

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 Discovery Conference

6 November 29, 2011

7 Jefferson City, Missouri

8 Volume 5

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10
11 In the Matter of

12 Missouri America Water)

13 Company's Request For)

14 Authority To Implement a) File No. WR-2011-0337

15 General Rate Increase For) and SR-2011-0338

16 Water and Sewer Service)

17 Provided In The Missouri)

18 Service Area)

19 _____

20 HAROLD STEARLEY, Presiding

 SENIOR REGULATORY LAW JUDGE

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1 JUDGE STEARLEY: Let's go ahead and
2 go on the record. Good morning. It is Tuesday
3 November 29, 2011. The Commission has set this
4 time for a discovery conference in File No.
5 WR-2011-0337, which is captioned as: In the
6 matter of Missouri American Water Company's
7 request for authority to implement a general
8 rate increase for water and sewer service
9 provided in Missouri service areas.

10 My name is Harold Stearley, and I'm
11 the presiding officer for today's conference,
12 and we'll begin by taking entries of appearance
13 beginning with Missouri American.

14 MR. ENGLAND: Thank you, Judge. Let
15 the record reflect the appearance of W.R.
16 England, Dean Cooper, and John Reichart on
17 behalf of the Missouri American Water Company.
18 We've completed written entries of appearance
19 which have our business address.

20 JUDGE STEARLEY: Thank you,
21 Mr. England.

22 MR. ENGLAND: Thank you.

23 JUDGE STEARLEY: For the Staff of the
24 Commission.

25 MS. LEWIS: Rachel Lewis for the

1 Staff, P.O. Box 360, Jefferson City 65102. We also
2 have filled out an entry of appearance for the court
3 reporter.

4 JUDGE STEARLEY: For the Office of Public
5 Counsel.

6 MS. BAKER: Thank you. Christina Baker,
7 P.O. Box 2230, Jefferson City, Missouri 65102
8 appearing on behalf of the Office of the Public
9 Counsel and the ratepayers.

10 JUDGE STEARLEY: Thank you, Ms. Baker.
11 For Ag Processing.

12 MR. CONRAD: Your Honor, let the record
13 reflect the appearance of Stuart W. Conrad with the
14 law firm of Finnigan Conrad & Peterson. I won't go
15 through all of that because I have given the reporter
16 the detail on that, so if you would just recognize our
17 appearance, that would be fine. Thank you.

18 JUDGE STEARLEY: Thank you, Mr. Conrad.
19 For water districts of Andrew County and
20 City of Brunswick.

21 MR. DORITY: Thank you, Judge Stearley.
22 Larry DORITY and James Fischer, Fischer and DORITY,
23 P.C., appearing on behalf of the Public Water Supply
24 District Nos. 1 and 2 of Andrew County and the City of
25 Brunswick Missouri. We have submitted an entry of

1 appearance form with our contact information.

2 JUDGE STEARLEY: Thank you, Mr. Dority.

3 For the city of Jefferson City.

4 MR. RUTH: Good morning, again, Judge
5 Stearley. Appearing on behalf of the City of
6 Jefferson, Mark W. Comley, Newman, Comley, and Ruth,
7 and like the others, our business address is on the
8 previously-filed papers.

9 JUDGE STEARLEY: Thank you, Mr. Comley.

10 For the Metropolitan Sewer District.

11 MR. LOWRY: Good morning, your Honor. Kent
12 Lowry with the firm of Armstrong Teasdale for the
13 Metropolitan Sewer District. We've filed the written
14 entry of appearance. I'd also note for the record
15 that my partner, Byron Francis, will be appearing in
16 the telephone conversation, which is scheduled for
17 3:30 this afternoon, and there's a dial-in for that.

18 JUDGE STEARLEY: All right. Thank you very
19 much, Mr. Lowry.

20 City of Riverside.

21 MR. STEINLE: Yeah, Judge. This is Eric
22 Steinle with Spencer Fane appearing on behalf of the
23 City of Riverside. Our business address is also on
24 our filed entry of appearance.

25 JUDGE STEARLEY: All right. Thank you,

1 Mr. Steinle.

2 The City of Warrensburg.

3 MR. CURTIS: Yes, Judge. Leland B. Curtis
4 with the law firm of Curtis, Franke, Garrett, and
5 O'Keefe appearing on behalf of the City of
6 Warrensburg.

7 JUDGE STEARLEY: Thank you, Mr. Curtis.

8 And who have I missed?

9 (No response.)

10 JUDGE STEARLEY: Okay. Very good. Well,
11 we do have one Motion to Compel filed on behalf of Ag
12 Processing to take up. I don't know if there are any
13 other discovery disputes in addition to that.

14 MR. LOWRY: Your Honor, please, would it be
15 appropriate for us to be excused? We don't have any
16 part in the discovery conflicts.

17 JUDGE STEARLEY: Certainly, Mr. Lowry.

18 MR. LOWRY: We'll be there at the 3:30
19 conference.

20 JUDGE STEARLEY: All right. Are there any
21 other discovery issues before we pick up with Ag
22 Processing?

23 (No response.)

24 JUDGE STEARLEY: Okay.

25 MR. CURTIS: Judge, Lee Curtis, we would

1 ask to be excused from this portion of the hearing
2 also.

3 JUDGE STEARLEY: Okay. Very good, sir.
4 You are excused.

5 All right. Well, hearing, then --

6 MS. LEWIS: Staff has a couple, just not --
7 we're not to the level of a Motion to Compel at this
8 point, but data request No. 196 we have not received
9 sufficient information from the Company, so we will
10 try to continue to work with the Company, but if not,
11 we might be forced to file a Motion to Compel.

12 And there are other DRs that we've
13 submitted, but the time to respond has not yet passed,
14 so that is still pending.

15 JUDGE STEARLEY: If you are having a
16 problem with a particular data request, prior to our
17 next scheduled discovery conference we can always have
18 a phone conference and he can address that.

19 MS. LEWIS: Okay. Thank you, Judge.

20 JUDGE STEARLEY: Thank you.

21 Well, regarding Ag Processing's motion,
22 I've had an opportunity to read through its motion,
23 and I guess I'll let Missouri American respond first.

24 MR. ENGLAND. Well, Judge, I hope you had
25 more of an opportunity to read it than I did. It was

1 filed at 5:08 yesterday, as at least my e-mail will
2 reflect.

3 I did not see it until this morning.
4 Notably the Motion to Compel does not reveal the fact
5 that we have responded to all of those data requests,
6 which I will call the first batch, the 170 through,
7 roughly, 190 something or other.

8 So if AGPs contention is that we haven't
9 responded, that's not true. If their contention is
10 they're not happy with the response, I think they need
11 to articulate why they're not happy with it. As I
12 understand, some of the information that's been
13 provided would include the three-year business plan,
14 which includes proposed capital expenditures by
15 district as well as plans for financing.

16 Now, there's additional information, I
17 believe, provided in response to those. I would
18 suggest if you want more information before you rule
19 that we be given the opportunity until later this
20 week, which was scheduled for, and we will -- we will
21 provide a fuller response as well as copies of what it
22 is we have provided to AGP in response to those data
23 requests.

24 The second batch, which totals
25 approximately 1408 data requests, would seem to be

1 burdensome on their face, if not just plain harassing
2 but, again, we intend to provide an answer. I believe
3 our answer is due at the end of the week.

4 If I read the motion correctly, the gist
5 of the information that AGP is seeking, stated at the
6 bottom of page 6, is the MAWC's plans for capital
7 expenditures and plans for recovering those
8 expenditures from other districts. We intend to
9 provide information relevant to those questions.

10 JUDGE STEARLEY: All right. Mr. England,
11 can you tell me when the responses were provided.

12 MR. ENGLAND: November 3 so, as you will
13 see, AGP is -- again, if they're not happy with the
14 responses, they waited 25 days to say so.

15 JUDGE STEARLEY: Mr. Conrad.

16 MR. CONRAD: Thank you, Judge. This, as I
17 have tried to lay out here, began, really, with an
18 effort on our part to find out what their plans were,
19 what the Company's plans were, how they intended to
20 pay for them, whether they intended to charge other
21 districts for those costs.

22 The data requests originally also included
23 St. Joseph. The newest set did not. We drew an
24 objection, and I've attached those. We drew an
25 objection, which is also there, letter from Mr. Cooper

1 ten days out from the request, which says that they're
2 broad and burdensome; they fail to set forth and
3 describe, with particularity, the items to be
4 inspected and produced, and they're designed to place
5 an undue burden or expense on MAWC, and then MAWC
6 objects to the request information that is not in
7 possession, custody, or control.

8 Let's take the last point, because that is
9 pretty obvious that we did ask for things that were
10 not in their custody or control. Counsel has simply
11 failed to read the data request.

12 I called Mr. Cooper when we got this, and
13 it took a couple of days to get in touch with him --
14 he was in or out -- and I laid out for him what we
15 were interested in. I said, As much as I love
16 Warrensburg, I'm really not terribly interested about
17 costs that are incurred in some other district and
18 charged to Warrensburg. I am concerned with costs
19 that are charged to St. Joe, or proposed to be charged
20 to St. Joe.

21 And he told me, and I think I have roughly
22 quoted him correctly, Be patient. Wait and see what
23 you get. Well, we got some stuff, but we did not get
24 stuff that was responsive to the request. We
25 continued to get the objection, and I'll be happy to

1 show those to you, but every one of them had this
2 objection letter, this same objection letter, and then
3 the material was really not responsive and continued
4 the objections to say, Well, it's not specific
5 enough. Okay. So we'll do something specific.

6 I then set up a series of data requests,
7 one for each district for the balance of 2011 and for
8 each of the following years through 2016. Now, if you
9 do the math, that comes out to be a fairly substantial
10 number of data requests, but if you look at what we
11 had done before, there were several data requests that
12 were encompassed in those requests.

13 I mean, we asked, If you have a document,
14 identify it and produce it. Let us have it. Let's
15 see what the plan is. I broke those out
16 individually. There's a series of 13, and I attached
17 the Brunswick set for the balance of 2011 to this
18 motion so you would see what we're talking about.

19 I get this time an objection, which I have
20 also reproduced, The data requests are overly broad
21 and burdensome. Both the number and timing of these
22 discovery requests are designed to place an undue
23 burden or expense upon MAWC.

24 Well, not wishing to impugn Mr. Cooper's
25 good offices, his request for patience did not produce

1 fulsome requests, and rather than go through that
2 process again, I just said, Okay. We'll just start a
3 new process with the 13 data requests directed to each
4 district, directed to each year.

5 And in those data requests, which you can
6 plainly see, we said, Do you have a plan? If you have
7 a plan, does it exist in documentary form? Identify
8 the document constituting the plan. Provide me a copy
9 of that document or documents. Well, that right there
10 is four data requests.

11 Then we said, If your answer is "no," you
12 don't have a plan, then tell me who in your company
13 can testify that you don't have a plan. That's
14 simple. And then we said in the second portion of
15 them, If you have a plan to charge that to some other
16 district than the district in which you incurred that
17 cost, do you have that plan? If you do, then is it
18 documentary? Identify the document. Produce it. So
19 there, again, is about eight or nine data requests
20 right there.

21 Now that we've gone through, when you
22 break these out individually, that's what you get.
23 And then shallaced as I was to say, Well, you ought to
24 have these be specific and with great particularity.
25 Okay. You got 20 districts, 19 not counting St. Joe.

1 I want to know about the balance of 2011 -- now 2011's
2 almost gone, so I doubt that they've got much there so
3 that might be pretty easy -- but 2012, 2013, 2014,
4 2015, 2016. That's five years, and that's what we had
5 asked for originally and we did not get.

6 We got some gross level and, you know,
7 it's -- it's apparent that the Company does not want
8 to give us this information, and I don't know,
9 frankly, if I could construct a data request that
10 would meet their filter.

11 I'm now apparently somehow out of time.
12 We couldn't deal with the original half a dozen or
13 dozen, so we now get specifics, and that makes the
14 thing multiple. I grant you that, but they're all
15 fairly simple, just: If there's a document, identify
16 it. I even put in the data request, Identify it
17 sufficiently for production request under Rule 58 of
18 the Missouri Supreme Court, because I anticipated that
19 as an issue.

20 And now we're -- the number and timing,
21 well, I wasn't aware of any timing other than your
22 order to put a discovery cutoff period, but that's
23 some months from now. I also wasn't aware of any
24 restriction on number, and I think they're somewhat
25 estopped to make an argument about that when they come

1 back and argue with me and say, Well, your data
2 requests originally weren't specific enough. Okay.
3 So we make them specific. But I didn't ask for them
4 to be 20 districts, and I didn't ask for them to be
5 five years, so I'm going to make it specific.

6 But again, we have the same issue that we
7 had in an earlier argument. I cannot identify a
8 document if I don't know that the document even exists
9 or how to describe it, so I asked them to identify the
10 document. And then we said, Okay, if you've done
11 that, then produce the document that you identified up
12 here, that you identified above that.

13 JUDGE STEARLEY: Okay.

14 MR. CONRAD: So, you know, it's just
15 apparent that this company does not want to provide
16 that information to me.

17 Now, the question is, Is it reasonably
18 calculated to lead to the discovery of relevant
19 evidence? I think it's actually relevant evidence in
20 itself what their plan is, whether or not they have a
21 plan, and if so, if they have documentation for it.

22 Presumably this isn't all orderable.
23 Somewhere they have some documentation of it, and they
24 at least have dropped the idea that I've asked for
25 something that is not in their possession, custody, or

1 control, because that's -- I even put that in the
2 specific -- in the text of the data request themselves
3 so hopefully they'd read it this time.

4 So I don't know. Short of -- short of
5 something to compel them, they're just not going to
6 give me this information, and I think that's -- I
7 think that's wrong and it's time to stop the games.

8 JUDGE STEARLEY: Okay. Just so I
9 understand a little bit more, because I don't know
10 exactly what the Company has provided you with,
11 Mr. England has offered that there has been some
12 responses provided.

13 MR. ENGLAND: Yes, Judge. It's very
14 simple. We have two batches of data requests, one of
15 which are attached to Mr. Conrad's motion, have been
16 answered.

17 And as I said, if they would review that
18 and tell us what it is we have not provided, then I
19 think we can -- we can focus the issue, but we've
20 given them the strategic capital expenditure plan,
21 SCEP, for all districts, which is a three-year plan.
22 That was attached to, I think, Data Request 170, and
23 that answers some of the subsequent data requests.
24 We've also given them additional information.

25 So if the question is we have not produced

1 sufficient information or the correct information, I
2 think it's incumbent on Mr. Conrad to tell you where
3 we've fallen short in that regard.

4 The second set of data requests, the time
5 for which response is not due until the end of this
6 week, it's -- a Motion to Compel, in my opinion, is
7 premature. We've indicated in our objection, which
8 Mr. Conrad neglects to put in his motion, that we will
9 attempt to provide a response to these data requests
10 so --

11 JUDGE STEARLEY: I noted that in both
12 letters.

13 Mr. Conrad, have you had an opportunity to
14 review the materials that have been provided so far?

15 MR. CONRAD: We have, and Mr. England is
16 correct only partially. You know, that's the problem
17 with the half-truth, is it's half-truth. The other
18 part of it isn't true, and that is: They have given
19 us gross numbers. In a certain sense, that's nice,
20 but what I'm interested in and what I told Counsel was
21 I am interested in specific expenditures that you're
22 going to make in some district other than St. Joe and
23 then try to charge back to St. Joe, and so he very
24 well knew that, and he knew that about two days after
25 his letter came through, so if there was -- if there

1 was miscommunication there, then it's not -- it's not
2 on our fault, and I still got -- on each of those
3 responses I got that same objection letter telling
4 me -- lecturing me how I screwed up and hadn't been
5 specific enough, so I said, Okay. We'll be specific
6 then. We'll ask for what you plan to do in District A
7 for each of these years and then say, Do you have a
8 plan to charge that to somewhere other than District
9 A? If so, what is it? Is it a document? Does it
10 exist? Identify it. Produce it.

11 JUDGE STEARLEY: Mr. England, I know the
12 response deadline has not yet run on this last round
13 of data requests. Do you believe some of the more
14 specific information encompassed in these that Ag
15 Process is seeking will be provided in that or do you
16 believe it's already been provided?

17 MR. ENGLAND: The question -- the answer --
18 the short answer is, I don't know. I have not seen
19 the skept (ph) that was provided, nor have I seen the
20 additional information that'll be provided at the end
21 of this week.

22 JUDGE STEARLEY: Okay.

23 MR. ENGLAND: I just have to look at it
24 and, of course, visit with the client as to what it
25 is. But my understanding is it does provide capital

1 expenditures by districts for three years in the
2 information this was previously provided.

3 Now Mr. Conrad's characterization of gross
4 expenditures, I don't know. I don't know if it's
5 broken out as discretely as pump, a treatment
6 facility, certain lines of distribution main, et
7 cetera, or if it's gross expenditure by district or
8 something in between. I just honestly don't know.

9 JUDGE STEARLEY: Okay.

10 MR. ENGLAND: Excuse me. I do know that
11 that is the plan that the company develops and uses
12 internally, and it may be that it doesn't get any more
13 specific, even though Mr. Conrad would like it to be
14 more specific.

15 JUDGE STEARLEY: Mr. Conrad, did you get
16 answers to Data Requests 178 and 191, which were
17 inquiring about the people who would have knowledge of
18 the information you're seeking?

19 MR. CONRAD: I think we did get an answer
20 to that, but it was essentially, Everybody we have in
21 the office works on it, which is incredibly helpful.
22 I mean, I'd like to send a notice to deposition -- of
23 deposition to everybody in the office, but that would
24 consume more than a day, probably, to prepare. We
25 kind of need to have stuff begin to target down.

1 That's what this whole process of discovery -- maybe I
2 don't know. Maybe I'm just -- just new at this --

3 JUDGE STEARLEY: Perhaps I was being overly
4 helpful, but I was hoping that some of this could be
5 resolved by you being able to conduct a deposition.

6 MR. CONRAD: Well, that's -- that's what I
7 was hoping. Who do I send a notice to? I can send a
8 notice to the Company, and the rules provide for that
9 and they can designate one or more people to respond
10 in that area --

11 JUDGE STEARLEY: Uh-huh.

12 MR. CONRAD: -- but, at least in my
13 practice, it's been more fruitful, generally, to say,
14 Okay, here's this person on this area. And I may not
15 need to talk to somebody who is doing their pension
16 stuff, Judge.

17 JUDGE STEARLEY: Right.

18 MR. CONRAD: I mean, that would be -- that
19 would be wasting my time, their time, not that that
20 matters so much, but the reporter's time and certainly
21 increase the expense of depositions.

22 MR. ENGLAND: Judge, let me clarify
23 something. Data Request 178 asked for personnel that
24 work on MAWC plans that have capital requirements.
25 The information that was provided, among other things

1 says, Personnel that in some capacity work on capital
2 requirements planning are designated with a, quote, C,
3 end quote, on the organization chart presented as an
4 answer to Ag Processing Data Request 181, so we
5 haven't given -- told them that every employee has
6 some knowledge. We've actually designated those that
7 have specific knowledge in this area.

8 JUDGE STEARLEY: All right. Is there a
9 single individual or, perhaps, two individuals that it
10 can be narrowed down to that would have -- be able to
11 address the data request information?

12 MR. ENGLAND: My understanding is probably
13 Kevin Dunn, who's already witnessed in this case -- he
14 would be one of those individuals -- and perhaps Greg
15 Weeks.

16 JUDGE STEARLEY: Okay. Well, at this point
17 what I would like -- I don't want it give a blanket
18 order compelling production when it sounds like things
19 need to be whittled down a little bit more and there
20 still it hasn't been a full response time on the later
21 data request.

22 I would like the parties to get together
23 and whittle this down and identify, more specifically,
24 what has not been produced that you're seeking,
25 Mr. Conrad, and if it involves taking a deposition or

1 two of a couple people so you can pinpoint more
2 specifics documents, and then the Company can provide
3 those or we can compel them to provide those to you.

4 That would be more beneficial, I think,
5 than me trying to give an order on a Motion to Compel
6 for a very large expansive of lists of data requests
7 when I'm not familiar, exactly, with just how detailed
8 they have been responded to.

9 So what I would like the parties to do is
10 to have a phone conference with me early next week and
11 tell me if you've been able to whittle this down a
12 little bit more. If so, and there's still a
13 reluctance on the part of the Company to provide you
14 with information, Mr. Conrad, I'd like to issue an
15 order to compel that's more specific to exactly what
16 it is that you're needing.

17 MR. ENGLAND: Judge, would it be possible
18 to go ahead and set that time?

19 JUDGE STEARLEY: I believe it would. Let
20 me take a look here. Is there a particular day?
21 Wednesday we have, again, the -- is there a particular
22 day? Monday or Tuesday?

23 MR. ENGLAND: My preference would be Monday
24 or Tuesday. I've got to be out Wednesday and
25 Thursday.

1 MR. CONRAD: As would mine. Either one of
2 those days is fine.

3 MR. ENGLAND: Monday is wide open for me
4 right now.

5 MR. CONRAD: Both days are fine with me. I
6 think, you know, we'll presumably be finishing this
7 conference sometime on Friday, maybe even before, so
8 you'd have to have a little bit of time to gather
9 stuff up, so Tuesday might be preferable, but I'm
10 amenable to Monday too.

11 MR. ENGLAND: Tuesday afternoon, I'm open.

12 JUDGE STEARLEY: Okay. Tuesday at maybe
13 1:30 in the afternoon? Would that work?

14 MR. ENGLAND: That works.

15 MR. CONRAD: That is fine. We'll put it
16 down.

17 JUDGE STEARLEY: All right. And I
18 understand the frustration that can build going back
19 and forth in these things, but I would like to narrow
20 this down.

21 MR. CONRAD: That's part of the problem,
22 Judge. We just keep going back.

23 JUDGE STEARLEY: Understood.

24 MR. CONRAD: I want to be patient with them
25 too because I understand it may take a little bit of

1 time but, you know, here we missed this last
2 conference by virtue of my being patient and, you
3 know, I -- I still have high regard for Mr. Cooper and
4 credit what he -- what he says --

5 JUDGE STEARLEY: Uh-huh.

6 MR. CONRAD: -- but as you're hearing,
7 counsel may not know what's going on. Now I -- you
8 know, that's -- that's their problem but --

9 JUDGE STEARLEY: Well, I don't want you to
10 have to wait till the next cycle on the discovery
11 conference either.

12 MR. ENGLAND: Judge, my understanding from
13 your admonition earlier was that people could bring
14 discovery disputes to you at any time.

15 JUDGE STEARLEY: This is true.

16 MR. ENGLAND: You don't have to wait till
17 the end of the month.

18 JUDGE STEARLEY: This is true. You don't
19 have to wait till the end of the month, and I did
20 emphasize that.

21 MR. CONRAD: Which is the letter that is
22 dated 21, November, Judge: We object. And it does
23 say, certainly, Well, we'll still provide this,
24 subject to this objection.

25 Well, okay. Provide a response to the

1 request that addresses the substance of the request.

2 Well, okay, QED.

3 JUDGE STEARLEY: All right. Well, let's
4 see what you-all can get together for me before next
5 Tuesday, and perhaps I'll be a little bit clearer
6 directional on where you stand, what information you
7 may still require and with regard to Mr. England
8 knowing what the Company has provided and what else
9 may be available.

10 MR. ENGLAND: Yeah, we intend to pursue
11 this conversation with Mr. Conrad through the week
12 and, like you say, at least narrow it to where we have
13 a true disagreement.

14 JUDGE STEARLEY: Yeah. That -- I think
15 that would be helpful for all of us.

16 MR. CONRAD: Very well.

17 JUDGE STEARLEY: All right. Is there
18 anything else we need to take up today?

19 MS. LEWIS: Staff has a clarifying question
20 in your discovery order. You indicate the shortened
21 time period for DRs should start after direct
22 testimony. Is that after all the direct testimony or
23 is that -- we've kind of broken the direct testimony
24 out in two separate segments, so we were wondering if
25 DRs related to the direct filing party may have a

1 shortened time period to respond or if they still have
2 the 20 days until the rest of the direct testimony is
3 due?

4 JUDGE STEARLEY: I'm thinking the issue
5 prior to the direct testimony coming in would still be
6 open to 20 days.

7 MS. LEWIS: So it's all of the direct
8 testimony then?

9 JUDGE STEARLEY: Yes, but from -- and I
10 think we finished up --

11 MS. LEWIS: We still have rate design.

12 MR. ENGLAND: And that's kind of consistent
13 with the motion we filed, although it's ambiguous,
14 perhaps, and inconsistent. We acknowledge the
15 shortening of the time frame after the filing of
16 direct testimony on revenue requirement, but then in
17 parenthesis we say EI, December 12, which is the
18 filing of direct testimony on rate design.

19 JUDGE STEARLEY: Right.

20 MR. ENGLAND: I can't honestly remember
21 what we decided at the prehearing conference, your
22 Honor.

23 JUDGE STEARLEY: Is there any need for this
24 to be expedited with certain discovery requests at
25 this point?

1 MS. LEWIS: We just need clarification so
2 we know what we can push because, obviously, the
3 sooner anybody gets information, the better it works
4 for everybody, including these discovery conferences.

5 JUDGE STEARLEY: Yeah. I think the order
6 was designed for all the direct testimony to come in,
7 but if there's a need for someone to need expedited
8 responses at this point to earlier data requests, I
9 mean, can change that.

10 MS. LEWIS: We just wanted clarification.
11 There's no absolute need for it. We just wanted
12 clarification while everyone was here.

13 JUDGE STEARLEY: Having this type of a
14 schedule is to make sure that we're not running up to
15 an evidentiary hearing in February and there still --
16 discovery disputes happen.

17 MS. LEWIS: Right. Thank you.

18 JUDGE STEARLEY: Okay. All right.

19 Well, if there's nothing else, we'll go
20 ahead and conclude the on-the-record portion of the
21 discovery conference, and I trust when I get an
22 opportunity to speak to counsel next Tuesday, they'll
23 hopefully have this refined and a little bit narrowed.

24 MR. ENGLAND: It will definitely be
25 refined, your Honor.

1 JUDGE STEARLEY: Yeah, because I really
2 don't want to have to look through 228 data requests
3 and responses.

4 MR. CONRAD: Well, the only difference
5 between the -- there are 13 of them, and the only
6 difference is the district and the year.

7 JUDGE STEARLEY: Okay.

8 MR. CONRAD: So unless there's a particular
9 problem with the district and the year, then the 13
10 won't take long.

11 JUDGE STEARLEY: All right. Very good.

12 All right.

13 Well, we stand adjourned, and I thank you
14 all very much.

15 (The hearing concluded.)

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CERTIFICATE

I, Nancy L. Silva, RPR, a Certified Court Reporter, CCR No. 890, 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; 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.

Nancy L. Silva, RPR, CCR