he understands what needs to be done, and  
3 he went out and looked and was able to find an  
4 entity that will help solve these problems, which  
5 is a very big positive from Staff's perspective.

6 Q. So in your opinion, you believe that  
7 Mr. Jarrett is qualified and capable and is going  
8 to be able to at least, if he is appointed, able to  
9 start to turn the system around?

10 A. I think he will, yes.

11 MR. WESTEN: Staff has no further  
12 questions.

13 JUDGE WOODRUFF: Public Counsel?

14 MR. SMITH: No questions.

15 JUDGE WOODRUFF: From the Bench.

16 QUESTIONS BY CHAIRMAN HALL:

17 Q. Good afternoon.

18 A. Good afternoon, sir.

19 Q. Do you have before you the fee  
20 schedule that was earlier submitted as an exhibit?  
21 I don't remember the number.

22 A. Exhibit 16. Yes, I have it. I have  
23 that, yes.

24 Q. How does this compare to the fee  
25 schedules in place or that were in place with prior

1     **receivers?**

2             A.     It is very similar to those fee  
3     schedules. I know I let Mr. Jarrett know of some  
4     of the previous cases where we've had receiverships  
5     and what was put out at the circuit court for the  
6     circuit court's approval. And I've reviewed those,  
7     and they are very similar to what we've seen in the  
8     past.

9             Q.     So would you say, in fact, that these  
10    **numbers are at least in part based upon prior fee**  
11    **schedules approved by the Commission in prior**  
12    **receivership cases?**

13            A.     Yes, that is correct.

14            Q.     Would you anticipate Mr. Jarrett  
15    **needing to provide testimony for regulatory**  
16    **hearings, court cases or legislative hearings?**

17            A.     I hope not. I don't anticipate that,  
18    and I hope that it never gets to that point. But  
19    there could be a situation where Mr. Jarrett has to  
20    file a rate case, and his testimony may be required  
21    at a rate case or a regulatory hearing at that  
22    level.

23            Q.     Well, by that point he would be a  
24    **court-appointed receiver working upon a schedule**  
25    **set by the court; is that correct?**

1           A.     Right. But I would -- usually what  
2 happens is the fee schedule that we put forth in  
3 front of the Commission is the same fee schedule  
4 that goes in front of the circuit court, if that  
5 makes sense.

6           Q.     What is the basis for the \$120 rate  
7 for investigation and field work and only \$60 an  
8 hour for general consultation, basic research,  
9 et cetera?

10          A.     I believe that that basis, the  
11 difference in the rate is to the level of work that  
12 will be required by the receiver, that the -- the  
13 initial reviews is more just kind of, I don't want  
14 to say simplistic, but more -- just a review, just  
15 normal day-to-day operations. And when you get  
16 into the investigation, the inspection, the field  
17 work, that's going to require a higher level of  
18 effort by the receiver.

19                 And I would also point out, because  
20 this is -- this is the fee schedule, but there's  
21 also -- there's a monthly compensation that is not  
22 a part of the fee schedule of \$1,000, which covers  
23 up to 12 hours of work. So anything up to 12 hours  
24 of work will be covered by a monthly compensation,  
25 which is also very similar to other arrangements

1 that receivers have.

2 Q. It's my understanding that if we were  
3 to grant the request sought by Staff, we would need  
4 to set a compensation schedule for -- compensation  
5 schedule for Mr. Jarrett, and it was also my  
6 understanding that that was to be based upon this  
7 Exhibit 16. Is there some other compensation?

8 MR. WESTEN: Commissioner, the e-mail  
9 that is on the front end of that document actually  
10 includes that piece. I did not offer that as an  
11 exhibit. I thought it was just introductory. That  
12 is my oversight. I'd be happy to offer that into  
13 evidence at this time.

14 CHAIRMAN HALL: Right.

15 JUDGE WOODRUFF: All right. The  
16 e-mail attachment to Exhibit 16 which was  
17 previously not offered has been offered. Any  
18 objection to its receipt?

19 MR. SMITH: No objection.

20 JUDGE WOODRUFF: It will be received.  
21 So all of 16 is now in evidence.

22 (STAFF'S EXHIBIT 16 WAS RECEIVED INTO  
23 EVIDENCE.)

24 THE WITNESS: I apologize for not  
25 making that clear to my counsel. That's my fault.

1 MR. WESTEN: That's my oversight.

2 CHAIRMAN HALL: I have no further  
3 questions. Thank you.

4 QUESTIONS BY JUDGE WOODRUFF:

5 Q. I have a question. There's currently  
6 a rate case pending for this company. Will that  
7 proceed?

8 A. Yes. It is Staff's desire that that  
9 case will continue. Hopefully we get an Order  
10 appointing Mr. Jarrett as the receiver and then we  
11 can make sure we build in the appropriate fees into  
12 the rate case so that we have Mr. Jarrett starting  
13 off on a positive footing.

14 Q. And then my final question is a more  
15 general question about the goals of the  
16 receivership. Would ultimately Staff expect that  
17 this system be sold to some other buyers or will it  
18 be put in shape and returned to the current owners?

19 A. I would -- we don't know what the  
20 future holds, but it is our anticipation that this  
21 would be eventually sold to other buyers.

22 Q. Are other buyers going to be willing  
23 to take over 22 wells?

24 A. We hope so.

25 JUDGE WOODRUFF: Okay. That's all

1 the questions I have, then. Any recross from  
2 Public Counsel?

3 MR. SMITH: No.

4 JUDGE WOODRUFF: Redirect?

5 MR. WESTEN: No, your Honor. Thank  
6 you.

7 JUDGE WOODRUFF: Anything else from  
8 Staff?

9 MR. WESTEN: That closes our case in  
10 chief. Thank you.

11 JUDGE WOODRUFF: Anything from Public  
12 Counsel?

13 MR. SMITH: Yes. So first I wanted  
14 to clarify something I said in my opening  
15 statement. We've checked internally, and our  
16 office has not received any customer comments. The  
17 letter to which I referred was for another case,  
18 and I apologize for that oversight.

19 At this time Office of Public Counsel  
20 feels that there's adequate testimony and evidence  
21 in the record, and that putting forward Ms. Roth,  
22 although she has prepared, would be duplicative.  
23 Many of the, if not all of the topic areas we were  
24 going to cover have already been covered in the  
25 record. And our suggestion would be that we do not

1 offer her as a witness, but we would also defer to  
2 the Commission. If they have an interest, we'd be  
3 happy to put her on the stand.

4 JUDGE WOODRUFF: I don't think it's  
5 necessary to bring her up.

6 MR. SMITH: Nothing further.

7 JUDGE WOODRUFF: Then we'll do  
8 closing statements, and we will not need briefs in  
9 this case. You may not have noticed, but there is  
10 actually an order on agenda for tomorrow. It has  
11 not been written yet, but it will be on agenda for  
12 a vote.

13 MR. WESTEN: Thank you, Judge. I  
14 will have a very brief closing argument. I'll be  
15 very brief.

16 First off, I appreciate the time and  
17 the attention that you provided to this case today.  
18 I know that over the past several months Staff has  
19 spent a lot of time working on these issues, trying  
20 to address these issues with the companies, and it  
21 is, as Mr. Busch has said and as stated by the many  
22 witnesses earlier, this is a process that did not  
23 happen overnight. This was not a decision that was  
24 made overnight, and Staff would not be bringing  
25 this request if we did not feel it was absolutely

1 necessary, and we believe that it is absolutely  
2 necessary for the safety of the customers down  
3 there, future operation of the system.

4 Customers can't go without water for  
5 14 days for what should be a quick fix. That shows  
6 either an unwillingness or an inability of the  
7 companies that own those systems, that operate  
8 those systems to do what are required under  
9 regulation both from the PSC and from DNR to do.

10 The inability or unwillingness to  
11 respond to customer complaints, customer concerns,  
12 basic billing questions, their inability and  
13 unwillingness to respond to regulatory questions  
14 from regulators. The fact that the formal address  
15 listed for them, for those companies continue to be  
16 returned to us when we send them formal mailings as  
17 unclaimed or unreturned when there are no other  
18 listed addresses for these individuals and these  
19 companies.

20 It makes addressing these kinds of  
21 situations extremely difficult for Staff, for DNR,  
22 for OPC, for other regulators out there, and it is  
23 past time that a receiver be appointed.

24 I just want to address a couple quick  
25 legal arguments to make sure that they're very

1 clear. The very first one is this: Development  
2 company is a regulated water corporation under the  
3 definition of 386.020, sub 59. They own plant in  
4 service. They operate plant in service. You heard  
5 testimony from water and sewer staff saying they  
6 still send their employee out to address issues at  
7 wells. So they exert control and ownership over  
8 those. They don't just have ownership via the well  
9 documents you've seen, the joint well documents  
10 you've seen.

11 Moreover, you've heard lots of  
12 testimony from our auditing staff and our customer  
13 and management staff that they actually receive  
14 income from the customers at this system. So they  
15 are operating utility plant in service, water  
16 system plant in service for gain under the terms of  
17 Hurricane Deck and under Danziger.

18 And Danziger, which is of course the  
19 Supreme Court case that we all refer to about what  
20 is a public utility, says that we have the  
21 following test to determine service for the public,  
22 and that is you don't look at what they say they  
23 do, you look at what they actually do.

24 And here it is clear they actually  
25 own, they actually manage and the development

1 company actually gets money for these services.

2                   Secondarily, the legal question, are  
3 they providing safe and adequate service? Are they  
4 unwilling or unable to provide safe and adequate  
5 service? And I believe you've heard ample  
6 testimony about those topics, too.

7                   Staff in their expert opinions  
8 believe that they are unable, both water company  
9 and development company, and unwilling to provide  
10 safe and adequate service for all the reasons that  
11 we've stated.

12                   The last issue, legal question that I  
13 think we need to address is the receivership over  
14 the development company. And I believe that under  
15 393.140 Staff has adequately shown, more than  
16 sufficiently shown that the operations of the  
17 development company appear to be primarily utility  
18 business. There's no other testimony that suggests  
19 that they're doing something else. You did not  
20 hear testimony that they're currently building  
21 homes or selling lots. They are a utility  
22 business. And to the extent their assets are  
23 wrapped in, the utility assets are wrapped in with  
24 that, we can treat them and regulate them as a  
25 utility business under 393.140, sub 12.

1                   However, alternatively, if the  
2   Commission does not feel that the facts and the law  
3   suggest that, we can still regulate them under  
4   393.140 for the utility operations that they  
5   conduct, and they are conducting them. Again,  
6   ownership and -- or ownership and receipt of money.

7                   And receivership for those assets is  
8   an absolute must. We have a situation right now  
9   where one company bills and one company owns and  
10   controls things. And if there's no communication  
11   between those entities, there's no coordination  
12   will lead to the situations that we have today.

13                  If a receiver is not able to exert  
14   the necessary oversight of those utility assets,  
15   that leaves a huge hole in regulation, leaves a  
16   huge hole that does not protect these customers,  
17   and it creates a -- it creates a loophole for  
18   scofflaws. You will see other entities set up  
19   their operations in similar ways to avoid  
20   regulation in the future if we go forward with the  
21   presumption that we cannot assert receiver over  
22   Ridge Creek Development.

23                  It's a difficult choice. I  
24   understand there's a lot of legal ramifications and  
25   policy implications, but we have customers that

1 could go without water tomorrow, that are currently  
2 receiving unsafe water or at least it is possible  
3 they could be receiving unsafe water because  
4 there's been no testing. And to ignore that fact I  
5 think puts all of us in a very difficult place.

6 So I'm happy to entertain any further  
7 legal questions you may have for me. Thank you  
8 again for your time and attention this morning. I  
9 really appreciate it.

10 CHAIRMAN HALL: No questions. Thank  
11 you.

12 JUDGE WOODRUFF: Closing for Public  
13 Counsel?

14 MR. SMITH: Very briefly. I realize  
15 I may be standing between everyone and lunch. So I  
16 appreciate everyone's patience. I'll try to keep  
17 my comments very brief.

18 The record in this case is very  
19 robust. Public Counsel requested at the beginning  
20 of these proceedings that we're in support of  
21 Staff's case. We think that there should be a  
22 general receivership over Ridge Creek Water  
23 Company, a limited receivership over Ridge Creek  
24 Development Company, and that in the interim  
25 Mr. Jarrett be appointed. We heard testimony from

1 Mr. Jarrett about his qualifications.

2 The test that I mentioned at the  
3 beginning of this case involves several different  
4 elements, fewer than 8,000 service connections.

5 Mr. Curt Gateley testified that there were fewer  
6 than that many connections. So that part of the  
7 element is met.

8 Another part is that the utility is  
9 either unable or unwilling to provide safe and  
10 adequate service or they actually were effectively  
11 abandoned the system by the owners. I think the  
12 record again is very, very robust as to either one  
13 of those. I really think that either one of those  
14 would be an adequate basis for this Commission to  
15 make its determination.

16 We think, again, that I generally  
17 want to commend Staff and their efforts, and I  
18 really think the relief, the time is now, and we  
19 ask that you grant Staff's request. Thank you.

20 JUDGE WOODRUFF: Anything further?

21 MR. WESTEN: Staff has nothing  
22 further.

23 JUDGE WOODRUFF: All right. Then we  
24 are adjourned.

25 (The hearing concluded at 12:36 a.m.)

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STATE OF MISSOURI)

) ss.

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COUNTY OF COLE )

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