

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Discovery Conference

September 28, 2011

Jefferson City, Missouri

Volume 3

In the Matter of:

Missouri-American Water)
Company's Request for) File Nos. WR-2011-0337
Authority to Implement a) and SR-2011-0338
General Rate Increase for)
Water and Sewer Service)
Provided in the Missouri)
Service Areas)

In the Matter of:

Missouri-American Water)
Company's Request for) File Nos. WR-2012-0056
Authority to Implement a) and SR-2012-0057
General Rate Increase for)
Water and Sewer Service)
Provided in the Roark)
District)

HAROLD STEARLEY, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY:

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1 JUDGE STEARLEY: Why don't we go ahead
2 and go on the record.

3 Good morning. Today is Wednesday,
4 September 28th, 2011. The Commission has set this
5 time for a discovery conference in File No. WR-2011-
6 0337 captioned as, In the matter of Missouri-American
7 Water Company's request for authority to implement a
8 general rate increase for water and sewer service
9 provided in the Missouri service areas.

10 We'll begin by taking entries of
11 appearance starting with the Commission Staff.

12 MS. LEWIS: Rachel Lewis for Staff of the
13 Public Service Commission. I've filled out an
14 attorney sheet for the address and information.

15 JUDGE STEARLEY: Thank you very much,
16 Ms. Lewis.

17 For Missouri-American?

18 MR. COOPER: Dean Cooper and William
19 England of the law firm Brydon, Swearingen & England,
20 PC., P.O. 456, Jefferson City, Missouri 65102,
21 appearing on behalf of Missouri-American Water
22 Company. And I believe Mr. Reichert is also on the
23 telephone.

24 MR. REICHERT: That's correct, your
25 Honor.

1 JUDGE STEARLEY: And for Ag Processing?

2 MR. CONRAD: Stuart Conrad, law firm of
3 Finnegan Conrad & Peterson. Judge, we, I think,
4 earlier entered appearance forms, but obviously I
5 can't give you a written thing at this point. I'll
6 do that later.

7 JUDGE STEARLEY: That's quite
8 acceptable. Thank you.

9 MS. LEWIS: Judge, can you turn it up a
10 little?

11 JUDGE STEARLEY: Sure.

12 I believe we also have representatives
13 from Utility Workers Union?

14 MR. EVANS: Yeah, Mike Evans for the
15 Utility Workers Union with the law firm of Hammond &
16 Shinnors, P.C., 7730 Carondelet, Suite 200,
17 St. Louis, Missouri 63105.

18 JUDGE STEARLEY: Thank you, Mr. Evans.

19 Are there any other intervenors on the
20 line? I think we do have a couple other people that
21 have phoned in. Would you please identify yourself?

22 MR. WILLIAMS: Denny Williams, Tracy
23 Elzemeyer, and Gene Thackadeal (ph.) from Missouri-
24 American Water.

25 MS. BOLEN: Kim Bolen with Staff.

1 JUDGE STEARLEY: All right. Anyone
2 else? Okay. Very good.

3 Mr. Conrad, yesterday you filed a motion
4 to compel some responses to data requests and since
5 you filed that, we'll go ahead and take that one up
6 first. Do the parties wish to have any further
7 argument on this? I haven't heard specifically from
8 the Company yet, but.

9 MR. COOPER: We would, yes, your Honor.

10 JUDGE STEARLEY: All right. Please
11 proceed.

12 MR. COOPER: First, I guess I would -- I
13 would note that the Company has provided, and the
14 Company being Missouri-American Water Company, has
15 provide a response as of September 22nd to the two
16 data requests at issue, 24 and 25. In that response,
17 the Company responded to Mr. Conrad's questions
18 assuming a start date of January 1st of 2010, which
19 is the beginning of the test period in this rate case
20 and covers approximately, at this point, 21 months of
21 history.

22 The Company did not -- did not make
23 mention of American Water in those responses, but I
24 am told that the answer, there would be no response
25 in presentations or minutes for that same time period

1 for American Water.

2 In response to the two -- specific
3 response to the motion to compel, AGP has indicated
4 that it should not be required to identify a time
5 period for its requests for, in 24, minutes and
6 presentations related to consolidated pricing, or in
7 25, minutes or presentations regarding water service
8 deficiencies.

9 Our problem is -- did we lose somebody?

10 Our problem is Missouri-American Water
11 Company was formed in December of 1879, so we don't
12 think that it's reasonable that we should go back to
13 1879 to come up with these. Surely there is a
14 reasonable and relevant period that's something short
15 of that. And so that's our problem with the
16 vagueness argument and the lack of definition of a
17 time period.

18 As to the aspect of each question that
19 requests minutes and presentations of American Water,
20 we'd point out that American Water is not a public
21 utility in the state of Missouri; American Water is
22 not a party to this case. We don't think that it's
23 appropriate that American Water should be required to
24 respond to data requests.

25 And I would offer to you, judge, an order

1 from WR-2003-0500. It's an order concerning a motion
2 to compel from, let's see, December of 2003. And in
3 that order the Commission ruled on a, really a
4 similar motion to compel that was filed at that time
5 by the Staff seeking information from American Water
6 and found that American Water was not an appropriate
7 party for a data request, that Missouri-American
8 could not be compelled to provide information from
9 American Water. And we would think that the same
10 situation exists today as existed at that point in
11 time.

12 JUDGE STEARLEY: All right. Mr. Conrad,
13 your response?

14 MR. CONRAD: Well, as to the idea of what
15 a relevant date range is, I think I could agree with
16 counsel that we're not inquiring back to the 1800's.

17 JUDGE STEARLEY: I'm thankful of that.

18 MR. CONRAD: Yeah, I don't -- that would
19 probably be voluminous, and I don't -- I don't know
20 that I would have the time to review it. But it's a
21 little bit, as I mention in our -- in our motion, a
22 little bit of a Catch-22 to say, Well, you didn't
23 give us -- you didn't give us specific dates, so we
24 can't respond, when I don't have any way of knowing
25 what the dates are. I guess, you know, we could have

1 perceived that and said, Please provide us a list of
2 the dates on which such and such was discussed. I
3 thought it may be a little bit shorter. I guess we
4 can go through that process if that's what counsel
5 wants.

6 But that's a little bit tautological
7 because if I don't know the dates, the only thing
8 that I can do is say, Well, talk to me, give me --
9 give me data, give me some information about when
10 these items were discussed. And the terminology that
11 the Company has used is -- is what was reflected at
12 least in the data request.

13 So I have yet to hear -- and I have not
14 reviewed, I'm just looking at it now -- I've not
15 reviewed this set of responses that they pushed
16 through here on the 22nd. I do find those, your
17 Honor, but I have not -- I haven't reviewed them to
18 see how -- how responsive they are.

19 The -- the second -- well, I don't know
20 if we're on 24 or 25, but in a certain sense this
21 objection, as I understand it, is kind of applicable
22 to both, and the response is applicable to both. If
23 I don't know the dates, the only thing I can do is
24 ask what the dates are. And it doesn't -- it
25 doesn't -- it doesn't work very well if the response

1 is, Well, you didn't give us the dates. Well, of
2 course I didn't give you the dates; I don't know what
3 the dates are.

4 JUDGE STEARLEY: I can appreciate that
5 dilemma.

6 MR. CONRAD: Yeah. We can go through two
7 cycles, chew up another 20 or 30 days, but -- and at
8 the end of that maybe we get a response that says,
9 Well, you know, you're still not asking for the
10 right -- the right magic language. I just think it's
11 time to kind of move that along, and that's what this
12 whole process is supposed to be about.

13 Now, as to the argument about Missouri-
14 American being a subsidiary to American Water,
15 Counsel was this morning, if I heard you correctly,
16 indicating that they have made some semblance of a
17 search. I don't know, but I'm -- you know, I'm
18 inclined to accept counsel's statements. At least he
19 has not in the past proven to be unreliable in this
20 regard, that they have examined that and there are no
21 materials. And if that's -- if that's the answer,
22 then that -- to me that's the answer. We searched
23 and there ain't any.

24 MR. COOPER: Yeah. And just to be clear,
25 we made an inquiry in that regard and what I had said

1 related to the same time period as the DR responses
2 you have in front of you, that was for that time
3 period, January 1, 2010 forward. I don't know that
4 the answer would be different going back, but just to
5 be clear, I'm referring to that same time period.

6 MR. CONRAD: Well, and your Honor, I'm
7 not uncomfortable with that as a beginning time
8 provided that that covers what I've asked for. And
9 since I don't know when that begins, I would
10 certainly agree it probably doesn't need to go back
11 to the 1800's, but I don't know if that's a -- if
12 that's a magic date or some other date when these
13 items were discussed. Presumably they would have
14 been discussed at a board meeting rather than having
15 management just say, Well, do it. But as far as the
16 American Water works goes, we could probably deal
17 with that.

18 You know, the problem that we have here
19 is that with all of these companies where they have
20 some kind of a parent that's up here that's up above
21 all of this nasty fray, and it becomes just kind of
22 an exercise in, Well, where do we discuss this so we
23 can shield it from public scrutiny.

24 Now, if Counsel is saying that he is
25 willing to make at least an inquiry and tell me if

1 something exists or not, if nothing exists and that's
2 an acceptable thing, then that part of it -- of the
3 dispute seems to be kind of moot. But I would like
4 to have I guess some statement and have it here on
5 the record that that investigation, at least
6 beginning with that date, has been made with no -- no
7 result. I don't know that that's the appropriate
8 beginning date, but, you know, set that -- set that
9 aside because that kind of goes to the first issue.

10 JUDGE STEARLEY: Uh-huh.

11 MR. CONRAD: So I don't -- I don't know
12 really where we are in a certain sense. I wanted to
13 bring this forward because of the series of orders or
14 the order that was issued here kind of suggested,
15 Well, bring these things forward rather than let them
16 accumulate, so that's what I'm doing. But it does
17 seem to me like the response ought to be -- it ought
18 not to turn back and say, Well, you know, you don't
19 know the dates and we know the dates, but we're not
20 going to tell you the dates and because you didn't
21 tell us the dates, then you don't get stuff. So
22 that's just kind of the -- to me that's just
23 circular.

24 JUDGE STEARLEY: That's the tautological
25 argument.

1 I have a question for you with regard to the parent
2 company. Does Missouri-American participate in some
3 fashion in their board meetings?

4 MR. COOPER: Participate in some
5 fashion?

6 JUDGE STEARLEY: Yeah. They're
7 requesting information and I guess the argument is
8 that they're not a party to this action.

9 MR. COOPER: Right.

10 MS. ELZEMEYER: The answer is no.

11 COURT REPORTER: I'm sorry, could you
12 identify yourself please?

13 MS. ELZEMEYER: This is Tracy Elzemeyer
14 and I'm one of the corporate counsel for Missouri
15 American. I just -- I didn't know if Dean had that
16 off the top of his head, so I just wanted to help him
17 out.

18 MR. COOPER: Well, I think I know where
19 the judge is going with this. In the order that I
20 had handed you, it does make the point that if the
21 Company has information within its possession,
22 custody, and control, that that would be
23 discoverable.

24 JUDGE STEARLEY: Certainly.

25 MR. COOPER: Yeah. And so I guess,

1 following your line of thinking, had there been
2 participation at these meetings and somebody at
3 Missouri-American had independent knowledge of
4 matters that were discussed, that would be
5 discoverable.

6 JUDGE STEARLEY: It would need to be
7 provided by Missouri-American. The order also makes
8 clear that seeking information from a nonparty can
9 still be done with a subpoena duces tecum. So
10 there's still another avenue out there, but I'm
11 assuming there's some kind of communication between
12 the parent and Missouri-American regarding the
13 actions that come out of these board meetings. Is
14 that not correct or you just never know what the
15 parent's doing?

16 MR. COOPER: I'm going to leave that for
17 somebody that's on the phone, John or Tracy.

18 MS. ELZEMEYER: Is the question -- this
19 is Tracy. Is the question does the parent company --
20 I guess --

21 MR. COOPER: I think the question is does
22 the parent push out the results of the board
23 meeting? I mean --

24 MS. ELZEMEYER: No, it does not.

25 JUDGE STEARLEY: It does not. So are you

1 telling me the parent has no decision making
2 authority with regard to the rate design issue that's
3 been offered with Missouri-American in this case?

4 MS. ELZEMEYER: I'm not privy to the --
5 to the parent company's board meetings, and I'm not
6 sure of what direction might have -- might have taken
7 place along those lines, but I don't understand that
8 the board -- I do understand that the board does not
9 direct -- directly provide any sort of minutes or
10 anything to the subsidiaries.

11 JUDGE STEARLEY: Do they provide
12 direction to the subsidiaries? I mean, do they tell
13 Missouri-American to go seek this through the
14 different type of rate design?

15 MS. ELZEMEYER: Not that I'm aware of.

16 JUDGE STEARLEY: All right. Well,
17 Mr. Cooper, you said you did want to add something.

18 MR. COOPER: Yeah, a couple things.
19 Just, and I don't know that Mr. Conrad meant it this
20 way, but I think he used the term "pushed through"
21 the responses on the 22nd. I just want to say that
22 that was a timely response within the 20 days.

23 I think as part of our objection we also
24 have objected to the relevance of this information.
25 Mr. Conrad points out that that's generally a fairly

1 low standard, but at the same time I think ultimately
2 the -- the question for the Commission is whether the
3 rates are just and reasonable, not -- not how we got
4 here in terms of proposals. So I would -- I would
5 make that point as well.

6 And along those same lines, even if one
7 is to say, Communications the last year, year and a
8 half are relevant, that doesn't make communications
9 10 years ago or 50 years ago or a hundred years ago
10 relevant. I think that Mr. Conrad made the point
11 that perhaps he could have asked for the dates first
12 and then asked a second DR. I don't think that gets
13 us anywhere because I think I'd have the same
14 objection to a DR asking for the dates if I'm
15 required to go back to the beginning of time still.

16 I don't know whether we can talk our way
17 through this. Mr. Conrad and I have not talked about
18 this on the phone before the filing of the motion to
19 compel. Like I said, I don't know whether that would
20 do any good or not, but.

21 JUDGE STEARLEY: Well, let me -- let me
22 help you. I believe that the inquiry does satisfy
23 the relevant standard in terms of what you need to
24 produce because it just needs to be reasonably
25 calculated to lead to admissible evidence. We're not

1 talking about the admissibility of anything at this
2 point, so I believe it does satisfy that. I do also
3 believe there has to be a reasonable time frame, so
4 that it's not unduly burdensome. So I'm going to set
5 that time frame to be from January 1st, 2008,
6 forward, which is a 45-month period.

7 And, Mr. Conrad, when you get materials
8 and have an opportunity to review them, if there's
9 some indication from those that there were
10 discussions further back that might be relevant, then
11 you can do another data request. But I think going
12 back almost four years in time would hopefully be a
13 reasonable time frame for covering how things led up
14 to this particular point.

15 MR. CONRAD: Judge, I think that's a
16 reasonable approach at this point in time.

17 JUDGE STEARLEY: Okay. And if there are
18 problems then in the future --

19 MR. CONRAD: Sure.

20 JUDGE STEARLEY: -- in terms of, you
21 don't -- you don't have to wait for another 30-day
22 cycle; you guys can always set up a phone conference
23 with me and we can take it up at an earlier time.

24 With regard to the parent company, I want
25 Missouri-American to go back and check, because if

1 there's been communication or directive from the
2 parent company, which is factored in to the choices
3 made in this rate filing, I think that needs to be
4 disclosed. To the -- and you can at least come
5 forwards with an answer to that question.

6 MR. COOPER: In terms of what's within
7 Missouri-American Water Company's possession,
8 custody, and control?

9 JUDGE STEARLEY: That's correct.

10 MR. COOPER: Yeah.

11 JUDGE STEARLEY: And if there's been some
12 directives or discussions made and there's no type of
13 document in your possession, you can acknowledge that
14 those discussions have occurred, and then if
15 Mr. Conrad wishes to take a subpoena to the parent
16 company, he's welcome to do that.

17 Does that provide enough guidance for
18 today's inquiries?

19 MR. CONRAD: It does for us, Judge.

20 MR. COOPER: For the time being, yes,
21 sir.

22 JUDGE STEARLEY: All right. Well, very
23 good.

24 Mr. Conrad, did you have any other
25 discovery issues?

1 MR. CONRAD: No. No, sir, not at this
2 time. Hopefully I have identified the items that --
3 that have been objected to. Now, this is -- this is
4 not to say when we finish analyzing, what I would
5 like for you to understand, there's -- we've sent out
6 a number of DR's and -- and the responses have come
7 back. I'm sorry, Counsel, if I have -- I did not
8 mean to suggest that the response was untimely or it
9 was untimely, so let's clear that issue up.

10 But as to responsiveness, I haven't been
11 through them all yet, but I think the practice has
12 been essentially that if it's not -- if it's not --
13 if it's just wholly unresponsive, we would probably
14 bring it back to your Honor, but if it was -- if it
15 went to a point and then kind of stopped, that might
16 generate a supplemental or a follow-up DR. And I
17 would suspect that that would -- that would then come
18 up. But if we did not that, I would not want to be
19 heard that anything that preceded, was prior to this
20 conference, that somehow we had waived or, you know,
21 after we get a chance to thoroughly go through --

22 JUDGE STEARLEY: This is definitely a
23 fluid process. So if there are additional issues
24 that is come up --

25 MR. CONRAD: Sure.

1 JUDGE STEARLEY: -- by all means, raise
2 them.

3 MR. CONRAD: But that is -- that is all I
4 had, your Honor, at this particular juncture.

5 JUDGE STEARLEY: Thank you very much.
6 Now, Mr. cooper, if Missouri-American intends to file
7 a motion for reconsideration on my decision today,
8 they need to do so no later than Friday this week.

9 MR. COOPER: We'll consider that.

10 JUDGE STEARLEY: Okay. And then in terms
11 of time frame for production, what were the parties
12 thinking was reasonable?

13 MR. COOPER: Denny, would a week be
14 sufficient or are we going to need more than that?

15 MR. WILLIAMS: A week is fine. We have
16 the minutes on site back to January 2008.

17 MR. COOPER: For Missouri-American?

18 MR. WILLIAMS: Yes.

19 MR. COOPER: Okay.

20 JUDGE STEARLEY: Okay. Very good.

21 MR. CONRAD: Judge, I don't -- I don't
22 want to renew all this, but the DR's also requested
23 if there were any presentations made to the board,
24 and I don't know if that's -- if that's included in
25 what we're talking about.

1 JUDGE STEARLEY: Yes, it is, absolutely.

2 MR. COOPER: Yeah. I took it to be part
3 and parcel of the same request.

4 JUDGE STEARLEY: Okay. All right. Is
5 there anything else we need to address, at least
6 before I move on to Mr. Evans?

7 MR. CONRAD: I don't believe so, your
8 Honor.

9 JUDGE STEARLEY: Okay. Thank you very
10 much. And like I said, if there's additional
11 problems, if we need to address them earlier than the
12 next cycle of discovery conferences, just go ahead
13 and set up a phone conference with me.

14 MR. CONRAD: Okay.

15 JUDGE STEARLEY: All right. Mr. Evans?

16 MR. EVANS: Yes, Judge.

17 JUDGE STEARLEY: You did not do a formal
18 filing, so please tell me what your discovery issue
19 is.

20 MR. EVANS: The Union's first data
21 request for the Company asked for the total
22 compensation paid to each Missouri-American employee
23 including management and officers for the year 2010.
24 The Company provided salary information, but it
25 didn't include the names of the employees and it's

1 listed by employee number.

2 It also labeled the document highly
3 confidential. What the Union is asking for is to
4 basically have the names revealed and have the highly
5 confidential designation removed. Simply, you know,
6 the public has the right to know how much these
7 people were paid and who they are so it can determine
8 what goes into the water rates they actually pay.

9 Up until 2005, the Company included the
10 salary information for all employees, I believe, that
11 made over \$25,000 in their annual reports, and this
12 is a public document. Moreover in April of this
13 year, the Commission issued an order that required
14 the Company to make public the salary information of
15 its officers.

16 JUDGE STEARLEY: I require -- I recall
17 that.

18 MR. EVANS: Right. So that was for 2009
19 and '10. That was case number WC-2011-0291. So
20 quite simply, your Honor, in light of these
21 considerations, we'd ask that the names be revealed
22 and that the document be made public.

23 JUDGE STEARLEY: Okay. Mr. Cooper?

24 MR. COOPER: Your Honor, I have for you a
25 copy of the DR and the response that Mr. Evans is

1 referring to. As an initial matter I guess we would
2 certainly argue that the answer is responsive to the
3 question. The question doesn't ask for the employee
4 name; it itself asks for compensation by employee.
5 And if you will look at the second page of the
6 document, you'll see that each employee is listed by
7 employee number and job title.

8 So we certainly believe that it's
9 responsive. We think that -- well, we would point
10 out that this is the same information that's provided
11 to Staff as a part of its audit for it to take a look
12 at employee salaries and how those may or may not be
13 incorporated ultimately into the rate set or revenue
14 requirement in this case.

15 Now, even had they asked for the name, we
16 certainly would have objected to that. We don't
17 think that the name is relevant. It's not reasonably
18 related to the discovery of admissible evidence in
19 regard to the setting of rates, which is what we're
20 here for in a rate case. For purposes of setting
21 rates, it shouldn't matter whether John Smith or Joe
22 Public or somebody else occupies a certain position;
23 what's important is what that job is, whether there's
24 an employee there and what the cost is of having that
25 employee there, and that's the information that's

1 do you have a response?

2 MR. EVANS: Yes, your Honor. You know,
3 up until 2005 all this information was a matter of
4 public record through the annual reports. You know,
5 admittedly I'm not a regulatory lawyer by trade, but
6 I don't see -- and I'm not aware of any laws or rules
7 that would have come in 2005 to 2011 that would have
8 increased the privacy rights of these employees.
9 Quite simply this information was public at one time;
10 we don't see why it should be highly confidential
11 now. And we've also asked for the names in the past
12 and they've been traditionally provided.

13 JUDGE STEARLEY: How is that relevant to
14 setting rates in this case? You got the total
15 compensation, total number of employees here.

16 MR. EVANS: Yes, your Honor. At the same
17 time though we'd say that, you know, what the
18 employees make is certainly something the public has
19 a right to know. You know, they have a right to see
20 what the water company pays their employees to
21 determine, you know, how that rate ultimately gets
22 calculated and what they pay each month for their
23 water bill.

24 JUDGE STEARLEY: Well, you've got each
25 employee broken down here by category, so I can see

1 what construction workers and meter readers get paid
2 and I can see what the director of government affairs
3 gets paid. Why would -- why would I need to know
4 names?

5 MR. EVANS: Well, Judge, I would simply
6 submit that in the past they were submitted and it
7 was not under seal; it was a public document, it was
8 not highly confidential. And I just don't understand
9 what would have changed from 2005 to the present to
10 require that these people be shielded.

11 JUDGE STEARLEY: I'm having a hard time
12 understanding the relevance to the rate case.

13 MR. EVANS: Judge, again, we'd simply
14 submit this was presented in the past and, you know,
15 we don't see why it shouldn't be made public in the
16 future or made public going forwards rather.

17 MR. COOPER: I think I would -- well, I
18 need a little bit more research before I can agree
19 with Mr. Evans' point that it was always made public
20 in the past. I think I agree that in 2005 there was
21 a public filing that year in the annual report. Now,
22 that's a different annual report than we have today
23 so it's a little bit different circumstance.

24 I also don't know whether he is referring
25 to, in terms of always having made it public, whether

1 he's referring to Missouri-American Water Company or
2 a predecessor company, St. Louis County Water
3 Company, which would have been two different
4 companies and two different managements and two
5 different --

6 MR. EVANS: Well, going back to 19th
7 century; I tell you that.

8 MR. COOPER: For Missouri-American?

9 MR. EVANS: Right.

10 MR. COOPER: So I think that, you know,
11 in this situation, you have all the information that
12 you need without the name for purposes of the rate
13 case. And on top of that I think you have to layer
14 in the fact that at least in my opinion the public's
15 right to know is not outweighed by these individual
16 employee's privacy rights. And for that reason alone
17 it seems like there -- the information's not relevant
18 and there's a good public purpose for not providing
19 those names.

20 JUDGE STEARLEY: This list has 2010
21 compensation. Is any of this information covered by
22 the annual reports that are on file at this point
23 because we're -- 2010 annual reports, that's already
24 been filed in April 2011, isn't that right?

25 MR. COOPER: Right.

1 JUDGE STEARLEY: So the compensation of
2 the officers, we made that public information --

3 MR. COOPER: Correct.

4 JUDGE STEARLEY: -- in that annual report;
5 is that correct?

6 MR. COOPER: Correct.

7 JUDGE STEARLEY: So the upper officers
8 are already disclosed to the public?

9 MR. COOPER: Correct.

10 JUDGE STEARLEY: For the same --

11 MR. COOPER: For the same time period,
12 yes.

13 JUDGE STEARLEY: Mr. Evans, I'm going to
14 deny your motion to compel. I don't see the
15 relevance in terms of this rate case for disclosing
16 every employee's name. You have all the number data;
17 you have the job category data. The upper officers
18 of the Company are disclosed in the annual report. I
19 don't see how this factors in in a relevance matter
20 to this rate case.

21 MR. EVANS: Yes, Judge. But there's the
22 other aspect of my motion as well that goes to the
23 highly confidential designation which is what the
24 company previously produced the number, the job
25 title, and the compensation. I would submit that

1 that is relevant and the public would have a right to
2 know what the Company pays its receptionist,
3 construction worker, track hoe driver, et cetera.

4 JUDGE STEARLEY: At this point I'm going
5 to allow the HC status to continue on this. At some
6 point during this proceeding if you wish to file a
7 motion to declassify and then take that before the
8 Commission, I'll be happy to do that. At this point
9 I see no reason for purposes of this rate case in
10 disclosing all of this information.

11 MR. EVANS: Okay. Thank you, Judge.

12 JUDGE STEARLEY: All right. Thank you,
13 Mr. Evans.

14 Are there any other discovery issues we
15 need to take up at this point?

16 MS. LEWIS: Your Honor, Staff last time
17 listed some DR's that we were still working with the
18 Company. Currently we are still working on Data
19 Request 110 and 127 for clarification and on 124
20 we're awaiting a response. And just to put the
21 Commission on notice that we are working on a billing
22 issue with Missouri-American. We have chosen not to
23 file a motion to compel because we want to work with
24 the Company to get the information and we recently
25 received some and we're currently sorting through

1 that.

2 But we just want to go on record that
3 those are currently outstanding issues that we're
4 working with the Company and don't believe that a
5 decision needs to be made at this point in terms of a
6 motion to compel.

7 JUDGE STEARLEY: All right. Very good.
8 Anything else we need to take up today?

9 MR. CONRAD: Judge, this is Conrad. This
10 is perhaps a little bit off point, but could you
11 maybe stretch and let me know what the status of
12 the -- I think it's the customer notice or the
13 comment card? There was an argument about that I
14 remember.

15 JUDGE STEARLEY: Certainly. You can --
16 you can certainly stretch; we can discuss that. We
17 just got out of agenda and the comment card that has
18 been submitted, the Commission has approved the form
19 and content of that card and has approved sending it
20 out to every Missouri-American customer. So that
21 will be going out shortly.

22 MR. CONRAD: Okay.

23 JUDGE STEARLEY: We're also in the
24 process of trying to set up 11 public hearings.

25 MR. CONRAD: Okay. Thank you.

1 JUDGE STEARLEY: No problem. Anything
2 else? All right. Hearing none, we'll go ahead and
3 go off the record.

4 (Off the record.)

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I, Shelley L. Mayer, a Certified Court Reporter,
CCR No. 679, the officer before whom the foregoing
hearing was taken, do hereby certify that the
witness whose testimony appears in the foregoing
hearing was duly sworn by me; that the testimony of
said witness was taken by me to the best of my
ability and thereafter reduced to typewriting under
my direction; that I am neither counsel for, related
to, nor employed by any of the parties to the action
in which this hearing was taken, and further, that I
am not a relative or employee of any attorney or
counsel employed by the parties thereto, nor
financially or otherwise interested in the outcome
of the action.

Shelley L. Mayer, CCR