

Application of Osage Utility Operating Company, Inc.

WA-2019-0185 VOL 4

September 18, 2019



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
September 18, 2019
Jefferson City, Missouri
Volume 4

In The Matter Of The)
Application Of Osage Utility)
Operating Company, Inc. To) File No.
Acquire Certain Water And) WA-2019-0185
Sewer Assets And For A)
Certificate of Convenience)
And Necessity)

NANCY DIPPELL, Presiding
SENIOR REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman,
WILLIAM P. KENNEY,
SCOTT T. RUPP
COMMISSIONERS

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1
2 JUDGE DIPPELL: Let's go ahead and go on the
3 record. We're back on the record in Case No.
4 WA-2019-0185. It is September 18, 2019, and we finished
5 up with the listed Staff witnesses yesterday, but I have
6 at least one question for Mr. Busch and so I am asking
7 Staff to go ahead and bring him up.

8 Is there any other preliminary things before
9 we start? I don't see any. Then we'll go ahead and get
10 going. I'll swear you in.

11 (Witness sworn.)

12 JAMES BUSCH, being sworn, testified as follows:

13 DIRECT EXAMINATION BY MS. PAYNE:

14 Q. Would you please state and spell your name for
15 the court reporter?

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

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

19 A. I'm employed by the Missouri Public Service
20 Commission. I am the manager of the water and sewer
21 department.

22 Q. And did you prepare or cause to be prepared
23 portions of Staff's updated recommendation which has
24 been filed as Exhibit 105 in this matter?

25 A. I did.

1 Q. Do you have any changes or corrections to make
2 to that?

3 A. Not that I'm aware of.

4 Q. If I were to ask you the same information
5 contained in that report, would you change anything?

6 A. I would not.

7 MS. PAYNE: All right. Then I would tender
8 this witness for cross.

9 JUDGE DIPPELL: Before I ask my question, is
10 there any cross-examination for Mr. Busch from the
11 Company?

12 MR. COOPER: No.

13 JUDGE DIPPELL: Cedar Glen?

14 MR. COMLEY: No, no questions.

15 JUDGE DIPPELL: The Joint Bidders?

16 MR. ELLSWORTH: No questions.

17 JUDGE DIPPELL: Public Counsel?

18 MR. HALL: None at this time.

19 QUESTIONS BY JUDGE DIPPELL:

20 Q. My question is, so the changes that were made
21 with regard to Staff's recommendation on the acquisition
22 premium, and specifically I'm looking at the red lined
23 version on page 23.

24 A. Okay.

25 Q. There's a paragraph that was added there

1 discussing how Staff has determined what they think
2 acquisition premium should be. Can you just give me a
3 general explanation of how Staff's opinion changed and
4 how that calculation was made?

5 A. Sure. You know, in our original
6 recommendation, Staff looked at the totality of the
7 application that was in front of the Commission which
8 included the Reflections systems. And so when we were
9 trying to determine whether or not to have, you know, to
10 put in the acquisition premium if we thought that was a
11 good idea, we had to try to balance what we felt was the
12 ratepayers, the shareholders, the company, and what the
13 Commission wanted by the promulgation of the rule. So
14 to try to come up with what we felt was in the best
15 public interest using that new rule that the Commission
16 just promulgated, we combined the two purchase prices
17 and then we combined the two net original cost rate base
18 to come up with what we would believe the acquisition
19 premium would be.

20 Then just last week the Reflections part of
21 that got removed and so Staff had to revisit, you know,
22 what we thought going forward when all this would be
23 eventually looked at in the next rate case, when the
24 Commission will actually implement how much the
25 acquisition premium should be. We had to reevaluate

1 that. Not getting into any of the highly confidential
2 part of the application, but I think it's fair to say
3 that the majority of the sale price was for the Osage
4 Water Systems. So when you removed the Reflections,
5 that impact on the ratepayers was going to be higher, so
6 we had to kind of find a way that was again balanced
7 both the shareholders and balance the ratepayers.

8 So when we did that, we had to come up or we
9 felt like we had to look at a proxy number for what
10 would be the most accurate sale price as if this company
11 was being purchased normally through a normal
12 negotiation between a willing seller and a willing
13 buyer. And fortunately in this case, and it was
14 attached to Ms. Dietrich's direct testimony, Osage
15 Utility Operating Company negotiated with the trustee a
16 value for the system that they were willing to pay which
17 enabled them to be the stalking-horse bid.

18 So it was Staff's opinion and Staff's
19 recommendation that that is the best representation of
20 what the value of the system should be when you're
21 looking at what an acquisition premium should be in this
22 case compared to the actual net original cost rate base.
23 So that's where Staff came down and we think that that
24 is the fairest way to give the Company the acquisition
25 premium in context of the rule that the Commission just

1 promulgated but also be fair to the ratepayers and not
2 overly burden the ratepayers with that because, you
3 know, if you look at the full price like if the Joint
4 Bidders get that full \$800,000, all those ratepayers are
5 going to have to pay at some point that \$800,000. That
6 is going to be paid for by those consumers if the Joint
7 Bidders get that. If Osage gets it, CSWR, and the
8 Commission utilize the Staff recommendation, they're not
9 going to have to pay that full \$800,000. They'll limit
10 it to the \$465,000 that we recommended.

11 JUDGE DIPPELL: Okay. I appreciate that
12 explanation. So based on my questions, are there any
13 questions from the Company?

14 MR. COOPER: Just a couple, Your Honor.

15 CROSS-EXAMINATION BY MR. COOPER:

16 Q. Mr. Busch, you talked about trying to reach a
17 price that was I think through arm's length negotiation
18 in terms of your recommendation. An auction held by the
19 United States Bankruptcy Court with active bidders is
20 pretty good evidence of arm's length negotiation or at
21 least process that reached a purchase price as well,
22 isn't it?

23 A. I don't think I can disagree with that.

24 Q. And then I think you got to this, but in the
25 acquisition or the nonviable utility acquisition

1 incentive regulation, whatever its nomenclature is
2 today, you'd acknowledge as I think Ms. Bolin also
3 testified to that the rule itself talks about
4 application of an acquisition incentive in the next rate
5 case if the Commission determines it will not result in
6 unjust or unreasonable rates, correct?

7 A. I believe that's correct.

8 MR. COOPER: That's all the questions I have,
9 Your Honor.

10 JUDGE DIPPELL: Is there any cross-examination
11 based on my question from Cedar Glen?

12 MR. COMLEY: No questions.

13 JUDGE DIPPELL: Anything from the Joint
14 Bidders?

15 MR. ELLSWORTH: No questions.

16 JUDGE DIPPELL: Public Counsel?

17 MR. HALL: Yes, briefly. Good morning,
18 Mr. Busch.

19 THE WITNESS: Good morning, sir.

20 CROSS-EXAMINATION BY MR. HALL:

21 Q. Am I accurately paraphrasing your testimony
22 you just gave to the judge when you say that the new
23 recommendation is based on the new -- a different
24 approach taken by Staff that you think resulted in the
25 best public interest?

1 A. I wouldn't say it was different. It was --
2 we're looking at a completely -- I mean, it's different
3 in the sense that we are tasked by the Commission to
4 look at a different set of circumstances.

5 Q. Okay. Let's posit that the methodology was
6 the same. You'd agree with me that the numbers that
7 were input for the value for the asset were different
8 this go around than what was put in the original
9 recommendation, correct?

10 A. Exactly what do you mean by the value of the
11 assets? Which assets are you looking at?

12 Q. The first -- Mr. Busch, for Staff's first
13 recommendation, was the acquisition incentive based on a
14 purchase price of \$465,000?

15 A. The acquisition price was higher than that
16 because it was a combination of the purchase price for
17 both Osage Utility and Reflections.

18 Q. So you would agree then that the numbers have
19 changed since the first recommendation?

20 A. They have because of the new -- We were tasked
21 to look at something different.

22 Q. Why was the 465,000 purchase price not used in
23 the first recommendation?

24 A. Because we looked at the combined purchase
25 price of both systems and we felt that that was in the

1 best interest of both the shareholders and the
2 ratepayers because when we looked at not only the
3 purchase price but we also included what we felt is an
4 estimate of the net original cost rate base of
5 Reflections as well. So we looked at both of those
6 situations to try to come up with something that we felt
7 was again fair to both sides.

8 Q. So without getting into the confidential
9 number, when Central States first came with their
10 application, was the Reflections systems acquired
11 through a bankruptcy auction in the same manner as the
12 Osage Water Company systems?

13 A. I don't believe so.

14 Q. And was the value that was provided for the
15 Reflections systems substantially similar or close to
16 the number that was provided for the Osage Water Company
17 systems?

18 A. I'm sorry. Could you repeat that question? I
19 don't think I followed exactly what you were saying.

20 Q. Was the value offered by Central States for
21 the Reflections water system substantially similar to
22 the number that was offered for the Osage Water Company
23 systems?

24 A. I guess I don't understand what you mean by
25 value. I'm going to try to -- Do you mean that is the

1 sale price the same?

2 MR. HALL: Your Honor, I think I need to go
3 in-camera on this one.

4 THE WITNESS: Are you asking for the sale
5 price, was the sale price the same?

6 BY MR. HALL:

7 Q. Yes, Mr. Busch, was the sale price the same?

8 A. When you said the value, that's what I was
9 trying to understand. No, the sale price was not the
10 same.

11 Q. Which one was higher?

12 A. As I already said, the majority of the sale
13 price would have been Osage Water systems.

14 MR. HALL: Thank you. No further questions.

15 JUDGE DIPPELL: All right. Then is there any
16 redirect?

17 MS. PAYNE: Yes.

18 REDIRECT EXAMINATION BY MS. PAYNE:

19 Q. Mr. Busch, was the net book value of
20 Reflections comparable to the net book value of the
21 Osage Water Company systems?

22 A. I really don't recall.

23 REDIRECT EXAMINATION BY MR. JOHNSON:

24 Q. Mr. Busch, Mr. Hall asked you some questions
25 about numbers changing and the change to Staff's

1 recommendation and its revised recommendation. I
2 believe you stated that Staff is considering benefit to
3 shareholders and ratepayers. And when Staff considered
4 that in its new recommendation, did it consider both the
5 change to the potential purchase price and the change to
6 the net book value of the assets being required?

7 A. Yes.

8 Q. When considering only the Osage Water
9 Company's assets, what would the change in net book
10 value versus purchase price have affected in terms of
11 the acquisition premium?

12 A. I'm going to have to ask you to repeat that.

13 Q. I can reword that for you. When considering
14 an acquisition premium simply for the Osage Water
15 Company assets, did the removal of the Reflections
16 system, could it have had an effect on the ultimate
17 acquisition premium had Staff used the full purchase
18 price?

19 A. Yes.

20 Q. What would that effect have been?

21 A. It would have been the acquisition premium
22 that could be granted by the Commission would be much
23 higher if we did not alter our approach.

24 Q. I believe Mr. Cooper asked you a question
25 about the rule in regards to the Commission approving an

1 acquisition incentive should it determine that rates
2 would be unjust or unreasonable or they could decide to
3 implement. Did Staff keep that in mind when making its
4 revised recommendation?

5 A. I'm sorry. I completely lost your train of
6 thought.

7 Q. I'm getting here. In making Staff's revised
8 recommendation --

9 A. Right.

10 Q. -- did Staff contemplate whether or not the
11 ultimate effect would be unjust or unreasonable?

12 A. Yes, we did.

13 Q. And how did Staff alter its recommendation
14 with that in mind?

15 A. By looking at a lower -- the lower potential
16 acquisition premium by looking at a lower proxy for a
17 purchase price because when you take out the Reflections
18 system you took out the Reflections net original cost
19 rate base which would lower then the overall net
20 original cost rate base which is what normally gets put
21 into rates. So in order then to keep it from having a
22 large acquisition premium, because the majority of the
23 purchase price was and is Osage, we had to find a way to
24 come up with a more reasonable proxy for a purchase
25 price to keep that acquisition premium as reasonable as

1 possible for the consumers.

2 MR. JOHNSON: That's all I have. Thank you,
3 Mr. Busch.

4 JUDGE DIPPELL: All right. Thank you very
5 much. That concludes your testimony and you may step
6 down.

7 (Witness excused.)

8 JUDGE DIPPELL: Was that the end of Staff's
9 witnesses, correct?

10 MS. PAYNE: Yes, thank you, Judge. That's all
11 of our witnesses.

12 JUDGE DIPPELL: All right. Then we can
13 proceed with Public Counsel.

14 MR. HALL: At this time Public Counsel calls
15 Keri Roth to the stand.

16 (Witness sworn.)

17 JUDGE DIPPELL: Thank you.

18 MR. HALL: Good morning, Ms. Roth.

19 THE WITNESS: Good morning.

20 KERI ROTH, being sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. HALL:

22 Q. Please state your name and spell it for the
23 court reporter?

24 A. My name is Keri Roth. It's K-e-r-i R-o-t-h.

25 Q. And by whom are you employed and in what

1 capacity?

2 A. I'm employed by the Missouri Office of the
3 Public Counsel as a public utility accountant.

4 Q. In whose capacity are you testifying for
5 today?

6 A. On behalf of the public and OPC.

7 Q. Are you the same Keri Roth who caused to be
8 filed in this docket rebuttal testimony both
9 confidential and rebuttal that's been marked for
10 demonstrative purposes as Exhibit 202?

11 A. That's correct.

12 Q. Are you also the same Keri Roth who caused to
13 be filed within this docket surrebuttal testimony both
14 public and confidential that's been filed as Exhibit
15 203?

16 A. Correct.

17 Q. If I asked you the same questions provided in
18 rebuttal -- in your rebuttal testimony, would your
19 answers be the same or substantially similar?

20 A. As far as the Q&As, yes, but I do have a
21 couple corrections as far as the footnotes.

22 Q. And what are the corrections you have?

23 A. On my surrebuttal testimony, page 5, down at
24 the bottom footnotes 9 and 10. They both state direct
25 testimony. That should be rebuttal testimony of

1 Mr. Soukenik.

2 Q. Do you have any -- Are there any changes to be
3 made to your rebuttal testimony?

4 A. No.

5 Q. Any further changes to be made to your
6 surrebuttal testimony?

7 A. No.

8 Q. Do you believe that the questions and answers
9 provided in your rebuttal testimony are true and
10 accurate as to your belief?

11 A. Yes.

12 Q. And you believe the questions and answers in
13 your surrebuttal testimony are true and accurate as to
14 your belief?

15 A. Yes.

16 MR. HALL: At this time, Your Honor, I move
17 for the admissions of Exhibit 202 and 203.

18 JUDGE DIPPELL: Would there be any objection
19 to Exhibits 202 and 203 and I believe those are both
20 confidential and public versions, correct?

21 MR. HALL: Yes, there's a 202P, 202C, as well
22 as public and confidential versions of 203. I should
23 have been more specific.

24 JUDGE DIPPELL: Would there be any objection
25 to those exhibits? Seeing none then, I will admit

1 those.

2 (OPC EXHIBITS 202P, 202C, 203P AND 203C WERE
3 RECEIVED INTO EVIDENCE AND MADE A PART OF THIS RECORD.)
4 BY MR. HALL:

5 Q. Ms. Roth, did you get a chance to review
6 Staff's revised recommendation and supplemental
7 testimony?

8 A. I did.

9 Q. Did you review the changes that Staff made to
10 Staff's recommended acquisition incentive?

11 A. I did.

12 Q. And what is your analysis of that change?

13 A. Looking at the analysis, it looks like Staff
14 has changed the methodology as to calculating the
15 acquisition premium. As Mr. Busch stated, it was
16 originally based on the total purchase price of both
17 Reflections and Osage Water Company. Osage --
18 Reflections is now out of the picture so they had
19 changed their number and they are now basing it off of
20 the rate base calculated for Osage Water Company and the
21 stalking-horse purchase price for Osage Water Company.
22 So that changed from the original purchase price of
23 Osage Water Company down to the stalking-horse purchase
24 price.

25 Q. And what do you think of this change in

1 methodology?

2 A. It doesn't make sense to me.

3 Q. Why does it not make sense?

4 A. I am still having a difficult time

5 understanding why the stalking-horse purchase price was

6 never used originally because based on the paragraph

7 that they included they state that it is a better

8 representation of OUOC's valuation of the assets and

9 thus should be the basis for the acquisition premium. I

10 feel like that probably should have been the basis for

11 the acquisition premium from the beginning.

12 Q. Are there any other changes to the revised

13 recommendation that you think the Commission should

14 consider?

15 A. State that one more time.

16 Q. Are there any changes that Staff made in the

17 revised recommendation that you think the Commission

18 should pay special attention to?

19 A. I don't believe so.

20 Q. Based on your understanding, why did Staff

21 change its recommendation?

22 A. Because Reflections is no longer a part of the

23 acquisition or this hearing, they were asked to submit a

24 revised recommendation.

25 Q. They were. So Staff was asked by the

1 Commission, correct?

2 A. Correct.

3 MR. HALL: At this time I tender the witness
4 for cross.

5 JUDGE DIPPELL: Thank you. Is there any
6 cross-examination by -- I've got my schedule here wrong.
7 Is there any cross-examination by Staff?

8 MS. PAYNE: Yes, thank you. Good morning, Ms.
9 Roth.

10 MS. ROTH: Good morning.

11 CROSS-EXAMINATION BY MS. PAYNE:

12 Q. Did OPC in relation to this case investigate
13 the compliance history or any related things of the
14 Osage Utility Operating Company and its affiliates?

15 A. As far as DNR violations and stuff, is that
16 what you're referring to, compliance?

17 Q. Correct.

18 A. No, I did not look at that.

19 Q. Okay. Did you investigate the compliance
20 history or abilities of the Joint Bidders as we've been
21 referring to them in this matter?

22 A. I did not look at that either.

23 Q. Okay. But OPC's position is that the Joint
24 Bidders should be permitted to obtain the Osage Water
25 Company systems as opposed to the Osage Utility

1 Operating Company?

2 A. Based on the evidence that I have seen
3 throughout the case, it does appear that they would be a
4 better option. So we're just asking that the Commission
5 look at both options.

6 Q. When you say "evidence," could you be more
7 specific?

8 A. Based on the purchase prices and the request
9 of the acquisition incentive and the history going back
10 of when OUOC or CSWR began bidding on the systems or
11 offered to purchase the systems, I think that it would
12 be a better option for the Public Water District and the
13 associations to be the operators, own the systems.

14 Q. The purchase price you reference, is the Joint
15 Bidders purchase price different from that of --

16 A. The purchase price is the same.

17 THE COURT REPORTER: I'm sorry. I didn't get
18 the end of your question.

19 BY MS. PAYNE:

20 Q. I asked if the purchase price was the same for
21 the Joint Bidders and Osage Utility Operating Company.

22 A. It is, but I don't believe that the bidders --

23 MS. PAYNE: That's all I needed. Thank you.

24 I think that's all I have. Thank you.

25 JUDGE DIPPELL: Is there any cross-examination

1 by Cedar Glen?

2 CROSS-EXAMINATION BY MR. COMLEY:

3 Q. Ms. Roth, my understanding is from the
4 discussion you had with Ms. Payne that it would be your
5 position that the Joint Bidders should have these assets
6 transferred to them; is that correct?

7 A. I think that would be a better option, yes.

8 Q. Is it your opinion that the transfer of the
9 assets involved to Osage Utility Operating Company would
10 be detrimental to the public interest?

11 A. I think it would be.

12 MR. COMLEY: Thank you.

13 JUDGE DIPPELL: Is there any cross-examination
14 by OUOC?

15 MR. ELLSWORTH: Yes, Your Honor. Oh, I'm
16 sorry.

17 JUDGE DIPPELL: I'm sorry. The Joint Bidders?

18 MR. ELLSWORTH: Thank you, Your Honor.

19 CROSS-EXAMINATION BY MR. ELLSWORTH:

20 Q. Ms. Roth, as part of your analysis, did you --
21 or as part of forming your opinion that the Joint
22 Bidders -- that the OWC assets should be transferred to
23 the Joint Bidders, did you make the determination if
24 there would be a harm to the ratepayers?

25 A. Can you repeat that one more time.

1 Q. In forming your opinion that you just
2 expressed, did you determine if there would be a harm to
3 the ratepayers if the applicant obtained the OWC assets?

4 A. I think there could be based on potential
5 rates in the future. As far as the level of
6 improvements that I've read about, I'm not an engineer
7 so I don't want to speak to the improvements. However,
8 based on the numbers and the preliminary estimates that
9 I've seen, it is concerning the large difference between
10 the estimates.

11 Q. Did you review the projected revenues offered
12 by Osage Utility Operating Company?

13 A. I did look at that sheet, yes.

14 Q. Did you do your own calculation of what you
15 anticipated the rates would be -- their anticipated
16 rates based upon those projections?

17 A. I did not calculate a rate based on those
18 projections. I was here yesterday and heard the
19 calculation that you ran Mr. Cox through yesterday. I
20 did send a DR to the Company asking if they thought that
21 rates would be similar to the Joint Bidders. They could
22 not state for certain whether they could meet those. So
23 based on the history of past utility cases and the rates
24 that have went through on those rate cases, it is
25 concerning compared to what the Joint Bidders would

1 charge for rates.

2 Q. And what's your -- I guess you reviewed the
3 direct testimony of Mr. Stone and Mr. Goss as to what
4 they anticipate their rates being for the customers?

5 A. Yes, I did read that.

6 Q. In comparing that to what the anticipated
7 rates would be that Mr. Cox has provided yesterday,
8 would you then have the opinion that there could be harm
9 to the ratepayer?

10 A. Yes.

11 MR. ELLSWORTH: Thank you. No further
12 questions.

13 JUDGE DIPPELL: Now is there cross-examination
14 from OUOC?

15 MR. COOPER: Yes, Your Honor.

16 CROSS-EXAMINATION BY MR. COOPER:

17 Q. Ms. Roth, I think you just volunteered that
18 you're not an engineer, correct?

19 A. I'm not an engineer.

20 Q. And your degree is in accounting, isn't it?

21 A. Yes, it is.

22 Q. Your testimony indicates that your duties
23 include performing audits and examinations of books and
24 records of public utilities; is that correct?

25 A. That's correct.

1 Q. And I believe that in terms of experience your
2 testimony further says that in the past you've performed
3 audits; is that correct?

4 A. Correct.

5 Q. Now, you haven't previously performed any
6 analysis in the past as to a utility's technical,
7 managerial, or financial capabilities, have you?

8 A. I have not performed an audit.

9 Q. You did not do so here?

10 A. I did not.

11 Q. You say you didn't perform an audit. You
12 didn't perform an audit to ascertain their technical,
13 managerial or financial capabilities?

14 A. I did not review that criteria, no.

15 Q. Now, is it your understanding that the Joint
16 Bidders' proposal going forward is for the Public Water
17 Supply District to own and operate the Cedar Glen
18 service area and that Missouri Water Association and
19 Lake Area Wastewater Association will own and operate
20 the other properties, Chelsea Rose, Cimarron Bay, and
21 Highway KK?

22 A. That's my understanding.

23 Q. And I suppose to break it down further even as
24 to those other three service areas, Missouri Water
25 Association would own the water systems and Lake Area

1 Wastewater Association would own the sewer, correct?

2 A. That's my understanding, yes.

3 Q. So when there's talk about the financing that
4 may be available to the Public Water Supply District,
5 that's really only applicable to the Cedar Glen service
6 area going forward, correct?

7 A. Correct.

8 Q. We don't know what the situation would be as
9 to Cimarron Bay, Chelsea Rose, and Highway KK, correct?

10 A. That's correct. I did not see anything for
11 that.

12 Q. Now, I believe the Public Counsel's Statement
13 of Position states that the Joint Bidders' proposal has
14 far more reasonable repair estimates, correct?

15 A. State that one more time.

16 Q. Is it the Public Counsel's Statement of
17 Position that it believes the Joint Bidders' proposal
18 has more reasonable repair estimates than Osage Utility
19 Operating Company?

20 A. Can I pull up the position statement real
21 quick to refresh my memory?

22 Q. Sure. I think it's on page 3 about four lines
23 down going into the fifth line.

24 A. Correct, that's what the position statement
25 states.

1 Q. Now, as an auditor, and I think this goes back
2 maybe to what you said before, you didn't do any
3 analysis specifically as to those repair estimates, did
4 you?

5 A. I did not.

6 Q. Is it just the fact that some of the estimates
7 are less than others?

8 A. They are less than others, yes.

9 Q. Did you review the testimony of Missouri Water
10 Association and Lake Area Wastewater Association Witness
11 Neddie Goss?

12 A. I did.

13 Q. Would you agree with me that as to the Chelsea
14 Rose, Highway KK, and Cimarron Bay service areas he
15 states he does not know what repairs are necessary and
16 consequently he does not know what they would cost as to
17 those three service areas?

18 A. Can you point me to the testimony?

19 Q. Sure. Do you have his testimony in front of
20 you?

21 A. I do. The direct testimony, correct?

22 Q. Correct. I believe that's the only testimony
23 he's filed.

24 A. I think you're right. That's all I have here
25 anyway.

1 Q. So if you'll turn to I guess page 3 of 6.

2 A. Okay.

3 Q. At the bottom there's a question, correct,
4 what repairs and improvements do LAWWA and MWA
5 anticipate with respect to Chelsea Rose water and sewer
6 systems, correct?

7 A. Correct.

8 Q. And the answer as we turn to page 4 is that
9 LAWWA and MWA do not currently have reports stating what
10 repairs and improvements are required by the Missouri
11 Department of Natural Resources at this time. LAWWA and
12 MWA upon receipt will review the reports and make the
13 necessary improvements to the water and sewer system.
14 Is that a correct reading?

15 A. That is a correct reading.

16 Q. If we go down to the bottom of that same page
17 at line 20, there's a question, same similar question
18 but applies to Eagle Woods. Do you see that?

19 A. I do.

20 Q. And Eagle Woods is part of Highway KK service
21 area, correct?

22 A. Correct.

23 Q. If you would read the answer, is the answer
24 substantively the same as what I just read for Chelsea
25 Rose?

1 A. It is.

2 Q. And then if we turn on over to page 5, line
3 18, there's a similar question, what repairs and
4 improvements do LAWWA and MWA anticipate with respect to
5 the Cimarron Bay water and sewer systems?

6 A. Yes.

7 Q. And then if you'll read that answer, is his
8 answer the same again essentially that doesn't know what
9 repairs and improvements are required and will at some
10 point in the future decide what might be done and what
11 it might cost?

12 A. That's -- yes.

13 Q. Did the Osage Utility Operating Company
14 estimates include proposed repairs and costs for
15 Cimarron Bay, Chelsea Rose, and Highway KK?

16 A. Based on what they provided in testimony, I
17 think that's accurate. I don't know exactly what all
18 was included in the estimates, but I would assume that
19 the repairs -- some estimated repairs and maintenance
20 were included.

21 Q. Now, in any case no amount has been paid to
22 date for repairs through the Osage Water Company systems
23 by either Osage Utility Operating Company or the Joint
24 Bidders, has it?

25 A. State that one more time.

1 Q. Neither the Joint Bidders nor my client have
2 made any repairs to these systems as of today, correct?

3 A. Not that I'm aware of.

4 Q. And until the repairs are actually made and
5 it's known whether those repairs satisfy the problems,
6 you don't really know what the costs will be, do you?

7 A. I would say that's fair.

8 Q. General way of saying that estimates are
9 estimates, correct?

10 A. Estimates are estimates.

11 Q. And the Commission doesn't historically
12 approve costs of improvements in an acquisition case,
13 does it?

14 A. No, they don't approve them.

15 Q. Ultimately the Commission would review actual
16 expenditures for prudence in a future rate case?

17 A. Yes.

18 Q. In comparing avenues of ownership for the
19 Osage Water Company properties, did OPC consider the
20 quality of service customers received to be important?

21 A. State that one more time. Sorry.

22 Q. Well, you were suggesting that perhaps the
23 Joint Bidders would be a better option for the Osage
24 Water Company properties than Osage Utility Operating
25 Company. In making that determination, did you look at

1 quality of service issues that the customers would
2 receive?

3 A. Have I looked at complaints that customers
4 have made?

5 Q. Have you compared -- have you compared the
6 ability of these two entities, not two entities, it's
7 actually four entities I suppose, but these four
8 entities to provide service to customers?

9 A. Well, I feel that if they have a backup
10 contract with the bankruptcy court that they were
11 obviously okay to purchase. I would think that they
12 would be okay and they could provide customers safe and
13 adequate service. They have quality in our rules too.

14 Q. So you think that the bankruptcy court went
15 through a technical, managerial, financial capability
16 analysis of the bidders?

17 A. I don't know for sure what the bankruptcy
18 court did.

19 Q. But to the extent that you believe the
20 bankruptcy court believes that the Joint Bidders are
21 qualified to provide the service, you'd have to also
22 believe that the bankruptcy court believes that Osage
23 Utility Operating Company is qualified to provide
24 service?

25 MR. HALL: Objection. Asked and answered.

1 She said she doesn't know what the bankruptcy court
2 believed.

3 JUDGE DIPPELL: I'll sustain that. I believe
4 you did ask that question.

5 BY MR. COOPER:

6 Q. Did you -- And I think you already said you
7 didn't look at any DNR compliance records on your own as
8 to either the Central States Water Resources Company or
9 as to the Joint Bidders, correct?

10 A. Correct.

11 Q. Did you review the information provided by
12 Osage Utility Operating Company in its surrebuttal
13 testimony in regard to the DNR compliance issues of the
14 Water District, Missouri Water Association, or Lake Area
15 Wastewater Association?

16 A. Did I go through the thousand pages of
17 schedules?

18 Q. Or even the summaries that were provided?

19 A. I briefly scanned but otherwise it was
20 internal discussion within our office regarding those
21 schedules.

22 Q. If you had looked more closely and seen that
23 there are as to Lake Area Wastewater Association
24 violations in this calendar year in regard to failure to
25 attain ecoli limits, violations on ammonia discharge and

1 failure to submit discharge monitoring reports, would
2 that have concerned you at all?

3 MR. HALL: Objection. Calls for a
4 hypothetical, mischaracterizes evidence. Mr. Thomas
5 testified the majority of his schedules do not show
6 violations.

7 MR. COOPER: Well --

8 JUDGE DIPPELL: I'm going to overrule the
9 objection. She can answer the question.

10 THE WITNESS: Would it have caused concern to
11 see that? Of course, I think there's always concern.
12 However, it is my understanding based on internal
13 discussions that any compliance issues have been fixed.
14 That's just based on my general understanding.

15 BY MR. COOPER:

16 Q. And you believe that to be the case as to the
17 Water District and as to Missouri Water Association and
18 as to Lake Area Wastewater Association?

19 A. Just general understanding of what I've been
20 discussing.

21 Q. Somebody told you that; is that kind of the
22 bottom line?

23 A. Internal discussion in our office.

24 Q. And I guess going back to I guess some similar
25 questions that we had before, I take it from your

1 conversation you didn't look at the financial statements
2 of the Water District or Missouri Water Association or
3 Lake Area Wastewater Association to ascertain their
4 financial capabilities, correct?

5 A. I did not look at those, no.

6 Q. Can you tell me if Osage Utility Operating
7 Company purchases these properties, can you tell me with
8 any certainty what their rates will be two years from
9 now?

10 A. Certainty? No, I cannot.

11 Q. Would your answer be the same as to what the
12 rates would be in two years from now for the Public
13 Water Supply District?

14 A. That's fair.

15 Q. And the same answer for Missouri Water
16 Association?

17 A. Yes.

18 Q. And the same answer for Lake Area Wastewater
19 Association?

20 A. Yes.

21 MR. COOPER: That's all the questions I have,
22 Your Honor.

23 JUDGE DIPPELL: Thank you. Are there any
24 questions for Ms. Roth from the Commission?

25 COMMISSIONER RUPP: None from me.

1 JUDGE DIPPELL: All right. Is there redirect?

2 MR. HALL: Yes, Your Honor.

3 REDIRECT EXAMINATION BY MR. HALL:

4 Q. Ms. Roth, you were asked about looking into
5 the compliance history of the Joint Bidders by Staff's
6 counsel. Is there any evidence in the record that
7 you've seen that shows that Public Water Supply
8 District, Missouri Water Association or Lake Area
9 Wastewater Association would be unfit operators?

10 A. No, I don't believe so.

11 Q. And you live here around Jefferson City,
12 correct?

13 A. Correct.

14 Q. We're about an hour and a half -- an hour away
15 from the lake if you speed down the highway?

16 A. Yeah.

17 Q. Based on your proximity and living in the area
18 for many years, have you heard of any public health
19 scares regarding the Joint Bidders?

20 A. No.

21 Q. Has there been any news about public health
22 scares throughout the time that Osage Water Company has
23 been in receivership?

24 A. No.

25 Q. Staff counsel also asked you about your

1 analysis into the different options that are available
2 to the Commission. Can you give any estimates as to
3 what you believe the different options would have on
4 ratepayers from a purely financial perspective?

5 A. State that one more time, please.

6 Q. Based -- Staff counsel asked you about like
7 different options and what analysis you took to consider
8 them?

9 A. Correct.

10 Q. Can you give us any estimates or conception of
11 what the rate differentials could be?

12 A. The rate impacts?

13 Q. Yes.

14 A. I know that I believe it was Mr. Goss and
15 Mr. Hulett stated that rates would be what is currently
16 charged to customers if they were to obtain the systems,
17 and then just based on past history with CSWR systems I
18 think rates would be exponentially higher for customers
19 if OUOC were to obtain the systems.

20 Q. Let's talk more about that. How many of
21 Central States cases have you been a witness on?

22 A. I've been involved with every system from the
23 beginning.

24 Q. And to risk an asked and answered, you are a
25 trained accountant, correct?

1 A. Yes.

2 Q. Based on your expertise as an accountant, have
3 the repair estimates by Central States been reasonable?

4 A. In the past?

5 Q. Yes.

6 A. Well, I don't know that we've ever argued the
7 repair estimates in the past too much. They are quite
8 high.

9 Q. More than necessary?

10 A. I don't know. I'm not an engineer.

11 Q. You aren't the only witness in this case
12 that's brought up -- OPC rather is not the only party
13 that's brought up repair estimates in this case,
14 correct?

15 A. Correct.

16 Q. And your testimony cites to -- Does your
17 testimony cite to a witness provided by Reflections who
18 testified to that point as well?

19 MR. COOPER: Objection, relevance to this
20 hearing.

21 MR. HALL: It's within the scope of the
22 questions as to the repair estimates. I'm asking a
23 closed question that gives her a yes or no answer as to
24 what's within her testimony.

25 JUDGE DIPPELL: I'll allow it. Overruled.

1 THE WITNESS: Can you point me to the
2 testimony that you're referring to?

3 BY MR. HALL:

4 Q. Of course. Your surrebuttal testimony page 5.

5 A. Okay.

6 Q. On lines 1 through 20, whose testimony are you
7 relying on for that point?

8 A. Mr. Soukenik.

9 Q. What did Mr. Soukenik conclude?

10 A. He stated in testimony, as I've mentioned in
11 my testimony, additionally the improvements discussed by
12 Osage Utility Operating Company, Inc. include items that
13 are not required by Missouri Department of Natural
14 Resources, DNR, again adding to the costs that would be
15 recovered through future rates.

16 MR. COOPER: Objection, same objection.

17 MR. HALL: Same response.

18 JUDGE DIPPELL: The objection is overruled.
19 This is what she's basing her opinion on is that
20 testimony. Even though it was in the Reflections
21 matter, it's relevant as to how she's basing her opinion
22 on someone else's opinion.

23 MR. HALL: Did you need to finish, Ms. Roth?

24 THE WITNESS: I think I finished it.

25 MR. HALL: Your Honor, may I approach?

1 JUDGE DIPPELL: Yes.

2 BY MR. HALL:

3 Q. Ms. Roth, do you recognize the document I just
4 handed you?

5 A. I do.

6 Q. What is this?

7 A. This is the rebuttal testimony for Anthony J.
8 Soukenik for Reflections Subdivision Master Association,
9 Inc. who I cited in my testimony.

10 Q. Okay. So as you just said, this is the
11 testimony you relied on for the pages we just discussed
12 of your page 5 of your surrebuttal?

13 A. Correct.

14 MR. HALL: Your Honor, at this time I would
15 move for the admission of this as Exhibit 204.

16 MR. COOPER: I object. There's no foundation
17 for this. Mr. Soukenik is not here to provide that
18 foundation for him to stand his testimony on.

19 MR. HALL: Your Honor, this qualifies as both
20 an exception and exclusion to the hearsay rule. It's an
21 exclusion to the hearsay rule because it is documented
22 with an affidavit of the witness itself and provided in
23 this docket. It furthermore qualifies as an exception
24 to the hearsay rule because it is testimony relied upon
25 by an expert as she was developing her testimony.

1 MR. COOPER: The Commission's bifurcated those
2 cases, Your Honor.

3 JUDGE DIPPELL: Can you point me again to Ms.
4 Roth's testimony where she refers to --

5 MR. HALL: Surrebuttal -- Sorry. It's Ms.
6 Roth's surrebuttal page 5. She has two footnotes
7 directly pointing to the pages of Soukenik's testimony
8 that we are particularly interested in. If the
9 Commission has any concerns about providing testimony
10 that's not relevant to the Osage Water Company
11 proceeding, we would simply ask that these pages that
12 are relied upon by Ms. Roth be admitted.

13 MR. COOPER: Your Honor, she's already quoted
14 the provisions that she relied upon, and I think that
15 was part of your earlier ruling on what we were going to
16 do with this issue.

17 JUDGE DIPPELL: Give me just one moment.
18 Okay. It does look like Ms. Roth quoted the portions
19 that she relied on and I don't think there's any dispute
20 as to -- well, maybe I should ask. Is there a dispute
21 as to that testimony being a fact that in the bifurcated
22 portion of this case originally, and I don't want to
23 mispronounce his name, is it Soukenik? How do you
24 pronounce it?

25 MR. HALL: That's based on my understanding of

1 conversation with him.

2 MR. ELLSWORTH: Soukenik.

3 JUDGE DIPPELL: Soukenik. Thank you. That
4 Mr. Soukenik filed, previously filed prefiled testimony
5 in this -- written testimony in this case before we
6 bifurcated it.

7 Is there a dispute that the Commission could
8 rely on his opinion even though we haven't had him on
9 the stand?

10 MR. COOPER: I think so, yes. I mean, he
11 would be subject to cross-examination in a normal
12 situation and that's what makes -- kind of completes the
13 circle as far as ultimately making that testimony
14 admissible.

15 In whole, again, Ms. Roth says she relied upon
16 a couple of statements. She quotes those statements.
17 There's no reason to then just group in the entirety of
18 the testimony based upon that.

19 JUDGE DIPPELL: I will sustain the objection.
20 I'm not going to admit Mr. Soukenik's testimony. We can
21 go ahead. We didn't number it for identification
22 purposes.

23 MR. HALL: Well, I just referred to it as 204,
24 but I had not moved -- I didn't -- I did not call it 204
25 as I started my questioning of it, no.

1 JUDGE DIPPELL: Okay. Just to clarify the
2 record, it was marked as Exhibit 204 for identification
3 purposes, but it has not been admitted.

4 MR. HALL: Of course.

5 BY MR. HALL:

6 Q. Ms. Roth, going back to purchase price,
7 Staff's counsel asked you about purchase price but then
8 noticeably cut you off on your full answer. Would you
9 like to take this opportunity to provide the full
10 answer?

11 A. Can you refresh my memory on that question
12 exactly?

13 Q. Honestly it's been awhile. I forget the
14 question as well. Central States counsel brought up the
15 difference between -- Let the record reflect that she
16 seems to have realized what the prior question was. I
17 refer back to my previous question regarding Staff
18 counsel's question regarding purchase price.

19 A. Are you referring to the purchase prices being
20 the same by the Joint Bidders and OUOC, that question?

21 Q. Yes. What was your full answer?

22 A. I was going to state that I did not believe
23 that the Joint Bidders' purchase price would reflect an
24 acquisition premium based on the Joint Bidders stating
25 in testimony that current rates would be maintained for

1 future -- the future customers if they were to obtain
2 the systems. I don't believe that there would be an
3 acquisition premium involved.

4 Q. Central States counsel brought up the
5 difference between a prudence case versus a certificate
6 case. You've worked with Office of Public Counsel for
7 seven years, correct?

8 A. Correct.

9 Q. Based on your experience, does a certificate
10 case have a practical impact on a prudence hearing even
11 if there is a doctrinal separation?

12 A. Can you rephrase your question, please?

13 Q. Sure. How many times has the Commission found
14 the use of an asset imprudent when that asset is covered
15 by a certificate in a prudency hearing that follows that
16 certificate hearing?

17 A. In a prudency hearing? Are you referring to a
18 rate case?

19 Q. Prudency hearing or rate case, yes.

20 A. Have they found it not prudent?

21 Q. Correct.

22 A. Just off the top of my head, I would say that
23 it's not very often that it has happened that I have
24 experienced.

25 MR. HALL: Of course. No further questions.

1 Thank you.

2 JUDGE DIPPELL: Thank you. I believe that
3 concludes your testimony, Ms. Roth. You may step down.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 JUDGE DIPPELL: Does Public Counsel have any
7 additional witnesses?

8 MR. HALL: Not unless the Commission wishes to
9 ask any other witnesses upstairs. I'm sure they're not
10 happy with me right now watching the feed.

11 JUDGE DIPPELL: All right. Then I believe
12 that concludes Public Counsel's testimony and we can go
13 ahead and begin with Cedar Glen.

14 MR. COMLEY: Your Honor, Cedar Glen would call
15 its first witness, Mr. David Krehbiel. These are
16 Exhibits 300, Mr. Krehbiel's rebuttal, and Exhibit 301,
17 his direct. Excuse me.

18 JUDGE DIPPELL: Is that 300 for the direct?

19 MR. COMLEY: His direct should be 300.
20 Rebuttal, 301.

21 (Witness sworn.)

22 JUDGE DIPPELL: Just to clarify, so
23 Mr. Krehbiel's testimony was filed under the Public
24 Water Supply District and Cedar Glen's sponsorship?

25 MR. COMLEY: Yes.

1 JUDGE DIPPELL: Okay.

2 MR. COMLEY: And I think perhaps I should
3 amend the footnote that is appearing in the list of
4 issues. I think the footnote concerning the
5 cross-examination of Mr. Krehbiel indicated that he was
6 appearing on behalf of the Missouri Water Association
7 and Lake Area Wastewater, but indeed he's appearing on
8 behalf of Public Water Supply District No. 5 and Cedar
9 Glen.

10 JUDGE DIPPELL: And so in our
11 cross-examination then because the Joint Bidders are not
12 all included in that, I'm not sure.

13 MR. COMLEY: No. There are other witnesses
14 for Missouri Water Association and the Lake Area
15 Wastewater Association.

16 JUDGE DIPPELL: Okay. I'm going to bump the
17 Joint Bidders up. Our order of cross usually goes sort
18 of in order of friendliness to a party versus
19 opposition. So I'm just going to bump the Joint Bidders
20 up.

21 MR. COOPER: I guess that was my question.
22 Mr. Comley, is that what you're suggesting that
23 Mr. Ellsworth should be able to cross-examine
24 essentially his own witness here or was it just a
25 correction of the footnote?

1 MR. COMLEY: It was a correction to the
2 footnote, Judge Dippell. I'm sorry. I don't mean to
3 confuse this. The footnote says Mr. Krehbiel will
4 appear once on behalf of both Cedar Glen and Lake Area,
5 Missouri Water and Public Water Supply, but he's not
6 appearing on behalf of Missouri Water and Lake Area
7 Wastewater.

8 JUDGE DIPPELL: All right. I think I confused
9 it more than anyone. So we'll just go ahead and because
10 there may be some additional direct testimony as well in
11 response to the Staff's recommendation so we'll just
12 proceed --

13 MR. COMLEY: Very well.

14 JUDGE DIPPELL: -- for now. Go ahead,
15 Mr. Comley.

16 DAVID KREHBIEL, being sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. COMLEY:

18 Q. Mr. Krehbiel, would you state your full name
19 for the court reporter, please?

20 A. David Krehbiel and Krehbiel is
21 K-r-e-h-b-i-e-l.

22 Q. And how are you professionally employed, sir?

23 A. I'm employed with Darren Krehbiel Consultants
24 who is my son's company.

25 Q. Did you cause to be prepared for this docket

1 pieces of written testimony, direct and rebuttal, that
2 have been marked for identification by the reporter as
3 Exhibits 300 and 301, 301?

4 A. Yes, sir.

5 Q. Mr. Krehbiel, if I were to ask you the same
6 questions that are propounded in that written testimony
7 in Exhibits 300 and 301, would your answers today be the
8 same?

9 A. They would.

10 Q. And did you prepare those based upon your
11 professional judgment, your information, belief, and the
12 best information and belief?

13 A. Yes, sir.

14 MR. COMLEY: Your Honor, I would offer
15 Exhibits 300 and 301 into the record.

16 JUDGE DIPPELL: Would there be any objection
17 to Exhibits 300 and 301? Seeing none, then I will admit
18 those.

19 (CEDAR GLEN EXHIBITS 300 AND 301 WERE RECEIVED
20 INTO EVIDENCE AND MADE A PART OF THIS RECORD.)

21 MR. COMLEY: Your Honor, I have no further
22 direct for Mr. Krehbiel despite leave that you did give
23 us. I tender the witness for cross.

24 JUDGE DIPPELL: All right. And would there be
25 any cross-examination from the Lake Area Water --

1 Wastewater Association and Missouri Water Association?

2 MR. ELLSWORTH: No, Your Honor. I think it
3 would only be fair since I submitted the direct
4 testimony as well that I would follow Mr. Comley and
5 also I have nothing to supplement the direct.

6 JUDGE DIPPELL: I appreciate that. All right.
7 Thank you very much. Is there cross-examination from
8 Staff?

9 MS. PAYNE: No questions. Thank you.

10 JUDGE DIPPELL: From Public Counsel?

11 MR. HALL: Just briefly. Good morning, Mr.
12 Krehbiel.

13 THE WITNESS: Good morning.

14 CROSS-EXAMINATION BY MR. HALL:

15 Q. Can you speak to repair estimates to bring a
16 water system into compliance?

17 A. I cannot. That comes under the purview of the
18 board president.

19 MR. HALL: No further questions.

20 JUDGE DIPPELL: Is there cross-examination
21 from OUOC?

22 MR. COOPER: Could you give us just a second?

23 JUDGE DIPPELL: Yes.

24 MS. HERNANDEZ: Thank you. Good morning.

25 THE WITNESS: Good morning.

1 CROSS-EXAMINATION BY MS. HERNANDEZ:

2 Q. So in the past you've attended board meetings
3 for the Public Water Supply District No. 5, correct?

4 A. On occasion, yes.

5 Q. And you attended a meeting of the board on
6 February 24, 2016, to present your engineering report
7 for water system improvements to Public Water Supply
8 District No. 5, correct?

9 A. That would be correct.

10 Q. And that engineering report for water system
11 improvements to Public Water Supply District No. 5, that
12 is the same report that Mr. Stone references in his
13 testimony on page 5, line 22 through page 6, lines 1
14 through 2?

15 A. I don't have that.

16 Q. You need a copy of Mr. Stone's testimony?

17 A. Yes, please.

18 MS. HERNANDEZ: If we can approach the
19 witness?

20 JUDGE DIPPELL: Yes.

21 THE WITNESS: Thank you, sir.

22 BY MS. HERNANDEZ:

23 Q. Page 5. Page 5, line 22.

24 A. Yes.

25 Q. That's your --

1 A. Yes, I have that line. Excuse me.

2 Q. Is that your engineering report that Mr. Stone
3 is referring to?

4 A. That is correct.

5 Q. And you submitted the engineering report to
6 the Missouri Department of Natural Resources for
7 approval in January 2016?

8 A. I did.

9 Q. And DNR approved your engineering report in
10 February 2016; is that correct?

11 A. That is correct.

12 Q. And DNR partially funded your engineering
13 report?

14 A. Yes.

15 Q. Is that correct? Through a grant program of
16 DNR's?

17 A. That's correct.

18 MS. HERNANDEZ: Okay. Have this marked for
19 identification as Exhibit 9.

20 JUDGE DIPPELL: Yes. We'll mark that as
21 Exhibit 9.

22 BY MS. HERNANDEZ:

23 Q. Have you had a chance to look at Exhibit 9 in
24 front of you?

25 A. Yes.

1 Q. This is your engineering report that you
2 prepared?

3 A. It appears to be, yes.

4 MS. HERNANDEZ: At this time I move for
5 admission of Exhibit 9 as the witness has recognized
6 this as his own work and it's cited in testimony.

7 MR. COMLEY: No objection.

8 JUDGE DIPPELL: Is there any objection to
9 Exhibit 9? Seeing none, I will admit it as the
10 engineering -- let's see. What's a good title for this?
11 The engineering report for Public Water Supply District
12 No. 5?

13 MS. HERNANDEZ: Maybe perhaps 2016 engineering
14 report.

15 JUDGE DIPPELL: 2016 engineering report. All
16 right. Go ahead.

17 MS. HERNANDEZ: Thank you.

18 (COMPANY EXHIBIT NO. 9 WAS RECEIVED INTO
19 EVIDENCE AND MADE A PART OF THIS RECORD.)

20 BY MS. HERNANDEZ:

21 Q. And if you could turn to the table of
22 contents. There's a Bates stamp at the bottom of the
23 page it ends in 53.

24 A. Yes, I have the table of contents.

25 Q. The table of contents contains a conclusion

1 section or it states that there's a conclusion section
2 starting on page 18; is that correct?

3 A. Correct.

4 Q. Would you agree with me that the engineering
5 report Bates stamped provided through discovery in this
6 case PWSD 1.4.7-000071 through PWSD 1.4.7-000111 does
7 not contain page 18, the conclusion section? Certainly
8 take a look through there.

9 MR. HALL: Counselor, could you repeat that
10 page number?

11 MS. HERNANDEZ: Sure. Essentially it would be
12 -- the report has numbers so at the bottom of the page
13 of the report it goes to 17.

14 THE WITNESS: I see that.

15 BY MS. HERNANDEZ:

16 Q. But page 18, the conclusion is missing; would
17 you agree with that?

18 A. I'll agree with that.

19 MR. HALL: I'm sorry. For the clarity of the
20 record, I don't see -- are you saying the 17th page
21 because there's no like 17 in the footnotes.

22 MS. HERNANDEZ: It would be Bates stamped.
23 There's a 17 on the page of the report, Bates stamp
24 ending in 71.

25 MR. HALL: The copy that -- never mind.

1 Pardon me.

2 MS. HERNANDEZ: No problem.

3 BY MS. HERNANDEZ:

4 Q. Looking at -- Are you still at page 17, Mr.
5 Krehbiel?

6 A. Yes.

7 Q. Between your page 17 and the conclusion that's
8 not in this report or wasn't provided in discovery with
9 this report and then Exhibit A, those Bates stamp
10 numbers are consecutive ending in 71 and 72?

11 A. Correct.

12 Q. And to your knowledge, is this engineering
13 report the type of document that the Department of
14 Natural Resources would retain in the normal course of
15 its business?

16 A. These appear to be from earlier testimony DNR
17 numbers.

18 Q. So if there was a conclusion to your report,
19 the Department of Natural Resources would have that
20 conclusion within its documents; is that correct?

21 A. They should have.

22 Q. I just want to clarify the bottom of the Bates
23 stamps, do you understand this to be a document that
24 your counsel provided in response to discovery?

25 A. I don't know who provided it to you.

1 Q. All right. In your testimony your Schedule 1,
2 it's a map entitled Water System Interconnection?

3 A. Yes.

4 Q. So your proposed connection of Cedar Glen to
5 the Public Water Supply District requires building the
6 interconnection under Highway 54; is that correct?

7 A. That's correct.

8 Q. And the Public Water Supply District will
9 require approval from the Missouri Department of Natural
10 Resources for this interconnection; is that correct?

11 A. That's correct.

12 Q. And the Public Water Supply District will
13 require approval by the Missouri Department of
14 Transportation to build underneath the interconnection
15 under Highway 54; is that correct?

16 A. Correct.

17 Q. And to your knowledge, the Public Water Supply
18 District has not yet sought authority from the Missouri
19 Department of Natural Resources for this connection?

20 A. That's true.

21 Q. And to your knowledge, the Public Water Supply
22 District has not yet sought authority from the Missouri
23 Department of Transportation for the interconnection?

24 A. That's correct.

25 Q. And the Public Water Supply District will

1 require additional easements from private property
2 owners to build the interconnection as you proposed; is
3 that correct?

4 A. I think that's in my direct testimony.

5 Q. So it's a correct statement?

6 A. It is correct, yes, ma'am.

7 Q. So in your rebuttal testimony page 5 --

8 A. Yes.

9 Q. -- you indicate the interconnection from the
10 Public Water Supply to Cedar Glen may require more than
11 24 months, correct?

12 A. That's correct. We would have to go through
13 the same process that any other entity would and I think
14 that process has been documented or on record by OUOC.

15 Q. The applicant is not proposing to do an
16 interconnection; you understand that, correct?

17 A. That's correct.

18 Q. So when your testimony refers to 24 years,
19 that's -- 24 months, sorry, 24 months, that's the time
20 that it would take Public Water Supply District to
21 interconnect to Cedar Glen; that's your testimony?

22 A. Read the last sentence if you would.

23 Q. Well, I'll have you refer to your rebuttal
24 testimony at page 5.

25 A. Yes. The last sentence beginning on line 2.

1 Q. Your testimony states it could require up to
2 24 months, correct?

3 A. I'm sorry. The interconnection, are you
4 speaking of the interconnection?

5 Q. Yes.

6 A. Okay. Beginning on line 2 refers to more time
7 than 24 months.

8 Q. Okay. So it may take -- your testimony is it
9 may take more than two years?

10 A. To construct the interconnection.

11 Q. Okay.

12 A. Yes.

13 Q. Thank you. And Public Water Supply District
14 No. 5 has not conducted any evaluations or studies to
15 predict rates for water and sewer service for Cedar Glen
16 out past 2021; is that correct?

17 A. I'm not involved in the ratemaking process.

18 Q. And today you're not testifying on behalf of
19 the Missouri Water Association or the Lake Area
20 Wastewater Association, correct?

21 A. That is correct.

22 Q. And you have done no work in regard to the
23 Chelsea Rose systems, correct?

24 A. Correct.

25 Q. And the Cimarron Bay systems?

1 A. Correct.

2 Q. And the Highway KK system?

3 A. Correct.

4 MS. HERNANDEZ: No further questions. Thank
5 you.

6 JUDGE DIPPELL: Thank you. Are there
7 questions for Mr. Krehbiel from the Commission?

8 CHAIRMAN SILVEY: Yes, thank you.

9 QUESTIONS BY CHAIRMAN SILVEY:

10 Q. Mr. Krehbiel, looking at your direct testimony
11 on page 2, beginning with the question on line 16 you
12 discuss the process of annexation in order to bring the
13 condominiums into PWSA's service territory; is that
14 correct?

15 A. Correct.

16 Q. What is your understanding of that process?

17 A. It's a legal process. So I'll give you my
18 legal opinion as an engineer or what I know of the
19 process. As I recall, and it's in Chapter 247 of the
20 statutes, the annexation process can be by -- depending
21 on the ownership, it may be by the board of directors or
22 a request from five people within that condominium
23 grouping that can annex into that. It is part of the
24 Camden County Water District. Now, the entire Camden
25 County is incorporated into a water and sewer district.

1 And the municipalities are exempt. So No. 5 received an
2 exception from the county so they would be overlaying
3 the certificated area and the county area.

4 Q. Do you have any estimate of how long the
5 process would take or whatever is left of the process
6 that would need to be completed for that annexation to
7 be completed?

8 A. It's a process in the circuit court and I
9 think the circuit court would take it up very quickly
10 and the process could take two to three months.

11 Q. Two to three months?

12 A. That's my estimate.

13 Q. Okay. And then looking at your rebuttal
14 testimony, I believe on page 4 there's some discussion
15 of DNR violations.

16 A. Excuse me. My throat is dry and I forgot to
17 bring my water up here. I'll go ahead. Just please
18 understand.

19 Q. Sure, no problem. What is your understanding
20 of the DNR violations?

21 A. Chairman, which -- page 4, which line?

22 Q. I had it up here a second ago.

23 COMMISSIONER RUPP: I think it's bottom of
24 page 3.

25 CHAIRMAN SILVEY: Yeah, I think you're right.

1 BY CHAIRMAN SILVEY:

2 Q. I think it was back on page 3. Thank you,
3 Commissioner.

4 A. Was the question --

5 Q. The question Cedar Glen sewer system had 2 of
6 11 quarters as violations identified on the effluent
7 discharge monitoring reports?

8 A. This was in response to the direct testimony
9 of Todd Thomas, and he cited violations and he
10 specifically cited two quarters in the monitoring
11 reports and I point out that Thomas' call out on
12 violations were 2016 and 2017 and in the past seven
13 quarters or 21 months there were no violations
14 identified. So I just quoted if there are no violations
15 cited, the plant has to be operating and have good
16 maintenance to it. So you know, it's cause and effect.
17 You've got 21 months over two years of no violations.

18 Q. Thank you.

19 A. Under two years.

20 Q. I'm sorry. Going back to your direct
21 testimony on page 4, you discuss the proposed
22 interconnection would be highly appropriate and you talk
23 about the backup capability of interconnecting to the
24 system. Without the interconnection, does that mean
25 that construction of totally separate backup systems

1 would be required?

2 A. For each system. For a backup system and the
3 alternate water supply, I think DNR lives and dies by
4 the 500 rule. Everything where I have had 500 or
5 estimated 500 I've gotten a report from DNR that I have
6 to have access to a backup system. So the Cedar Glen
7 system with the interconnection would serve as a backup
8 system to the Public Water Supply District and the
9 Public Water Supply District's well would serve as a
10 backup to the Cedar Glen system.

11 Q. So if they were to remain separate, it would
12 require construction of those systems whereas if they
13 were interconnected there's no need for additional
14 construction because it already exists?

15 A. Correct.

16 CHAIRMAN SILVEY: Okay. Thank you.

17 COMMISSIONER RUPP: I have some questions.

18 JUDGE DIPPELL: Sure. Commissioner Rupp?

19 COMMISSIONER RUPP: Thank you.

20 QUESTIONS BY COMMISSIONER RUPP:

21 Q. Going back to Commissioner Silvey's question
22 on the bottom of page 3 of your rebuttal, you're talking
23 about the quarters, there's been 21 months. Are those
24 discharge monitoring reports, are those tested every
25 quarter or how often are those tested?

1 A. You would have to ask an operator that. I'm
2 just responding to the example that Todd Thomas was
3 making that this facility had been in, I'm not sure it's
4 violation or what the violation was, but there have been
5 in the past 21 months. I just responded to that.

6 Q. So if it's tested every six months, is that
7 different than every three months?

8 A. I would guess that it's on a monthly basis.
9 But that's an oversight. That's just me looking over
10 somebody's shoulders.

11 Q. And then on page 4 you talk about you do not
12 agree with Mr. Thomas' belief that an installation of an
13 MBBR should be installed and you state you feel that the
14 recirculating sand filter is completely capable to meet
15 the permit limits of DNR. We heard testimony yesterday
16 people said, I can't remember who it was, I'm looking
17 through my notes, that the sand filter systems are not
18 the technology that is used by most water systems and it
19 would not be able to catch some types of contaminants
20 and I think maybe phosphorous was one or maybe something
21 else or things that DNR and the EPA are currently
22 starting to monitor. Can you speak to that?

23 A. I'll correct your question. It's to the
24 wastewater system.

25 Q. The wastewater system?

1 A. Yes.

2 Q. Gotcha.

3 A. A sand filter, the design concept for this
4 began about 20 years ago. And the design criteria has
5 been developed over the years and especially in
6 Southwest Missouri where there are bodies of water like
7 Central Missouri Lake of the Ozarks and we have or DNR
8 --

9 THE WITNESS: Thank you. You'll be in my
10 will.

11 JUDGE DIPPELL: Thank you.

12 (Off the record.)

13 THE WITNESS: These systems have been
14 developed and now contain three layers of different
15 gradations, sand, and that's sort of a misnomer. You
16 think of some kid's sandbox. But these have three
17 specially graded layers of coarse material and the
18 process is such that it takes care every system I have
19 got meets the ammonia limits, every system I've
20 designed.

21 Now, it's the size of the system, it's the
22 size of footprint that dictates the use of sand filters.
23 So there are a few at the Lake of the Ozarks. There's a
24 sand filter that sits right next to this sand filter
25 that I designed and county owns. I did not design the

1 Cedar Glen system.

2 BY COMMISSIONER RUPP:

3 Q. So if you were installing a new system for a
4 new development, would you use the sand filter system?

5 A. I would not.

6 Q. Why is that?

7 A. Because of the footprint. Now, depending on
8 the location, yes. You know, if it was a rural area I
9 would do that. And in this case the county had enough
10 land away from the lake, reasonably away from the lake,
11 that they could afford that parcel and it's a good
12 system.

13 Q. So assuming there was enough space and you
14 were designing a new system for a new 450-person
15 condominium unit, you would use the sand filter system?

16 A. If yeah, you qualified with enough space, yes,
17 I would.

18 COMMISSIONER RUPP: Thank you.

19 JUDGE DIPPELL: I just have a couple questions
20 for you, Mr. Krehbiel.

21 QUESTIONS BY JUDGE DIPPELL:

22 Q. So Exhibit 9, which was the engineering
23 report, I got myself a little confused there. So we
24 have this report and it seems to be that page 18 is
25 missing from this report. Was there ever a page 18?

1 A. Yes, I did make a conclusion.

2 Q. Okay. Do you know if the report you gave to
3 DNR included page 18?

4 A. If these are truly DNR numbers, and I think
5 some other documents have been presented with a similar
6 numbering system, it doesn't appear that they have that
7 page but --

8 Q. So you don't know for certain if you ever gave
9 DNR the page?

10 A. I want to say I'm sure.

11 Q. Or perhaps --

12 MR. ELLSWORTH: Your Honor, Commissioners, if
13 I may clarify something. Tell me if I'm out of place.
14 But this appears to just be a technical issue on when I
15 scanned these documents pages 18 and 19 did not pull
16 through. This issue was never raised as part of
17 discovery. There was never -- was it? Did you request
18 pages 18 and 19?

19 MS. HERNANDEZ: Yes. For the record --

20 JUDGE DIPPELL: Wait just a minute. I don't
21 want to get into a discovery dispute.

22 MR. ELLSWORTH: I have the pages if you would
23 like me to enter them into evidence.

24 MR. COMLEY: I don't think anybody wants to
25 play games with you or counsel. We'll get the other

1 pages. We'll make sure the pages are in the record.

2 JUDGE DIPPELL: Everybody calm down here.
3 Just a minute. I'm just trying to find out if there are
4 these pages and if he gave those pages to DNR. So just
5 hold your horses.

6 MR. ELLSWORTH: I do have those that I'll
7 present as evidence.

8 JUDGE DIPPELL: Okay. We can talk about that
9 after the fact. I'm going to finish my questions here.

10 MR. ELLSWORTH: I apologize.

11 JUDGE DIPPELL: No problem.

12 BY JUDGE DIPPELL:

13 Q. Okay. So the pages exist. Do you recall what
14 your conclusion was that's in those pages?

15 A. Not in its entirety.

16 Q. Okay. That's fine.

17 A. Understand that these predate. These are 2016
18 under the circumstances that existed at that time.

19 Q. Okay. That's all I wanted to know.

20 A. Sure.

21 Q. It sounds like maybe page 19 is also missing.
22 Was there anything else that you're aware of, and I'll
23 let counsel get to that later, is there anything else
24 that you're aware of that was missing from your report
25 that's labeled as Exhibit 9?

1 If you haven't had a chance to look at it,
2 that's fine. Again, your counsel will clarify that.

3 A. Is there a page 19?

4 Q. It does not appear that there's a page 19 on
5 this either. It goes straight from 17 to the schedule.

6 A. Is there reference to a page 19?

7 Q. I don't see one, but again your counsel just
8 brought that up.

9 A. Okay.

10 Q. Okay. And then another unrelated question.
11 So in talking about the interconnection and whether or
12 not that would be required, that all hinges on those 500
13 residents, correct, DNR's rule about if there's 500 or
14 more then it would have to have an additional backup
15 system, correct --

16 A. That's correct.

17 Q. -- for the drinking water? Were you present
18 yesterday when we had testimony about perhaps there's
19 another way to determine what's required if a backup
20 system is required or not?

21 A. Yes, I heard that testimony.

22 Q. And do you have any knowledge of another
23 system of testing how much the flow rate is to determine
24 whether another system would be needed?

25 A. Not that I'm aware of. These notices from DNR

1 that says you shall have another well, there are 500
2 people; and if you go down there on July 4 and can't
3 find a parking place, I think it would be easy for you
4 to use my numbers that there are 500 people there. So
5 those are 500 people that are using that water system
6 that DNR has determined need an alternate water supply.

7 Q. Okay. I understand that there were those --
8 that that's what was stated on those reports that we
9 saw, but from your knowledge of doing these kinds of
10 engineering things before and working with DNR, is there
11 another method besides just counting heads or assigning
12 so many per condominium as in the DNR guidelines?

13 A. That is true on some situations on sizing
14 tanks; but as far as an alternate water supply, I don't
15 think there's an exception.

16 Q. Okay. And how many of these kinds of systems
17 have you been involved with in your professional career?

18 A. Is that an age question?

19 Q. No, no, sir. Today is my birthday, sir. I
20 would not get into age.

21 A. You and I are close, close on date and not
22 age.

23 Q. In your professional --

24 A. Not to be. I don't want to joke on that. I'd
25 say that there -- I've probably been involved with 50

1 water systems.

2 JUDGE DIPPELL: Okay. Okay. That's all the
3 questions I have. Are there any additional questions
4 based on Commission questions, I'm sorry, from Staff?

5 MS. PAYNE: No, thank you.

6 JUDGE DIPPELL: From Public Counsel?

7 MR. HALL: None at this time.

8 JUDGE DIPPELL: From OUOC?

9 MS. HERNANDEZ: Yes, a few.

10 FURTHER CROSS-EXAMINATION BY MS. HERNANDEZ:

11 Q. Chairman Silvey asked you about the
12 interconnection that you discuss in your testimony?

13 A. Yes.

14 Q. Isn't it correct that your engineering report
15 that's cited in your testimony along with others, your
16 engineering report recommends the solution as drilling a
17 new well at the Cedar Heights complex; isn't that
18 correct?

19 A. That's correct.

20 Q. And you made -- you presented your engineering
21 report at the Public Water Supply District board
22 meeting; is that correct?

23 A. That's correct. I'm sure we did.

24 MS. HERNANDEZ: Thank you.

25 JUDGE DIPPELL: Is there any redirect from

1 Cedar Glen and Public Water Supply District?

2 MR. COMLEY: Because of the discrepancy about
3 the report, I'm wondering whether -- we do have access
4 to pages 18 and 19. While we have those access, I'm
5 thinking that if we have a way of printing those off we
6 can get those into the hands of the witness and he can
7 be interviewed about that and subjected to any redirect
8 that may be necessary. Again, I don't think anybody
9 wanted to make any sport about the absence of these
10 pages. They are available and they can be reviewed
11 immediately.

12 JUDGE DIPPELL: Would OUOC like the
13 opportunity to cross-examine the witness about the
14 missing report pages?

15 MS. HERNANDEZ: I suppose that would depend on
16 what they state. Just for the record we did ask -- I
17 did ask counsel several times before this hearing to
18 supply those documents to me to which I received no
19 response.

20 JUDGE DIPPELL: Did you bring that to my
21 attention before the hearing that you were having a
22 discovery dispute?

23 MS. HERNANDEZ: No, we did not bring that to
24 the Commission. I just wanted to correct the statement
25 that was made that he had not received a request for

1 those particular pages that were missing.

2 MR. ELLSWORTH: I'm not trying to have a
3 discovery fight either. I may not have realized there
4 was 18 and 19 missing maybe. I don't know. But I'm not
5 disputing what she says. I do have them. I've e-mailed
6 them to you if you want to look and make a determination
7 if you want those entered in for redirect.

8 JUDGE DIPPELL: All right. Let's go ahead
9 with redirect for the portion that we have and then we
10 will take a break and determine whether we need to have
11 any additional testimony from this witness.

12 MR. COMLEY: Thank you, Judge. Thank you very
13 much.

14 REDIRECT EXAMINATION BY MR. COMLEY:

15 Q. Mr. Krehbiel, Ms. Hernandez asked you
16 questions about the approval process that the district
17 would have to go through in order to install the
18 interconnection, and I have a few questions for you.

19 It's your -- Your testimony is that that
20 interconnection is feasible; isn't that correct?

21 A. That is correct.

22 Q. And with respect to your professional
23 background, can you tell the Commission whether you've
24 worked on any -- as an engineer on any road projects in
25 Camden County?

1 A. Yes.

2 Q. And can you tell me what you did for those
3 road projects?

4 A. On this exhibit that is schedule, my Schedule
5 1 on my rebuttal and that's a depiction of the water
6 system interconnection, you will see Cedar Glen down
7 below. I engineered the road leading back from the
8 highway through the area next to the highway where we
9 had a major cut in the roadway.

10 Q. So you've dealt with the agencies that will be
11 required for these approvals?

12 A. Oh, several times. Most of the projects or 50
13 percent of the projects we do involve highway crossings.

14 Q. Have you served as an engineer for the Camden
15 County Commission?

16 A. Yes, I have.

17 Q. And in what capacity did you serve?

18 A. Contract capacity.

19 Q. Was that for purposes of the Cedar Glen road
20 you just described?

21 A. Yes.

22 Q. Have you served as a project development
23 engineer for other condominium developments?

24 A. A few.

25 Q. In the same area as Cedar Glen?

1 A. Yes.

2 Q. And in connection with that, did you deal with
3 the agencies that needed to be approached for approvals
4 for the interconnection?

5 A. Yes.

6 Q. In your professional experience, Mr. Krehbiel,
7 will you see any serious obstacles to obtaining the
8 approvals from Missouri Department of Transportation and
9 DNR for purposes of the interconnection you propose in
10 your testimony?

11 A. No.

12 Q. Mr. Rupp asked you some questions about the
13 moving bed bio reactor that is proposed for installation
14 of the Cedar Glen sewer site. Is the size of the
15 existing plant at Cedar Glen sufficient to operate
16 without the benefit of an MBBR?

17 A. It is.

18 Q. And can you explain why?

19 A. I think, and again I was not the engineer, but
20 the size of the system is such I think it is permitted
21 for many more people than have been, you know, that are
22 occupants in the condos. I think there were projections
23 that this condominium project was to be much larger, and
24 in the last 10 or 20 years there have been no additional
25 developments.

1 Q. Based upon your experience with Missouri
2 Department of Natural Resources and your use of minimum
3 guidelines for purposes of public water systems and your
4 use of those in your professional capacity, do you
5 believe that Missouri Department of Natural Resources
6 will back off its opinion that the Cedar Glen system,
7 the water system, serves 500 or more people?

8 A. That would be a question more appropriately
9 asked of them, but they have never done it for me.

10 MR. COMLEY: All right. I have no other
11 questions.

12 JUDGE DIPPELL: All right. Then I think then
13 that this would be a good place to take a short break.
14 Let's take a break until 10:35. I'll give you all an
15 opportunity to look at missing pages and decide if we
16 need any further testimony from Mr. Krehbiel. Let's go
17 off the record.

18 (Off the record.)

19 JUDGE DIPPELL: Let's go ahead and go back on
20 the record. We're back on the record after our break.
21 I apologize for the delay. We were waiting for copies.
22 Thank you. So now with those copies I believe earlier
23 Mr. Ellsworth offered to include these page 18 and 19
24 which appear to be the missing pages from the report
25 into Exhibit 9 or we could mark it separately. Would

1 there be any objection to doing that?

2 MS. HERNANDEZ: We would like it marked
3 separately. I don't know what number you want us to
4 call. Exhibit 10?

5 JUDGE DIPPELL: Can we just label it Exhibit
6 10 to keep it -- I realize it may not be the Company's
7 exhibit but just to kind of keep it close to its
8 partner. Would there be an objection to Exhibit 10
9 coming into evidence?

10 MS. HERNANDEZ: None from the applicant.

11 JUDGE DIPPELL: Seeing none, I'm going to
12 admit Exhibit 10 which is pages 18 and 19 and I guess I
13 should have just made it clear or let counsel ask but
14 I'll just ask. Mr. Krehbiel, does this appear to be
15 pages 18 and 19 from your report?

16 THE WITNESS: Yes, Your Honor.

17 (JOINT BIDDERS EXHIBIT 10 WAS RECEIVED INTO
18 EVIDENCE AND MADE A PART OF THIS RECORD.)

19 JUDGE DIPPELL: All right. Is there any
20 cross-examination about Exhibit 10 from Staff?

21 MS. PAYNE: No questions, thank you.

22 JUDGE DIPPELL: What about from Office of
23 Public Counsel?

24 MR. HALL: No questions, Your Honor.

25 JUDGE DIPPELL: From OUOC?

1 RECROSS-EXAMINATION BY MS. HERNANDEZ:

2 Q. And you have pages 18 and 19 in front of you?

3 A. Yes, ma'am.

4 Q. And you would agree that it was your
5 conclusion in your engineering report for the Public
6 Water Supply District to drill a new well at Cedar
7 Heights complex?

8 A. Yes, and to -- the second priority was the
9 acquisition of a well and tower site. The district has
10 acquired that tower site.

11 Q. And your recommendation was for these things
12 to happen or at least priority one to occur immediately?

13 A. No. I think I say that as construction funds
14 become available.

15 Q. Has Public Water Supply District ever
16 constructed the well at Cedar Heights?

17 A. No. This opportunity to become a bidder came
18 about just shortly after this as we were making this
19 plan. So these with the exception of the purchase of
20 the well and tower site have put on hold based on
21 conclusion of what happens in this hearing or with this
22 case.

23 Q. So it is correct that your engineering report
24 was approved by DNR in February 2016, correct?

25 A. Yes, that's the date on the DNR letter.

1 Q. So Public Water Supply District has taken no
2 action towards compliance since February 2016, in terms
3 of your recommendations in the report?

4 A. Yes, they have --

5 Q. No.

6 JUDGE DIPPELL: You answered the question.

7 THE WITNESS: What was your question again?

8 MS. HERNANDEZ: I think he answered. If you
9 want the court reporter to read it back, then I'd have
10 her read it back.

11 JUDGE DIPPELL: Can you read back the last
12 question?

13 (The last question was read back by the court
14 reporter.)

15 THE WITNESS: They have taken action.

16 BY MS. HERNANDEZ:

17 Q. But nothing in your report -- none of your
18 recommendations have -- none of your recommendations in
19 this report have -- Look at page 18. Are you there,
20 sir?

21 A. Yes. I read the statement this acquisition
22 would be the first step of implementation, and in answer
23 to your previous question I did state that the water
24 district had purchased. They have -- they have taken
25 action.

1 Q. Okay.

2 A. So my answer was yes.

3 Q. Okay. I understand your answer with that
4 clarification.

5 A. Okay.

6 Q. Thank you. All right. So in terms of your
7 conclusions, I just want to make sure the record is
8 clear, the Public Water Supply District has not drilled
9 a new state approved well at Cedar Heights complex,
10 correct?

11 A. That is correct.

12 Q. The Public Water Supply District has not
13 constructed a wellhouse and security fencing along with
14 installation of approved chlorination equipment,
15 correct?

16 A. That is correct.

17 MS. HERNANDEZ: No further questions.

18 JUDGE DIPPELL: Would there be any Commission
19 questions for Mr. Krehbiel?

20 COMMISSIONER RUPP: No, thank you.

21 JUDGE DIPPELL: Is there any redirect based on
22 those questions?

23 FURTHER REDIRECT EXAMINATION BY MR. COMLEY:

24 Q. Why hasn't the district constructed that
25 second well?

1 A. All their projects were put on hold until
2 there was a resolution to this case and the opportunity
3 for No. 5 as second bidder if they acquire the system
4 they will use this as I testified earlier. They won't
5 require a second well.

6 MR. COMLEY: That's all.

7 JUDGE DIPPELL: Is there anything --

8 MR. ELLSWORTH: May I, please?

9 JUDGE DIPPELL: Yes, Mr. Ellsworth.

10 REDIRECT EXAMINATION BY MR. ELLSWORTH:

11 Q. I do have a couple questions from the prior
12 testimony as redirect as well. Mr. Krehbiel, if the
13 Public Water Supply District No. 5 were to acquire Cedar
14 Glen systems, then that would prevent the necessity of
15 drilling a well at Cedar Glen and also Cedar Heights,
16 correct?

17 A. That's correct.

18 Q. And the reason it was put on hold is that this
19 is a bigger plan of regionalization of water and sewer
20 services in the area; is that true?

21 A. Well, there's no formal plan but it is the
22 water district that wants to be the primary service to
23 all these water systems.

24 Q. And it's the intent if they acquire the system
25 that Cedar Glen, Cedar Heights, Clearwater will all be

1 connected to one source, a tower that has to be built,
2 correct?

3 A. That's correct.

4 Q. And has DNR started any type of enforcement
5 action or AG's office with respect to the second well at
6 Cedar Heights?

7 A. No.

8 Q. Just as a point of clarification, earlier
9 Chairman Silvey had asked you about -- I'm sorry.
10 Chairman Rupp, I believe, asked you about the sand
11 filtration system. To be clear, the MBBR is just in
12 addition to the sand filtration system; is that right?

13 A. Who asked the question?

14 Q. I think Chairman Rupp had asked you about the
15 sand filtration system and the MBBR, whoever it was.

16 JUDGE DIPPELL: Commissioner Rupp.

17 MR. ELLSWORTH: Commissioner Rupp. He's not
18 in here right now.

19 THE WITNESS: But he didn't ask me. Was he
20 here?

21 JUDGE DIPPELL: Yes. He asked you about the
22 -- you were talking about whether or not you would
23 recommend the sand filtration system.

24 BY MR. ELLSWORTH:

25 Q. Let me ask it a different way, Mr. Krehbiel.

1 Is the MBBR, and this is for my education as well, is
2 that just something that is added to the current sand
3 filtration system?

4 A. That's the testimony I perceived I heard.

5 Q. You reviewed the repairs and improvements
6 proposed by the applicant, right?

7 A. Yes.

8 Q. They're not proposing removing the sand
9 filtration system or replacing it with a new system, are
10 they?

11 A. I didn't understand it to be that way.

12 Q. Also you testified with respect to time for
13 connection of the interconnection of Cedar Glen and
14 Cedar Heights. Do you recall that testimony? I believe
15 you said approximately 24 months; is that right?

16 A. The interconnection could possibly take longer
17 was my testimony.

18 Q. Was there someone else that inquired about the
19 time for interconnection on behalf of Public Water
20 Supply District No. 5? Did Mr. Stone inquire about that
21 as well, to your knowledge?

22 A. Did Mr. Stone inquire about what?

23 Q. About the time for the interconnection, the
24 drilling underneath 54 and connecting the two systems?

25 A. In what manner did he inquire?

1 Q. He talked to the person that would make the
2 interconnection, right, the utility company I think was
3 Apperson Construction, he spoke with them, didn't he?
4 Do you know?

5 A. Oh, it's my understanding that the president
6 of the board, Mr. Stone, has discussed the
7 interconnection with contractors -- with a contractor.

8 Q. And what did you base your 24-month
9 interconnection period on? How did you come up with
10 that time frame?

11 A. Just professional judgment.

12 MR. ELLSWORTH: Okay. No further questions.

13 JUDGE DIPPELL: Then I believe that that
14 concludes your testimony, Mr. Krehbiel. Thank you for
15 your patience. You may step down.

16 THE WITNESS: Thank you.

17 (Witness excused.)

18 JUDGE DIPPELL: Would Cedar Glen like to call
19 its next witness?

20 MR. COMLEY: Yes, ma'am. Cedar Glen would
21 call Kenneth Hulett.

22 (Witness sworn.)

23 MR. COMLEY: Kenneth Hulett's rebuttal is
24 marked as Exhibit 302.

25 KENNETH HULETT, being sworn, testified as follows:

1 DIRECT EXAMINATION BY MR. COMLEY:

2 Q. Mr. Hulett, would you state your full name for
3 the Commission, please?

4 A. Kenneth Earl Hulett.

5 Q. What is your position with Cedar Glen
6 Condominium Owners Association?

7 A. I'm president of the association.

8 Q. Did you cause to be prepared in this docket a
9 piece of written rebuttal testimony which has been
10 marked by the court reporter for identification as
11 Exhibit 302?

12 A. Yes.

13 Q. Mr. Hulett, if I were to ask you the questions
14 that are set forth in that testimony in Exhibit 302,
15 would your answers today be the same?

16 A. Yes, sir.

17 Q. And is your testimony in that and today based
18 upon the best of your knowledge, information, and
19 belief?

20 A. You're correct.

21 MR. COMLEY: Your Honor, I would offer the
22 admission of Exhibit 302 into the record and would
23 tender Mr. Hulett for cross-examination.

24 JUDGE DIPPELL: Would there be any objection
25 to Exhibit 302? Seeing none, then I will admit Exhibit

1 302, the rebuttal testimony of Kenneth Hulett.

2 (CEDAR GLEN'S EXHIBIT 302 WAS RECEIVED INTO
3 EVIDENCE AND MADE A PART OF THIS RECORD.)

4 JUDGE DIPPELL: Is there any cross-examination
5 from Staff?

6 MS. PAYNE: Yes, thank you.

7 CROSS-EXAMINATION BY MS. PAYNE:

8 Q. Mr. Hulett, do you have a copy of your
9 rebuttal testimony in front of you?

10 A. Yes, ma'am.

11 Q. On page 7 at line 11, you make a statement
12 that the rate will not change as a result of the Public
13 Water Supply District, et al. acquiring the Cedar Glen
14 systems. Is that statement based on anything more than
15 the word of the Joint Bidders?

16 A. Are you talking about line 11 which is PWSD 5
17 --

18 Q. That's correct.

19 A. -- when it purchased the assets? And your
20 question was what?

21 Q. Is that statement that rates will not change
22 as a result of the acquisition of the Cedar Glen systems
23 based on more than the word of the Joint Bidders in
24 their testimony?

25 A. No.

1 Q. Thank you. In your experience, if the Joint
2 Bidders need to change rates, will the Cedar Glen
3 homeowners have an opportunity to contribute to that?
4 Will they have a vote in that rate change?

5 A. I don't know that they will have a rate change
6 because it says they will charge \$78.

7 Q. Hypothetically speaking if there would be a
8 rate change, would the Cedar Glen homeowners have an
9 opportunity to voice their opinion for that?

10 A. This might not answer your question; but if
11 they would say no, they wouldn't have the increase, is
12 that what you're saying?

13 Q. I am asking you if the Cedar Glen homeowners
14 would be asked regarding the rate increase, would they
15 have a vote?

16 A. I would think so.

17 Q. Is that based on your experience with the
18 Joint Bidders previously?

19 A. I haven't had a lot of experience with them
20 except on this case.

21 MS. PAYNE: Okay. Thank you. I have no
22 further questions.

23 JUDGE DIPPELL: Is there cross-examination
24 from Public Counsel?

25 MR. HALL: Yes, briefly.

1 CROSS-EXAMINATION BY MR. HALL:

2 Q. Mr. Hulett, I'm also curious about that
3 language that Staff Counsel is focusing on on page 7.

4 A. Uh-huh.

5 Q. Based on your understanding, how would a
6 Public Water Supply District keep the rates the same
7 after an acquisition?

8 A. I'm not being ornery or smart, but I think you
9 probably need to ask them. I don't know.

10 JUDGE DIPPELL: Mr. Hulett, can I get you to
11 talk into your microphone. It's kind of difficult when
12 counsel is right there in front of you and the
13 microphone is kind of to the side.

14 BY MR. HALL:

15 Q. Mr. Hulett, on page 5 of your testimony, could
16 we go back. At lines 1 through 9, specifically I'm
17 looking at -- I guess actually I'm looking more at 3
18 through 7. You talk about the rates that the Public
19 Water Supply is charging now versus the rates that might
20 be charged in the future for Cedar Glen owners -- Cedar
21 Glen unit owners. Why are you bringing up rate issues
22 if it's been established this is a CCN case and not a
23 rate case?

24 A. Well, the PWSD No. 5 I believe said they would
25 charge \$78 when we hooked up with them.

1 Q. And you think that's relevant for the
2 Commission to consider?

3 A. I think everybody needs to know that, yes.

4 MR. HALL: Thank you. No further questions.

5 JUDGE DIPPELL: Is there anything from the
6 Joint Bidders?

7 MR. ELLSWORTH: Yes, briefly.

8 CROSS-EXAMINATION BY MR. ELLSWORTH:

9 Q. Mr. Hulett, the Staff asked you if you would
10 have a vote in the change on any sewer and water rates.
11 Do you recall Ms. Payne's question?

12 A. If I would have any what on the changes?

13 Q. If Cedar Glen residents would have a voice in
14 any rate changes by the district. Do you recall that
15 questioning?

16 A. Yes.

17 Q. Do you understand that the Public Water Supply
18 District is divided into subdistricts; did you know
19 that?

20 A. No.

21 Q. Do you know that each subdistrict has a member
22 on the board of directors? Did you know that?

23 A. No.

24 MR. ELLSWORTH: No further questions.

25 JUDGE DIPPELL: Is there cross-examination by

1 OUOC?

2 MS. HERNANDEZ: No, thank you.

3 JUDGE DIPPELL: Are there any questions from
4 the Commission?

5 COMMISSIONER KENNEY: No, thank you.

6 JUDGE DIPPELL: Is there redirect by Cedar
7 Glen?

8 MR. COMLEY: Thank you, Judge.

9 JUDGE DIPPELL: I'm sorry. Did you say no,
10 thank you?

11 MR. COMLEY: Yes, I do have. I wasn't looking
12 at you.

13 REDIRECT EXAMINATION BY MR. COMLEY:

14 Q. Mr. Hulett, were you made aware of a letter
15 that was received by the district from their financial
16 advisor? Were you aware of a letter from the financial
17 advisor about the acquisition cost?

18 A. Can you restate that question, sir?

19 Q. Sure.

20 MR. COMLEY: Your Honor, I'd like to show
21 Mr. Hulett an exhibit out of David Stone's testimony.

22 JUDGE DIPPELL: Okay.

23 BY MR. COMLEY:

24 Q. Mr. Hulett, that exhibit, that schedule from
25 Mr. Stone's testimony has not been admitted yet. Would

1 you look at that letter? Have you seen that letter
2 previously?

3 A. Yes, I have.

4 Q. And on the basis of that letter, do you
5 understand that the acquisition by the district of the
6 assets covering Cedar Glen would not lead to an increase
7 in the rates?

8 A. Yes.

9 MR. COMLEY: That's all my redirect.

10 JUDGE DIPPELL: Then I believe that concludes
11 your testimony, Mr. Hulett. You may step down.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 JUDGE DIPPELL: That was the last witness on
15 the list for Cedar Glen, correct, Mr. Comley?

16 MR. COMLEY: Yes, correct.

17 JUDGE DIPPELL: We can begin with the Joint
18 Bidders' witnesses.

19 MR. ELLSWORTH: Thank you. At this time the
20 Joint Bidders would call David Stone.

21 (Witness sworn.)

22 JUDGE DIPPELL: Thank you. You can go ahead.

23 DAVID STONE, being sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. ELLSWORTH:

25 Q. Please state your name for the record.

1 A. David L. Stone.

2 Q. And Mr. Stone, what is your position with
3 respect to Public Water Supply District No. 5?

4 A. I'm president of the board.

5 Q. How long have you been on the board for Public
6 Water Supply District No. 5?

7 A. Since 2010.

8 Q. That was when it was organized?

9 A. That's when it was organized.

10 Q. You helped to prepare and reviewed the direct
11 testimony before filing, before filing in this case?

12 A. Yes, I did.

13 Q. And you've reviewed your direct testimony
14 prior to testifying today; you reviewed it again, right?

15 A. Yes, I did.

16 Q. If I asked you the same questions in your
17 direct testimony today, would your answers be the same?

18 A. They would be.

19 Q. Are there any amendments that you would need
20 to make to that testimony?

21 A. No, sir.

22 MR. ELLSWORTH: At this time I would offer
23 Mr. Stone's direct testimony which has been marked as
24 Exhibit 400.

25 JUDGE DIPPELL: And would there be any

1 objection to Exhibit 400? Seeing none, then I will
2 admit Exhibit 400.

3 (JOINT BIDDERS' EXHIBIT 400 WAS RECEIVED INTO
4 EVIDENCE AND MADE A PART OF THIS RECORD.)

5 JUDGE DIPPELL: Did you have any further
6 direct of this witness with regard to the additional
7 testimony?

8 MR. ELLSWORTH: I do.

9 JUDGE DIPPELL: Okay. Go ahead.

10 BY MR. ELLSWORTH:

11 Q. Mr. Stone, in order to serve on the board of
12 directors for the Public Water Supply District, you have
13 to be a resident or own property in our district, right?

14 A. Yes, you do.

15 Q. You actually use -- you own property or reside
16 in the district and you use our water or sewer service,
17 right?

18 A. I have for the last 15 years.

19 Q. And you have a personal interest in providing
20 safe and adequate water and sewer service to the
21 district?

22 A. I do.

23 Q. And Public Water Supply District does provide
24 safe and adequate water and sewer services to its
25 residents, doesn't it?

1 A. Absolutely.

2 Q. And you heard -- You were here for Mr. Thomas'
3 testimony yesterday?

4 A. Yes, sir.

5 Q. And have you reviewed the Schedule TT-S2 which
6 was a notice of violations he had submitted?

7 MS. PAYNE: I object, Judge. This is not --
8 has nothing to do with Staff's revised recommendation or
9 supplemental testimony.

10 MR. COMLEY: We were granted leave to do this
11 by Ms. Dippell.

12 MS. PAYNE: You were granted leave to address
13 the revised recommendation. That's not what this is
14 about.

15 MR. COMLEY: I think she granted our motion
16 for leave to submit supplemental testimony. She
17 overruled our motions to strike but gave us leave to
18 have supplemental direct.

19 JUDGE DIPPELL: That is true. You can go
20 ahead.

21 MR. ELLSWORTH: Thank you, Your Honor. Thank
22 you, Mr. Comley.

23 BY MR. ELLSWORTH:

24 Q. Mr. Stone, have you had an opportunity to
25 review Schedule TT-S2?

1 A. Yes, I have.

2 Q. And Mr. Thomas, I think he testified he put
3 this together and there's a number of violations on this
4 list, right?

5 A. Yes, there is.

6 Q. And would you agree that a number of these
7 violations have to do with administrative things, not
8 filing paperwork or not paying a privacy fee or some
9 other fee?

10 A. About 95 percent of it.

11 Q. And all those matters have been resolved with
12 the DNR, correct?

13 A. All matters we're in complete compliance, yes.

14 Q. And with respect to the nonpayment of fees,
15 could you explain to the Commission why that occurred?

16 A. Our operating company had a change of
17 personnel. When they had a change of personnel, it got
18 lost apparently by the new person and we were not made
19 aware that we hadn't paid our fees. And as soon as they
20 notified us, we caught up both years immediately.

21 Q. With respect to all violations that the Water
22 Supply District seeks from DNR, how are those addressed
23 by the district?

24 A. As soon as we receive a violation, we address
25 the issue at that time and whatever it is, and it's

1 usually rectified immediately and then we're back in
2 compliance.

3 Q. Are you currently in compliance with both
4 systems the district operates?

5 A. We are currently in compliance, yes, sir.

6 Q. On those systems we have Clearwater
7 Condominium system, right?

8 A. Yes, sir.

9 Q. And that also serves Mission Hills
10 subdivision?

11 A. Serves Mission Hills, yes, sir.

12 Q. And then we have Cedar Heights?

13 A. Yes, sir.

14 Q. Those were our two operating permits?

15 A. Yes, sir.

16 MR. ELLSWORTH: I'm going to ask to approach
17 the witness.

18 JUDGE DIPPELL: You may.

19 BY MR. ELLSWORTH:

20 Q. Mr. Stone, I've handed you two documents.
21 Let's look at the first one. It's premarked as Exhibit
22 404. Do you see that?

23 A. Yes, sir.

24 Q. And can you identify that document by date and
25 what it purports to be?

1 A. Yeah. The Staff sent it on April 11, 2019.
2 It's about Clearwater. And that I think was over a
3 sample port before chlorination.

4 Q. Mr. Stone, I think you said April. Is that an
5 August 28, 2019 document?

6 A. Yes, sir.

7 Q. So it's a date of August 28, 2019, I want to
8 be clear for the record, right?

9 A. Yes, sir.

10 Q. And it's titled Return to Compliance?

11 A. Yes, sir.

12 Q. And behind that is an August 12, 2019 titled
13 Inspection Sample Results Finding of Compliance, right?

14 A. Which one is that now?

15 Q. The second page.

16 A. Yes, sir.

17 Q. August 12, 2019 Inspection Sample Results
18 Finding of Compliance?

19 A. Yes, sir.

20 Q. Let's go to the next page, March 1, 2019.
21 It's a Return to Compliance, correct?

22 A. Yes, sir.

23 Q. These are all communications from the Missouri
24 Department of Natural Resources to Public Water Supply
25 No. 5?

1 A. Yes, sir.

2 MR. ELLSWORTH: At this time I'm going to
3 offer Exhibit 404 to rebut the testimony of Tom Thomas
4 regarding our Notices of Violation.

5 JUDGE DIPPELL: Had you previously given
6 copies of those to counsel?

7 MR. ELLSWORTH: Counsel has them. I did not
8 want to give them to the Commission until I knew there
9 would be an objection.

10 JUDGE DIPPELL: Would there be any objection
11 to Exhibits, and that was both exhibits?

12 MR. ELLSWORTH: This is just 404. This is
13 comprised of three separate letters.

14 JUDGE DIPPELL: Would there be any objection
15 to Exhibit 404?

16 MS. HERNANDEZ: Yes, Your Honor. We had
17 submitted a Data Request 1.20 to the Public Water Supply
18 District asking for all their communications with the
19 Missouri Department of Natural Resources and this was
20 not provided. This document was not provided in
21 response to that data request.

22 JUDGE DIPPELL: When was that data request
23 made?

24 MS. HERNANDEZ: July 19, 2019.

25 JUDGE DIPPELL: Do you have any -- I'm sorry.

1 Who was the data request made to?

2 MS. HERNANDEZ: The Public Water Supply
3 District.

4 JUDGE DIPPELL: Do you have any knowledge of
5 that, Mr. Ellsworth?

6 MR. ELLSWORTH: I believe what she said on her
7 data request is very all encompassing. We did do our
8 best to gather the documents. My understanding is that
9 these were obtained from another party, the actual
10 operator of the system. The communications go to them.
11 They were in their files and not in our direct
12 possession when this surrebuttal testimony came up.
13 Actually after we were granted yesterday an opportunity
14 to do this only did I acquire them yesterday afternoon.

15 JUDGE DIPPELL: That was going to be my next
16 question was when you acquired.

17 MR. ELLSWORTH: That's the first time I had
18 them. Also, it's my understanding that they did a
19 request to DNR to get all the documents. They would
20 have had them as well prior to me bringing them today.

21 JUDGE DIPPELL: Do you have any other
22 objection to this, Ms. Hernandez?

23 MS. HERNANDEZ: Just for the record we did
24 submit a Sunshine request because of the delay in
25 receiving the documents we requested, but this letter

1 was not part of the packet that we received from the
2 Department of Natural Resources.

3 JUDGE DIPPELL: So are you objecting to its
4 authenticity or are you just making that note?

5 MS. HERNANDEZ: We're just making a note for
6 the record that we didn't receive it.

7 JUDGE DIPPELL: I'm going to overrule the
8 objection. It sounds like even though it wasn't
9 provided during discovery it sounds like Mr. Ellsworth
10 only received it yesterday himself, and I did only make
11 the ruling about what testimony would be allowed today
12 yesterday. So I'm going to allow it and receive Exhibit
13 404 into the record.

14 (JOINT BIDDERS' EXHIBIT 404 WAS RECEIVED INTO
15 EVIDENCE AND MADE A PART OF THIS RECORD.)

16 MS. PAYNE: Can I just get clarification of
17 which document is being labeled as 404?

18 JUDGE DIPPELL: Yes. It is the cover letter
19 is Missouri Department of Natural Resources header and
20 it is a Return to Compliance dated August 28, 2019 and
21 it consists of three pages. The other is August 12,
22 2019 Inspection Sample Results Finding of Compliance and
23 a March 1, 2019 Return to Compliance. Those are what is
24 marked as Exhibit 404. You can go ahead, Mr. Ellsworth.

25 MR. ELLSWORTH: Thank you.

1 BY MR. ELLSWORTH:

2 Q. Mr. Stone, do you have another -- a two-page
3 document previously marked as 405 in front of you?

4 A. Yes, sir.

5 Q. And it's two pages. The first page is dated
6 January 14, 2019?

7 A. Yes, sir.

8 Q. And that is a Finding of Compliance sent to
9 the district by the Missouri Department of Natural
10 Resources?

11 A. Yes, sir.

12 Q. And what system is this in regard to?

13 A. This is on Cedar Heights.

14 Q. And the second page, could you give me the
15 date?

16 A. July 7, 2016.

17 Q. And again, that site was found to be in
18 compliance?

19 A. Yes.

20 MR. ELLSWORTH: I'm going to offer 405 for the
21 same purposes.

22 JUDGE DIPPELL: Again, you've previously given
23 those to the other counsel?

24 MR. ELLSWORTH: I have. Just not to the
25 Commission until you ruled on the admission.

1 JUDGE DIPPELL: Would there be any objection
2 to Exhibit 405?

3 MS. HERNANDEZ: Same objection as with 404.
4 We did not receive this document in response to our
5 discovery request to the Public Water Supply District.

6 JUDGE DIPPELL: Mr. Ellsworth, is this similar
7 to the other? Did you just receive this yesterday?

8 MR. ELLSWORTH: Same e-mail yesterday
9 afternoon.

10 JUDGE DIPPELL: This had previously gone to
11 the operator and not to the Public Water Supply
12 District?

13 MR. ELLSWORTH: Yes. The e-mail came from the
14 operator to the secretary of the board who forwarded it
15 to me yesterday afternoon.

16 JUDGE DIPPELL: I will overrule the objection
17 and admit Exhibit 405.

18 (JOINT BIDDERS' EXHIBIT 405 WAS RECEIVED INTO
19 EVIDENCE AND MADE A PART OF THIS RECORD.)

20 JUDGE DIPPELL: Just to be clear, Exhibit 405
21 is dated January 14, 2019 Finding of Compliance and a
22 letter dated July 7, 2016 from Department of Natural
23 Resources.

24 BY MR. ELLSWORTH:

25 Q. Mr. Stone, let's look at the one on the Cedar

1 Heights. That's Exhibit 405?

2 A. Yes, sir.

3 Q. You heard Mr. Krehbiel's testimony earlier,
4 correct?

5 A. Yes, sir.

6 Q. This is the condominium complex where we were
7 talking about the necessity for a second well?

8 A. Yes, sir.

9 Q. So DNR is finding you're in compliance
10 currently?

11 A. Yes, sir.

12 Q. Despite the lack of a second well?

13 A. Yes, sir.

14 Q. Do you know if the district has communicated
15 its intent to DNR to interconnect all these systems?

16 A. Yes, we have.

17 MR. ELLSWORTH: I'd tender the witness at this
18 time.

19 JUDGE DIPPELL: Is there any cross-examination
20 by Staff?

21 MS. PAYNE: No questions. Thank you.

22 JUDGE DIPPELL: Public Counsel?

23 MR. HALL: Mr. Stone, good morning.

24 THE WITNESS: Good morning.

25 CROSS-EXAMINATION BY MR. HALL:

1 Q. So Mr. Hulett directed me to ask questions
2 regarding the ratemaking of Public Water Supply District
3 to people from Public Water Supply District. Can you
4 speak to that?

5 A. Yes, sir.

6 Q. How exactly would the rates stay the same
7 following an acquisition by a Public Water Supply
8 District?

9 A. Charlie Zitnik who works for D.A. Davidson who
10 has acquired our bonding when we formed the district he
11 has provided the information on this and we have
12 \$1,426,000 left in unissued bonds and he calculated what
13 it would take to purchase the 800,000 with the purchase
14 price and then with what we'll do for the improvements
15 and everything like that and it would not change our
16 rates. He said they would remain the same. They did
17 the calculations.

18 MR. HALL: Thank you. No further questions.

19 JUDGE DIPPELL: Is there any cross-examination
20 by Cedar Glen?

21 MR. COMLEY: No, thank you.

22 JUDGE DIPPELL: OUOC?

23 MR. COOPER: Yes.

24 MS. HERNANDEZ: Thank you. Good morning.

25 CROSS-EXAMINATION BY MS. HERNANDEZ:

1 Q. Do you have your direct testimony in front of
2 you?

3 A. Yes, ma'am, I do.

4 Q. And the D.A. Davidson letter that you marked
5 as Exhibit 1?

6 A. Yes, ma'am.

7 Q. The third paragraph starts with we understand.
8 Are you there?

9 A. We understand, yes, ma'am.

10 Q. And if you could just follow along and
11 indicate if I read this correctly. We understand the
12 estimated cost to acquire and upgrade the system is, and
13 then approximate sign, \$800,000?

14 A. Yes, ma'am.

15 Q. Isn't it correct that the purchase price alone
16 is \$800,000?

17 A. The purchase price alone is 800,000, but our
18 part after MWA and the other two entities after they put
19 in their part of 160,000, and we've already put in
20 40,000 to join the bidding, and that's how we come up
21 with those numbers.

22 Q. So this letter is only in regard to what may
23 occur to the rates for Cedar Glen only?

24 A. No. That will be the same rate for all three
25 of our complexes if Cedar Glen becomes ours.

1 Q. But you're talking about the Public Water
2 Supply?

3 A. Yes, sir.

4 Q. You're talking about Cedar Heights and
5 Clearwater?

6 A. And Clearwater, yes, ma'am.

7 Q. Not the other Osage Water Company --

8 A. No.

9 Q. -- operating system rates?

10 A. No, ma'am. Strictly PWSD No. 5.

11 Q. Okay. And you previously -- I think I
12 understood you previously said that this is the only
13 thing that you're basing your future rate on is this
14 letter from D.A. Davidson?

15 A. Well, we have our own financial. We do our
16 finances every month. We meet once a month. We go
17 through our finances and we know what our payments are.
18 So it's internal plus Davidson is a big help.

19 Q. Mr. Stone, you are on the board of directors;
20 is that correct?

21 A. Yes, ma'am.

22 Q. And if you could look at --

23 MS. HERNANDEZ: Will this be Exhibit 11, Your
24 Honor?

25 JUDGE DIPPELL: Yes.

1 BY MS. HERNANDEZ:

2 Q. What I'll identify as Exhibit 11. Can you
3 look through that? Do you recognize this packet of
4 documents?

5 A. Yes, ma'am.

6 Q. What is it? What's the packet?

7 A. It's about meeting minutes.

8 Q. As a board member, do you vote to approve your
9 meeting minutes?

10 A. Yes, we do.

11 Q. I guess you vote at each meeting for the
12 previous meeting's minutes?

13 A. Yes, we do.

14 Q. And the board's minutes, that's something that
15 the Public Water Supply District holds in the normal
16 course of business?

17 A. Yes. It's the normal course of business for
18 us, yes.

19 MS. HERNANDEZ: I'll move for the admission of
20 Exhibit 11.

21 JUDGE DIPPELL: Would there be any objection
22 to Exhibit 11, which is the Public Water Supply District
23 No. 5 board minutes from January 2016 to June 2019?

24 MR. ELLSWORTH: I would object at this time
25 because I don't know for what purposes they're being

1 admitted.

2 MS. HERNANDEZ: I do plan on asking a couple
3 questions based on these minutes and also they just go
4 to show their technical, managerial, and financial
5 capability for running an additional system --
6 potentially running an additional system to those that
7 they own today.

8 JUDGE DIPPELL: Mr. Ellsworth, was that a
9 relevance objection?

10 MR. ELLSWORTH: Yeah, now it's a relevance
11 objection.

12 JUDGE DIPPELL: Well, I'll overrule that and
13 allow it. I think she's going to ask questions
14 pertaining to the qualifications of the Joint Bidders
15 which was part of why I allowed your testimony earlier
16 on the qualifications of the Joint Bidders. So I'll
17 allow it.

18 MR. ELLSWORTH: My only point to that, Your
19 Honor, respectfully would be the reason I thought you
20 had allowed it was because they introduced evidence in
21 their surrebuttal testimony that should have been
22 included in their direct testimony and now we're adding
23 on to that even further. So it makes it difficult to
24 defend in this case when we continue to add onto the
25 testimony that could have been covered in their

1 surrebuttal even though that still would not have been
2 appropriate. They've had these for awhile. That's my
3 position. If you would entertain another objection when
4 she asks for admission I think it would probably be a
5 better time.

6 JUDGE DIPPELL: All right. Just to clarify,
7 the ruling on your motion was really not stating that it
8 was necessarily inappropriate testimony. I didn't
9 really make a ruling on that point but it was to allow
10 additional testimony because this is an unusual case and
11 because the information about the alternative bidders I
12 think is relevant and important to the Commission in
13 making a determination so that they have all of the
14 available information whether or not that information
15 will ultimately be what the Commission finds reliable or
16 of heavy weight or influences their decision I don't
17 know, but I want to make sure they have all of the
18 information. And so for now your objection is
19 overruled. I will let you make further objections if
20 they come up.

21 MR. ELLSWORTH: Thank you for the further
22 explanation.

23 MS. HERNANDEZ: All right.

24 JUDGE DIPPELL: Proceed.

25 MS. HERNANDEZ: Thank you.

1 BY MS. HERNANDEZ:

2 Q. If you could turn to the minutes for the
3 January 16, 2019 meeting. I think we'll start there.
4 At the bottom there's a Bates stamp that ends in 44.

5 A. The first page January 20, '16, is that the
6 one?

7 Q. January 16.

8 A. 16th.

9 Q. 2019. At the bottom of the page, bottom
10 right-hand corner you should see a Bates stamp. It says
11 44?

12 A. Yes, ma'am.

13 MR. ELLSWORTH: I'm going to object to this
14 line of questioning. It invades the attorney-client
15 privilege. What I assume Ms. Hernandez wants to read
16 into the docket is a comment I made in the meeting
17 minutes to my client and potentially also comments that
18 Mr. Comley had made in his representation to Cedar Glen
19 to Mr. Krehbiel who was present at that meeting.

20 JUDGE DIPPELL: Okay. But it's in the public
21 minutes, correct? It's not attorney-client privileged
22 if it's public information. So objection overruled. Go
23 ahead, Ms. Hernandez.

24 MS. HERNANDEZ: Actually I was not going to
25 refer to that.

1 BY MS. HERNANDEZ:

2 Q. If you look slightly after that, there's a
3 discussion about the \$40,000 deposit that the Public
4 Water Supply District had to supply to the bankruptcy
5 court. And I believe you stated that earlier in your
6 testimony in regard to that deposit that you made?

7 A. Yes, ma'am.

8 Q. And at this board meeting the minutes reflect
9 that you would not receive your \$40,000 back anytime
10 soon. At least while the PSC, the case we're in right
11 now, was pending, you would not receive that money back
12 from the bankruptcy court?

13 A. Yes, ma'am, we knew that.

14 Q. And it was also discussed at that meeting how
15 making loan payments or how the Public Water Supply
16 District's making of loan payments would be difficult,
17 money would be tight without that \$40,000; isn't that
18 correct?

19 A. Yes, ma'am, because we used our reserves.

20 Q. Thank you. Earlier there was a question from
21 your counsel about the Public Water Supply District not
22 receiving any, I believe, notices of violation or any
23 compliance notices. Do you recall that question?

24 A. I recall we talked about are we in compliance
25 now, yes, and everybody has violations.

1 Q. You would agree with me that the Public Water
2 Supply District is under a compliance agreement with the
3 Missouri Department of Natural Resources today?

4 A. I would say yes.

5 Q. Okay. Do you have in front of you Exhibit 9?
6 We may have to hand you one. If you could turn to the
7 back of that packet or close to the back. The number at
8 the bottom is 94.

9 A. Yes, ma'am.

10 Q. And have you seen this compliance agreement
11 before?

12 A. When was this made? I mean, what was the date
13 on this? This looks like something I saw when the
14 original developers had it.

15 Q. It's in regard to Mr. Krehbiel's engineering
16 report which was developed in 2016. Let me ask a
17 different question. So Mr. Krehbiel's engineering
18 report was developed to address the compliance agreement
19 for the property Cedar Heights Condominiums and -- for
20 Cedar Heights Condominiums; is that correct?

21 JUDGE DIPPELL: Do you know the answer to her
22 question she asked?

23 THE WITNESS: I didn't get the question. I
24 don't understand. We're using a water well that was
25 constructed by the original developer and that's the

1 well we use today.

2 BY MS. HERNANDEZ:

3 Q. Do you understand that as the current owner
4 you are responsible for the systems that you decide to
5 purchase in terms of compliance with the Missouri
6 Department of Natural Resources?

7 A. Yes, ma'am.

8 Q. Can you look at page 5, line 22 of your
9 testimony.

10 A. Yes, ma'am.

11 Q. At page 5, line 22 through page 6, lines 1
12 through 2, you state that Public Water Supply District
13 No. 5 has engineered plans for future expansion that
14 have been approved by DNR and acquiring Cedar Glen would
15 help advance those plans. Did I read that correctly?

16 A. Yes, you did.

17 Q. That testimony is referring to Mr. Krehbiel's
18 engineering report that's been marked as Exhibit 9?

19 A. Okay.

20 Q. You would agree with that?

21 A. Yes, it would help the district, yes.

22 Q. But I guess my question is, when you're
23 talking about the engineered plans, you're referring to
24 Mr. Krehbiel's report, correct?

25 A. Mr. Krehbiel's report, yes.

1 Q. And do you know whether Mr. Krehbiel's --
2 approval for Mr. Krehbiel's report expired in February
3 2018?

4 A. No, I don't know that.

5 Q. And are you aware of whether an updated
6 engineering report needs to be submitted to the Missouri
7 Department of Natural Resources for approval with
8 detailed plans and specifications if an original
9 engineering report is more than two years old?

10 A. No, I didn't know that.

11 MS. HERNANDEZ: May we approach the witness?

12 JUDGE DIPPELL: Yes.

13 MS. HERNANDEZ: What we've supplied the
14 witness is surrebuttal testimony schedules of Todd
15 Thomas.

16 JUDGE DIPPELL: Do you have some questions
17 about that, Ms. Hernandez?

18 MS. HERNANDEZ: Yes.

19 BY MS. HERNANDEZ:

20 Q. If you could look at the schedules that's been
21 provided to you and at the bottom if you could find a
22 Bates stamp 1.20569 is the last numbers.

23 JUDGE DIPPELL: Is that in a particular
24 schedule?

25 MS. HERNANDEZ: It should have a green tab

1 Schedule 2.

2 JUDGE DIPPELL: Schedule 2.

3 THE WITNESS: What was the number on the
4 bottom?

5 MS. HERNANDEZ: 569.

6 JUDGE DIPPELL: I'm sorry. I'm confused. Is
7 this TT Schedule 2?

8 MS. HERNANDEZ: Yes.

9 MR. HALL: Your Honor, Schedule 2 is an Excel
10 spreadsheet.

11 JUDGE DIPPELL: Mine doesn't have that stamp.

12 THE WITNESS: I've got 569.

13 MR. COOPER: May I approach the witness?

14 JUDGE DIPPELL: Yes.

15 MR. COOPER: It should be -- I believe it's
16 tab 1.

17 MS. HERNANDEZ: I apologize. My numbering was
18 off.

19 BY MS. HERNANDEZ:

20 Q. Schedule 1. And you're at the document at the
21 bottom that ends in 569?

22 A. I'm at 569, yes.

23 Q. And you would agree with me that this is a
24 letter, January 15, 2019 letter from the Department of
25 Natural Resources to the Public Water Supply District --

1 A. Yes.

2 Q. -- stating unsatisfactory findings and
3 response required?

4 A. Yes, I would.

5 Q. If you could turn to page 2 of the inspection
6 report. So it has at the bottom the Bates stamp 571.

7 A. Yes, ma'am.

8 Q. Would you agree with me that the Missouri
9 Department of Natural Resources found unsatisfactory
10 findings? Number one, the well is not equipped with a
11 sample tap?

12 A. Yes, ma'am.

13 Q. You agree with me a sample tap, as DNR states,
14 is required for water sampling?

15 A. Before chlorination, yes, ma'am.

16 Q. And you'd agree with me that the department
17 was requiring the Public Water Supply District to
18 install a source water sample tap?

19 A. Yes, ma'am.

20 Q. And would you agree with me on page 3 under
21 the heading recommendations the Missouri Department of
22 Natural Resources found the well capacity inadequate to
23 state standards?

24 A. Where is that at?

25 Q. There's a heading recommendations, page 3 of

1 DNR's report of inspection. First paragraph there it
2 states well capacity is inadequate to state standards.

3 A. I see that, yes.

4 Q. And you would agree with me that DNR also
5 provides recommendations for well casing? That's the
6 second paragraph.

7 A. I see nothing on casing.

8 Q. Under recommendations, number 2, the well
9 casing was not protected?

10 A. Yes, ma'am, yes, ma'am.

11 Q. And department also recommended that
12 individual meters be installed because each service
13 connection is not individually metered?

14 A. Yes, ma'am.

15 JUDGE DIPPELL: Ms. Hernandez, is there a
16 question about those things that you're going to ask the
17 witness because we can read it?

18 MS. HERNANDEZ: I'm certain that the
19 Commissioners and Your Honor can read it; but from the
20 assertions that have been made that all of these
21 violations are paper violations or they don't really
22 exist in Mr. Todd's schedule, I don't want to go through
23 this painful cross-examination either but I feel like if
24 there's been an assertion that we didn't put the things
25 in the paper that are actually in the paper we need to

1 show testimony that things really are there.

2 JUDGE DIPPELL: Please ask the witness
3 questions that are other than just reading the evidence
4 that's already there into the record.

5 MS. HERNANDEZ: All right.

6 BY MS. HERNANDEZ:

7 Q. For the first recommendation, well capacity.
8 Has the Public Water Supply District engaged in any work
9 to address DNR's recommendation on well capacity?

10 A. Yes, ma'am.

11 Q. Since January 15, 2019?

12 A. The capacity is there, yes, ma'am.

13 JUDGE DIPPELL: Well, I hate to interrupt in
14 the middle of witness questioning but the Commissioners
15 have an agenda at noon. So we're going to have to take
16 a break and we will just go ahead and take a lunch break
17 along with that and return after lunch, as much as I
18 would have loved this to have gotten over with before
19 this. Let's go ahead then and take our break and return
20 at 1:00. We can go off the record.

21 (Off the record.)

22 JUDGE DIPPELL: I think everybody is back from
23 lunch. Let's go ahead and go back on the record. We're
24 back on the record and Mr. Stone is still on the witness
25 stand and we were in the middle of cross-examination.

1 So you may continue.

2 MS. HERNANDEZ: Thank you.

3 BY MS. HERNANDEZ:

4 Q. Hello again. I think we left off we were
5 talking about the first recommendation from DNR on well
6 capacity on the January 15, 2019 letter. What has the
7 Public Water Supply District done specifically to
8 increase well capacity?

9 A. We've changed a pump so far and that increased
10 capacity. We're just a touch under a hundred gallons a
11 minute for both complexes.

12 Q. Would you agree with me that the
13 recommendations and the deficiencies in the 2019 letter
14 are not clerical violations?

15 MR. ELLSWORTH: I'm going to object to the
16 form of the question. These are recommendations and not
17 violations. So she's mischaracterizing the document.

18 MS. HERNANDEZ: I can rephrase the question.

19 JUDGE DIPPELL: I'll let you rephrase that.

20 BY MS. HERNANDEZ:

21 Q. Would you agree with me that the
22 recommendations and the unsatisfactory findings from the
23 Department of Natural Resources and the 2019 letter are
24 not clerical violations?

25 MR. ELLSWORTH: Objection, form of the

1 question. She continues to call these violations when
2 they're not violations, they're recommendations.

3 JUDGE DIPPELL: I think that question actually
4 was did he agree that they were not violations, that
5 they were not clerical violations.

6 MR. ELLSWORTH: I guess my issue is that the
7 form of the question injects saying they're violations.

8 JUDGE DIPPELL: Can you just refer to the
9 letter perhaps, Ms. Hernandez?

10 BY MS. HERNANDEZ:

11 Q. Are they not clerical issues; it's not a
12 paperwork issue?

13 A. I would say it's not a paperwork issue, but I
14 would say it's an issue that's been there since the day
15 they were built and the developers faced the same thing
16 and we've come a lot farther than the developers did.

17 Q. What date was it built?

18 A. They started in 2002.

19 Q. Do you still have the exhibit with the board
20 meeting minutes in front of you?

21 A. Yes, ma'am.

22 Q. Can you turn to page it has a Bates stamp at
23 the bottom right 49, board minutes from June 26, 2019?

24 A. What date?

25 Q. Board minutes from June 26, 2019 towards,

1 might be actually the last page in that packet.

2 A. Okay.

3 Q. Will you agree with me that the Clearwater
4 well is still having issues?

5 A. No, it doesn't have any more issues.

6 Q. Well, you discussed at this board meeting,
7 correct, well problems?

8 A. We put in a new pump.

9 Q. And you'd agree with me that the customers did
10 not have water service for over 24 hours?

11 A. It was down overnight. They didn't have
12 service for 12 hours.

13 Q. Again, do you vote and approve your minutes at
14 the next board meeting?

15 A. Yes.

16 Q. Did you approve the June 26, 2019 minutes?

17 A. I did.

18 Q. And your minutes state did not have water for
19 over 24 hours; is that correct?

20 A. Did not have. The pump was off for 24 hours.
21 With the storage they had, we didn't have water for 12
22 hours. It should have been clarified.

23 Q. Wouldn't you agree that your minutes also
24 indicate that unfortunately the customers were not kept
25 up to date by the management company?

1 A. Bonnie rectified that to a certain extent.
2 The association's, their management company was notified
3 and they did notify all their customers. But I live
4 there. So if somebody is out of water, they ask me.

5 Q. You would agree that your minutes reflect that
6 unfortunately customers were not kept up to date by the
7 management company?

8 A. Yes. They failed, yes.

9 MS. HERNANDEZ: No further questions. Thank
10 you.

11 JUDGE DIPPELL: Thank you. Are there
12 questions from the Commissioners?

13 COMMISSIONER KENNEY: I've got a couple

14 JUDGE DIPPELL: Commissioner Kenney?

15 COMMISSIONER KENNEY: Good afternoon.

16 THE WITNESS: Yes, sir.

17 QUESTIONS BY COMMISSIONER KENNEY:

18 Q. How many customers does Public Water Supply
19 District No. 5 currently have?

20 A. Right now we have approximately 400.

21 Q. 400. What is your long-term debt that the
22 company has now?

23 A. We have -- We borrowed a little over 2 million
24 at the beginning and that was ten years ago and we're
25 still carrying half that debt. It was a 20-year bond.

1 Q. 20-year bond?

2 A. Uh-huh.

3 Q. Okay. And what type of reserves do you keep
4 on the books, annual reserves? Try to keep them on a
5 monthly basis.

6 A. Annually we try to -- We made it to 40,000,
7 and we're striving for 80. And we put the 40 in for the
8 auction.

9 Q. Yeah, okay. I just want to clarify those
10 numbers just so I have them of the dealing with the
11 Davidson fixed income capital markets, Mr. Zitnik who
12 provided a letter to the water district about that you
13 have availability to borrow 1.4 million and that you're
14 looking at 800,000 at 3.5 percent on a 20-year note. So
15 the 800,000 is the original purchase price less the
16 160,000 from the other bidders. So 640,000 plus the
17 40,000 deposit?

18 A. Plus 40,000 we put in.

19 Q. Is that the other 120,000, are those the
20 repairs that you show in your testimony?

21 A. It will be for the road bore and to connect
22 the two systems and the repairs they have which we
23 estimate between 40 and 60,000.

24 Q. That's what you laid out here?

25 A. Yes.

1 Q. So that would push you to about 616 customers,
2 roughly 600. There's a lot of talk whether or not you
3 could keep a \$78 fee. It appears you bring in by the
4 bonds -- bond payment 59,000 your gross receipts from
5 the new revenue would be over 200,000?

6 A. Yes, sir.

7 Q. The company's belief is that by rolling that
8 in they'd be able to -- with the current debt they have,
9 looking at that, looking at what you have now and
10 figuring out, that extra revenue would probably equal or
11 probably add a little profit to the company. Do you
12 think it would increase your reserves?

13 A. It will increase reserves first and then we'll
14 work on debt after that. By acquiring Cedar Glen, what
15 that does to us, it allows us to build a water tower.
16 When we build the water tower, we refinance through DNR,
17 or I can't remember the other one right now, but you can
18 get the 2-1/2 percent loan money.

19 Q. That would be additional debt?

20 A. Well, actually it rolls our old debt into that
21 because our old debt is at 6 percent.

22 Q. Your old bonds are 6 percent?

23 A. Yes, sir. Started ten years ago.

24 Q. Okay. So you'd be able to roll that older
25 debt into with the new debt for the water tower?

1 A. Yes, sir. They allow us to refinance. DNR
2 will give us a loan. We've worked with DNR before.

3 COMMISSIONER KENNEY: Thank you.

4 QUESTIONS BY JUDGE DIPPELL:

5 Q. Mr. Stone, can you tell me how many systems
6 Public Water Supply District has right now?

7 A. Right now they have two and Clearwater feeds
8 another neighborhood which is called Mission Hills.

9 Q. Okay. What's the name of the other one
10 besides Clearwater?

11 A. Cedar Heights.

12 Q. Cedar Heights. Okay. So you said that the
13 Public Water Supply District was formed in 2002; was
14 that correct?

15 A. 2010.

16 Q. 2010. Okay. Was it started with those two
17 systems or just one?

18 A. It was started with those two systems. And
19 the developers actually helped us put together the
20 public water district because he wanted to sell the
21 systems. He was close to closing out and he wanted to
22 be done.

23 JUDGE DIPPELL: All right. I just wanted some
24 clarification there. Is there any additional
25 cross-examination based on questions from myself or

1 Commissioner Kenney, unless Commissioner Rupp has some
2 questions? Any additional cross-examination from Staff?

3 MS. PAYNE: Just one.

4 CROSS-EXAMINATION BY MS. PAYNE:

5 Q. To clarify, you stated that your annual
6 reserve was the \$40,000 that you then applied towards
7 your bid. So just to clarify, the entirety of your
8 annual reserve was put into the bid on the Cedar Glen --
9 or on the Osage system for Cedar glen?

10 A. We're able to maintain all that we have now,
11 but our reserves are in there. But we're building
12 again.

13 MS. PAYNE: All right. No further questions.
14 Thank you.

15 JUDGE DIPPELL: Public Counsel?

16 MR. HALL: No further questions at this time.

17 JUDGE DIPPELL: Cedar Glen?

18 MR. HALL: No questions.

19 JUDGE DIPPELL: Anything from OUOC?

20 MS. HERNANDEZ: No, thank you.

21 JUDGE DIPPELL: Any redirect?

22 MR. ELLSWORTH: Briefly. Just some
23 clarifications.

24 REDIRECT EXAMINATION BY MR. ELLSWORTH:

25 Q. Mr. Stone, how are the rates set by the

1 district?

2 A. We took a recommendation when the district was
3 formed and we set a rate at that time, and in the last
4 ten years it's progressed to this point.

5 Q. Well, the rates are controlled by statute,
6 right?

7 A. Controlled by the statutes.

8 Q. And there is no profit in your rates?

9 A. There's no profit.

10 Q. And there's not much benefit to you, is there?

11 A. No, we're not paid.

12 Q. You were asked about this compliance agreement
13 that is attached to Mr. Krehbiel's engineering report.
14 Do you agree with me that it says that it is -- I don't
15 have the exact -- that it essentially becomes effective
16 upon signature?

17 A. Yes, sir.

18 Q. Do you know if that's ever been signed?

19 A. I didn't see a signature.

20 Q. The copy here today was not signed, right?

21 A. Huh-uh.

22 Q. So do you know whether or not that compliance
23 agreement was ever put into effect?

24 A. I can't say that for sure. I know we
25 complied, but I thought it was in effect.

1 Q. That was my next question. You do have
2 letters of compliance from DNR as of this year for Cedar
3 Heights?

4 A. Yes.

5 Q. That compliance agreement was for Cedar
6 Heights?

7 A. Yes, sir.

8 Q. If DNR previously approved that
9 interconnection, do you believe there would be an
10 obstacle to have them approve it again?

11 A. No, sir.

12 Q. If it did, in fact, expire?

13 A. We would resubmit.

14 Q. Now, the violation Ms. Hernandez, she referred
15 to as a violation, but there was a correspondence from
16 DNR that recommended addressing I guess the capacity of
17 the Clearwater water system, right?

18 A. Yes, sir.

19 Q. That was a recommendation?

20 A. It was a recommendation, yes, sir.

21 Q. You got the recommendation and you completed
22 it, right?

23 A. Yes. We know what they want.

24 Q. Now, you were asked about the reserves?

25 A. Yes.

1 Q. Now, you do have -- I mean, the district
2 maintains reserve pumps and other materials and supplies
3 to address any issues that arise currently, right?

4 A. In our situation, which is different than like
5 a subdivision, we have heavy, heavy traffic on weekends
6 and especially during the summer and then your major
7 weekends, 4th of July, Labor Day, so forth, we have so
8 much -- so many people it's full capacity. So we keep
9 three pumps on hand at all times just in case and then
10 we get an old pump we rebuild it. We may have six of
11 them before we know it.

12 Q. So that is part of the reserves as well; it's
13 not the monetary part?

14 A. Yes, sir.

15 Q. Those pumps typically address any problems the
16 district would face?

17 A. Oh, yes.

18 Q. Now, earlier I want to eliminate any
19 confusion. There's talk the management company did not
20 notify the residents of Clearwater, right?

21 A. Management company did not.

22 Q. I want to -- whose management company?

23 A. It's the complex's.

24 Q. The homeowners association?

25 A. Homeowners association.

1 Q. So that was not our management company or the
2 operator of the system; that was the company hired by
3 the association?

4 A. Yes, sir, and we notified them.

5 Q. And then they send out a mass e-mail if
6 there's an issue?

7 A. Yes, sir.

8 Q. Commissioner Kenney asked you about, and I
9 want to just clarify on the calculation or our position
10 that we can maintain the rates?

11 A. Yes, sir.

12 Q. We have a contract, the Joint Bidders, with
13 the trustee to purchase all of Ozark Water Company's
14 assets for 800,000, agreed?

15 A. Yes, sir.

16 Q. Of that, 640,000 is our obligation, is that
17 right, or the district's obligation?

18 A. Yes, sir.

19 Q. That \$40,000 deposit comes off the 600?

20 A. Comes off the 600.

21 Q. When we close, we pay 600,000, correct?

22 A. Yes, sir.

23 Q. And then you budgeted in on our request from
24 D.A. Davidson to calculate our bond rate -- or get bond
25 approval or bonding authority, you looked at 800,000,

1 correct?

2 A. Yes, sir.

3 Q. That included the interconnection and our
4 anticipated repairs?

5 A. Yes, sir.

6 Q. That's approximately 800,000?

7 A. That's approximately 800,000.

8 Q. That's how you went into that auction?

9 A. Exactly.

10 Q. With those numbers the revenue of the district
11 will be supported and you can build the reserves?

12 A. Yes, sir.

13 MR. ELLSWORTH: No further questions.

14 JUDGE DIPPELL: Thank you. All right,
15 Mr. Stone, I believe that concludes your testimony and
16 you may step down.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 JUDGE DIPPELL: Would the Joint Bidders like
20 to call their next witness?

21 MR. ELLSWORTH: Yes, we'd call Neddie Goss.
22 Your Honor, as a preliminary matter --

23 JUDGE DIPPELL: Yes.

24 MR. ELLSWORTH: -- I meant to request that at
25 the conclusion of Mr. Stone's evidence I was going to

1 request that we hold his evidence open. Since the
2 surrebuttal testimony was introduced questioning our
3 ability to operate the systems, I was able to get some
4 notices of compliance, but it's my understanding we're
5 expecting a letter from the Department of Natural
6 Resources stating that we are in compliance, just kind
7 of a one final letter, and I would ask that I be able to
8 submit that as part of the record.

9 JUDGE DIPPELL: I will hold Exhibit No. --
10 you're up to 406?

11 MR. ELLSWORTH: Yes, Your Honor.

12 JUDGE DIPPELL: -- for a late filed exhibit.
13 And when you submit that, do you have any idea how
14 quickly you can submit that?

15 MR. ELLSWORTH: I think it's coming fairly
16 quickly. It's hard to say because I'm relying upon
17 somebody else. I'd have to look at the e-mail frankly.
18 I don't recall exactly what they said.

19 MR. COOPER: Judge, are you planning on
20 providing an opportunity to respond to this?

21 JUDGE DIPPELL: Yes.

22 MR. COOPER: And if we obtain more documents
23 from DNR, are you going to provide us the opportunity to
24 produce those as well, because DNR has been slow in its
25 response to our Sunshine law request.

1 MR. ELLSWORTH: Mine as well.

2 JUDGE DIPPELL: I understand. Yes, I believe
3 that that would -- I mean, are you expecting additional
4 documents?

5 MR. COOPER: Yes.

6 JUDGE DIPPELL: Or you just don't know?

7 MR. COOPER: We have conversations with them,
8 but obviously it's up to DNR. It's not up to us.

9 JUDGE DIPPELL: I will allow you the same
10 leeway that if you receive information from DNR pursuant
11 to your outstanding Sunshine request, then you can
12 submit that. I'm not going to hold that open or I'm not
13 going to give you an exhibit number at this time,
14 because that seems a little less certain.

15 MR. COOPER: Certainly.

16 JUDGE DIPPELL: And I will allow responses and
17 objections at that time when those things are submitted.

18 MR. COOPER: Thank you.

19 JUDGE DIPPELL: And I'm sorry. I also -- I
20 don't think I was clear on Exhibit No. 11 which was the
21 minutes. I don't think I ever actually said that that
22 was admitted. Objections to that were overruled and
23 Exhibit 11 is admitted.

24 (COMPANY'S EXHIBIT 11 WAS RECEIVED INTO
25 EVIDENCE AND MADE A PART OF THIS RECORD.)

1 JUDGE DIPPELL: Now, Mr. Goss.

2 (Witness sworn.)

3 JUDGE DIPPELL: Thank you. You can go ahead,
4 Mr. Ellsworth.

5 MR. ELLSWORTH: Thank you, Your Honor.

6 NEDDIE GOSS, being sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. ELLSWORTH:

8 Q. Please state your name for the record.

9 A. Neddie K. Goss, G-o-s-s.

10 Q. Thank you, sir. And you're here on behalf of
11 Lake Area Wastewater Association and Missouri Water
12 Association?

13 A. Yes.

14 Q. What is your capacity as their representative?

15 A. Administrator.

16 Q. Do you serve on their board?

17 A. No.

18 Q. On or about July 11, 2019, you filed direct
19 testimony in this case; do you recall that?

20 A. Yes.

21 Q. And you helped to prepare and you reviewed
22 that prior to filing?

23 A. Yes.

24 Q. And you reviewed it before testifying today?

25 A. Yes.

1 Q. If I asked you all the same questions
2 contained in that direct testimony today, would your
3 answers remain the same?

4 A. Yes.

5 Q. You would not have any amendments to it?

6 A. No.

7 MR. ELLSWORTH: I'm going to offer the
8 previously filed testimony of Neddie Goss that's been
9 marked as Exhibit 401.

10 JUDGE DIPPELL: Would there be any objection
11 to Exhibit 401? Seeing no objection, I will admit that.

12 (JOINT BIDDERS' EXHIBIT 401 WAS RECEIVED INTO
13 EVIDENCE AND MADE A PART OF THIS RECORD.)

14 MR. ELLSWORTH: Thank you.

15 BY MR. ELLSWORTH:

16 Q. Mr. Goss, explain to the Commission who serves
17 on the board. Let me ask this first as a qualifier
18 because I don't want to double all my questions. Lake
19 Area Wastewater Association and MWA -- Lake Area
20 Wastewater Association and Missouri Water Association --

21 A. Yes.

22 Q. -- are both non-for-profit sewer companies,
23 correct?

24 A. Formed under Revised Statutes --

25 Q. 393?

1 A. -- 393, yes.

2 Q. So when I ask these questions, I want to ask
3 them about both of them collectively and then we can
4 break it out.

5 A. Okay.

6 Q. So with respect to both associations, who
7 serves on their board?

8 A. The homeowners.

9 Q. And are they elected or appointed?

10 A. They are volunteered and then they're elected
11 at the annual meeting.

12 MR. COOPER: Judge, just as a point of
13 clarification, maybe an objection, I guess where are we
14 going with this? I thought we were -- the only
15 opportunity I think we have to talk about things here is
16 as to the DNR violations beyond the prefiled testimony.

17 JUDGE DIPPELL: I think once again the ruling
18 is that the issue has been brought up about the
19 qualifications of these companies to even take over if
20 they were to win the bid. So I'm going to allow it. I
21 think it falls under that purview. Mr. Goss, if you
22 could kind of speak into your microphone when you talk.
23 You're a little quiet. Thank you. Go ahead.

24 BY MR. ELLSWORTH:

25 Q. Mr. Goss, the persons that serve on the board

1 for these associations, they're users of the water and
2 sewer service provided by these associations?

3 A. Yes.

4 Q. And those associations are nonprofit?

5 A. Yes.

6 Q. And the board members decide what the rates
7 will be?

8 A. Correct.

9 Q. And those are determined pursuant to statute?

10 A. It's -- Yes, but the board members make up the
11 decision on what to charge and then we usually bring
12 that up at an annual meeting with the homeowners with
13 the members that are members.

14 Q. So the actual members of your association have
15 an annual meeting where they come and voice their
16 opinion if they so choose?

17 A. Yes.

18 Q. Do you have much attendance at those meetings?

19 A. Not a lot.

20 Q. Do you get many -- Do you attend all those
21 meetings?

22 A. Yes.

23 Q. Is there a lot of complaints voiced about the
24 water and sewer service these associations provide?

25 A. No.

1 Q. In your opinion, does Lake Area Wastewater
2 Association provide safe and adequate sewer service to
3 these members of the association?

4 A. Yes.

5 Q. And does Missouri Water Association provide
6 safe and adequate drinking water services to the members
7 of the association?

8 A. Yes.

9 Q. Mr. Goss, do you have in front of you, I asked
10 you to bring it up, the surrebuttal testimony of
11 Mr. Todd Thomas?

12 A. Yes, yes.

13 Q. I want to -- Let's start with Schedule --
14 there's a document -- let's go to TT-S8 attached to that
15 testimony.

16 A. Are you referring to page 8?

17 Q. Well, no, Mr. Goss, it's actually a Schedule
18 TT-S8. It will be on the back.

19 A. Oh, okay.

20 Q. I've marked it just for ease to try to get
21 through this hearing. I've marked it with a paper clip
22 or sticky note or something so you can locate things
23 quickly.

24 MR. HALL: Your Honor, if it's at any help,
25 may I approach with TT-S8?

1 JUDGE DIPPELL: Yes.

2 THE WITNESS: Okay. Thank you.

3 BY MR. ELLSWORTH:

4 Q. Mr. Goss, you may have some loose ones there
5 too that are in your stack. TT-S8, do you see that?

6 A. Yes.

7 Q. It's a May 21, 2019 communication with
8 Missouri Department of Natural Resources, right?

9 A. Yes.

10 Q. And the subject is pump out no pressure?

11 A. Yes.

12 Q. Do you see at the top right-hand corner
13 there's a file, it says a file number?

14 A. Yes.

15 Q. Do you recognize that type of file number?

16 A. No, because we don't get those. I haven't
17 noticed it. I'm sure, yes, it's probably stuck on some
18 of the paperwork. I just usually read the report and
19 who it's from and what it concerns.

20 Q. Would you agree with me that this Schedule
21 TT-S8 wasn't something we produced; it's not Bates
22 stamped?

23 A. No.

24 Q. Do you believe this is something that Mr.
25 Thomas acquired from the DNR?

1 A. I would assume.

2 Q. Let's talk about Bentwood Condos.

3 A. Yes.

4 Q. Are they a member of Missouri Water
5 Association?

6 A. No.

7 Q. So this is something that is included in
8 Mr. Thomas' testimony that you have no responsibility
9 for?

10 A. Correct.

11 Q. Tell the Commission what you do with respect
12 to Bentwood Condos.

13 A. We do -- Lake Area Wastewater is the owner of
14 the treatment plant there.

15 Q. But it has no ownership of the water system?

16 A. No.

17 Q. Let's go to TT-S9. Can you find it? It
18 should be right -- tell me when you've located it,
19 please.

20 A. Okay, I have it.

21 Q. Please tell the Commission what this exhibit
22 is?

23 A. This is an investigation of coliform positive
24 samples for Bentwood Condominiums and the date is June 5
25 -- date received June 5, 2019.

1 Q. Let me ask you a question. Again, this was
2 included in Todd Thomas' testimony, correct?

3 A. Correct.

4 Q. And he used it to show that you're not able to
5 operate water systems, right?

6 A. I guess as far as Missouri Water Association
7 is concerned.

8 Q. You read his testimony, right?

9 A. Yes.

10 Q. Didn't make you happy, did it?

11 A. No.

12 Q. So with respect to TT-S9, were you ever -- I
13 mean, let me rephrase that. Bentwood Condominiums is
14 not a member of Missouri Water Association?

15 A. No, but I would like to go ahead and clarify
16 that I do have a private operating company and the
17 operator for that which is Total Environmental Services
18 did this sampling on this.

19 Q. So another company Total Environmental,
20 laboratory company, sample collection company, collected
21 this sample?

22 A. Correct.

23 Q. But it was offered to show that Missouri Water
24 Association is doing a poor job of operating Bentwood
25 Condos?

1 A. Well, this -- whatever -- however the
2 contamination got in there we don't know.

3 Q. You don't operate this system?

4 A. No.

5 Q. Let's go on. Let's go to Schedule TT-S6.
6 Within that there's a number of documents, Mr. Goss.
7 Find the loose sheets I provided you to try to speed
8 this up.

9 A. Okay.

10 Q. We've been here long enough. There's a notice
11 of violation in there dated August 31, 2015 on Molokai
12 Pointe Estates?

13 A. TT-S6?

14 Q. Yes, sir. It's just one of the documents in
15 there.

16 A. All right.

17 Q. Find the August 31 response from the
18 Department of Natural Resources, please.

19 A. Molokai Pointe, yes.

20 Q. August 31, 2015 is the Notice of Violation,
21 right?

22 A. Yes.

23 Q. This was included in Todd Thomas' testimony?

24 A. Yes.

25 Q. And as of August 31, 2015, Molokai Pointe

1 Estates was not a member of Missouri -- is this water?

2 A. This is wastewater.

3 Q. So it was not a member of the Lake Area
4 Wastewater Association?

5 A. No.

6 Q. When did Lake Area Wastewater Association
7 obtain Molokai Pointe Estates?

8 A. I believe in 2017 or early '18, late 2017,
9 maybe 2018.

10 Q. This violation occurred prior to your
11 ownership?

12 A. Yes.

13 Q. Again used to show your inability to properly
14 operate?

15 A. Yes.

16 Q. Let's go to the next one, September 26, 2016.
17 It's a Notice of Violation from Minnow Brook Homeowners
18 Association. It's also marked TT -- did you find it?

19 A. Yes.

20 Q. Was Minnow Brook HOA a member of, is this
21 water?

22 A. Lake Area Wastewater Association.

23 Q. Was Minnow Brook HOA a member of Lake Area
24 Wastewater Association as of September 26, 2016?

25 A. No, sir. They became members the last month,

1 the 1st of August.

2 Q. Again, this was used to show your inability to
3 operate these systems?

4 A. Yes.

5 Q. All right. Mr. Goss, let me find in your
6 stack of documents -- unfortunately I'll do it as fast
7 as I can. We can do them in chunks. Let's look at
8 TT-S2. I'm sorry. That's the wrong one. TT-S5.

9 A. Okay.

10 Q. Let's just go down. Tell the Commission about
11 Lakeside at Cross Creek.

12 A. They are in double bankruptcy. They've gone
13 through bankruptcy twice in the last ten years and they
14 are in court trying to figure out who really owns the
15 permit, who owns the permit -- I mean, who owns the
16 ground so they can transfer the permit. The guy that
17 they had listed when we took over was the developer, but
18 it was just a permit in his name and not the ground.

19 Q. Correct. Okay. So on Lakeside at Cross Creek
20 there was an emergency situation; is that right?

21 A. Correct.

22 Q. Explain that to the Commission.

23 A. We got a call from the developer and we knew
24 the well driller. The well driller had been talking to
25 us. Their pump was out and booster pumps and to get

1 this system running it was going to cost about 35,000.
2 The developer did not have the money. He only had about
3 15,000. So we came up with another 20,000 to get the
4 homeowners water and with the agreement that he was
5 turning the permit over to us, and by a quick
6 examination we found that the DNR did have the permit in
7 his name. But when we sent that into the DNR, they, of
8 course, said you have to have the legal -- the real
9 estate with the well for us to give you a permit.

10 Q. So again, the date needed to come up from the
11 bankruptcy court and you're tied up there?

12 A. Well, it's bankruptcy court, and I don't know
13 where it stands with them now. It's still out in limbo.

14 Q. The point I really want to make is this was an
15 emergency situation?

16 A. Correct.

17 Q. You go in and make the emergency repair and
18 then you get a Notice of Violation for construction
19 without a permit, right?

20 A. Correct.

21 Q. But that's been rectified?

22 A. Yes.

23 Q. You're in compliance on Lakeside at Cross
24 Creek?

25 A. No, we have not got the deed yet. To get

1 that --

2 Q. My question was, you're in compliance with DNR
3 regulations because you don't have a permit?

4 A. A permit to dispense, correct.

5 Q. But when that happens you'll be in compliance?

6 A. Yes.

7 Q. There is no threat to the users at Lakeside at
8 Cross Creek?

9 A. No. The water has been maintained on a daily
10 basis basically and the water samples come out good.
11 The system is chlorinated so it's safe to drink.

12 Q. With respect to Seven Trails West, what's the
13 current status of these noncompliance notices?

14 A. We are in the process. We've signed a
15 compliance agreement with them to go ahead and start
16 engineering. That is a wetland out there. It's
17 processed by vegetables basically, vegetation, the first
18 three and then the last two are sand filters. It just
19 kind of flows through. Since the DNR put in the ammonia
20 limits, it cannot meet the ammonia limits on a regular
21 basis.

22 Q. And you reached an agreement with them?

23 A. Yes.

24 Q. Lake Area Wastewater is going to build a new
25 system for these users?

1 A. Yes. We've already started the engineering
2 process on that.

3 Q. With respect to the others on TT-S5, are Lake
4 Area Wastewater Association and Missouri Water
5 Association in compliance?

6 A. On TT-S5?

7 Q. Yes, sir.

8 A. I only have one on that, I believe. Let me
9 look the other way. I just had the -- oh, on this one
10 page. Sorry about that. Lakeside, Oak Shadows, we've
11 come to a compliance agreement with them. Park Place on
12 the Lake, yes, that has been rectified. And Makalu
13 Estates, the only thing that I would note on it is I am
14 pretty sure that the well has been abandoned. But the
15 Cross Connects program is part of our overall Missouri
16 Water Association -- same thing as lead banned rules and
17 all those things.

18 Q. Mr. Goss, let's look at Schedule TT-S7.

19 A. Okay.

20 Q. Schedule TT-S7 includes systems you didn't own
21 at the time of these violations, right, talking about
22 Molokai Pointe and Minnow Brook?

23 A. Yes.

24 Q. With respect to the other ones, are you in
25 compliance?

1 A. We just got the notification on that the DNR
2 had not received our permit to dispense application
3 which we do have the permit transfer. I've got -- We do
4 have copies of that which have been sent to the DNR.
5 And so we've sent them copies of the land transfer on
6 the well. So we don't know what has happened to it. We
7 will resubmit that. We do have to resubmit that.

8 Q. Which system are you speaking of?

9 A. Makalu Estates down at the bottom.

10 Q. Okay. So you're waiting on a deed on that as
11 well?

12 A. No, we do have the deed. We've already sent
13 those in one time, but we do have copies of it we can
14 send in again.

15 Q. Okay. So they were lost somewhere at the DNR
16 you believe?

17 A. I believe so.

18 Q. Does that happen from time to time?

19 A. Especially with the EDMR -- well, with the
20 DMRs, the wastewater inspection reports for the
21 laboratory have gotten lost quite a bit. Since the
22 state has instituted this EDMR where it's electronically
23 filed, they don't have that problem now.

24 Q. Let's go to Schedule TT-S12. That's the three
25 pages, Mr. Goss.

1 A. Okay. The dates from 2014 through 2016 on the
2 first page are in compliance or these have been answered
3 and replied to by the DNR.

4 Q. Okay. All of them?

5 A. All of them, yes.

6 Q. Let's look at the second page, June 23, 2016
7 through March 28, 2019.

8 A. Okay. These have all been rectified. Some we
9 have received in compliance letters. Just in the last
10 couple years have they -- after you've had a violation
11 they will tell you they will send you a Notice of
12 Violation. They tell you what to do and then you send
13 them a reply that we've done this. Sometimes pictures
14 somewhat. But they usually didn't before reply to all
15 responses back to them. Nowadays once -- in the last
16 year they've been saying okay, yes, you're now in
17 compliance. We can tell them what we've done, and so
18 forth. Sometimes they come out and inspect. Sometimes
19 we send them pictures. They will come back and say
20 you're in compliance. They never did that before, years
21 before.

22 Q. Okay. So you've been getting letters of
23 compliance on these systems?

24 A. Yes.

25 Q. None of those were included in Mr. Thomas'

1 testimony, were they?

2 A. I did not see of any or hear of any.

3 Q. Let's do the last page real quick. 3/28/19.
4 Let's just take that one individually. There's only two
5 systems on there. The Holmes Creek Sewer Company, tell
6 the Commission what's going on there.

7 A. That is a unit we took over a couple of years
8 ago. And they were -- on their new permit were ordered
9 to install ecoli removal. They had three bed sand
10 filter operation. They did have filters that were
11 ponding. We did go in and rehab one. We've gone
12 through all the home lift stations and checked pumps,
13 replaced pumps, replaced control panels to upgrade that
14 system. I don't know how the PSC operators operate say
15 in a subdivision. We go in. Let's say it's a sand
16 filter. We take over the sand filter, the operation,
17 the repairs, the maintenance, all the testing, but we
18 also take care of each homeowner's lift station, his
19 pumps, if it needs to be pumped. If we get a call out
20 at two o'clock -- we have an 800 number for them. At
21 two o'clock in the morning they have an issue, they
22 call. We've usually got somebody out there within an
23 hour to hour and a half. That's kind of how we operate.
24 But I'm still looking for the other on that. There was
25 a thing about a fence. We're putting in a new UV system

1 we had to have specially built. As soon as that is put
2 in, then the fence goes in around this facility. It
3 does have a fence, but it doesn't look good. These are
4 a bunch of million dollar homes. They don't like to
5 look at chain link fence. We are putting that in.

6 Q. Is this similar to the La Char Estates
7 Subdivision, it's a change in the compliance
8 regulations?

9 A. Yes. They have ecoli and they were having --
10 out of the four times a year that they test for ammonia,
11 twice a year they fail. So we ended up doing an
12 engineering report, got a construction permit, last week
13 we ordered a textile filter for polishing the stuff that
14 comes out of the treatment plant to make sure we meet
15 our ammonia limits and then adding a chlorinator. This
16 area up here they just -- most of the people for years
17 have operated without chlorinators. Now they brought it
18 in on permit renewals. So we will be putting a new
19 chlorinator on.

20 Q. Mr. Goss, what are your duties as an
21 administrator back to the two associations for Missouri
22 Water Association, Lake Area Wastewater Association?
23 What's your duties? It's a lot?

24 A. A lot.

25 Q. Do you basically run the operations of the

1 association?

2 A. Yes. I do have a director of operations who
3 takes over and makes sure the daily stuff is done. We
4 use a CPA firm to do our books and do our payrolls. We
5 have attorneys on staff to make sure that we get the
6 proper contracts with the people, with our members and
7 to make sure that the deeds that we get for the
8 properties are free and clear and then it gets them
9 recorded, and so forth.

10 Q. How long have you personally been involved in
11 the water and sewer business?

12 A. 39 years.

13 Q. And was there -- I understand your father was
14 in it before you, right?

15 A. Yes.

16 Q. Now your son is in it?

17 A. Yes.

18 Q. They've never stopped you from operating, AG's
19 office, DNR, right?

20 A. Yes.

21 Q. Your association is similar to what Central
22 States does. I think you come in and take over troubled
23 systems, don't you?

24 A. That's one of the reasons the homeowners
25 usually vote as an association to join us, yes.

1 Q. You come in and you make repairs where they
2 don't have to come out of pocket to do it?

3 A. Right.

4 Q. And then you own the system?

5 A. Yes.

6 Q. When you take over the systems, does DNR
7 typically come out and inspect at that time as well?

8 A. They're usually around pretty quick once they
9 know that, especially those that have issues that
10 they're really concerned about and then they will come
11 and we will sit down together and we'll say okay, this
12 is what we're going to do first. We kind of talk to
13 them and let them know. They agree with us or disagree
14 and say no, you need to be doing this first.

15 Q. From those meetings or from those first
16 initial inspections, typically a Notice of Violation
17 results, right?

18 A. Yes.

19 Q. In that they tell you these are your
20 violations, here's what we recommend, get them done and
21 let us know, right?

22 A. It's to put the pressure on us if we take over
23 a new system that they have not messed with for some
24 time, I look. If we get, say, the KK sewer treatment
25 plant, the one that has issues and supposedly bypassing,

1 that they will be on us immediately to do something
2 about that and we'll sit down with them and see which is
3 the best alternative to go with.

4 MR. ELLSWORTH: May I approach the witness,
5 Your Honor?

6 JUDGE DIPPELL: Yes.

7 MR. ELLSWORTH: Your Honor, did you previously
8 reserve 406?

9 JUDGE DIPPELL: I did. So this would be 407.

10 MR. ELLSWORTH: 407.

11 BY MR. ELLSWORTH:

12 Q. Mr. Goss, I'm going to hand you what we'll
13 mark as 407. Mr. Goss, if you would take a moment, just
14 review I think we have eight pages. First seven are
15 front and back. The last one is just front. Eight
16 pages. Do you agree, Mr. Goss?

17 A. Yes.

18 Q. Eight pages?

19 A. Yes, uh-huh.

20 Q. Will you just -- I'm not going to go through
21 all the dates. I'm going to try to save the expense and
22 the time. These are all correspondence from the
23 Department of Natural Resources to Lake Area Wastewater
24 Association?

25 A. Yes.

1 Q. And these are all Findings of Compliance,
2 Return to Compliance, letters stating you're in
3 compliance with respect to the systems identified in
4 each of these?

5 A. Okay.

6 Q. Is that right?

7 A. Yes.

8 MR. ELLSWORTH: I'm going to offer 407.

9 JUDGE DIPPELL: Again, has other counsel seen
10 this document before you just handed it to them or is
11 this a new document?

12 MR. ELLSWORTH: It's a new document, I
13 believe.

14 MR. COOPER: Yeah, that was going to be our
15 objection similar to this morning. This is something
16 that was requested but not provided in discovery.

17 JUDGE DIPPELL: What is the timing on this
18 one?

19 MR. ELLSWORTH: I'm going to be candid. I
20 received it actually this morning on my way here, I
21 believe. I may have -- on this I don't know if my
22 client got it from a third party or if it was in his
23 file. I just simply don't know. It came from Mr. Goss'
24 son Kelly Goss. He dropboxed those to me. I don't know
25 where he got them. That's all I know. I wish I would

1 have had more time.

2 JUDGE DIPPELL: These are --

3 MR. ELLSWORTH: There's Findings of Compliance
4 with respect to some of our systems. It's not all of
5 the systems, but some of them are addressed in what
6 we've just gone through.

7 JUDGE DIPPELL: I'm going to go ahead and
8 allow it. I'm holding the record for similar things and
9 we've allowed similar things already today. So I'm
10 going go ahead and allow it. So this is again basically
11 for lack of better word Notice of Compliance for which
12 systems?

13 MR. ELLSWORTH: Various systems. I don't even
14 have them listed out. Like I said, I had them printed
15 off at our first break. They're just different Lake
16 Area Wastewater Association systems. They don't address
17 any Missouri Wastewater Association systems.

18 MR. COOPER: They're both Findings of
19 Compliance and then Return to Compliance letters, right?

20 MR. ELLSWORTH: Right. Kind of a mixed bag of
21 different ways that they notify you that you're in
22 compliance.

23 JUDGE DIPPELL: They're all Lake Area
24 Wastewater Association, right?

25 MR. ELLSWORTH: Yes, Your Honor.

1 JUDGE DIPPELL: Just so that the record is
2 clear, then I am going to go through so we know what we
3 have.

4 MR. ELLSWORTH: Do you want me to go through
5 all the dates?

6 JUDGE DIPPELL: I'll just go through them,
7 that's fine. October 16, 2018, titled Finding of
8 Compliance; December 21, 2018, titled Return to
9 Compliance; August 13, 2018, Finding of Compliance;
10 November 19, 2018, Finding of Compliance; June 9, 2017,
11 Return to Compliance; January 5, 2018, Return to
12 Compliance; March 28, 2019, Return to Compliance;
13 September 14, 2018, Finding of Compliance; and then a
14 letter dated September 22, 2015 from Department of
15 Natural Resources. It doesn't have a title as such.
16 Another September 27, 2016, titled Return to Compliance;
17 a letter dated September 22, 2015; June 26, 2018, Return
18 to Compliance; February 1, 2018, Finding of Compliance;
19 September 10, 2018, Inspection Sample Results Finding of
20 Compliance; and April 22, 2016, letter that is not
21 titled. Just because they're loose and I want to make
22 sure that we know what we have and when we get something
23 else if it's a duplicate.

24 MR. ELLSWORTH: Thank you, Your Honor.

25 (JOINT BIDDERS' EXHIBIT 407 WAS RECEIVED INTO

1 EVIDENCE AND MADE A PART OF THIS RECORD.)

2 MR. ELLSWORTH: I don't have any further
3 questions for Mr. Goss, but I would ask again that you
4 allow me the opportunity to supplement. I was not able
5 to get these letters of compliance with respect to
6 Missouri Water Association. I believe that there's
7 still a number. Like I said, I haven't looked at these
8 to see if they correspond with all the Notices of
9 Violation they're claiming. There may still be some
10 that I can gather. I also have DNR requests
11 outstanding. So I would like the opportunity to
12 supplement this direct testimony at a later date.

13 JUDGE DIPPELL: I will allow you through the
14 receipt of your Exhibit 406 to make a motion to admit
15 anything else, but I'm not going to say here now that
16 you can admit evidence after this hearing that we don't
17 even know exists.

18 MR. ELLSWORTH: I do know that they exist. We
19 haven't had time to compile them. Like I said, I got
20 this group this morning. I've asked them to start
21 working on Missouri Water Association, but Your Honor, I
22 appreciate you're being very liberal with it. I
23 appreciate it.

24 JUDGE DIPPELL: I think your point is being
25 made without those. Again, while the evidence is open,

1 I'll let you make any motions and we'll deal with it at
2 that time. Once the evidence is closed, it's going to
3 close.

4 MR. ELLSWORTH: Thank you, Your Honor. At
5 this time I tender Mr. Goss for cross-examination.

6 JUDGE DIPPELL: Is there cross-examination
7 from Staff?

8 MS. PAYNE: Yes, thank you.

9 CROSS-EXAMINATION BY MS. PAYNE:

10 Q. First of all, I would like to clear up a
11 statement, Mr. Goss, that you made in response to your
12 counsel. Lake Area Wastewater Association operates
13 sewer systems; is that correct?

14 A. Correct.

15 Q. Missouri Water Association operates water
16 systems?

17 A. Correct.

18 Q. Thank you. Earlier there was a statement made
19 that both of them were sewer. Do you have a copy of
20 your direct testimony in front of you?

21 A. No.

22 Q. Could your counsel provide a copy of your
23 direct testimony?

24 MR. ELLSWORTH: I can if I may approach.

25 JUDGE DIPPELL: Yes.

1 THE WITNESS: Yes.

2 BY MS. PAYNE:

3 Q. Thank you. If you look on page 4 of your
4 direct testimony starting with line 6, you state that
5 the anticipated water and sewer rates for the homeowners
6 in the Chelsea Rose subdivision would be \$60 per month
7 per unit --

8 A. Yes.

9 Q. -- for wastewater and \$34 per month per unit
10 for water; is that correct?

11 A. Yes.

12 Q. That would total \$94 per customer per month,
13 correct?

14 A. Yes.

15 Q. Now, is that including usage or is that a base
16 charge?

17 A. That is a base charge for everyone. We billed
18 the homeowners association, not individual members.

19 Q. Okay. But they would -- by billing the
20 homeowners association, the customers would be paying
21 the homeowners association for that usage?

22 A. The LAWVA would bill for the wastewater to the
23 homeowners association. Say there was ten people, ten
24 homes there so that would be \$600. MWA, Missouri Water
25 Association, would bill for ten customers at \$34 which

1 would be \$340 a month. And then the homeowners do pay
2 for the electricity and then they have no other
3 liability from there.

4 Q. Okay. Thank you. Just out of curiosity, what
5 is the usage charge?

6 A. The usage charge? I have no idea. That goes
7 to the homeowners. It always has. When they became
8 members, they kept that responsibility of paying the
9 electricity. So I have no idea what the utilities are
10 for that.

11 Q. Okay. Thank you. And to clarify, on pages 5
12 and 6 of your testimony you explained that the same
13 rates would apply to Eagle Woods and to the Cimarron
14 Bay?

15 A. Correct.

16 Q. Okay. Thank you. And to be clear, when you
17 say that those are the estimated rates, those would go
18 into effect immediately should the Joint Bidders --

19 A. Yes.

20 Q. -- be able to take over?

21 A. Yes.

22 Q. Thank you. Thank you for answering my
23 question before I was able to get it straight. You also
24 made some references to the rates coming from a statute.
25 Do you know what statute that that is that sets those

1 rates for you?

2 A. There is no rates set by statute. It is set
3 by the homeowners association.

4 Q. Thank you. I just wanted to clarify that.
5 Are you familiar with the tariffed rates that the Osage
6 Water Company is charging its customers now?

7 A. No.

8 Q. You do understand, though, that there are
9 tariffed rates that the Osage Water Company uses to
10 charge its customers?

11 A. Tariffed rates, the only thing I understand
12 about what they charge is what they've been able to get
13 approved through the PSC.

14 Q. Thank you. Then did you familiarize yourself
15 with the testimony of Josiah Cox on behalf of Osage
16 Utility Operating Company?

17 A. Just from his testimony here in
18 cross-examinations.

19 Q. Okay. Then did you hear him state that the
20 rates that Osage Water Company is currently charging
21 would be kept in place for at least 24 months pursuant
22 to its agreement with Staff and its recommendation for
23 this case?

24 A. Yes, I did.

25 MS. PAYNE: Thank you very much. I have no

1 further questions.

2 JUDGE DIPPELL: Is there any cross-examination
3 from Public Counsel?

4 MR. HALL: Briefly. Good afternoon, Mr. Goss.

5 CROSS-EXAMINATION BY MR. HALL:

6 Q. Are you familiar with Lake Ozark Water and
7 Sewer?

8 A. Yes.

9 Q. Do you know an individual named Jim from the
10 organization?

11 A. Yes.

12 Q. Who's Jim?

13 A. They call him the Bear. I don't remember his
14 last name. That's what we've always called him at
15 different water meetings, and so forth.

16 Q. What are his responsibilities for the Lake
17 Ozark Water and Sewer?

18 A. He is a licensed water operator and wastewater
19 operator, and one of his facilities I understand is the
20 Cedar Glen.

21 MR. HALL: Thank you very much. No further
22 questions.

23 JUDGE DIPPELL: Is there cross-examination
24 from Cedar Glen?

25 MR. COMLEY: No questions.

1 JUDGE DIPPELL: Osage Utility Operating
2 Company?

3 MR. COOPER: Yes, thank you, Your Honor.

4 CROSS-EXAMINATION BY MR. COOPER:

5 Q. Mr. Goss, let's start with some of those
6 schedules from Todd Thomas' testimony that Mr. Ellsworth
7 asked you about. I think do you have still have in
8 front of you Schedule TT-S5 which has to do with
9 Missouri Water Association?

10 A. Yes.

11 Q. And I take it from your testimony that you
12 recognize these inspection noncompliance notices that
13 are listed on this sheet, correct?

14 A. Correct.

15 Q. And they concern facilities that are owned and
16 operated by Missouri Water Association, correct?

17 A. Correct.

18 Q. And I think your testimony is that you've
19 corrected the noncompliance; is that correct?

20 A. No. We do not have a permit to dispense for
21 Lakeside. We do not have the back flow prevention test
22 records from the homeowners yet. The homeowners are
23 responsible for getting those done. And we have -- and
24 the inspection noncompliance on the construction without
25 a permission or permit, I think we're working on that.

1 Q. One of those that I guess kind of caught our
2 eye was the five -- or the May 19 of 2017 inspection
3 noncompliance on Park Place on the Lake.

4 A. Yes.

5 Q. Do you remember that at all?

6 A. Vaguely, but I do remember some of it, yes.

7 Q. One of the things that was noted on there I
8 believe was essentially pack rat nest in and around the
9 booster pump, moth balls in that area, a variety of
10 things like that. Does that sound familiar?

11 A. What's the rats nest, was that near the
12 booster pump system or was that in the storage shed
13 where the storage tanks are at?

14 Q. What I'm looking at from the DNR report says
15 pack rats nesting under and around booster pump.

16 A. That is such a small area. I think, I don't
17 want to doubt your word there, but I believe that was
18 out in a storage building where we have six large tanks
19 and they slept under the walls there, but I will go
20 ahead and say yes, I was aware of it but the location
21 I'm just not.

22 Q. Apparently it was something that you all
23 didn't pick up on until it had been cited as a
24 significant deficiency by the Department of Natural
25 Resources, correct?

1 A. Correct.

2 Q. Do you still have in front of you Schedule
3 TT-S7 from Mr. Thomas' testimony?

4 A. Okay. Yes. TT-S7.

5 Q. I understand from your earlier testimony that
6 you state that Molokai Pointe Estates and Minnow Brook
7 wasn't yours at this point in time that's identified on
8 here; is that correct?

9 A. Minnow Brook just became a member August 1 of
10 this year, 30 days ago, 60 days ago.

11 Q. But as to the other items on there, you
12 recognize those as being issues associated with your
13 companies?

14 A. Yes.

15 Q. And do you have in front of you TT-S12 also
16 from Mr. Thomas' testimony?

17 A. Yes.

18 Q. And again, based upon your conversation with
19 Mr. Ellsworth, I take it that you recognize these
20 identified deficiencies and noncompliance notices that
21 are on those three pages, correct?

22 A. I would say they're correct, yes.

23 Q. Those include more recently, and I think maybe
24 even you pointed to these, some failures to attain final
25 ecoli limits, exceeding ammonia discharge, construction

1 without valid permit, a variety of items are on those
2 three pages, correct?

3 A. Correct, yes.

4 Q. Those would all have been either Notices of
5 Noncompliance or significant deficiencies or one label
6 or another that DNR would put on these items, correct?

7 A. Correct, yes.

8 Q. And if I look at the last exhibit that Mr.
9 Ellsworth offered here, Exhibit 406, do you have that in
10 front of you? It's the one that has the Finding of
11 Compliance on the first sheet --

12 JUDGE DIPPELL: Actually I think 406 is the
13 one I reserved. So it should have been 407.

14 BY MR. COOPER:

15 Q. 407 has October 16, 2018 Department of Natural
16 Resources letter on the cover. Do you see that? You
17 still have that in front of you?

18 A. Yes.

19 Q. As I go through there, there are some of these
20 documents that are identified as Finding of Compliance?

21 A. Uh-huh.

22 Q. But there's others of these documents that are
23 identified Return to Compliance, several of them Return
24 to Compliance, I think one that doesn't have a title is
25 one from September 22 of 2015 that describes a

1 Department of Natural Resources inspection report in
2 regard to violations found, correct? Do you see that,
3 September 22, 2015?

4 A. Yes. That is for Ginger Bay?

5 Q. Uh-huh.

6 A. Okay.

7 Q. Another Return to Compliance in September of
8 '16, I think another September 22. Actually there's two
9 of them in here. One for Oak Shadows, one for St.
10 Maritz, also were in response to Findings of
11 Noncompliance for Facilities, another Return to
12 Compliance. Even these letters -- Wouldn't you agree
13 with me that these letters represent evidence of a
14 number of compliance violations that were noted by
15 Department of Natural Resources?

16 Now, admittedly the substance of this
17 particular letter is the Return to Compliance or
18 recognizing effects. All of those letters started with
19 noncompliance on behalf of Lake Area Wastewater
20 Association, correct?

21 MR. ELLSWORTH: I'm just going to object,
22 Dean. Could you kind of separate that out? I feel like
23 it's a compound question that's a little misleading.
24 There's a lot there.

25 JUDGE DIPPELL: Can you separate those

1 questions, Mr. Cooper?

2 MR. COOPER: Sure, we can do it.

3 BY MR. COOPER:

4 Q. So let's start with December 21 of 2018. It's
5 the second page into the exhibit.

6 A. Okay.

7 Q. That document is titled Return to Compliance,
8 correct?

9 A. Uh-huh.

10 Q. And to return to compliance you were once out
11 of compliance, correct?

12 A. Correct.

13 Q. And that had to do with which system?

14 A. This was with Boyd subdivision. It's a
15 mechanical treatment plant, an activated sludge system.

16 Q. If I turn a couple of pages over, I've got
17 another letter from June 9, 2017?

18 A. June 9, 2017, and yes, that's Sylvan Bay.
19 It's a mechanical treatment plant, yes.

20 Q. Another Return to Compliance which assumes
21 that you were out of compliance prior to that, correct?

22 A. Right.

23 Q. If we flip over to the next page January 5,
24 2018, I think this is St. Moritz Estates Condos,
25 correct?

1 A. That is correct. There are two treatment
2 plants there. They're both mechanical treatment plants,
3 activated sludge treatment plants. It does not say
4 which one of them was out of compliance.

5 Q. But as it is a Return to Compliance, one of
6 them must have been at some point, correct?

7 A. Yes.

8 Q. And same thing on the next March 28, 2019,
9 earlier this year -- well, and this is Molokai Pointe,
10 but I assume this is after you took responsibility for
11 it?

12 A. Way after, yes -- way before we took
13 responsibility for it, yes.

14 Q. Way before. Tell me again when did you take
15 over Molokai Pointe?

16 A. Yes.

17 Q. When? I'm sorry.

18 A. 2018, I believe. I think in the fall of -- I
19 mean, in the spring of 2018.

20 Q. Right. So when we look at this Return to
21 Compliance on March 28, 2019, again that was a
22 correction of noncompliance that would have been found
23 during Lake Area Wastewater Association's ownership of
24 this plant, correct?

25 A. Yes. That could have been, yes. It could

1 have been not having a sign up on the property, it could
2 have been for late DMR, it could have been for ecoli, a
3 BOD. It could be for not keeping the grass cut around
4 the treatment facility, yes. The only problem with
5 these they don't tell me what the violation was.

6 Q. So if I turn a couple more pages, we get to
7 the September 22, 2015, one of them that we had talked
8 about before, and again this was in regard to violations
9 found during routine compliance inspection?

10 A. Right.

11 Q. Apparently you've now remedied those by the
12 time of that letter?

13 A. I remember this particular one. It was cracks
14 in the side of the concrete wall. That plant has been
15 there since 1969 -- '68.

16 Q. So foundational problems?

17 A. Yes.

18 Q. Kind of an infrastructure problem?

19 A. Yes, but still a violation, yes.

20 Q. And I flip over to September 27, 2016, another
21 Return to Compliance. Again, that assumes that we had
22 noncompliance that had to be corrected, correct?

23 A. Correct.

24 Q. Another September 22, 2015 letter without a
25 title but this one references having found the system to

1 be in noncompliance prior to your receiving this letter
2 on Oak Shadows wastewater plant, correct?

3 A. Yes. I remember one of the things was a
4 grate. Grates were rusted and so we had to order new
5 grates and put on top.

6 Q. If we flip over to the next page, June 26,
7 2018, again, another Return to Compliance. Oak Shadows.
8 Again, we would assume that there's a noncompliance that
9 predates that, correct?

10 A. June 26, 2018 and one three years earlier,
11 yes. This right here, okay.

12 Q. And in each of those situations that we've
13 discussed, the impetus for your action was a citation
14 essentially from Department of Natural Resources,
15 correct?

16 A. Correct.

17 Q. You were reacting to having been cited as a
18 result of some problem during an inspection, correct?

19 A. Yes.

20 Q. And as to each of those sort of Return to
21 Compliance letters, they're specific as to the
22 noncompliance that had been previously cited? By that I
23 mean when you get a Return to Compliance letter, it
24 doesn't necessarily mean everything is now good; it
25 means that you've corrected the prior noncompliance,

1 correct?

2 A. It means everything is good until you screw up
3 again. Excuse me. Mess up again.

4 MR. COOPER: That's all the questions I have,
5 Your Honor.

6 JUDGE DIPPELL: Are there questions from the
7 Commissioners?

8 COMMISSIONER KENNEY: No.

9 COMMISSIONER RUPP: No.

10 JUDGE DIPPELL: I just have a few.

11 QUESTIONS BY JUDGE DIPPELL:

12 Q. Mr. Goss, your members, are these second
13 residences, permanent residences, all of the above?

14 A. All of the above. Some of our subdivisions
15 will have about 75 percent in them full time, just very
16 few. 90 percent of all the facilities around the Lake
17 of the Ozarks where 90 percent of our business is are
18 secondary homes. Like a condo, a hundred-unit condo
19 this week may have five homes in there. That's what
20 makes these things so hard to operate because they're
21 usually activated sludge type plants. And it's based on
22 food to keep the bugs alive to process this water.

23 So what happens on 4th of July, I've got
24 enough people there for 120 units and then through the
25 week in the summertime I'll be running at 60 to 70

1 percent and then jump up to 90 percent normally on the
2 weekends but the major 4th of July I will have over
3 capacity 25 percent more volume of sewer going in to be
4 processed into these plants and then say basically how I
5 would do it, how we have to do our systems, we go around
6 on Thursday and Friday before the major holidays, jack
7 them all the way up high as they'll operate and then we
8 have to go back Tuesday morning and then jack them all
9 the way back down and sometimes they get out of whack
10 and it takes us a week to get these plants back where
11 they're processing correctly.

12 Q. When did you take over Lakeside?

13 A. The water? That's all we do is water right
14 there.

15 Q. Yes.

16 A. It's been about two years ago approximately.

17 Q. What about Seven Trails West?

18 A. We've had that since the beginning. That was
19 one of our first.

20 Q. Since the association?

21 A. Association started, yes.

22 Q. When you were discussing rates with Ms. Payne,
23 I got a little confused. Can you explain to me again
24 how the rates are billed? It was particularly with
25 regard to Chelsea Rose.

1 A. How we would bill them?

2 Q. Yeah. I was confused about. So it's listed
3 in your testimony at page 4 that the LAWWA's rate is \$60
4 a month per unit?

5 A. Yes.

6 Q. And MWA's rate is \$34 a month per unit?

7 A. Yes.

8 Q. And then you said something about the
9 homeowners paying for electricity?

10 A. Yes. That was one of the factors that's very
11 hard to calculate when determining rates, because one
12 subdivision may have an activated sludge plant which got
13 big old blowers and motors and it's going to use a lot
14 more electricity and then you've got the sand filter
15 which uses very little because of the small pumps. And
16 we said -- they've said well, how about water usage.
17 Well, no one has meters. So you can't determine how
18 much each individual is using because only one of our
19 facilities, Seven Trails, is set up like a normal water
20 system that has the meters, and so forth.

21 This way everyone can use as much water as
22 they want as long as they pay the electricity, we still
23 pay for everything else, the tire, the pumps, the meters
24 for the wellhouse and stuff like that. We do take care
25 of all that.

1 Q. So the only charges then are the monthly rate
2 that goes to the association?

3 A. Association.

4 Q. And the electric to run those treatment
5 facilities and pumps?

6 A. That will be only thing probably different
7 from them is that they will have to pay the electricity.

8 Q. And do you have any idea comparatively like
9 how much -- how the electricity compares to the regular
10 monthly charge per homeowner or do you have any dealings
11 with that?

12 A. We don't. Like I said, ours is just straight
13 so much a home for wastewater, so much a home for water.

14 Q. Okay. That's fine.

15 A. But we take care of all of the in between, the
16 line repairs and all of the home pumps, lift stations at
17 the individual homes, septic tanks, whatever they have.
18 That is included in that \$60.

19 JUDGE DIPPELL: Then my last question is kind
20 of actually for Ms. Payne. You asked a question and you
21 said something about Staff's recommendation and an
22 agreement with the Company to keep rates in place for 24
23 months. That's not the condition in Staff's
24 recommendation.

25 MS. PAYNE: I apologize. What I was referring

1 to is in Staff's recommendation it included certain
2 conditions which the Company has expressed that it would
3 agree to. One of those is to not come in for a rate
4 case for at least 24 months.

5 JUDGE DIPPELL: That's not what the condition
6 says.

7 MR. COOPER: Yeah, I think that's a good
8 point. I think it says that we should come in.

9 MS. PAYNE: I'm sorry. Within 24 months. I
10 apologize. I misstated.

11 JUDGE DIPPELL: I just wanted to make sure
12 that was clear. All right. Are there any questions
13 based on my questions from Staff?

14 MS. PAYNE: No questions. Thank you.

15 JUDGE DIPPELL: Public Counsel?

16 MR. HALL: No questions. Thank you.

17 JUDGE DIPPELL: Cedar Glen?

18 CROSS-EXAMINATION BY MR. COMLEY:

19 Q. Mr. Goss, how many customers does Missouri
20 Water Association have?

21 A. Around 1,100.

22 Q. How many customers does Lake Area Wastewater
23 Association have?

24 A. Just a little over 2,800.

25 Q. How many subdivisions or condominium units,

1 separate homeowners associations and condominium units
2 do you serve?

3 A. 56 homeowners associations and subdivision
4 condominiums, yes, for the wastewater and 21 on the
5 water.

6 MR. COMLEY: Thank you.

7 JUDGE DIPPELL: Is there further
8 cross-examination from OUOC?

9 MR. COOPER: No questions.

10 JUDGE DIPPELL: Is there redirect?

11 MR. ELLSWORTH: No redirect.

12 JUDGE DIPPELL: Wore you down.

13 MR. ELLSWORTH: I just didn't want to open up
14 for more questions.

15 JUDGE DIPPELL: Okay. Then Mr. Goss, I
16 believe that that concludes your testimony and you may
17 step down.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 JUDGE DIPPELL: And am I correct that that
21 concludes the witnesses' testimony?

22 MR. ELLSWORTH: Nothing further from the Joint
23 Bidders.

24 JUDGE DIPPELL: Okay. Well, then I have just
25 a few housekeeping things before we adjourn then. The

1 first being our in-camera session yesterday and I said
2 that I would back up that video and put that number
3 in-camera, and I can do that. The Commission would
4 prefer that I not mess with the video record unless it's
5 really necessary. So I guess my question is is that
6 necessary for me to alter that video record or if I make
7 sure that it's still confidential in the transcript is
8 that sufficient?

9 MR. COOPER: Company is okay with that, yes.

10 JUDGE DIPPELL: Okay. Thank you. And then
11 there was another transcript issue. Oh, the other thing
12 is that when we went in-camera it's really the numbers,
13 correct, that are confidential. If I make the
14 transcript public and redact those numbers, will that be
15 sufficient that the rest of the testimony would be --
16 could be public or is this something you'd need to see
17 the transcript?

18 MR. COOPER: I think the latter, Judge.
19 That's what's running through my mind is that it's
20 likely that that's the case. I think we have to
21 actually take a look at it before we can say that for
22 sure.

23 JUDGE DIPPELL: As I said it, that came to my
24 mind that you probably want to see that. Okay. Well,
25 keep in mind when you get the transcripts that again I'd

1 like as much information to be public as possible so
2 that when the Commission makes a decision they can make
3 their decision public with maybe reference to some
4 confidential numbers, if that's necessary.

5 The other thing is I had not previously
6 ordered expedited transcripts. The Commission's typical
7 transcript time is 10 working days. So that would put
8 the transcripts not back until October 1. And it was
9 previously ordered that initial briefs would be October
10 3. This was before we bifurcated Reflections. So I
11 didn't know if the parties wanted to change those dates,
12 wanted me to expedite the transcripts or given that I'm
13 holding things for a late filed exhibit how you wanted
14 to approach briefs and transcripts.

15 MR. HALL: If there's no objections from other
16 parties, we're free for pushing the briefing schedule
17 back. I know that sounds like a selfish request
18 admittedly.

19 MR. ELLSWORTH: I would prefer it.

20 MR. COOPER: I think we need -- My client
21 needs to discuss it before I can say that. The answer
22 to your first question is that some expedited, that the
23 transcript being expedited is probably necessary even if
24 we were to bump it a few days I think on the briefing
25 that we'd need the transcript sooner than the 1st of

1 October.

2 MS. PAYNE: Staff would prefer to keep the
3 briefing schedule as is. I apologize. I realize the
4 other parties don't like that.

5 JUDGE DIPPELL: Okay. Well, and I know this
6 has been scheduled for a long time so everybody has
7 planned their other caseload around these dates. So I
8 will ask the court reporter if she can expedite these
9 transcripts and have them to me in five working days
10 instead of ten.

11 THE COURT REPORTER: Yes.

12 JUDGE DIPPELL: She seems to say yes. And I
13 will take care of that. And for now we'll leave the
14 briefs due as they are, and I will entertain if you see
15 that you need more time I will address your motions for
16 an extension at that time.

17 MR. HALL: Whitney, is that a hard date for
18 Staff or is there some wiggle room just so we know if
19 people do need to file requests for extension?

20 MS. PAYNE: I have flights booked. If you
21 want to get into, it works for me. If it's necessary, I
22 can punt to additional staff counsel as need be. I'm
23 going to start writing tomorrow. That's what I know.

24 JUDGE DIPPELL: Okay. Well, I'll let you all
25 work that out and, like I say, bring any requests to me

1 at a later date. I would ask that in those briefs that
2 you brief the standard for the Commission's decision.
3 There's been illusions to maybe a different standard for
4 transfer than for a new CCN, and I would appreciate your
5 arguments on that kind of thing.

6 Is there any other questions or any other
7 matters that need to go on the record?

8 MR. COMLEY: Happy birthday.

9 JUDGE DIPPELL: Thank you. All right then. I
10 see nothing further and we are adjourned.

11 (Off the record.)
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CERTIFICATE OF REPORTER

I, Beverly Jean Bentch, RPR, CCR No. 640, Certified Court Reporter with the firm of Tiger Court Reporting, LLC, within the State of Missouri, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Beverly Jean Bentch

Beverly Jean Bentch, CCR No. 640

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