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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing  
Friday, November 17, 2023  
Jefferson City, Missouri

Volume III

In the Matter of:  
The Application of a )  
Rate Increase of Raytown ) File No.: WR-2023-0344  
Water Company )

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CHARLES HATCHER, Presiding  
SENIOR REGULATORY LAW JUDGE

SCOTT T. RUPP, Chairman  
MAIDA J. COLEMAN, Commissioner  
KAYLA HAHN, Commissioner  
JASON R. HOLSMAN, Commissioner  
GLEN KOLKMEYER, Commissioner

Stenographically Reported By:

Colin Wallis

Job No.: 155566

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1 (On the record at 9:03 a.m.)

2 JUDGE HATCHER: We are on the record.

3 Today is November 17, 2023. This is day two of  
4 the Raytown Water Company's staff-assisted  
5 general rate case. This is file number  
6 WR-2023-0344. The Commission has set this time  
7 aside to conclude the evidentiary hearing in  
8 this matter. A couple of quick announcements.  
9 As you all have noted, our court reporter is on  
10 WebEx today. It is going to be very important  
11 to talk into the microphone for the court  
12 reporter, okay? That said, we have a large  
13 number of witnesses to get through today, so I  
14 just want to check in quickly on the status of  
15 our various motions to strike. Are -- go  
16 ahead.

17 MR. COOPER: Judge, as to OPC's motion to  
18 strike the section of Mr. Clevenger's  
19 testimony, we would consent to that striking.

20 JUDGE HATCHER: On the EI --

21 MS. MARTIN: EIERA's loan issue or section  
22 of his testimony.

23 JUDGE HATCHER: Okay.

24 MR. COOPER: In terms of our motion to  
25 strike, I do want to respond. I could do that

1 orally today. I could do it in written form  
2 probably by tomorrow, although that may not do  
3 you any good but --

4 JUDGE HATCHER: I'm punting. I'm punting.  
5 I don't know if this is going to be part of the  
6 report in order or something in between that,  
7 but I'm totally punting. Nobody is getting a  
8 ruling on the motions to strike today, so if  
9 that impacts your choice, you run with it.

10 MS. MARTIN: Okay, in that case, I'll --  
11 I'll get it provided and on file by Monday.

12 JUDGE HATCHER: Thank you.

13 MR. COOPER: Okay. Thank you, Your Honor.

14 JUDGE HATCHER: Go ahead.

15 MS. ASLIN: Ms. Martin can correct me, but  
16 I believe that OPC is withdrawing its motion to  
17 strike, Ms. Angela Niemeier testimony and in  
18 that regards to Staff's motion to strike  
19 Mr. Payne's testimony, we are okay withdrawing  
20 that on the condition that we will be having  
21 Amanda McMellen retake the stand to address the  
22 50/50 sharing mechanism of rate case expense.  
23 I know that we had previously said Karen  
24 Lyons --

25 JUDGE HATCHER: I'm fine with that. Did

1 the other parties agree to the new witness?

2 MS. ASLIN: Ms. Martin is aware. I have  
3 not spoken to Mr. Cooper. Ms. Martin has  
4 agreed, though.

5 MR. COOPER: I have no objection, Your  
6 Honor.

7 JUDGE HATCHER: I was moved a little bit  
8 by the written argument that I received, that  
9 that would be kind of a late addition. So -- I  
10 also would point out the schedule, and if  
11 you're agreeing to that, then we'll move  
12 forward and I'll just grant that and we'll add  
13 a witness.

14 MS. MARTIN: Well, I would -- because  
15 that's fair. I do -- I -- there's a -- we're  
16 struggling because, basically, in the -- in the  
17 mindset of fairness, we wanted Staff to have an  
18 opportunity to respond to the 50/50 sharing  
19 mechanism. We could -- if there's a way that  
20 we can get it -- they can get it through  
21 cross-examination of Mr. Payne but --

22 JUDGE HATCHER: Oh, okay. So you're  
23 agreeing?

24 MS. MARTIN: I am, yes.

25 JUDGE HATCHER: Great, granted. Staff's

1 motion --

2 MS. ASLIN: I just want to make sure that  
3 we are agreeing that Ms. McMellen will retake  
4 the --

5 JUDGE HATCHER: Yeah.

6 MS. ASLIN: Okay, just to want clarify.

7 JUDGE HATCHER: Yes. Staff's motion in  
8 regards to Manzell Payne -- that is all of your  
9 motion to withdrawal granted because you  
10 requested it. I am sure I heard that question.  
11 The Raytown motion is pending, and we'll be  
12 receiving a written response. OPC has already  
13 responded to that. I would offer Staff, you  
14 don't have to, if you want to, same timeline  
15 Monday? Monday. Today's Friday.

16 MR. COOPER: It is.

17 JUDGE HATCHER: I'll give you Tuesday.

18 MR. COOPER: Fair enough, thank you.

19 JUDGE HATCHER: If you want to respond.

20 MS. ASLIN: Okay.

21 JUDGE HATCHER: And OPC's motion addressed  
22 Mr. Clevenger and Ms. Niemeier.  
23 Mr. Clevenger's portion is agreed to be  
24 withdrawn. Not his testimony but the portion  
25 of his surrebuttal addressing the EIERA loan?

1 MR. COOPER: Yeah, we're consenting to  
2 that being stricken.

3 JUDGE HATCHER: Okay, and OPC's motion,  
4 which addresses Ms. Niemeier has been  
5 withdrawn; is that correct?

6 MS. MARTIN: Yes.

7 JUDGE HATCHER: Excellent, thank you all.  
8 We only have pending the company's motion and  
9 that regards Mr. Riley's testimony and  
10 Mr. Payne's testimony. We will treat their  
11 testimonies as they are coming up exactly as we  
12 did yesterday. To preserve OPC's objection, I  
13 will -- we will take objections. If you would  
14 like to object and then entered into the record  
15 subject to a later ruling on the last pending  
16 objection. Okay, excellent. Any other  
17 matters? Let's get started. Okay, Staff, your  
18 witness.

19 MS. ASLIN: Staff calls Angela Niemeier.

20 JUDGE HATCHER: Good morning.

21 (Angela Niemeier sworn.)

22 JUDGE HATCHER: Your witness.

23 DIRECT EXAMINATION BY MS. ASLIN:

24 Q Could you please state and spell your name  
25 for the court reporter?

1           **A     My name is Angela Niemeier.**

2           **N-i-e-m-e-i-e-r.**

3           Q     And how are you employed and in what  
4           capacity?

5           **A     I'm employed by the Missouri Public**  
6           **Service Commission as a lead senior utility**  
7           **regulatory auditor.**

8           Q     And did you prepare or caused to be  
9           prepared rebuttal testimony marked as Exhibit 110  
10          and surrebuttal testimony marked as 116?

11          **A     Yes.**

12          Q     And do you have any changes to make to  
13          either of those?

14          **A     Yes, I do. On my rebuttal testimony, page**  
15          **9, line 22, the word "salary" should be changed to**  
16          **the word "wage".**

17          Q     Is that your only correction?

18          **A     Yes.**

19          Q     With that correction in mind, if I were to  
20          ask those same questions today, would your answers  
21          be the same?

22          **A     Yes.**

23          Q     And is the information contained in your  
24          testimony true and correct to the best of your  
25          knowledge and belief?



1           **A     Yes.**

2           Q     I would move for the admission of Exhibits  
3 110 and 116, and tender the witness for Cross.

4           JUDGE HATCHER: Thank you. You've heard  
5 the motion. Are there any objections to the  
6 admission of 110 and 116, subject to the -- are  
7 there any objections? We don't have any  
8 written objections? None -- no objections.  
9 Those two exhibits are admitted onto the  
10 hearing record. Those are exhibit numbers 110  
11 and 116.

12 (Staff Exhibits 110 and 116 admitted into evidence.)

13           JUDGE HATCHER: Did you tender the  
14 witness?

15           MS. ASLIN: Yes.

16           JUDGE HATCHER: Mr. Cooper?

17           MR. COOPER: No questions.

18           JUDGE HATCHER: Ms. Martin?

19           CROSS-EXAMINATION BY MS. MARTIN:

20 BY MS. MARTIN:

21           Q     Good morning. Do you remember a meeting  
22 between Staff, the OPC and Neal Clevenger that took  
23 place on August 9th, 2023 at 2:00 p.m.?

24           **A     I would to have look at my calendar.**  
25 **There were a couple of meetings.**

1 Q Okay. And do you believe that meeting  
2 took place before the disposition agreement?

3 JUDGE HATCHER: I just want to caution on  
4 the -- on the questions, because there's a rule  
5 that says that any negotiations in pursuit of a  
6 settlement are confidential by the parties.

7 MS. MARTIN: Right, and I'm not bringing  
8 up any part of the settlement. I'm just  
9 bringing up that we were there.

10 JUDGE HATCHER: Excellent, go ahead.

11 **THE WITNESS: What was the question again?**

12 Q (By Ms. Martin) Sorry. Was August 9th  
13 before the non-unanimous stipulation agreement?

14 **A I don't have the date on when that was**  
15 **filed.**

16 Q Okay. And -- but you said we had a few  
17 meetings. Were all of these meetings after the  
18 non-unanimous stipulation agreement in your mind --  
19 in your view or your memory?

20 **A I honestly cannot answer that question**  
21 **without my calendar.**

22 Q Okay. So the company filed this case on  
23 April 4th -- or April 4th, yes, of 2023?

24 **A That sounds about right.**

25 Q Okay. Is August 9th the 150 days -- 150

1 days after April 4th, 2023?

2 **A That's sounds about right. Again, without**  
3 **a calendar --**

4 Q Right. So to give you a hint, that's  
5 about five months. Is August 9th five months after  
6 April 4th?

7 **A It's about 150 days.**

8 JUDGE HATCHER: Ms. Martin, can we get to  
9 the point?

10 Q (By Ms. Martin) So it's about 120 days.

11 **A Okay.**

12 Q And the OPC also met with Staff later on  
13 in the month, still within before the 150 days; is  
14 that correct?

15 JUDGE HATCHER: Ms. Martin, where are you  
16 going?

17 MS. MARTIN: Sorry, I'm just trying to  
18 point out that we've been -- it has been said  
19 that OPC did not address these concerns, our  
20 concerns with the stipulation and agreement  
21 until it came out, and I'm trying to prove that  
22 the OPC has been part of this case since before  
23 that time. However, if you'd like, I can move  
24 on.

25 JUDGE HATCHER: Please.

1 Q (By Ms. Martin) Okay. So, excuse me. On  
2 page 9, line 16 -- wait, let me correct. Line 20,  
3 you say, "It is not Staff's place to tell a private  
4 business how to pay their employees" --

5 A Hold on. Are we talking about --

6 Q Of your rebuttal.

7 A Okay, my rebuttal. Okay, I'm there.

8 Q Okay. So is Raytown purely a private  
9 business?

10 A They're a regulated business.

11 Q Okay. So in your testimony, when you say  
12 it's Staff's place not to tell a private business  
13 how to pay their employees, you're still standing by  
14 that. So it is a private business, according to  
15 you?

16 A They are owned. They have owners. They  
17 are a private business that is regulated.

18 Q Okay. So customers, if they are unhappy  
19 with the service they are getting from Raytown, in  
20 your mind, can go to a different private business  
21 without moving or without facing a penalty?

22 A They can reach out to the Commission and  
23 file any grievances there, which would then be dealt  
24 with. So there are mechanisms that are available to  
25 them so --

1 Q And it would also -- that means that it is  
2 a guarantee that they are displeased with something  
3 that the company is doing, they would get some sort  
4 of recompense for that?

5 A Staff would review all complaints.

6 Q Is that a guarantee to the customer that  
7 they would be -- there would be sort of recompense  
8 they would no longer have to --

9 A I'm an auditor.

10 Q Right.

11 A I can't say what happens outside of that.

12 Q Right. Well, if you're calling it a  
13 private business, and you say it is not Staff's  
14 place to tell a private business how to pay their  
15 employees, I'm trying to make sure if you are going  
16 to make that statement that you can stand by despite  
17 the fact that customers will not get a guaranteed --

18 A When I made this statement, this statement  
19 is in reference to whether or not they pay salary or  
20 an hourly wage.

21 Q Right. So if customers hear about the pay  
22 and they are displeased, in your mind, Staff has  
23 nothing to do with it?

24 A Staff reviews -- when I reviewed this  
25 salary, I compared it against MERIC. I used that as

1 **a guide. We do that for all small utilities.**

2 Q And you compared it against MERIC pricing  
3 for chief executives; is that correct?

4 **A Chief depends on which one you're talking**  
5 **about.**

6 Q So in your testimony, in that same  
7 rebuttal testimony on page 10, line 3, you say -- or  
8 2 and 3, excuse me, "Staff's annualized wage for Ms.  
9 Thompson that includes overtime is below MERIC's  
10 medium pay for chief executives." So you are  
11 saying, in your testimony, that Ms. Thompson is a  
12 chief executive?

13 **A She performs the task of a vice president,**  
14 **which is a chief executive.**

15 Q So -- and did you take a look by any  
16 chance at what the MERIC wage for a vice president  
17 is?

18 **A They don't have it listed as vice**  
19 **president. It is chief executives, plural.**

20 Q Okay. And you said that Staff began with  
21 the approved rates in the last case and added the  
22 cost of -- in the last case and added the cost of  
23 living adjustment for each year since 2022.  
24 Ms. Thompson's pay increased almost threefold. She  
25 was -- in the last rate case, she was paid \$54,000.

1 In this, she was given a -- a wage of 100,000 and  
2 then she had 41,000 some odd in overtime. So she --  
3 her pay is three times what it was in 2020. Is that  
4 a COLA increase? Did your pay also increase by  
5 three?

6 **A There's multiple questions involved in**  
7 **what you just stated. Can you pinpoint them one by**  
8 **one, please?**

9 Q Did -- is it just a COLA increase for  
10 someone's pay to go up by three, three times what it  
11 was?

12 **A When I reviewed the same information based**  
13 **on the agreement that was arrived in the last case,**  
14 **the number that -- the 54,000 that you represented**  
15 **is not -- I believe that was a day 120 number.**  
16 **That's not the settlement day 150 number.**

17 Q So what was the day 150 number?

18 **A It was my starting point.**

19 JUDGE HATCHER: While there is a break in  
20 the testimony, the court reporter, I would note  
21 MERIC is an acronym they are referencing. M as  
22 in Mary, E as in Eric. Oh, M-ERIC, M-E-R-I-C.  
23 Ms. Niemeier, go ahead.

24 **THE WITNESS: That amount for her starting**  
25 **pay, that was arrived in the last -- in the**

1           **settlement was \$93,267.**

2           Q       (By Ms. Martin) And you're saying that  
3           \$93,267.23 plus -- or plus COLA is the equivalent to  
4           140,000 -- actually \$150,184?

5           A       **With COLA, it is 1,800 -- or \$108,759.**

6           Q       So you're saying that is the amount  
7           without the overtime pay?

8           A       **That is correct.**

9           Q       Okay. And we're going to move to the  
10          meter readers. You heard yesterday from  
11          Ms. Thompson that the water testing takes about four  
12          hours a month. What are the other jobs that you  
13          stated that the -- that you believe the meter  
14          readers would be taking care of after they were  
15          finished reading meters with the implementation of  
16          AMI?

17          A       **That was laid out in Staff witness**  
18          **Mr. William's testimony --**

19          Q       Oh --

20          A       **-- but they'll be doing other jobs --**

21          Q       Sorry.

22          A       **-- is my understanding.**

23          Q       Okay. And the reason is, you have meter  
24          reading expense in your testimony and you talk about  
25          the job includes reading meters, checking fire



1 hydrants and items related to turning services on or  
2 off, including hanging shut-off notice door tags?

3 **A Yeah, there are other jobs that they**  
4 **perform besides meter reading.**

5 Q Right. So can you provide a little more  
6 of those jobs, because you talk about in your  
7 testimony --

8 **A Again, besides that, the things you just**  
9 **mentioned --**

10 Q Well, they talk -- one of them is reading  
11 meters so -- and about how much time do you believe  
12 checking fire hydrants related -- items related to  
13 turning services on or off or -- and hanging  
14 shut-off notice door tags?

15 **A That's a question for the company.**

16 MS. MARTIN: Okay. I think -- give me a  
17 moment. I think I am complete with witness --  
18 I am finished with this witness.

19 JUDGE HATCHER: Thank you. We'll turn to  
20 commissioner questions. Are there any  
21 commissioner questions for Ms. Niemeier?

22 COMMISSIONER RUPP: No, thank you, Judge.

23 JUDGE HATCHER: Thank you. And I have not  
24 mentioned yet, I would like the record to  
25 reflect the attendance of our chair, Scott

1 Rupp, Commissioners: Maida J. Coleman,  
2 M-a-i-da, Coleman. And Commissioner Jason  
3 Holsman, H-o-l-s-m-a-n. I know the three of  
4 those in attendance. I do expect the other two  
5 to either already be on the WebEx or be joining  
6 shortly. Hearing no commissioner questions,  
7 the Bench does have a couple questions.

8 QUESTIONS BY JUDGE HATCHER:

9 Q In your rebuttal testimony on -- I'm  
10 talking about cash-working capital.

11 A Uh-huh.

12 Q In small rate cases, cash-working capital  
13 generally has a smaller impact on the revenue  
14 requirement. That is your statement from page 5.

15 A Yes.

16 Q Can you explain what you mean?

17 A In larger companies, you're talking  
18 thousands of dollars, could be, but in this case,  
19 even with what the Office of Public Counsel, it was  
20 ten to 12,000. So in the scheme of things it's a  
21 much smaller impact money material-wise.

22 Q Your rebuttal testimony schedule about  
23 your case experience says that you filed  
24 cash-working capital testimony in Missouri Americans  
25 rate case from 2022?

1           **A     Yes.**

2           Q     Is that the only case in which you have  
3 filed cash-working capital testimony?

4           **A     It is.**

5           Q     Have you reviewed Staff's report section  
6 relating to cash-working capital in the Empire rate  
7 case from 2014, that's, dash, 0351 that Mr. Riley  
8 refers to in a footnote in his surrebuttal on page  
9 7? My question is: have you reviewed that, and if  
10 yes, do you have any reason to disagree with that  
11 2014 Empire testimony? Have you reviewed that 2014  
12 Empire case?

13          **A     I have not.**

14          Q     Okay. Can you explain the difference in  
15 the increased revenue requirement requested by the  
16 company of 735,000, I'm rounding, and as proposed by  
17 Staff, 1.4 million rounding, whether -- would you  
18 explain the difference between those if it is in the  
19 return on rate base or between the various accounts?

20          **A     The number that the company provided was  
21 based on December of 2022 numbers. So that does not  
22 take into account AMI. Didn't take into account any  
23 of the salary increases, the COLA. It did not --  
24 for this year, for 2023. It did not take into  
25 account the increase in purchase water, and they**

1 also used a 9.5 return versus where Staff used, the  
2 10.37, so there were several factors that are  
3 different.

4 Q Let's talk about the three meter readers.  
5 And in Mr. Williams' rebuttal, he says the three  
6 meter readers will be assigned to other departments.  
7 When -- when should the meter-reading expenses be  
8 reallocated to other accounts?

9 A You have to remember that we stopped this  
10 June 30th, 2023. So as of that date, there were  
11 still -- they were still reading the other  
12 55 percent of the meters. So in -- when all the  
13 meters are gone, that will affect the number that  
14 you're asking.

15 Q And if I can recall the testimony from  
16 yesterday correctly, the company is essentially  
17 waiting on two to three hundred or less per day they  
18 tend to be the larger meters which are having the  
19 supply chain issues, question mark.

20 A That's my understanding as well.

21 Q And that there would be a 60-to-90 day,  
22 maybe longer, it didn't seem like a firm date, but  
23 that there would be a period of double checking the  
24 new AMIs, question mark.

25 A That is correct, but I would -- back in

1 **May, when we were in the office, they had discussed**  
2 **issues with getting those larger meters then. So I**  
3 **can't say how far in the future we're talking.**

4 Q So it may not be in December we get the  
5 meters and we're looking in March, you saying, I  
6 don't want to put words in your mouth, you're  
7 saying --

8 **A We have -- we don't know, we don't know.**

9 JUDGE HATCHER: Okay, thank you. Thank  
10 you, the Bench has no more questions. As  
11 mentioned, I'll ask, and I'll continue this  
12 practice, because we are using the WebEx: are  
13 there any other commissioner questions for this  
14 witness? I'll pause for just a moment. If any  
15 commissioners are on the phone, recall that it  
16 is star 6 to unmute, and we will go to  
17 recross-examination. Mr. Cooper? Thank you.

18 MR. COOPER: No questions --

19 JUDGE HATCHER: I don't have Mr. Clevenger  
20 in the room to help me. Go ahead.

21 MR. COOPER: No questions.

22 JUDGE HATCHER: Thank you, sir. Mr -- Ms.  
23 Martin.

24 MS. MARTIN: Mr. Martin, okay.

25 JUDGE HATCHER: Well, we were just talking

1 about Mr. Clevenger.

2 MS. MARTIN: Well, you know, we do look  
3 very similar.

4 RE CROSS EXAMINATION

5 BY MS. MARTIN:

6 Q Do you know when Staff first included AMI  
7 in their accounting schedules?

8 A I believe it was day 1- -- before day 151,  
9 I think that's when we finally got the information.

10 Q Okay. And you are saying that meter  
11 readers will not be switched over to the general  
12 employee salary account until the next rate -- after  
13 the next rate case; is that correct? When they put  
14 the rest of the meters in?

15 A I am saying that this day 150 was based on  
16 the end date of June 30, 2023. At that point, there  
17 were still meter readers reading meters, so that was  
18 our stop date and that is why we choose that. If  
19 you were to take the meter readers out and put them  
20 somewhere else, they're still performing work.

21 Q Right. And how many meters are currently  
22 installed? We went over this yesterday but I wanted  
23 to verify with you. How many meters are currently  
24 installed with Raytown?

25 A Today or on June 30 --

1 Q Today?

2 A -- which is when we -- what we included.

3 Q Right, today?

4 A I don't know.

5 Q You don't know? Okay. Do you -- so you  
6 don't remember the testimony that there were only  
7 about 300 meters that were needed to be -- by.

8 Ms. Thompson --

9 MR. COOPER: Objection, I believe that  
10 question's since -- well, it's searching for a  
11 confirmation from one witness of another  
12 witness' testimony, which is already in the  
13 record.

14 Q (By Ms. Martin) That's fine. Okay, would  
15 you say that as of today, mostly -- most of the  
16 meters have been installed, except for these large  
17 meters that we are dealing with the issue?

18 A Hearsay is that. I've not seen any  
19 evidence while --

20 Q That was what you said to Judge Hatcher.  
21 You said most --

22 JUDGE HATCHER: She was replying to my  
23 question. I know I brought it up because I  
24 said, if I can recall correctly, and I split it  
25 up into two questions at that point. What are

1 we trying to get to?

2 MS. MARTIN: I just wanted to verify that  
3 most of the meters except for those big ones  
4 are installed at this time.

5 **THE WITNESS: I have seen no data to**  
6 **support anything beyond the June 30th.**

7 Q (By Ms. Martin) Okay. So you don't -- you  
8 don't continue to look at any data or --

9 A I've not received anything past that  
10 point. So not received anything --

11 Q Right.

12 A -- to prove that the meters were in place.  
13 Before that, the company had sent a list of each  
14 meters, but when the day 50 -- I have not received  
15 anything past then to show any -- any meters.

16 Q Right. So you have not viewed empirical  
17 data after that date?

18 A I've not seen any. There's nothing to  
19 review that I have seen.

20 Q Does Staff have any empirical data to  
21 confirm or deny? And did you ask for that data?

22 A We asked for updates. We have not  
23 received an update.

24 MS. MARTIN: Okay, thank you. We're  
25 finished.



1 JUDGE HATCHER: Does that conclude your --

2 MS. MARTIN: Yeah, sorry --

3 JUDGE HATCHER: No problem.

4 MS. MARTIN: I think I might have said it  
5 quietly.

6 JUDGE HATCHER: No, no. You were good, I  
7 was contemplating other things. That will take  
8 us to Redirect.

9 REDIRECT EXAMINATION BY MS. ASLIN:

10 Q Ms. Niemeier, do you have your rebuttal in  
11 front of you?

12 A I do.

13 Q Could you turn to page 10?

14 A Okay.

15 Q And starting at line 16, continuing to 17,  
16 you say, "I think that most laypeople would expect  
17 that a change in title within increasing job duties  
18 and responsibilities would equate to increase in  
19 pay", correct?

20 A Yes.

21 Q So you would agree with me that wages can  
22 increase for reasons other than cost of living?

23 A Yes.

24 Q Would you agree that is not the  
25 Commission's role to tell a company how to run their

1 business but to determine what expenses the company  
2 is allowed to recover in rates?

3 **A Yes.**

4 MS. ASLIN: No further questions, thank  
5 you.

6 JUDGE HATCHER: Thank you, Ms. Niemeier.  
7 You are excused subject to recall, which I --  
8 subject to recall. Thank you. Next witness  
9 for Staff?

10 MS. ASLIN: Staff calls Randall Jennings.

11 JUDGE HATCHER: And to the court reporter,  
12 MERIC stands for Missouri Economic Research and  
13 Information Center. This is the judge.

14 (Randall Jennings sworn.)

15 JUDGE HATCHER: Your witness.

16 DIRECT EXAMINATION BY MS. ASLIN:

17 Q Could you please state and spell your name  
18 for the court reporter?

19 **A Randall Jennings, R-a-n-d-a-l-l,  
20 J-e-n-n-i-n-g-s.**

21 Q And how are you employed and in what  
22 capacity?

23 **A I am senior utility regulatory auditor in  
24 the financial analysis department for the Public  
25 Service Commission.**

1 Q And did you prepare or cause to be  
2 prepared direct testimony, public and confidential  
3 versions marked as Exhibit 102 and surrebuttal  
4 testimony marked as Exhibit 114?

5 A Yes.

6 Q Do you have any changes to make to this  
7 testimony?

8 A No.

9 Q And if I were to ask you those same  
10 questions today, would your answers be the same?

11 A Yes.

12 Q Is the knowledge contained in that  
13 testimony or the information contained in that  
14 testimony true and correct to the best of your  
15 knowledge and belief?

16 A Yes.

17 Q I would move for the admission of  
18 Exhibit 102, public and confidential versions and  
19 exhibit 114 and tender Mr. Jennings for Cross.

20 JUDGE HATCHER: You have heard the motion.  
21 I'm going to combine them all into one  
22 question, both for the public and the  
23 confidential, and hearing no objections,  
24 Exhibit 102 and 114, both public and  
25 confidential are admitted onto the hearing

1 record.

2 (Staff Exhibits 102 and 114 admitted into the  
3 record.)

4 JUDGE HATCHER: The witness was tendered.  
5 Mr. Cooper, your witness.

6 MR. COOPER: Thank you, Your Honor.

7 CROSS-EXAMINATION BY MR. COOPER:

8 Q Mr. Jennings, OPC indicates in its  
9 statement of position that this is only challenging  
10 the return on equity and not the rate of return.  
11 Would you tell us what the rate of return is?

12 A The rate of return is, I believe, comes  
13 out to 6.8.

14 Q Let me change my question a little bit. I  
15 was really getting at just what -- not the number  
16 that is represented in the non-unanimous agreement,  
17 but just generally what is rate of return and what  
18 is used for in the rate-making process?

19 A Rate of return is the rate upon which the  
20 company obtains a return on their investments in  
21 capital and equity.

22 Q And, ultimately, it's what we use to  
23 multiply by the rate base to come up with the return  
24 on. Would that be accurate?

25 A Yes.

1 Q Okay. If Mr. Murray's proposed return on  
2 equity or anything other than the 10.37 ROE that's  
3 built into the non-unanimous agreement is utilized  
4 or ordered by the Commission, would you agree the  
5 rate of return will be something other than the  
6 6.8 percent that you mentioned?

7 **A Yes.**

8 MR. COOPER: Okay. That's all the  
9 questions I have.

10 JUDGE HATCHER: Thank you. And  
11 Ms. Martin?

12 CROSS-EXAMINATION

13 BY MS. MARTIN:

14 Q Good morning.

15 **A Good morning.**

16 Q Were you listening to Mr. Clevenger's  
17 testimony -- oral testimony yesterday in the  
18 hearing?

19 **A Parts, yes.**

20 Q Okay. Do you remember hearing him  
21 testify -- pardon me. Testify about the terms of  
22 the preferred securities Raytown issued subsequent  
23 to receiving the Commission authority in  
24 WF-2021-0131 had different terms than outlined in  
25 his application?

1           **A     Yes.**

2           Q     Okay. Did you address the changes in the  
3 terms of the preferred stock in your testimony in  
4 this case?

5           **A     Can you point to where I -- where I did?**

6           Q     It's page 6 of your surrebuttal. I  
7 believe line 13. And give me one moment because I  
8 have other papers.

9                   JUDGE HATCHER: While OPC looks for that,  
10 I'd like to announce for the record, the  
11 attendance of Commissioner Glen Kolkmeier. He  
12 has joined the WebEx some time ago. This is a  
13 good opportunity to make sure that's on the  
14 record. Counsel, go ahead.

15          Q     (By Ms. Martin) Okay. Give me one moment,  
16 I've gotten a little discombobulated. So, yes, on  
17 line 13 of your surrebuttal, beginning at line 13,  
18 you address the preferred stock and the changes in  
19 that preferred stock, do you remember that  
20 portion --

21          **A     Yes.**

22          Q     -- of your testimony?

23          **A     I have that testimony in front of me.**

24          Q     Great. One moment. Do you recall the OPC  
25 issuing you a data request about whether Staff

1 requested Raytown provide its final executive  
2 preferred stock subscription agreement?

3 **A Yes.**

4 Q Okay. Your DR response, did it attach a  
5 copy of their preferred stock certificate?

6 **A I don't recall.**

7 Q Okay. It did not -- Mr. Murray has a copy  
8 that we can -- of your DR response, that we can pass  
9 out. Okay. So looking at this DR response, do you  
10 see any -- any attachment to that response of the  
11 preferred stock certificate?

12 **A No.**

13 Q Okay. Give me one moment. So give me one  
14 moment because we have more papers that we are  
15 passing out. So there are two Raytown-preferred  
16 stocks subscription agreements, and I'm going to let  
17 you look at -- there's the one that admitted  
18 yesterday, the preferred stock agreement, and I  
19 don't --

20 JUDGE HATCHER: Exhibit 212.

21 Q (By Ms. Martin) Yes, Exhibit 212. And  
22 then I'm hoping that if we have a copy for you, I  
23 will see if we can get that, and there's this other  
24 one that I am giving you right now. Or I'm not, but  
25 Mr. Murray is. And once you get that, so you can be

1 thinking about it, I will be asking you if you can  
2 tell me which one of the two agreements you were  
3 able to look at, that the company was able to  
4 provide you.

5 **A Okay.**

6 Q (By Ms. Martin) And do you have the --

7 JUDGE HATCHER: Ms. Martin?

8 MS. MARTIN: Yes, and to repeat my  
9 question I wanted to give you a chance to look.

10 Q (By Ms. Martin) Can you tell which of  
11 these agreements Raytown provided you?

12 **A Neither.**

13 Q Neither? So they provided you a third  
14 agreement that was not --

15 **A They provided me with a stock certificate.**

16 Q Okay.

17 **A And what I believe was a flier that was  
18 sent with their month -- with their quarterly  
19 statements or something --**

20 Q About the preferred stock? I believe that  
21 we looked at that flier yesterday?

22 **A Yes.**

23 Q Okay. And I don't remember if it is  
24 officially been entered?

25 JUDGE HATCHER: Exhibit 212.



1 MS. MARTIN: Okay. I couldn't remember if  
2 the flier portion had, and, yes, it has.

3 Q (By Ms. Martin) Okay. So they didn't say  
4 anything -- there was nothing about offering  
5 documents at all?

6 A No.

7 Q Okay. So in your surrebuttal, okay, do  
8 you have a copy of the certificate that was provided  
9 to Staff?

10 A Not with me, no.

11 Q Okay. Could you get a copy of the  
12 certificate provided to Staff as the OPC has not  
13 received such a certificate?

14 A Oh, yeah.

15 Q Okay, thank you. And then are we able to  
16 admit that as an exhibit onto the record?

17 JUDGE HATCHER: Not without seeing it.

18 MS. MARTIN: Okay.

19 JUDGE HATCHER: I also have questions  
20 about your other two pieces of paper.

21 MS. MARTIN: Okay. Yes?

22 JUDGE HATCHER: Are you -- did you want to  
23 admit those?

24 Q (By Ms. Martin) Oh, oh, yes. So -- well,  
25 I don't know if I want admit to them if you

1 didn't -- have you not viewed those papers at all?  
2 One of them was already admitted yesterday but the  
3 other one you said you have not seen.

4 **A I have not seen either of those documents.**

5 MS. MARTIN: Okay, so what we would like  
6 to admit these is, showing the confusion, there  
7 were two documents. One of which apparently --  
8 or neither of which apparently Staff has been  
9 able to --

10 JUDGE HATCHER: No, ma'am. As far as I  
11 know, you printed this out and brought it to  
12 court this morning.

13 MS. MARTIN: Okay, that's fine.

14 Q (By Ms. Martin) So in your surrebuttal  
15 testimony, you indicate that portions of Raytown's  
16 preferred stock could now be viewed as debt. That  
17 was on page 6, and in sections 16 through 20 or  
18 lines 16 through 20, pardon me. Do you remember  
19 that --

20 **A Yes.**

21 Q -- portion of your testimony? Okay. What  
22 portions of the preferred stock can now be viewed as  
23 debt?

24 **A As Mr. Clevenger had stated in his**  
25 **testimony, any stock that had been held for two**

1 years has the owner -- the holder of that stock has  
2 the right of redemption as he puts it in his  
3 testimony. So it being the end of 2023, any stock  
4 issued in 2021 would now be held for two years and  
5 available for redemption.

6 Q So those are the only two requirements for  
7 this information that you are now viewing as debt?  
8 The two year -- the fact that the stockholders have  
9 held that stock for two years and there's a  
10 mandatory redemption?

11 A I'm sorry, can you repeat the question?

12 Q So that's all the preferred stock?

13 A The stock issued in 2021 can now be  
14 redeemed.

15 Q So if it's issued in 2022?

16 A Not -- those cannot be redeemed yet based  
17 on the current terms on when the stock was issued.

18 Q When are they going to be able to be  
19 redeemed?

20 A Two years from the date of purchase.

21 Q Okay. So next year?

22 A Two years from the date of purchase.

23 Q So it becomes debt at that point?

24 A I can -- can you define dead.

25 Q It would follow the same terms of your --

1 of the debt that you --

2 A Oh, I'm sorry. You said debt.

3 Q Yes.

4 A I thought you said dead.

5 Q No, no, no, goodness.

6 A Yes. Two years from the date of purchase  
7 it would be considered -- could be considered  
8 longterm debt.

9 Q Okay. Sorry. There was confusion because  
10 we had different situations. Okay. Are you  
11 familiar with Staff's recommendation and case number  
12 WF-2021-0131?

13 A Is that recommendation for them to issue  
14 preferred stock?

15 Q Yes.

16 A Vaguely, yes. I don't have it in front of  
17 me.

18 Q Okay. Can you read --

19 MS. ASLIN: Ms -- do you have copies?

20 MS. MARTIN: Yeah, and once -- I don't  
21 know if you would like to wait for a moment, or  
22 if you would like to read the highlighted  
23 portion of that?

24 JUDGE HATCHER: Yeah, let's wait.

25 MS. MARTIN: Okay.

1 JUDGE HATCHER: Wait until they're  
2 distributed.

3 MS. MARTIN: For everybody else, it is on  
4 page five of the recommendation.

5 MR. COOPER: What is the highlight portion  
6 that you're looking at?

7 MS. MARTIN: I don't have the document in  
8 front of me. Does it start on the third line,  
9 I think.

10 JUDGE HATCHER: So we're looking at page 5  
11 of 5 of the Staff memorandum.

12 MS. MARTIN: Yes.

13 JUDGE HATCHER: And at the top of the  
14 paragraph with the sentence beginning about  
15 fourth from the top, "preferred stocks", comma,  
16 "just like".

17 Q (By Ms. Martin) Can you read out loud that  
18 highlighted language?

19 A "Preferred stocks, just like common  
20 equity, do not represent an obligation that will  
21 force Raytown into bankruptcy in the event that  
22 Raytown misses payment of dividends. According to  
23 the board resolution, the preferred stock shall be  
24 redeemable solely at the discretion of the  
25 corporation and upon request therefore by the

1 shareholder. While proposed preferred stocks are  
2 redeemed, which is normally a liability, Raytown  
3 does not have to redeem the stocks, but it shall do  
4 so if it is favorable to do so. Consequently, the  
5 impact of the proposed issuance of preferred stock  
6 on Raytown's financial risk is insignificant."

7 Q So Staff's recommended approval of the  
8 preferred stock was with terms more similar to  
9 equity and -- then debt in case WF-2021-0131,  
10 correct?

11 A Well, I believe the first sentence of what  
12 is highlighted states that they do not represent an  
13 obligation that will force Raytown into bankruptcy  
14 in the event that Raytown misses payment of  
15 dividends.

16 Q So it's not mandatory?

17 A What's not mandatory?

18 Q They -- that they provide the payment of  
19 dividends?

20 A I didn't say that.

21 Q Okay. So is it your position on  
22 Mr. Murray's estimated -- estimate a future or a  
23 current credit rating for Raytown?

24 A I'm sorry, can you --

25 Q I'm sorry, I'm switching over to the

1 credit rating assessment. So I will give you a  
2 moment and then I will --

3 **A Okay, so we're --**

4 Q You're on the credit ratings assessment in  
5 your surrebuttal testimony.

6 **A Can you give me a page and line number?**

7 Q I believe it's right here. I'm viewing  
8 now, I believe it's page 2. It says, "In response  
9 to OPC witness, Mr. David Murray, applied credit  
10 rating -- applied credit rating."

11 **A Okay.**

12 Q So is it your position that Mr. Murray  
13 estimated a future or a current credit rating for  
14 Raytown?

15 **A I believe he calculated future credit  
16 metrics in order to calculate a future credit --  
17 implied credit rating then used that as their  
18 current implied credit rating.**

19 Q And why did you characterize Mr. Murray's  
20 estimated -- estimate of Raytown's credit rating as  
21 being a predicted future credit rating?

22 **A Because he's using -- this is kind of  
23 where you get into the circular logic of  
24 Mr. Murray's calculations.**

25 Q So did Mr. Murray characterize his

1 estimated credit rating as a future credit rating?

2 **A I don't recall how he explicitly stated**  
3 **it.**

4 JUDGE HATCHER: Mr. Jennings, I want to  
5 make sure I get this on the record. You didn't  
6 answer Ms. Martin's question --

7 **THE WITNESS: Oh, I'm sorry.**

8 JUDGE HATCHER: -- and I want make to  
9 sure -- no, no, you're fine. You guys are  
10 having a conversation, but the point of her  
11 question was, why is -- why is it your  
12 description of Mr. Murray's testimony a  
13 circular logic? Why is that the description?

14 **THE WITNESS: I describe his logic as**  
15 **being circular logic in the sense that**  
16 **Mr. Murray is using the non-unanimous**  
17 **agreement, which OPC objected to, to then**  
18 **forecast what their future revenues based upon**  
19 **the required revenue increase, again in the**  
20 **non-unanimous agreement, will be in the future**  
21 **and then what their credit metrics as a result**  
22 **would be. Using those credit metrics then,**  
23 **calculate what their future implied credit**  
24 **rating would be, and then uses that future**  
25 **credit rating as their current credit rating.**



1 JUDGE HATCHER: Sorry to interrupt, Ms.  
2 Martin.

3 MS. MARTIN: No, that's okay.

4 Q (By Ms. Martin) I'm going to take a look  
5 at your -- one second, I'm trying to -- oh, okay. I  
6 was confused for a minute. Oh, okay, so in your  
7 direct testimony on page 5, lines 5 and 6, you  
8 testified you use the small utility ROR methodology  
9 to estimate a fair and reasonable ROE for rate --

10 A Which page number, I'm sorry?

11 Q Sorry, that was page 5, lines 5 and 6.

12 A Thank you.

13 Q Yes. So on that page, you say Staff  
14 employed its small utility ROR methodology for its  
15 authorized ROE estimation?

16 A Correct.

17 Q Okay. Sorry. So do you have that  
18 document? Okay. Sorry, my technical expert has  
19 lots of documents. So we are going to hand you the  
20 document provided in response to OPC-DR-0130. Does  
21 this document look familiar?

22 A Yes.

23 JUDGE HATCHER: Before you go on with your  
24 questions and as it's being handed out, what  
25 are we doing with the Staff recommendation?

1 From the finance case?

2 MS. MARTIN: We were just trying to  
3 understand why he was calling -- oh. We won't  
4 admit it since you -- you -- we already have  
5 the portion that we need on the record with him  
6 reading the highlighted section. Would you  
7 like to admit it? We can.

8 JUDGE HATCHER: I don't see any movement  
9 by either counsel to request it, but I'll keep  
10 it on the bench just in case.

11 MS. MARTIN: Okay.

12 Q (By Ms. Martin) Okay. So on page 3 of  
13 that document, and I will give you a moment to look  
14 at it. Does that portion indicate that Staff's  
15 methodology follows S&P or standard enforced  
16 corporate rating methodology?

17 **A Yes.**

18 Q Okay. Does Staff's procedure identify the  
19 Standard & Poor or S&P's November 19th, 2013 S&P  
20 corporate methodology?

21 **A I believe so, yes.**

22 Q Okay. Do you know if S&P's methodology  
23 for estimating a company's current credit rating  
24 includes consideration of a projected -- of  
25 projected financial credit metrics?

1           **A     I don't recall off the top of my head.**

2           Q     Okay.  Okay, so we have another document  
3 for you.  There is a little bit that we --

4           JUDGE HATCHER:  Ms. Martin?  What are we  
5 doing with this one?  Go ahead and keep passing  
6 those out.

7           MS. MARTIN:  Yes, I'd like move to  
8 admit -- I think it's 15 at this point?  16.

9           JUDGE HATCHER:  No, 215 sounds correct.

10          MS. MARTIN:  Okay.

11          JUDGE HATCHER:  But I want to confirm.

12          MS. MARTIN:  Sorry, I'm not used to having  
13 this many documents we're passing out.

14          JUDGE HATCHER:  Okay, I'll give this a few  
15 questions before I ask counsel for any  
16 objections.  But we'll -- I've marked this  
17 Exhibit 215, and this is data response --

18          MS. MARTIN:  0130.

19          JUDGE HATCHER:  Thank you, 0130.

20          MS. MARTIN:  Oh, is that not written on  
21 there?

22          JUDGE HATCHER:  It is.

23          MS. MARTIN:  Okay.

24          JUDGE HATCHER:  Go ahead.

25          MS. MARTIN:  But did we want to see if

1 there are any objections to the entrance of the  
2 exhibit?

3 JUDGE HATCHER: No, as I just said --

4 MS. MARTIN: Oh --

5 JUDGE HATCHER: -- I'm going to let you  
6 get a couple of questions in so we all can  
7 catch up on what's going on, and then I'll ask  
8 the other counsel if they have objections.

9 MS. MARTIN: Okay. And then can you give  
10 me -- can you read -- and I'm going to have you  
11 read a couple paragraphs but --

12 JUDGE HATCHER: Please don't.

13 MS. MARTIN: Oh, it's --

14 JUDGE HATCHER: The Exhibit is in, or  
15 likely, going to be in evidence. I can read  
16 them.

17 Q (By Ms. Martin) Yeah, we don't have to  
18 read them on the record. So based on this  
19 information, and if you cannot read it on the record  
20 but maybe take some time to look through it. Is it  
21 clear that S&P's estimate of a current credit rating  
22 assigns a majority of weight to financial  
23 projections if not almost complete weight if a  
24 company is undergoing a transformational event? If  
25 you look at pages -- or paragraphs 112, 116 and 117,

1 those should be the portions that discuss --

2 JUDGE HATCHER: I don't see any paragraph  
3 in the hundreds.

4 MS. MARTIN: Sorry, if you'll --

5 JUDGE HATCHER: What's the paragraph  
6 number?

7 **THE WITNESS: On page 31.**

8 MS. MARTIN: Sorry, the second page.

9 **THE WITNESS: This document.**

10 JUDGE HATCHER: I don't have a copy of  
11 that. And I thought we were asking questions  
12 about Exhibit 215, which is not yet admitted.

13 MS. MARTIN: That's fine. I was going to  
14 give you the document. Exhibit 215 was --

15 JUDGE HATCHER: Ms. Martin, before you can  
16 ask questions about things --

17 MS. MARTIN: Right.

18 JUDGE HATCHER: -- they have to be handed  
19 out --

20 MS. MARTIN: Right.

21 JUDGE HATCHER: -- so that other people  
22 have a fair chance to look over things. I'm  
23 not talking about the witness. I'm talking  
24 about me --

25 MS. MARTIN: Right.

1 JUDGE HATCHER: -- and I'm talking about  
2 the other counsel. Don't move to questions  
3 about a second document until we've finished up  
4 talking about the first document.

5 MS. MARTIN: Okay.

6 JUDGE HATCHER: Because I was under the  
7 distinct impression, having asked you that we  
8 were going to be asking questions on 215. So  
9 let's square that away.

10 MS. MARTIN: I apologize. So what we will  
11 do is we are just saying --

12 JUDGE HATCHER: No, you're not saying.  
13 Tell me the answer to Exhibit 215. What's  
14 happening right now with Exhibit 215?

15 MS. MARTIN: Right. Would -- the OPC  
16 moves to enter Exhibit 15.

17 JUDGE HATCHER: No.

18 MS. MARTIN: Okay.

19 JUDGE HATCHER: Denied. As I stated,  
20 third time, I'm going to let you ask some  
21 questions --

22 MS. MARTIN: Oh --

23 JUDGE HATCHER: Please stop interrupting.  
24 I'm going to allow you to ask some questions,  
25 to lay a foundation about Exhibit 215, so that

1 we can catch up.

2 MS. MARTIN: Right.

3 JUDGE HATCHER: I would appreciate not  
4 asking the witness to read paragraphs. I'm  
5 very concerned about time.

6 MS. MARTIN: Right.

7 JUDGE HATCHER: I want you to be to able  
8 make your case, and we haven't even gotten to  
9 OPC's witnesses yet. So with the help of  
10 Mr. Murray, perhaps you can get to the final  
11 question and then we can kind of work backwards  
12 from that.

13 MS. MARTIN: Right.

14 JUDGE HATCHER: So that the pointed  
15 question you're leading up to ask Mr. Jennings,  
16 I would prefer that that be your first  
17 question, but it's your case. I want to let  
18 you go ahead. We are on Exhibit 215. And I am  
19 expecting questions on Exhibit 215.

20 Q (By Ms. Martin) Okay. So Exhibit 215, you  
21 said you did recognize that document?

22 **A Yes.**

23 Q And do you remember taking part in the  
24 creation of that document or at least reviewing it  
25 for this case? That DR --

1           **A     I did not create this document, no.**

2           Q     Okay. But you do recognize it?

3           **A     Yes.**

4           Q     Okay. Does it -- is it a fair and  
5 accurate representation of what you remember looking  
6 at in response -- the DR response 0130?

7           **A     Yes.**

8           Q     Okay. The OPC moves to enter Exhibit  
9 Number 215 onto the record.

10           JUDGE HATCHER: I see no objections.

11           MS. MARTIN: Okay.

12           JUDGE HATCHER: 215 is admitted onto the  
13 hearing record. Go ahead.

14           (OPC Exhibit 215 admitted into evidence.)

15           Q     (By Ms. Martin) So I do just want to be  
16 clear, you -- so you talk about using the S&P's  
17 method rating, and the S&P does use future metrics  
18 but it is not up to signing a future credit rating;  
19 is that correct? It uses the financial -- it uses  
20 financial projections but calls it a current rating?  
21 In the methodology Staff used to --

22           **A     In Exhibit 215?**

23           MS. MARTIN: Exhibit 215? Or -- okay.

24           We'll just move on because I am confused and I  
25 believe you are confused and I understand.



1 Okay. We have no further questions.

2 JUDGE HATCHER: I'm -- I want to pick up  
3 right now exactly on that train of thought, and  
4 that's why I'm not going to ask for  
5 commissioner questions first.

6 QUESTIONS BY JUDGE HATCHER:

7 Q Exhibit 215 is a document prepared in part  
8 by Mr. Murray. Mr. Murray used to work for Staff,  
9 used to be a supervisor for Staff. Are all those  
10 statements correct?

11 A To my knowledge, yes.

12 Q So in essence, this DR is citing how to do  
13 a Staff-assisted rate case and how to calculate  
14 future credit. That's my given. My question is: it  
15 seemed like the difference that I just heard, which  
16 is the reason that I want to pick this up right now,  
17 was Mr. Murray, can you -- it was a something event.  
18 It was --

19 MS. MARTIN: Transformational.

20 JUDGE HATCHER: Transformational event.

21 That seems to me to be the gravamen of the  
22 disagreement between you two, because he's  
23 saying there's a transformational event in a  
24 rate case happening, and I think you're saying,  
25 I'm doing all the calculations and coming up

1 with a credit rating and not expecting or  
2 calculating an expected rate case within your  
3 calculations in that rate case.

4 **THE WITNESS: Correct. Staff uses**  
5 **historical data and -- or because it's a known**  
6 **measurable.**

7 Q (By Judge Hatcher) Would you -- can you  
8 expand on why you disagree that this is a  
9 transformational event, because I think that's going  
10 to be the question for Mr. Murray?

11 A Depends on what you're identifying the  
12 transformational event to be. None of us have  
13 crystal balls to be able to tell in the future what  
14 expenses the utility company will occur in the  
15 future, how many breakages or repairs they will have  
16 to occur that will affect their bottom line. And  
17 that's why we use historical data as opposed to  
18 future projected data.

19 JUDGE HATCHER: Thank you. Are there any  
20 commissioner questions for Mr. Jennings? We'll  
21 pause for a minute as everyone is on WebEx, and  
22 this will be a good time to state for the  
23 record, the attendance of Commissioner Kayla  
24 Hahn in person, H-a-h-n. She is in the  
25 courtroom.

1 COMMISSIONER KOLKMEYER: No questions,  
2 Judge, thank you.

3 JUDGE HATCHER: Thank you, Commissioner  
4 Kolkmeier. We are on Recross. Mr. Cooper?

5 RECROSS EXAMINATION BY MR. COOPER:

6 Q To follow up on the law judge's question,  
7 and I think you may have indicated this but I want  
8 to be sure, is it part of the differences as well  
9 that you don't have any idea sitting here today even  
10 what revenue requirement increase will be granted by  
11 the Commission in this case?

12 A Correct.

13 MR. COOPER: That's all I have.

14 JUDGE HATCHER: Thank you. And  
15 Ms. Martin?

16 MS. MARTIN: The OPC does not have any  
17 questions, thank you.

18 JUDGE HATCHER: And Redirect?

19 MS. ASLIN: Just a couple questions.

20 REDIRECT EXAMINATION BY MS. ASLIN:

21 Q Mr. Jennings, in case WF-2021-0131, in  
22 either the company's application, the Staff  
23 recommendation or the Commission order in that case,  
24 anywhere in there, is there any statement about  
25 redemption conditions of Raytown's preferred stock?

1           **A     No.**

2           Q     Should the Commission or Commission Staff  
3 follow S&P's corporate methodology?

4           **A     No.**

5           Q     And to the best of your knowledge, does  
6 the PSE use a historical test year or a future test  
7 year?

8           **A     Historical.**

9           MS. ASLIN:   Okay, no further questions.

10          JUDGE HATCHER:   Thank you, Mr. Jennings.  
11          You are excused, subject to recall as we do.  
12          And I had heard some discussion about other  
13          witnesses?  Is Staff calling more witnesses?

14          MS. ASLIN:   Yes, we've still got two more  
15          witnesses on the list, and then recall Amanda  
16          McMellen.

17          JUDGE HATCHER:   Okay, go ahead.

18          MS. ASLIN:   Staff calls Courtney Horton.

19          JUDGE HATCHER:   Thank you.

20          (Courtney Horton sworn.)

21          JUDGE HATCHER:   Thank you, your witness.

22          DIRECT EXAMINATION BY MS. ASLIN:

23          Q     Could you please state and spell your name  
24 for the court reporter?

25          **A     Courtney Horton, C-o-r -- C-o-u-r-t-n-e-y,**

1 **H-o-r-t-o-n.**

2 Q And how are you employed and in what  
3 capacity?

4 **A I'm employed by the Missouri Public**  
5 **Service Commission as a utility regulatory auditor.**

6 Q And did you prepare or cause to be  
7 prepared rebuttal testimony marked as Staff Exhibit  
8 108?

9 **A Yes.**

10 Q Do you have any changes to make to that  
11 testimony?

12 **A No.**

13 Q If I were to ask those same questions  
14 today, would your answers be the same?

15 **A Yes.**

16 Q And is the information contained in that  
17 testimony true and correct to the best of your  
18 knowledge and belief?

19 **A Yes.**

20 Q I would move for the admission of Staff  
21 Exhibit 108 and tender Ms. Horton for Cross?

22 JUDGE HATCHER: Thank you. You heard the  
23 motion on the admission of Exhibit 108. Are  
24 there any objections? Hearing none, it is so  
25 admitted.

1 (Staff Exhibit 108 admitted into evidence.)

2 JUDGE HATCHER: Mr. Cooper?

3 MR. COOPER: No questions.

4 JUDGE HATCHER: Ms. Martin?

5 CROSS-EXAMINATION

6 BY MS. MARTIN:

7 Q So, Ms. Hortin, in your testimony, you  
8 list several cases that the OPC was aware that the  
9 transportation expense was done by the IRS audit.  
10 Do you have any empirical logical examples of why  
11 that is -- was the correct move by OPC not to object  
12 to that in the past?

13 A It is the IRS standard mileage range, and  
14 the audit management report was closed in October of  
15 2000, and in response to OPCDR number 1008, in case  
16 number WR-2009-0098, RWC specifically stated that  
17 they were using the IRS standard mileage rates to  
18 determine the -- Neal's reimbursement for his  
19 vehicle. So OPC has been aware since the -- since,  
20 to my knowledge, since the 2009 rate case that they  
21 have been using the IRS standard mileage rate to  
22 determine his reimbursement.

23 Q And how -- what is the IRS standard  
24 mileage rate used for?

25 A It's, basically, to determine

1 reimbursement, vehicle reimbursement.

2 Q A vehicle reimbursement. So this is --  
3 The IRS normally uses that for people to reimburse  
4 companies for usage of their cars?

5 A Generally, yes.

6 Q Are you sure?

7 A No, but I'm pretty sure, yeah. I'm pretty  
8 sure --

9 Q It is quite possible that the IRS standard  
10 mileage rate is used for companies to reimburse  
11 employees for using their own cars for company  
12 business?

13 A Yeah, so the IRS standard mileage rate,  
14 like, for example, a state employee -- if the state  
15 vehicles are not available to drive, we have to  
16 drive one of our personal vehicles, we get the,  
17 currently, it's a state rate, but it is the same  
18 amount as the IRS standard mileage rate, which is 65  
19 cents per mile.

20 Q So it is the company paying the employee  
21 not the employee paying the company for use of the  
22 vehicle?

23 A Yes.

24 Q Okay. And your argument as to why this is  
25 the proper -- is proper is because it is based on

1 the 30-year old management audit. Do you not  
2 believe that this 30-year-old management audit has  
3 any -- has any good business practices that we  
4 should review for this case today?

5 A No. I mean, RWC is following some of the  
6 recommendations that we have in there, but since  
7 this is a 30-year-old audit management report that  
8 we're talking about, I don't -- and they've been  
9 doing the same thing for years and we approved it  
10 every year. I don't foresee us going back and  
11 changing something that we've been approving for  
12 years.

13 Q So --

14 A OPC.

15 Q So if the OPC and Staff was approving  
16 something for years and after more review believed  
17 that was not the correct and a prudent decision by  
18 Staff and OPC, there is no opportunity for Staff and  
19 OPC to change their mind at any point in the future?

20 A There's an opportunity to change our minds  
21 but --

22 Q But not right now?

23 A I don't foresee a need to. His mileage is  
24 very low. In fact, in 2022, his average number of  
25 miles per month was only 28 miles. So if he incurs



1 a high mileage going forward then I will review that  
2 information at that time and determine if we should  
3 do different.

4 Q Does he have a car?

5 A No, but his wife does.

6 Q Has he used that car -- the company  
7 vehicle for reasons other than going to and from  
8 work and going to sites?

9 A Yes, but he keeps the personal mileage  
10 log.

11 Q Right. And so this is -- he does, in  
12 fact, use this car as if it was his own car?

13 A I think generally he tries to keep his  
14 personal miles pretty low. He is -- he uses his  
15 wife's vehicle whenever he can. But he is allowed  
16 to use this vehicle for personal use, as long as he  
17 keeps track of his personal miles and --

18 Q And pays --

19 A -- reimburses the company.

20 Q And as if -- as if he is the company and  
21 the company is an employee?

22 A According to IRS standard mileage rate,  
23 yes.

24 Q Okay. And you believe that it is  
25 appropriate for individuals to pay more for a car

1 that Mr. Clevenger uses as a personal vehicle while  
2 he does tend to use Ms. -- Ms. Clevenger's car to a  
3 point?

4 **A The question is very long. Can you**  
5 **shorten it, please?**

6 Q Do you believe that is proper for  
7 customers to be paying for this car despite the fact  
8 that he uses it for personal use?

9 **A Yes, because in his reimbursement, the IRS**  
10 **standard mileage rate includes gas, oil, tire**  
11 **maintenance, repairs, depreciation, insurance,**  
12 **registration, so it includes everything that should**  
13 **be reimbursed back to the company.**

14 Q As if the company was an employee and  
15 Mr. Clevenger was the company?

16 **A Yes.**

17 Q And -- and are all those things taken --  
18 He pays for the personal property tax for this  
19 vehicle?

20 **A I don't know if he pays for the personal**  
21 **property tax for the vehicle.**

22 Q Okay. So he -- but he pays every other  
23 aspect of the vehicle? If it needs to change the  
24 tires and everything like that, that's not -- that's  
25 not within the company's purchase? That's -- so it

1 is basically his vehicle?

2 A So all of the things I had listed  
3 previously, those are included -- those items are  
4 included in the IRS standard mileage rate. So when  
5 he reimburses the company, he is reimbursing them  
6 for the -- like, it's calculated into the IRS  
7 mileage rate. So he's reimbursing them for the gas,  
8 the oil, the depreciation, registration, insurance,  
9 things like that. It's all included in that rate.

10 Q And that includes the time and expense it  
11 would take to do all of this with that car?

12 A I -- I would assume so.

13 Q So you are telling me today that you  
14 believe it is proper for someone to be paid 65 cents  
15 to be driving a 2022 vehicle as if it were his  
16 personal vehicle?

17 A Well, like I said, his miles are very,  
18 very low. Should they increase, you know, I may  
19 consider a different rate at that time.

20 Q So what is the proper amount of miles to  
21 consider it a personal vehicle and not a company  
22 vehicle?

23 A Well, technically, it is a company  
24 vehicle. He just drives it for company and  
25 personal.

1 Q Right. For you -- that's what I'm saying.  
2 So for you of consider the car a personal vehicle  
3 and not a company vehicle, how much would he have to  
4 drive?

5 A Okay, so you can repeat the question,  
6 please?

7 Q How much would he have to drive for this  
8 car to be considered a personal vehicle in your  
9 view?

10 A There is no specific threshold, but I  
11 would have to look at the previous years and compare  
12 the data, and if his mileage -- like, let's say the  
13 next time they come in for a rate case, his mileage  
14 increases like by 12 -- he puts, you know, on  
15 average, let's say, 900-miles per month on the  
16 vehicle. Then I may consider something different.

17 Q Okay. So are you saying that he is paid  
18 for driving to work? Or is he reimbursed at all for  
19 driving to work or driving home from work if it  
20 might be a situation where he may be called out  
21 later?

22 A I don't think I can answer that question,  
23 specifically because I'm not really sure, but I can  
24 say I've seen in his personal mileage log that he  
25 was driving -- he is driving the vehicle home every

1 single night, but it's due to safety reasons --  
2 reasons because when they left the vehicles at the  
3 facility, they were getting vandalized, broken into  
4 and even stolen. And he -- from what I reviewed in  
5 the personal mileage log, he is recording his miles  
6 to and from his house as personal mileage.

7 Q And do you drive -- how far do you think  
8 you drive in a month?

9 A Well, I drive about 60 miles a day, so  
10 it's quite a bit.

11 Q Oh, so you are not -- you don't live  
12 within town -- within the town right now?

13 A No.

14 Q Okay. So if you did live in Jefferson  
15 City, about how much would you be driving per month?

16 A It depends on where I live.

17 JUDGE HATCHER: Ms. Martin, we seem to be  
18 getting really far afield from truck 206.

19 MS. MARTIN: I was just trying to point  
20 out if --

21 JUDGE HATCHER: We're getting into an  
22 argument about a philosophy about when a truck  
23 becomes a personal vehicle or not. That's what  
24 I'm hearing. I'd like to get back to truck  
25 206.

1 MS. MARTIN: I'm sorry, I was -- I was  
2 trying to point out that low mileage people can  
3 still have personal cares with low mileage as  
4 Mr. Clevenger's --

5 JUDGE HATCHER: I will take judicial  
6 notice of that fact.

7 MS. MARTIN: Okay, thank you. Then if  
8 that's the case, I am complete. I am finished  
9 with my -- and I tender the witness.

10 JUDGE HATCHER: Where are we at?  
11 Commissioner questions, are there any -- thank  
12 you, Commissioner Hahn.

13 QUESTIONS BY COMMISSIONER HAHN:

14 Q Thank you. The only question left in my  
15 mind about truck 206 is on the nights when  
16 Mr. Clevenger does not respond to a work event, does  
17 he record his mileage at home and back to work and  
18 reimburse for that?

19 **A Yes, to my knowledge, yes.**

20 Q Thank you.

21 **A You're welcome.**

22 JUDGE HATCHER: Are there any other  
23 commissioner questions, and as I have done in  
24 this case as do to the WebEx, I'll ask again.  
25 The Bench does have a couple questions.

1                   **THE WITNESS: Okay.**

2                   QUESTIONS BY JUDGE HATCHER:

3           Q       I want to talk about the three or so  
4 trucks that were sold.

5           A       **Uh-huh.**

6           Q       Would it be reasonable to input the  
7 Bluebook values for salvage of vehicles that had  
8 extremely low sales values or missing vehicles? I  
9 can repeat that.

10          A       **Yeah, if you could, please.**

11          Q       Would it reasonable to input the Bluebook  
12 values for salvage of vehicles that had extremely  
13 low sales values recorded or for missing vehicles?

14          A       **I'm not really sure.**

15          Q       Okay. Do you have a work paper that  
16 includes actual mileage and reimbursement amounts  
17 for personal use of Raytown water vehicles for the  
18 test year?

19          A       **Yes, for Neal Clevenger.**

20          Q       The Commission would like to ask for that  
21 as an Exhibit. I'm going to call it Exhibit 400, I  
22 think that's the high end for anybody.

23                   (Commission-requested Exhibit 400 marked and  
24                   admitted into the record.)

25          Q       (By Judge Hatcher) So 400 is your work

1 paper on truck 202 and --

2 MR. COOPER: 206.

3 JUDGE HATCHER: Oh, 206. Since this is  
4 going to be after the hearing, I don't want to  
5 ask for objections now. Let's do this as a  
6 late filed Exhibit, and I need to ask if  
7 Ms. Aslin would be so as kind to file that for  
8 me because I don't know how I would get the  
9 work papers.

10 MS. ASLIN: Yes, we can do that.

11 JUDGE HATCHER: Thank you.

12 Q (By Judge Hatcher) Where in the revenue  
13 requirement are the vehicle reimbursement dollars  
14 recognized?

15 **A It would be the other miscellaneous**  
16 **revenues.**

17 Q What USOA account would the reimbursement  
18 amounts be recorded in?

19 **A It would be recorded in the 400 account,**  
20 **but there is -- the truck is specifically recorded**  
21 **to the 427 account.**

22 JUDGE HATCHER: Thank you. That is all  
23 the questions from the Bench. I'll ask once  
24 again if there are any commissioner questions,  
25 and I'll pause for a moment due to the WebEx.



1 That is again star 6 to unmute. Hearing no  
2 questions we'll move to Recross. Mr. Cooper?

3 MR. COOPER: No questions.

4 JUDGE HATCHER: Ms. Martin?

5 MS. MARTIN: No questions.

6 JUDGE HATCHER: Direct?

7 REDIRECT EXAMINATION BY MS. ASLIN:

8 Q I just have a few questions. Judge  
9 Hatcher was asking you about salvage. Is salvage  
10 related to depreciation?

11 A **Yes, I think it has something to do with**  
12 **planned depreciation.**

13 Q And are you a depreciation expert?

14 A **I am not.**

15 Q Just one more question. As a practical  
16 matter, do you see any difference between a company  
17 reimbursing an employee for use of vehicle versus an  
18 employee reimbursing the company for use of a  
19 vehicle?

20 A **Do I see a difference between the two?**

21 Q Yes. Other than the obvious difference in  
22 it's different people reimbursing people. As a  
23 practical difference, is there any real difference?

24 A **No, I don't think so.**

25 MS. ASLIN: Thank you, no further

1 questions.

2 JUDGE HATCHER: Thank you. Ms. Horton,  
3 you are dismissed, subject to recall. Just as  
4 we're doing, that seems more or less pro forma,  
5 though. Would you tell me which witness we're  
6 scratching for Staff, and can we talk about  
7 that just for a second?

8 MS. ASLIN: Yes, Lisa Stockman.

9 JUDGE HATCHER: Okay. And that's the  
10 conversation I was referencing. I -- over just  
11 a tiny bit of that, but she didn't provide  
12 testimony on issues?

13 MS. ASLIN: That was -- that was a  
14 different issue.

15 JUDGE HATCHER: Okay. I'm going to stop  
16 guessing, thank you. So Ms. Lesmes is next?  
17 I'll let you call your own witness.

18 MS. ASLIN: Staff calls Sherrye Lesmes to  
19 the stand.

20 JUDGE HATCHER: Thank you.

21 (Sherrye Lesme sworn.)

22 JUDGE HATCHER: Thank you, go ahead.

23 DIRECT EXAMINATION BY MS. ASLIN:

24 Q (By Ms. Martin) Could please state and  
25 spell your name for the court reporter?

1           **A     Sherrye Lesmes. S-h-e-r-r-y-e,**  
2 **L-e-s-m-e-s.**

3           Q     How are you employed and in what capacity?

4           **A     I am employed by the Missouri Public**  
5 **Service Commission as a utility regulatory auditor.**

6           Q     Did you prepare or cause to be prepared  
7 rebuttal testimony marked as Exhibit 109 and  
8 surrebuttal testimony marked as 115?

9           **A     Yes.**

10          Q     And do you have corrections to make to  
11 either of those testimonies?

12          **A     Yes, I do. To my rebuttal testimony --**  
13 **excuse me. Page 2 and page 3 in the heading, it**  
14 **should read "rebuttal". It says currently "direct".**

15          Q     Do you have other corrections to make?

16          **A     No.**

17          Q     And with that change in mind, if I were to  
18 ask you those same questions today, would your  
19 answers be the same?

20          **A     Yes.**

21          Q     And is the information contained in your  
22 testimony true and correct to the best of your  
23 knowledge and belief?

24          **A     Yes.**

25          Q     I would offer Exhibits 109 and 115, and

1 tender the witness for Cross.

2 JUDGE HATCHER: You've heard the motion by  
3 Staff. I'll combine the questions. Are there  
4 any objections to the omission of Exhibit 109  
5 or 115? Seeing no objections, they are both  
6 admitted.

7 (Staff Exhibits 109 and 115 admitted into the  
8 record.)

9 JUDGE HATCHER: Go ahead. Oh, witness has  
10 been tendered. Mr. Cooper?

11 MR. COOPER: Thank you, Your Honor.

12 CROSS-EXAMINATION BY MR. COOPER:

13 Q (By Ms. Martin) Can you tell me how rate  
14 case expense normally is handled in terms of what  
15 expense is captured? And, I mean, you know, through  
16 the filing of briefs or what time period would --  
17 would normally be captured in that?

18 A Each rate case -- rate case expense is  
19 reset, so we look at the expenses for that case.

20 Q And if you know, when you're looking at  
21 the rate case expense, for example, for this case,  
22 would Staff normally collect data as to rate case  
23 expense up through the filing of the briefs, or  
24 what -- again, if you know?

25 A Through the filing of briefs.

1 MR. COOPER: Okay. That's all the  
2 questions I have, Your Honor.

3 JUDGE HATCHER: Thank you. That will take  
4 us to Ms. Martin.

5 CROSS-EXAMINATION BY MS. MARTIN:

6 Q Good morning.

7 A **Good morning.**

8 Q Is it still morning? Okay. So in this  
9 case, you talk about the normalization of the -- the  
10 rate case expense in your rebuttal testimony. Do  
11 you remember that conversation -- or surrebuttal,  
12 excuse me.

13 A **Do you have a page and a line number?**

14 Q It's -- it's generally what your  
15 conversation is about rate case expense on pages 2,  
16 3. I think your entire surrebuttal. That is the  
17 focus; is that correct?

18 A **I'm sorry, what's the question?**

19 Q Is -- you're generally talking about the  
20 handling of rate case expense and normalization of  
21 rate case expense?

22 A **Yes.**

23 Q Okay. And you believe it is -- you say  
24 that this has been what you guys do and that OPC has  
25 not raised concerns; is that correct? On that --

1 what is you say about -- page 3, line number 14 of  
2 your surrebuttal testimony, and I guess line 13 is  
3 the question.

4 **A That's correct.**

5 Q So I reiterate my question that I asked  
6 Ms. Horton. Do you believe that if the OPC and  
7 Staff notices a concern that they did not notice in  
8 an earlier concern they cannot fix that concern?

9 **A They're able to change their mind, if  
10 that's what you're asking.**

11 Q So if they change their mind they are able  
12 to present these opinions and these arguments and  
13 concerns to the Commission?

14 **A Yes.**

15 Q So if OPC did not bring up the concern  
16 about the normalization of rate case expense in  
17 cases WR-2012-0405, WR-2015-0246 and WR-2020-0264,  
18 then that does not necessarily negate the fact that  
19 they are now seeing this issue in WR-2023-0344,  
20 which is this case?

21 **A I guess I don't understand what you're  
22 asking.**

23 Q If we see an issue now that we did not  
24 address before, we do have the ability to bring up  
25 that issue?

1           **A     Yes.**

2           Q     Okay. Give me one moment. So the number  
3 of years is based on Staff's estimate of how long it  
4 will be before or after the utility will come back  
5 in for a rate case. That is what you say on  
6 surrebuttal, page 3, lines number, I think, 2-0 and  
7 2-1, 20 and 21?

8           **A     That's correct.**

9           Q     Okay. So has Staff ever stated or  
10 normalized an expense and then found the company has  
11 not come in for three years but come in for, say,  
12 five?

13          **A     Companies are able to come in at their**  
14 **discretion.**

15          Q     Well, water companies, but, yes. So,  
16 right, there have been instances in the past where  
17 the normalization method that Staff provides does --  
18 does cause a company to get more or less than they  
19 would have gotten in rate case expense had they not  
20 had a normalization? If they had been amortized or  
21 normalized and amortized.

22          **A     We don't look at that when we set that**  
23 **type period. We can only look at what we're doing**  
24 **at the time of the rate case. We can't look into**  
25 **the future and say, oh, it will be three years or**

1 **four years or five years. We don't know that.**

2 Q Right. And I'm not saying that you do,  
3 and I apologize if that's coming across, but you're  
4 saying there -- it is possible to get over or under  
5 reimbursed, or that to be placed in rates?

6 A That may occur for that single issue, but  
7 when you're talking about the whole picture, there  
8 are a lot of issues involved. And one issue may  
9 over or under, but it may be washed that by another  
10 that is over or under. So you can't just take one  
11 single issue. You have to look at the whole  
12 picture.

13 Q Yes. And were you by any chance part of  
14 WR-2020-0264?

15 A No, I was not.

16 Q Okay. So you don't know what the increase  
17 was or anything like that? Have you reviewed that  
18 case?

19 A I did review it, but I was not involved in  
20 it.

21 Q Okay. Do you remember what the increase  
22 ended up being?

23 A Not right off the top of my head, no.

24 Q Okay. And you agree that Staff is wanting  
25 to increase rates now a little more than three years



1 later by double digits?

2 **A Staff is looking at the data that's**  
3 **presented, and then we make a recommendation based**  
4 **on that data.**

5 Q Right. And that is 27.26 percent?

6 **A We don't -- we don't set anything to do**  
7 **with rates. We simply present the data that's**  
8 **presented.**

9 Q So Staff doesn't help set -- help the  
10 Commission understand and set rates?

11 **A We present the data in the most**  
12 **appropriate way that we feel.**

13 MS. MARTIN: Okay. And I think I have no  
14 further questions.

15 JUDGE HATCHER: Let's take a break until  
16 11:00 a.m. Let's go off the record.

17 (Wherein, a short recess was taken.)

18 JUDGE HATCHER: Back on the record. Ms.  
19 Lesmes returns to the stand. I'll first remind  
20 her, she's already been sworn in, that's still  
21 applicable. And, second, we're going to clean  
22 up an Exhibit from yesterday. This is Exhibit  
23 214, which are the contents of DR-0007.  
24 Yesterday was presented the numerical sheet,  
25 and we requested of Ms. Martin to also include

1 the coversheet so we know what the question is.  
2 My understanding is that this DR-0007 includes  
3 some 70 pages. So with the consent of the  
4 counsel, and they have talked among themselves  
5 before this, and I will again ask for any  
6 objections. We're going to go ahead and take  
7 just those two pages. Are they coming forward  
8 or are they with the stack? Your --

9 MS. MARTIN: Those are two pages that are  
10 currently being printed right now, sorry.

11 JUDGE HATCHER: I got you. No problem.  
12 I'm going to stick -- we're going to pick up  
13 with Ms. Lesmes. We'll come back and circle  
14 around to Exhibit 214. Ms. Lesmes, I had  
15 previously asked you to have a copy of OPC  
16 Witness Payne surrebuttal schedules 2 and 3.

17 **THE WITNESS: Correct.**

18 QUESTIONS BY JUDGE HATCHER:

19 Q Thank you. Would you confirm that those  
20 are Staff rate case expense work papers?

21 **A Yes.**

22 Q On two -- and for those listening, I'm  
23 skipping reading the initials. This is schedule  
24 MMP-R-2. This is, again, from Witness Payne. I'm  
25 going to continue calling it by just the number.

1 Schedule 2 labels amounts total for previous rate  
2 case and total for current rate case. The two  
3 amounts are then added together and divided by  
4 three. The resulting amount is labeled Normalized  
5 Rate Case Expense Three Years. Is that an accurate  
6 description of what appears on the schedule?

7 **A Yes.**

8 Q Schedule 3 has a heading Residual Rate  
9 Case Expense from WR-2020-0264. What does the word  
10 "residual" mean?

11 **A That was a poor choice of words on my**  
12 **part. It has since been corrected to the word**  
13 **"total", which it should have been from the**  
14 **beginning.**

15 Q Thank you. Would you agree that the  
16 normalized and adjusted amount on that same schedule  
17 is \$5,856?

18 **A Yes.**

19 Q And would you agree that that is the  
20 amount Staff has included for recovery in the  
21 revenue requirement?

22 **A Yes.**

23 Q What amount would Staff have included in  
24 its revenue requirement if the next Raytown case was  
25 anticipated to be in three years instead of two?

1           **A       Then the total amount would have been**  
2 **divided by three.**

3           Q       Would Staff expect rate case expenses to  
4 be more in a rate case that goes to hearing than the  
5 expenses in a rate case that is settled by  
6 dispossession agreement?

7           **A       That is very likely.**

8           Q       I'm -- I don't know if this is a question  
9 or Ms. Aslin or for you, I'm just going to throw it  
10 out. The Commission is going to request an Exhibit.  
11 Would Staff update the current rate case known and  
12 measurable expenses -- okay, through today for this  
13 rate case and provide that information to the  
14 Commission as an Exhibit?

15           MS. ASLIN: Judge, we have some of that  
16 information, if you're talking about legal  
17 expenses. I believe we do not yet have an  
18 invoice from the month of October, so we've  
19 only got a portion of that at this point.

20           JUDGE HATCHER: And I'm also thinking  
21 briefs.

22           MR. COOPER: Your Honor, yeah, in the  
23 past, and that's why -- sort of the purpose of  
24 my question earlier, was that because, you  
25 know, a good bulk of the time happens even

1 after the hearing, I'm most familiar with it  
2 running through the end of the briefing period  
3 but --

4 JUDGE HATCHER: I can't get an exhibit  
5 after the briefing period.

6 MR. COOPER: And then the other thing I  
7 will tell you from the way you set that up is  
8 that the invoice that would cover October is  
9 out in the world today. So that could be added  
10 to the DR response, and I don't know what you  
11 want to do with the November time. We could  
12 estimate it --

13 JUDGE HATCHER: I'll take an estimate.

14 MR. COOPER: I was going to say, by the  
15 beginning of next week, I would -- I would have  
16 the recorded time up at least through the  
17 hearing and could provide that as an estimate.  
18 I wouldn't have an actual invoice.

19 JUDGE HATCHER: Yeah, and I just realized  
20 that next week is Thanksgiving. Did not think  
21 about that until just an hour ago. I have been  
22 giving you guys a deadline of next Friday.  
23 That's not going to work.

24 MR. COOPER: Well, I thought about making  
25 that point earlier, then I thought, no, they're

1 open.

2 JUDGE HATCHER: No, the Governor says  
3 we're closed.

4 MR. COOPER: Oh, all right, well --

5 JUDGE HATCHER: We'll come up with the  
6 date. I would like that information. I will  
7 take an estimate. I do need an Exhibit --

8 **THE WITNESS: Would it help -- I do have a**  
9 **copy of the one invoice? No?**

10 JUDGE HATCHER: I don't confuse the  
11 matter.

12 **THE WITNESS: Okay.**

13 JUDGE HATCHER: And I appreciate that, but  
14 I think having one Exhibit with the Staff work  
15 papers at a point in time is what this question  
16 is seeking. If there's an estimate, that's  
17 great, and because of the information I'm  
18 seeking, I am inclined to set the due date for  
19 everything to maybe the Wednesday following  
20 Thanksgiving or even later.

21 MR. COOPER: Well, my only -- the caveat I  
22 gave earlier, and maybe I shouldn't have called  
23 it an estimate, just making the point that I  
24 won't have an invoice at that point in time,  
25 but all the time will be entered, and so I can

1 create what we call a prebill that shows  
2 everything for November so --

3 MS. ASLIN: Judge Hatcher, are you just  
4 wanting legal expenses or as far as rate case  
5 expense, would you also want travel cost for  
6 Ms. Thompson and Mr. Clevenger?

7 JUDGE HATCHER: Rate case known and  
8 measurable expenses. The whole ball of wax, so  
9 thank you. Thank you for clarifying that. I  
10 would have missed that. We're not going to  
11 have a due date right now. Let's all think  
12 about that. We've still got lunch to get  
13 through, but, yeah, Thanksgiving is coming up.  
14 We're not going to have anything to do next  
15 week. We're going to kick that until at least  
16 the following week, and we're trying to get --  
17 I'm going to take a quick break.

18 We're trying to get the decision, the  
19 Commission, written on the same timeline, the  
20 original rule timeline but that's middle of  
21 January. So that's really the only restriction  
22 on kind of my rush is I want to make sure that  
23 we can get the company whatever the decision of  
24 the commissioners in as efficient of a fashion  
25 as we can. So that said, I was finished with

1 my questions. Thank you very much. I have one  
2 more pending -- yes, go ahead? I have one more  
3 pending exhibit I'm going to call 401 that  
4 Ms. Aslin has so wonderfully volunteered to  
5 file at a date to be determined. That will  
6 include all of the known and measurable rate  
7 case expenses.

8 (Commission-requested Exhibit 401 admitted to the  
9 record.)

10 JUDGE HATCHER: Okay. Are there any  
11 commissioner questions for Ms. Lesmes? We'll  
12 give a second for the WebEx. And hearing none,  
13 we'll go to Recross. Mr. Cooper?

14 MR. COOPER: No questions.

15 JUDGE HATCHER: Ms. Martin?

16 MS. MARTIN: No questions.

17 JUDGE HATCHER: Redirect?

18 REDIRECT EXAMINATION BY MS. ASLIN:

19 Q Ms. Lesmes, counsel for OPC asked you  
20 about the possibility of over or under recovery rate  
21 case expenses from year to year or in between rate  
22 cases. Do you recall that?

23 A I do.

24 Q And the potential of under or recovery,  
25 that's exactly why we normalize, correct?



1           **A     Yes -- excuse me, yes.**

2           Q     Do you have something else to add to that,  
3 or just yes?

4           **A     Well, that is why we normalize. But also**  
5 **we do not track those expenses hence normalization.**

6           Q     And Staff isn't merely looking at the  
7 amount that customers will pay in rates as part of  
8 our analysis in a rate case, correct?

9           **A     Correct.**

10          Q     So is Staff also concerned with companies  
11 providing safe and adequate service to their  
12 customers?

13          **A     Absolutely.**

14                MS. ASLIN: No further questions, thank  
15 you.

16                JUDGE HATCHER: Thank you, Ms. Lesmes.  
17 You are dismissed from the witness stand,  
18 subject to recall. Let's talk about  
19 Ms. Stockman. I have her on my witness list,  
20 and I don't know if that's happening.

21                MS. ASLIN: So that -- that was who should  
22 not have been on the witness list --

23                JUDGE HATCHER: Okay.

24                MS. ASLIN: -- in the first place. So at  
25 this time, if it works for you is when we

1 recall Amanda McMellen.

2 JUDGE HATCHER: That is fine. I now want  
3 to talk about Staff Exhibit Number 104, which  
4 is the direct testimony of Lisa Stockman.

5 MS. ASLIN: We do not intend to admit  
6 that. That just a list of all our prefile  
7 testimony just in case.

8 JUDGE HATCHER: Okay. Did she have any  
9 others? I don't see any. Okay.

10 MS. MARTIN: Judge, I have 214 ready.

11 JUDGE HATCHER: Excellent. Let's take  
12 care of that, and I have two other -- go ahead  
13 and pass those out. Bring me a copy. This is  
14 Exhibit 214 left over from yesterday. This is  
15 DR-0007. The discussion -- the discussion  
16 yesterday was that the parties had received the  
17 penalty journal for all customer spreadsheet,  
18 I'm just reading the title and requested a copy  
19 of the DR questions to put that into context.  
20 The entire DR takes up 70 pages, and the  
21 parties have consulted with each other and  
22 agreed to just filing the two pages, which is  
23 the cover page of data request 007. And the  
24 aforementioned spreadsheet. Are there  
25 objections to the admission of Exhibit 214?

1 Seeing none, it is so admitted.

2 (OPC Exhibit 214 admitted into the record.)

3 JUDGE HATCHER: The Commission also has  
4 two exhibits that it would like to request or  
5 get into the record. Copy of the Suez  
6 presentation on -- I think it was on the AMI.  
7 This is from the financing case in 2021 that  
8 ends in dash 0427?

9 MS. MARTIN: Judge, I do -- I have a copy  
10 of that presentation. It is up in my office,  
11 but I have plenty for everyone --

12 JUDGE HATCHER: Okay.

13 MS. MARTIN: This is more so nobody else  
14 has to print it up.

15 JUDGE HATCHER: Thank you. I am going to  
16 take notice and assign it an exhibit number.  
17 I've not done that before, so my expectation is  
18 that by my assigning it an Exhibit number  
19 that -- what will be filed in EFIS will be the  
20 normal exhibit number cover page and pulling a  
21 copy from EFIS of the Suez Presentation, which  
22 is Exhibit A to the application in 0427. I'm  
23 seeing nods and no objections. So that will  
24 take care of that one. I'll assign that one  
25 number -- Number 402.

1 (Commission-requested Exhibit 402 admitted into the  
2 record.)

3 JUDGE HATCHER: And then I need a copy of  
4 the USG contract with Raytown related to the  
5 purchase and installation of AMI meters. Is  
6 that already attached to anybody's testimony,  
7 and I missed it.

8 MR. COOPER: I don't think so but --

9 JUDGE HATCHER: Okay. Let's call that  
10 403.

11 (Commission-requested Exhibit 403 admitted into the  
12 record.)

13 JUDGE HATCHER: Mr. Cooper, would you  
14 kindly volunteer to take care of that?

15 MR. COOPER: Certainly.

16 JUDGE HATCHER: Thank you. And please  
17 review for any confidential matters. That's  
18 part of the reason I'm asking for your  
19 assistance with that. Also, I think that your  
20 company is going to be the best source. Okay,  
21 we're done with Exhibits. Is Staff done with  
22 their witness list? Oh, please, go ahead.

23 MS. ASLIN: Staff would recall Amanda  
24 McMellen to the stand.

25 JUDGE HATCHER: And, Ms. McMellen has

1 already been sworn in. That's still  
2 applicable. Please go ahead and take a seat.  
3 And remind me what we are addressing.

4 MS. ASLIN: We are addressing Staff's --  
5 or not Staff's. OPC's proposed 50/50 sharing  
6 so I'll just have a couple questions before I  
7 tender her for Cross.

8 JUDGE HATCHER: Thank you, go ahead.

9 DIRECT EXAMINATION:

10 BY MS. ASLIN:

11 Q Ms. McMellen, have you reviewed the  
12 surrebuttal testimony of OPC's witness Manzell  
13 Payne?

14 A Yes, I have.

15 Q And so you know that included in that, OPC  
16 has suggested a 50/50 sharing mechanism for rate  
17 case expense, correct?

18 A Correct.

19 Q And what is Staff's position on that?

20 A That the company should recover  
21 100 percent of rate case expense.

22 Q Could you explain that to me?

23 A Yes, typically with these small companies,  
24 it's usually 100 percent because it's minimal cost,  
25 and there would be -- the sharing mechanism is more

1 for higher costs for bigger utilities and sharing  
2 the cost between ratepayers and shareholders.

3 Q In your experience at the Commission,  
4 whether a small utility company has or has not gone  
5 to hearing, can you recall any instances when Staff  
6 or, I guess, the Commission has ordered a sharing  
7 mechanism?

8 A Yes, for a small --

9 Q For a small?

10 A A small. Yes, give me just a second. On  
11 Indian Hills, which is WR-2017-0259, the Staff  
12 recommended a 50/50 --

13 Q And can you --

14 A Which was ordered by the Commission.

15 Q Could you differentiate that from this  
16 situation?

17 A They actually hired consultants for that  
18 case. It was more than just the customer notices  
19 and postage, which is normal minimal rate case  
20 expense.

21 MS. ASLIN: Okay. I would tender,

22 Ms. McMellen for Cross.

23 JUDGE HATCHER: Thank you. Mr. Cooper?

24 MR. COOPER: No questions.

25 JUDGE HATCHER: Ms. Martin?

1 MS. MARTIN: No questions.

2 JUDGE HATCHER: Are there commissioner  
3 questions for Ms. McMellen? The Bench has no  
4 questions, so I'll ask again are there any  
5 commissioner questions? Star 6 to unmute.  
6 Hearing none, we'll move on. Well, not move  
7 on. Let me think. Yes, yes, we will move on.  
8 Thank you.

9 **THE WITNESS: Thank you.**

10 JUDGE HATCHER: You're dismissed from the  
11 witness stand. Public counsel, I believe it's  
12 time for you to present your witnesses.

13 MS. MARTIN: The Office of the Public  
14 Counsel calls Dr. Geoff Marke to the stand.

15 (Dr. Geoff Marke sworn.)

16 JUDGE HATCHER: Ms. Martin, your witness.

17 DIRECT EXAMINATION BY MS. MARTIN:

18 Q Dr. Marke, can you please state and spell  
19 your first and last name for the record?

20 A My name is Geoff. That's Golf, Echo,  
21 Oscar, Foxtrot, Foxtrot. Last name is Marke,  
22 M-a-r-k-e. The E is silent.

23 Q And by whom are you employed and in what  
24 capacity?

25 A I'm employed by the Missouri Office of

1 **Public Counsel as the chief economist.**

2 Q Okay. Are you the same Geoff Marke that  
3 prepared the prefile testimony that has been  
4 pre-marked as Exhibits 201 and 202? There's also a  
5 third piece of testimony, I believe your rebuttal  
6 testimony, that we will move to enter into the  
7 record as Exhibit Number 215.

8 **A Yes.**

9 Q Okay. Do you have any corrections to your  
10 testimony at that time?

11 **A Unfortunately, I have one correction.**  
12 **Surrebuttal testimony, page 21, line 23, I omitted a**  
13 **question. It just has the answer. I would add the**  
14 **question, "What is your response?" That's my only**  
15 **correction.**

16 Q Okay. And if I were to ask you the  
17 questions in your rebuttal -- surrebuttal and direct  
18 as the one you have added today, would you answer  
19 the same?

20 **A I would.**

21 Q Okay. And are those answers true and  
22 correct to the best of your knowledge and belief?

23 **A Yes, they are.**

24 Q Okay. Your Honor, I offer Exhibits 200  
25 and 201. We do -- I did want to talk to you about



1 how we should handle his rebuttal testimony that I  
2 think to I forgot to add to our prefiled Exhibit  
3 list. Entering that as 215?

4 JUDGE HATCHER: Let's put a pause in that,  
5 because that worries me quite a bit. Let's do  
6 200 and 201. Are there any objections to the  
7 admission of 200 and 201? Hearing none, they  
8 are both so admitted.

9 (OPC Exhibits 200 and 201 admitted into the record.)

10 JUDGE HATCHER: Okay, let's unpack this a  
11 little bit. 215 is already an Exhibit. That  
12 is DR-0130.

13 MS. MARTIN: Sorry, then 216.

14 JUDGE HATCHER: Okay.

15 MS. MARTIN: Sorry, I think I wrote 215  
16 down as our last --

17 JUDGE HATCHER: That's fine. So 216 is  
18 going to be Dr. Marke's rebuttal testimony --

19 MS. MARTIN: Yes.

20 JUDGE HATCHER: -- was this filed in EFIS?

21 MS. MARTIN: Yes.

22 JUDGE HATCHER: Oh, okay.

23 MS. MARTIN: Yeah, it was just an omission  
24 on the Exhibits list, not on -- not on EFIS.  
25 There's actually surrebuttal.

1 JUDGE HATCHER: Okay. Are there any  
2 objections to the admission of Exhibit 216,  
3 which will be Dr. Marke's rebuttal? Hearing  
4 none, it is so admitted.

5 (OPC Exhibit 216 admitted into the record.)

6 MS. MARTIN: Then I have no further  
7 questions and I tender the witness for  
8 Cross-examination.

9 JUDGE HATCHER: And Staff goes first on  
10 public counsel witnesses.

11 MS. ASLIN: No questions.

12 JUDGE HATCHER: Mr. Cooper?

13 MR. COOPER: No questions.

14 JUDGE HATCHER: Are there any commissioner  
15 questions for Dr. Marke? All right, and as  
16 practiced today, I'll be asking that again as I  
17 scroll through quickly. Thank you, sir. I  
18 appreciate your attendance. Call your next  
19 witness.

20 MS. MARTIN: The Office of the Public  
21 Counsel gets stuck in her chair -- and calls  
22 the witness John Robinette to the stand.

23 (John Robinette sworn.)

24 JUDGE HATCHER: Thank you, please have a  
25 seat. Your witness.

1 DIRECT EXAMINATION

2 BY MS. MARTIN:

3 Q Thank you. Mr. Robinette, can you please  
4 state and spell your name?

5 A **John A. Robinette, and our Robinette is**  
6 **R-o-b-i-n-e-t-t-e.**

7 Q Thank you. And by whom are you employed  
8 and in what the capacity?

9 A **I'm employed by the Office of Public**  
10 **Counsel as an utility engineering specialist.**

11 Q Okay. Are you the same John A. Robinette  
12 that prepared the prefile testimony, I believe, you  
13 filed direct and surrebuttal?

14 A **Yes.**

15 Q Okay. And do you have any corrections to  
16 your testimony at this time?

17 A **I have one correction to my direct**  
18 **testimony. It's on page 10, line 17. I omitted a**  
19 **percent sign from behind the 6.8.**

20 Q Thank you. If I were to ask you the  
21 questions in your testimony today, would your  
22 answers be substantially the same?

23 A **They would.**

24 Q Okay. And are those answers true and  
25 correct to the best of your knowledge and belief?

1           **A     Yes.**

2           Q     Your Honor, I offer Exhibits Numbered 201  
3 and 20 -- or 202 and 203, pardon me, to the record  
4 which is the Testimony of John A. Robinette.

5           JUDGE HATCHER: You've heard the motion.

6           I'll combine the questions. Are there any  
7 objections to 202 and 203? Hearing none, they  
8 are both so admitted.

9 (OPC Exhibits 202 and 203 admitted into the record.)

10          JUDGE HATCHER: Go ahead.

11          MS. MARTIN: I tender this witness for  
12 Cross-examination.

13          JUDGE HATCHER: Ms. Aslin?

14          CROSS-EXAMINATION BY MS. ASLIN:

15          Q     Good morning, Mr. Robinette.

16          **A     Good morning.**

17          Q     Do you have your direct testimony with  
18 you?

19          **A     Yes.**

20          Q     Could you turn to page 8, then starting at  
21 line 17, you say, "To be frank, I expect a direct  
22 correlation between water loss and maintenance  
23 expense with a large amount of water loss, one  
24 expects a large value of maintenance expense tied to  
25 fixing the issues costing that water loss.

1 Therefore, as an inverse, if there is next to zero  
2 water loss, one would expect very little O&M  
3 expense." Did I read that correctly?

4 **A Yes.**

5 Q And would you agree me that generally at  
6 least some breaks are a normal occurrence for water  
7 utility?

8 **A Yes.**

9 Q Would you say repairs reduce water loss?

10 **A Yes, you're fixing the leaking problem.**

11 Q Okay. So therefore wouldn't it make sense  
12 that a company is making all or almost all necessary  
13 repairs to their distribution system that O&M costs  
14 would increase?

15 **A No, because you also have capitalization  
16 that's a factor, replacing of mains.**

17 Q So O&M is not increasing if companies are  
18 repairing their broken mains?

19 **A Depends if it's a repair-replace. If it's  
20 a patch, it would be an O&M expense. If it's a much  
21 larger section of pipe, it's probably going to be  
22 capitalized.**

23 Q So in some cases, it would increase O&M  
24 expense?

25 **A If it is a small repair, like a patch it**

1 **would be increasing O&M, yes.**

2 MS. ASLIN: Okay. No further questions.

3 JUDGE HATCHER: Mr. Cooper?

4 MR. COOPER: No questions.

5 JUDGE HATCHER: Are there any commissioner  
6 questions for Mr. Robinette? The Bench does  
7 not have any questions, so I'll ask one more  
8 time. Are there any commissioner questions for  
9 Mr. Robinette? No, and then we will go back to  
10 Recross. We will go back to Redirect. Thank  
11 you, Ms. Martin.

12 REDIRECT EXAMINATION

13 BY MS. MARTIN:

14 Q Good morning, John, how are you?

15 **A I'm okay, I think.**

16 Q That's pretty fair. So we had -- we heard  
17 a conversation about how the O&M expense possibly  
18 would go up if they were fixing breaks. What does  
19 the water loss indicate regarding how many breaks  
20 there were in the -- in the lines -- in the mains,  
21 pardon me.

22 **A Are you talking about the current case?**

23 Q Yes, in this current case.

24 **A So that's a hard question to answer**  
25 **because as all parties admit, there are some flaws**

1 in the data. What the data shows is that there's  
2 been like a sharp decline in the O&M, but we know --  
3 not in the O&M, I'm sorry. The water loss. But we  
4 know that there are 14 months since the 2020 case  
5 where the utility has purchased more water or has  
6 sold more water than they have purchased. In the  
7 net total of that, they have purchased more water  
8 year for year than what they have sold. So there's  
9 no negative there. Like they're not selling more  
10 then what they have purchased in the totality.

11 Q Okay. And what was the number that was  
12 recorded from the company for water loss in this  
13 case? Not the number that they used but the number  
14 that was provided to -- or the percentage.

15 A So I utilize Staff's work papers. Staff's  
16 work papers in this case showed, for 2022, a  
17 0.6 percent water loss.

18 Q Okay. And so what is the water loss  
19 number that they used?

20 A Staff utilized the water loss calculation  
21 from the 2020 rate case, which equated to a  
22 12.04 percent water loss.

23 Q Okay. And, yesterday, were you around  
24 for, I believe, Daronn Williams' testimony?

25 A I was upstairs in my office, yes.

1 Q Did you hear or --

2 A I was watching the hearing.

3 Q Okay. And did you hear the  
4 cross-examination question by Ms. Aslin asking if  
5 the numbers from the 2020 case were reliable numbers  
6 and accurate?

7 A I believe -- I know there was discussion  
8 about the 2022 usage by Staff.

9 Q Okay. So in the 2020 case, that those are  
10 numbers Staff believes they are reliable and  
11 accurate. Do you have any issues with the numbers  
12 in that 2020 case at this time?

13 MR. COOPER: Judge, I'm going to insert an  
14 objection. Redirect is limited to  
15 cross-examination that the witness received.  
16 It feels like we're getting beyond that,  
17 tracking the history of these water usage loss  
18 numbers.

19 MS. MARTIN: That's fine. I was trying  
20 to -- I will move on.

21 Q (By Ms. Martin) And we -- so the numbers  
22 that are utilized to support the O&M expense for  
23 this case, are -- Staff seems to believe is fine  
24 because O&M expense would go up if the water was  
25 fixed. Is that your belief?



1           **A       Could you restate that question?**

2           Q       Staff said the O&M expense would go up if  
3 the -- if the pipes were being fixed. That's what  
4 Ms. Aslin said in her question to you, correct?

5           **A       I think Ms. Aslin asked if -- if**  
6 **repairs -- fixing leaks would increase O&M.**

7           Q       Okay. And you -- give me a moment. Is --  
8 so do you believe that -- is it -- do you believe it  
9 makes sense for there to be no water loss with a  
10 super high O&M expense?

11          **A       No, but as we discussed, we think there's**  
12 **errors in the data.**

13          Q       And why do you believe that is?

14          **A       We have the company stating that they had**  
15 **sold more water for 14 months than what the meters**  
16 **from KCI reports -- City of Kansas City reported.**

17          Q       Okay. Do you have any idea of the -- what  
18 the difference is between the reality of how much  
19 water was sold and what was reported by the City of  
20 Kansas City?

21          **A       I mean, those are in Staff's work papers**  
22 **that I put in my testimony.**

23          Q       Well, the reality of the actual amount of  
24 water that -- not the amount of water that was sold,  
25 but the amount of water that went into Raytown from

1 the City of Kansas, that went through those meters.

2 MS. ASLIN: Objection, I think we've once  
3 again moved far past main breaks and O&M  
4 expense.

5 MS. MARTIN: I disagree. I do believe  
6 that if we are talking about water loss and O&M  
7 expense and main breaks, I mean, when you have  
8 a main break or you have a main leak or you  
9 have seepage, then we are saying that is an O&M  
10 expense, so if we are getting water loss, then  
11 that water loss is directly related to the O&M  
12 expense related to main breaks. I think I  
13 might have said that in a very long way, sorry.

14 JUDGE HATCHER: Yes, and I disagree with  
15 your statement, because there's been testimony  
16 that the water loss may or may not be actual  
17 and that because of the meters, both the master  
18 meters and -- I don't know if there is  
19 testimony on customer meters, but because those  
20 were replaced, my understanding was that was  
21 the -- or at least part of the water loss  
22 issue. So I'm taking issue with your statement  
23 that operation and expense maintenance equals  
24 zero.

25 MS. MARTIN: No, I don't believe it equals

1 zero. I just don't believe that it should be  
2 twice as high as it was in the 2020 rate case.

3 JUDGE HATCHER: Okay. Could you ask him  
4 why he thinks it's twice as high?

5 MS. MARTIN: Yeah.

6 JUDGE HATCHER: Okay.

7 Q (By Ms. Martin) So, Mr. Robinette, why do  
8 you believe that the O&M expense increased by the --  
9 by such a high margin?

10 A There's probably several factors that  
11 could be in effect. So I started out the  
12 investigation with Staff's DR22 that asked for a  
13 ratio of capital to expense on these systems. And I  
14 saw something in that response that caused me  
15 concern, so I sent an additional request to the  
16 company, basically, confirming are the values  
17 accurate in this DR response? The company then  
18 corrected that data response in response to my  
19 DR-8517, stating that there was an error on the 2021  
20 rates, and then there was a corrected value. The  
21 company has stated there have been increase in  
22 leaks, that's one thing that can drive up the O&M  
23 expense.

24 There is the overarching value of  
25 inflation. However, there is no evidence to support

1 for general materials that has been presented that  
2 they went up, other than hydrants that the company  
3 talked about, which do not relate to the O&M or  
4 capitalization for distribution mains. They have  
5 their own account.

6 Q Okay. And how do you believe they came  
7 up -- Staff came up with that O&M number that they  
8 provided in the day 150 in the stipulation?

9 A I'm assuming they took the number given to  
10 them by the company. However, the number that was  
11 on column Q yesterday that Ms. McMellen -- no,  
12 column K that Ms. McMellen talked about for  
13 Mr. Foster's direct testimony in the attached  
14 accounting schedules is much higher than what was  
15 reported in Staff's position statement.

16 Q Okay.

17 A That ties to the 490 -- the \$494,000  
18 number that I talked about in my testimony. I  
19 believe their position statement says 411, and I  
20 think the statements yesterday was that column K is  
21 what was in rates.

22 MS. MARTIN: Okay. I have no further  
23 questions.

24 JUDGE HATCHER: Thank you. And -- yeah,  
25 Mr. Robinette, you are excused from the witness

1 stand subject to recall as we are doing.

2 Ms. Martin, go ahead and call your next  
3 witness.

4 MS. MARTIN: The Office of the Public  
5 Counsel calls David Murray to the stand.

6 (David Murray sworn.)

7 DIRECT EXAMINATION BY MS. MARTIN

8 Q Good morning, Dave, how are you?

9 A **Good morning. Doing better than I**  
10 **deserve.**

11 Q Can you please state your full name and  
12 spell it for the record?

13 A **My name is David Murray. Last name is**  
14 **spelled M-u-r-r-a-y.**

15 Q Thank you, and by whom are you employed  
16 and in what capacity?

17 A **The Missouri Office of the Public Counsel**  
18 **as a utility regulatory manager.**

19 Q Are you the same David Murray that  
20 prepared the prefiled testimony that -- that  
21 prepared that prefile testimony marked as Exhibit  
22 204 -- I believe, 204.

23 A **Yes.**

24 Q Okay. Do you have any corrections to your  
25 testimony?

1           **A     I do not.**

2           Q     Okay.  If I were to ask you the questions  
3           in your testimony today, would your answers be  
4           substantially the same?

5           **A     Yes.**

6           Q     Okay.  And are those answers true and  
7           correct to the best of your knowledge and belief?

8           **A     Yes.**

9           MS. MARTIN:  Your Honor, I offer Exhibit  
10          Number 204 in for the record.

11          JUDGE HATCHER:  You've heard the motion by  
12          counsel.  Are there any objections to 204?  
13          Hearing none, they are -- it is so admitted.  
14          (OPC Exhibit 204 admitted into the record.)

15          JUDGE HATCHER:  Go ahead.

16          MS. MARTIN:  I tender the witness for  
17          cross-examination.

18          JUDGE HATCHER:  Ms. Aslin?

19          CROSS-EXAMINATION BY MS. ASLIN:

20          Q     Good morning, Mr. Murray.

21          **A     Good morning.**

22          Q     Do you have your rebuttal testimony with  
23          you?

24          **A     I do.**

25          Q     Could you turn to page 5?

1           A     Yes, I am there.

2           Q     Could you, starting at line 5, read line 5  
3 through 12, please?

4           A     Yes. "Using Staff and Raytown's  
5 stipulated revenue requirement increase of 1,174,782  
6 and Staff's rate mate -- excuse me, rate-making  
7 income statement attached to the non-unanimous  
8 agreement regarding disposition of small utility  
9 company revenue increase requests filed on  
10 September 13, 2023, Raytown's funds from operations  
11 to debt is expected to be 21.67 percent, see  
12 schedule DMR3. This FFO-to-debt ratio is at the  
13 high end, that is less financial risk of the  
14 FFO-to-debt ratio benchmark for a, quote, unquote,  
15 significant financial risk profile, which is one  
16 category higher than the financial risk profile of  
17 Mr. Jennings assigned to Raytown combining a  
18 financial risk profile of significant with a strong  
19 business risk profit results in an applied credit  
20 rating of BBB."

21          Q     And then turning to page 6?

22                   JUDGE HATCHER: Ms. Aslin, I don't really  
23 encourage reading.

24                   MS. ASLIN: Sorry. I wasn't going to read  
25 anything --

1 JUDGE HATCHER: Okay.

2 MS. ASLIN: If you just look at lines 1  
3 through 3, you indicated that using an ROE of  
4 9.12 percent instead of Staff's proposed 10.37  
5 percent and all other things being equal, it  
6 would reduce Raytown's annual revenues by  
7 approximately \$70,400; is that correct?

8 **THE WITNESS: That's correct.**

9 Q (By Ms. Martin) And even with this  
10 reduction in revenue, you concluded that Raytown  
11 Water would still have a financial risk of  
12 significant and a BBB rating?

13 **A Well, it's --**

14 Q It's a yes or no question, Mr. Murray.

15 **A That's what I state, correct.**

16 Q Did you have an opportunity to hear  
17 Ms. Anna Martin's opening statement yesterday?

18 **A Yes.**

19 Q And do you remember in that opening  
20 statement Ms. Martin requested that instead of the  
21 \$1,174,0782 revenue requirement increase outlined in  
22 the non-unanimous agreement that Raytown only be  
23 granted a revenue requirement increase of \$699,344,  
24 and that is a difference of \$475,438?

25 **A That's correct.**



1           Q     Mr. Murray, have you conducted any  
2     calculations using OPC's proposed revenue  
3     requirement increase, instead of the non-unanimous  
4     agreement amount to determine its affects -- excuse  
5     me, determine its affect on Raytown's pro forma  
6     credit metrics and resulting effect on its applied  
7     credit rating.

8           A     I did so in response to Mr. Clevenger's  
9     testimony when he was indicating concerns about  
10    whether or not Raytown could meet its debt service  
11    coverage covenant in its EIERA loan --

12          Q     Did you provide that to any other party?

13          A     It was after surrebuttal, so I mean -- it  
14    was after his surrebuttal testimony was filed. So  
15    what I determined is that you could do some algebra  
16    so you could, you know, reduce the revenue  
17    requirement by 50 percent and still -- or maybe even  
18    a little over 50 percent, if you don't -- put the  
19    preferred stock dividends in there as Mr. Clevenger  
20    did, and you would still meet that debt service  
21    covenant. Now, I'm not in any way --

22          Q     I think you answered my question, thank  
23    you, Mr. Murray.

24          A     Okay, thank you.

25                MS. ASLIN: No further questions.

1 JUDGE HATCHER: Mr. Cooper?

2 MR. COOPER: No questions.

3 JUDGE HATCHER: That will take us to  
4 commissioner questions. Are there any  
5 commissioner questions for Mr. Murray? All  
6 right, hearing none, the Bench does have a  
7 couple.

8 QUESTIONS

9 BY JUDGE HATCHER:

10 Q Let's talk about transformational events.  
11 Can you explain what a transformational event is?

12 A I think we just -- we just went through a  
13 utility operating company rate case where there's  
14 significant amounts of investment in -- in plant,  
15 which increases rate base considerably. And,  
16 obviously, in such a situation where you have  
17 significant investment, you have to raise capital to  
18 do this is and significant amounts of capital.  
19 That's exactly what, you know, Raytown, you know,  
20 has done here recently. Not just for the AMI but  
21 also for working on a lot of its infrastructure  
22 because of those leak issues. And so, you know,  
23 after raising that capital, then you come in for a  
24 rate case. So you're anticipating, you know,  
25 revenues are going to be higher than the past, which

1 is no longer relevant to what the pro forma looking  
2 expectation is, just like, you know, somebody that  
3 is getting ready to start a new job and will  
4 receive, let's say, a six figure salary which would  
5 be wonderful.

6 Q Can you tell me what a transformational  
7 event is, please?

8 A Yes, a significant amount of investment  
9 which requires the company to come in for a rate  
10 case, which Raytown has done.

11 Q Okay. What is your response to  
12 Mr. Robinette's -- or Mr. Jennings' disagreement  
13 about using this rate case as a transformational  
14 event in order to then calculate what the future  
15 credit rating or risk would be?

16 A I'll just indicate that's what credited  
17 investors do all time and ratings agencies which are  
18 trying to provide debt investors information about  
19 the financial soundness of an entity are  
20 consistently having to make assumptions. Obviously,  
21 there may be differing outcomes, you know, within  
22 plus or minus -- well, I mean, 30 percent, but it's  
23 if they are building in expectations of rate  
24 increases because, you know, investors understand  
25 that's how the model works.

1 Q Has the Commission ever approved a return  
2 on equity based on projected or proforma credit  
3 metrics?

4 A Yes, I mean, I think I said, that's the  
5 way all of our utilities are rated is based on -- I  
6 mean, that receives most of the weight by the rating  
7 agencies, so if Ameron Missouri has a BBB-plus  
8 credit rate, that's based on expectations of rate  
9 relief, you know, every two years, which is  
10 basically the routine that quite a few of our  
11 companies follow.

12 Q Would you give me your critique of why  
13 Mr. Jennings should have included a potential  
14 outcome of this rate case in his credit metrics for  
15 the future? I think that's the whole question.

16 A Because that's what investors do. I mean,  
17 that's what debt investors will do, and so it's, you  
18 know, the environment -- or excuse me, the Energy  
19 Improvement Energy Resource Authority (sic) builds  
20 that into, you know, their covenants and their loan  
21 that, you know, they anticipate that if revenues  
22 fall behind a certain amount, they're going to file  
23 a rate case to bring their revenues above, you know,  
24 at least a minimum debt service covenant. And so  
25 that's exactly what investors are factoring in when

1 they evaluate, you know, providing capital to a  
2 company.

3 Q Did Staff do it wrong?

4 A I won't say they did it wrong because they  
5 analyzed part of the equation. They didn't analyze  
6 the other, you know, the other part of the equation,  
7 which is, you know, trying to understand what, you  
8 know, what a reasonable expectation might be, which  
9 obviously that's why we're in here for hearings all  
10 the time is what do we think is reasonable.

11 JUDGE HATCHER: Okay. I don't have any  
12 other questions. I'll ask once again, are  
13 there any commissioner questions for  
14 Mr. Murray? Star 6 to unmute, and, again, it's  
15 already on the transcript, but just for our  
16 listeners, we do have all five of our  
17 commissioners in attendance. So let's go back  
18 to Recross.

19 MS. ASLIN: No questions.

20 MR. COOPER: No questions.

21 JUDGE HATCHER: Redirect.

22 MS. MARTIN: I keep turning it off now.

23 JUDGE HATCHER: Same.

24 REDIRECT EXAMINATION BY MS. MARTIN:

25 Q Staff asked you a question about the OPC's

1 proposed revenue increase and it's impact on your  
2 rebuttal testimony and the company's financial risk.  
3 Do you remember that?

4 **A Yes.**

5 **Q** Okay. Can you please explain why you  
6 don't share the concerns that have been raised in  
7 this case regarding any financial harm that this  
8 company could face with the OPC's recommendations?

9 **A** I'll just bring up, I think there was some  
10 misunderstanding as far as whether or not -- what  
11 OPC's position actually was. Was it a, you know --  
12 you know, recommending not allowing recovery --  
13 return on and of AMI investment, and the  
14 recommendation was just a, you know, not allowing a  
15 return on AMI investment. So, you know, two -- I  
16 believe it's about \$200,000 or somewhere in that  
17 ballpark, you know, that, you know, what's OPC's  
18 position of trying to accelerate and put in all the  
19 AMI investment into a plan but not allow a return on  
20 it. Actually, OPC's recommendation would result in  
21 a slight increase as far as AMI investment.

22 **So -- but -- like I said, when I look**  
23 **at -- the scenarios I looked at in my rebuttal**  
24 **testimony, which is \$70,000 reduction where I**  
25 **recommend a lower ROE. I mean, I look at that**

1       **specific scenario. That's in my testimony. The**  
2       **other things I did was in response to**  
3       **Mr. Clevenger's surrebuttal which -- you know, I --**

4               MR. COOPER: Your Honor, I -- I guess --  
5       I'm going to object to going any further with  
6       this because I think that Mr. Murray is  
7       referring to testimony that has been stricken.

8               MS. MARTIN: I do believe that he was  
9       about -- you stopped there, right? With the  
10       EIERA concerns?

11              **THE WITNESS: Sorry?**

12              MS. MARTIN: You -- you were finished with  
13       your answer; is that correct? At that point?

14              **THE WITNESS: Yes.**

15              MR. COOPER: I -- in that case, I guess, I  
16       would ask that the portion of his testimony  
17       that follows or the reference to  
18       Mr. Clevenger's surrebuttal be stricken as  
19       well.

20              MS. MARTIN: I don't think he said  
21       anything after he began and then the objection  
22       occurred, so I don't believe  
23       he actually responded to the surrebuttal  
24       testimony. And he was responding to a question  
25       by Staff Counsel, where she stopped -- stopped

1 him from completing his answer, so we were  
2 trying to get him -- give him the opportunity  
3 to complete that answer.

4 JUDGE HATCHER: OPC was the one who asked  
5 for Mr. Clevenger's testimony to be stricken or  
6 part of it and that reference --

7 MS. MARTIN: Issues with the EIERA, I  
8 believe was -- I might have missed the portion  
9 where he's talking about the problems with the  
10 EIERA. If there was any portion of the EIERA  
11 conversation in that then I would -- then I  
12 am -- would allow the objection. I have no  
13 issue with that objection.

14 JUDGE HATCHER: Answer is stricken, thank  
15 you.

16 Q (By Ms. Martin) So to be clear, you --  
17 Staff asked you -- if you reviewed the affect of the  
18 OPC's stance, the 699,000 on the company's financial  
19 risk? And you did review that?

20 A No, I just -- like I said, I just looked  
21 at, you know, the debt service coverage ratio  
22 covenant for EIERA and looked at how much of a  
23 reduction in the revenue requirement, you know,  
24 could occur and still comply with that --

25 Q Okay.



1       **A**       **-- covenant.**

2       **Q**       And what was that analysis?

3               MR. COOPER:  Objection.  Same objection  
4       that we're going off into the portion of the  
5       testimony that's been stricken.

6               MS. MARTIN:  This is not response -- this  
7       is not a response to the stricken testimony.  
8       This is a response to Staff asking about the  
9       699 and if he considered it, and we are again  
10       requesting -- or asking him if he had  
11       considered that and if it did have any risk in  
12       the EIERA.  That's not necessarily a response  
13       to that surrebuttal testimony.

14              JUDGE HATCHER:  The problem I have is it  
15       does seem like OPC might be wanting it both  
16       ways.  You wanted some EIERA -- I'm misstating  
17       that.

18              MS. MARTIN:  That's fine.  We are merely  
19       just trying get him to respond to Staff's  
20       question about how he -- whether and how he  
21       assessed the financial risk profile connected  
22       to OPC's suggestion of about \$699,000 that I  
23       presented in my opening statement.  That was --  
24       that was the intent of the OPC so --

25              MR. COOPER:  But just to follow up on

1 that, none of that, as I understand it, as to  
2 the EIERA is related to really what Ms. Aslin  
3 asked about, which is how he utilized that  
4 information in terms of his calculations of the  
5 proposed return on equity. Just because he  
6 jumped over to the EIERA in part of his answer,  
7 I don't think suddenly makes it relevant.

8 JUDGE HATCHER: Ms. Martin?

9 MS. MARTIN: I'm not specifically asking  
10 about the EIERA. I was just trying to ask  
11 about the risk profile and the relationship  
12 with that \$699,000 dollars number that we  
13 suggested.

14 JUDGE HATCHER: Mr. Murray, can you give  
15 your answer without referencing the EIERA? I  
16 don't want your answer, I just want if you can.

17 MS. MARTIN: I will also say that he does  
18 discuss the IRS in his rebuttal testimony so --

19 MR. COOPER: But we're on Redirect, so I  
20 think -- that's not good enough to get into  
21 Redirect.

22 MS. MARTIN: Well, it was relevant to his  
23 financial risk analysis in this case. It's one  
24 of the things he does discuss in his rebuttal  
25 testimony so for him to be able to fully answer

1 my question, which was to finish, basically,  
2 the answer to Ms. Aslin's question, he may need  
3 to discuss the IRS. We are not discussing  
4 whether or not it was a problem for the  
5 company -- I'm just having it related to the  
6 risk analysis.

7 JUDGE HATCHER: Overruled. I'm going to  
8 go down this road for a very short time. Go  
9 ahead.

10 Q (By Ms. Martin) Okay. We just -- can you  
11 finish your thought and/or if you need me to repeat  
12 the question, let me know.

13 A I mean, as far as my rebuttal testimony,  
14 the only amount that I specifically considered was  
15 the disallowance -- or I say disallowance, what I  
16 consider to be a more and reasonable ROE, which was  
17 the impact of revenue requirement of \$70,000.  
18 There's nothing in my testimony that specifically  
19 discusses OPC's overall position without -- without  
20 talking about the loan that they actually have  
21 and -- and the covenant. I mean, that's -- that's  
22 just a matter of some algebra. I mean, you could  
23 still meet your covenant with 1.25 times 358,000  
24 debt service, which is 447,500. That's about the  
25 amount of what I can provide.

1 MS. MARTIN: Okay, thank you so much. And  
2 we are finished questioning this witness.

3 JUDGE HATCHER: Mr. Murray, you are  
4 excused from the stand --

5 **THE WITNESS: Thank you.**

6 JUDGE HATCHER: Subject to recall as we  
7 do. It is 12:01. I'm seeing Mr. Riley next on  
8 my list. I'm going to have a few questions. I  
9 would imagine there's going to be some more.  
10 Let's go ahead and take lunch. However, we're  
11 on a really good roll. Let's just do an hour.  
12 Let's come back at 1:00. 1:00 o'clock lunch.  
13 We are off the record and at recess.

14 (Wherein, a noon recess was taken.)

15 JUDGE HATCHER: Let's go back on the  
16 record, the time of lunch having expired. The  
17 Office of Public Counsel is presenting its  
18 witnesses. We are currently on Witness Riley,  
19 thank you, sir.

20 (John Riley sworn.)

21 JUDGE HATCHER: And have a seat. A  
22 reminder to everyone, our court reporter is on  
23 the WebEx so we do want to speak into --  
24 closely to the microphone, slowly and clearly.  
25 Ms. Martin, your witness.

1 DIRECT EXAMINATION BY MS. MARTIN:

2 Q Thank you so much, Judge Hatcher. Can you  
3 please state and spell your name?

4 A John Riley, R-i-l-e-y.

5 Q By whom are you employed and in what  
6 capacity?

7 A I'm employed by the Missouri Office of  
8 Public Counsel as a utility regulatory supervisor.

9 Q Wonderful. And are you the same John  
10 Riley that prepared the prefile testimony, Exhibits  
11 205 and 206?

12 A Yes, ma'am.

13 Q Okay. Do you have any corrections to your  
14 testimony?

15 A Yes, ma'am, I have one. My surrebuttal,  
16 page 9, line 20. I had \$12,115 reduction in revenue  
17 requirement. I needed to change the 12,000 to  
18 \$9,888.

19 Q Thank you.

20 JUDGE HATCHER: I --

21 MS. MARTIN: We can do an errata sheet if  
22 you need.

23 JUDGE HATCHER: Yes. I -- I'm going to  
24 make that even for all parties, so now all of  
25 you have an errata sheet, only because that is

1 a number that might show up in a footnote  
2 somewhere so we do want to make sure that  
3 everybody knows. So, yes, I apologize for  
4 making a little bit extra work, but, yes,  
5 please.

6 MS. MARTIN: Okay. And when you say the  
7 errata sheet, do you want me -- okay.

8 JUDGE HATCHER: He has an errata sheet,  
9 the Company does for -- I forget which witness.  
10 Staff Counsel has an errata sheet for one or  
11 two -- Ms. Clark. And, so, I'm just pointing  
12 out that you all now have one.

13 MS. MARTIN: So what you're saying is you  
14 just wanted some more reading for Thanksgiving.

15 JUDGE HATCHER: I want the record to be  
16 clear --

17 MS. ASLIN: Right.

18 JUDGE HATCHER: -- so we don't have to go  
19 back to the transcript to make sure we got the  
20 right number, because this is a \$3,000  
21 difference.

22 MS. MARTIN: Right.

23 JUDGE HATCHER: With the smaller  
24 companies, I think that's going to add up over  
25 time. Anyway, yes, errata sheet just for the

1 number. Yes, sir?

2 MR. COOPER: I just have one, I don't  
3 know, observation to see if this would clear  
4 something up. I thought Mr. Riley said page 9,  
5 line 20. I think it's in the version that I  
6 have from EFIS, it's on a slightly different  
7 line.

8 JUDGE HATCHER: 16?

9 MR. COOPER: 16.

10 **THE WITNESS:** Well, I guess the answer is  
11 **adjusted to rate base is a reduction of**  
12 **145,388. This amounts equates to about 12,115**  
13 **reduction. I used the wrong rate of return,**  
14 **and instead of 12,115. It's 9,000.**

15 MR. COOPER: It was just the line number.  
16 The location.

17 **THE WITNESS:** I got you. Mine's 20.

18 JUDGE HATCHER: Mr. Riley, did you print  
19 yours out from your office?

20 **THE WITNESS:** I --

21 JUDGE HATCHER: Because it is in EFIS as  
22 line 16. Line 16 begins, dollar sign, 12,  
23 comma, 115.

24 **THE WITNESS:** Okay.

25 JUDGE HATCHER: So I'm not worried about

1 the details right now. Be aware of that,  
2 please. We'll be looking at the errata sheet.

3 MS. MARTIN: And you want line 16,  
4 correct?

5 JUDGE HATCHER: There should be only one  
6 version --

7 MS. MARTIN: Right.

8 JUDGE HATCHER: -- of Mr. Riley's  
9 surrebuttal testimony.

10 MS. MARTIN: Okay.

11 JUDGE HATCHER: I --

12 MS. MARTIN: Oh, you're saying when I'm --  
13 sorry.

14 JUDGE HATCHER: I am considering that  
15 whatever he has in his hand is some exception  
16 to the rule, that he printed it off or printed  
17 off before it got transferred into a PDF file  
18 to be floated into EFIS. So I'm very -- I'm  
19 not concerned about Mr. Riley's paperwork. I  
20 want the Public Counsel to know and note that,  
21 oh, as I'm writing this, there was some talk  
22 about what line number --

23 MS. MARTIN: Right.

24 JUDGE HATCHER: Because so, yeah, you'll  
25 get it. It will be line 16.



1 MS. MARTIN: Yeah, okay.

2 JUDGE HATCHER: Okay.

3 MS. MARTIN: Thank you, sorry.

4 JUDGE HATCHER: No, no, you're good,  
5 you're good. You've heard the motion from  
6 Counsel. Exhibit 205 and 206, are there any  
7 objections? Seeing none, they are both  
8 admitted.

9 (OPC Exhibits 205 and 206 admitted into the record.)

10 JUDGE HATCHER: And I don't recall if  
11 Ms. Martin tendered the witness.

12 MS. MARTIN: I now tender the witness for  
13 Cross-examination.

14 JUDGE HATCHER: Ms. Aslin?

15 CROSS-EXAMINATION BY MS. ASLIN:

16 Q Good afternoon, Mr. Riley. Could you turn  
17 to page 5 of your surrebuttal testimony?

18 **A Yes, ma'am.**

19 Q And in response -- starting at line 19, in  
20 response to the question, "Who do you believe should  
21 be responsible for CWC", or cash working capital  
22 calculations, you state, "I believe the Commission  
23 rules and regulations places the responsibility on  
24 the staff that is assisting the small utility with  
25 the rate case." Did I read that correctly?

1           **A     Yes, ma'am.**

2           Q     Do you believe Staff fulfilled its  
3 obligation to assist Raytown Water Company in this  
4 rate case?

5           **A     Say that again, please?**

6           Q     Do you believe that Staff fulfilled its  
7 obligation to assist Raytown Water Company in this  
8 rate case?

9           **A     No, I don't.**

10          Q     Have you reviewed the rebuttal testimony  
11 of Ms. Angela Niemeier?

12          **A     Surrebuttal?**

13          Q     Rebuttal.

14          **A     Rebuttal. Yes.**

15          Q     Okay. Can you tell me, Mr. Riley, how  
16 long have you been employed by the State of  
17 Missouri?

18          **A     Excuse me, say that again, please.**

19          Q     I'm sorry. How long have you been  
20 employed by the State of Missouri?

21          **A     One more time.**

22          Q     How long have you been employed by the  
23 State of Missouri?

24          **A     State of Missouri, approximately 30, 33**  
25 **years.**

1 Q And in the time have you received  
2 cost-of-living adjustments to your wages?

3 A Yes, ma'am.

4 Q And having reviewed Ms. Angela Niemeier's  
5 rebuttal testimony, are you aware that after  
6 starting with the approved wage rates in the last  
7 rate case, Staff then made cost-of-living  
8 adjustments?

9 A I'm aware that they applied cost-of-living  
10 adjustments to wages, yes.

11 Q Do you believe that Raytown employees,  
12 specifically Ms. Thompson is entitled to a  
13 cost-of-living adjustment to her wages?

14 A Um, I'm --

15 Q It's a yes or no.

16 A Yes.

17 Q Moving on, do you have schedule JSR/S/02,  
18 which is attached to your surrebuttal testimony?

19 A Yes.

20 Q We're going to be talking about column D,  
21 Expense Lag. And starting with the very first line  
22 Base Payroll, do you see where Base Payroll Expense  
23 Lag, you have 14.91; is that correct?

24 A Which line?

25 Q Base Payroll, column D, Expense Lag.

1           **A     Column D.   Okay, yes.**

2           Q     And do you think that's an appropriate  
3 number for Raytown?

4           **A     I tried to put the --**

5           Q     Yes or no?

6           **A     Yes.**

7           Q     And do you know the base payroll expense  
8 lag for Missouri American Water Company?

9           **A     Do I have a Missouri American --**

10          Q     Well, do you know what it is?

11          **A     Yes.**

12          Q     What is it?

13          **A     No, I'm sorry.**

14          Q     You don't?   Okay.   Do you know what it is  
15 for Confluence?

16          **A     Not on me.**

17          Q     Okay.

18          **A     No.**

19                    JUDGE HATCHER:   We need you on the  
20 microphone, thank you.

21          Q     (By Ms. Aslin) Do you know how often  
22 Raytown Water Company pays its employees?

23          **A     I would guess monthly.**

24          Q     All right, moving on, further down, we're  
25 still talking about column D, Expense Lag, but do

1 you see the cash vouchers line?

2 **A Okay, yes.**

3 Q And do you see -- you have that the cash  
4 vouchers expense lag is 46.89. Do you see that?

5 **A I'm sorry, which line?**

6 Q I'm sorry. Cash vouchers expense lag.

7 **A Yes, cash vouchers, yes.**

8 Q Uh-huh. And that's 46.89, correct?

9 **A 46.89, yes, ma'am.**

10 Q Where did that number come from?

11 **A Not entirely sure at this time. I thought**  
12 **I had --**

13 Q Okay.

14 **A -- in my notes but I can't find it.**

15 Q Okay. Could you turn to page 8 of your  
16 surrebuttal testimony?

17 **A Yes, ma'am.**

18 Q And starting at about line 11, you  
19 discussed how you heavily relied on Ms. Jane  
20 Dhority's cash-working capital work paper from the  
21 most recent Confluence Rivers rate case; is that  
22 correct?

23 **A Yes, ma'am.**

24 MS. ASLIN: Could we actually take a very  
25 short recess? I'm sorry.

1 JUDGE HATCHER: Do you have other  
2 questions while --

3 MS. ASLIN: No, this will -- this will be  
4 my last. I have one more question.

5 JUDGE HATCHER: Where are we at? Go ahead  
6 and get your copy --

7 MS. ASLIN: I don't think we would need  
8 more than five minutes tops.

9 JUDGE HATCHER: I'm thinking about letting  
10 Mr. Cooper go, if he has questions and then  
11 coming back to you. Mr. Cooper, what do you  
12 think?

13 MR. COOPER: I do not have questions at  
14 this point, so we're going to be moving to the  
15 Commission pretty quickly. And the Bench.

16 JUDGE HATCHER: Yeah, let's take a  
17 five-minute break. Try not to go too far from  
18 the room. We'll be off the record now. Five  
19 minutes is 1:18, so let's call it 1:20.

20 (Wherein, a short recess was taken.)

21 JUDGE HATCHER: Let's go back on the  
22 record. We had some paperwork delivered. We  
23 were talking off the record about some  
24 exhibits. The judge was confused about some  
25 numbers; I'll just restate those for everyone's

1 education.

2 The Commission in total has requested four  
3 amendments be offered. 400 was requested  
4 yesterday. And those are the work papers on  
5 the truck, and then 401 was the known  
6 measurable rate case expenses, the latest date  
7 and to include the amount in Mr. Cooper's  
8 system that hasn't made it all the way to a  
9 final bill. 402 was the judge took judicial  
10 notice of the Suez presentation from a prior  
11 case that I can't recall the number and will  
12 enter that in as a physical exhibit, taking  
13 that from EFIS, and Exhibit 403 I had requested  
14 of Mr. Cooper the USG contract for the AMI.  
15 Okay, we are back to Mr. Riley, and finishing  
16 up questions from Ms. Aslin. Go ahead.

17 Q (By Ms. Aslin) So Mr. Riley, I have -- or  
18 Staff has handed you what we're going to mark as  
19 Staff Exhibit 118. It is confidential. I'm going  
20 to be very careful. We're not going to talk about  
21 any numbers or anything that I believe  
22 is actually confidential. I'm just going to direct  
23 Mr. Riley to some things. So we've got -- do you  
24 recognize this?

25 A Yes, ma'am. I have my own copy.

1 Q Okay. So you -- so then you are aware  
2 this is Jane Dhority's work papers from the  
3 Confluence Rivers Utility Operating Company case  
4 number, WR2023-0006?

5 A Yes, ma'am.

6 Q If I could direct you -- we've got the  
7 coversheet and then Expense Lag for Cash Voucher by  
8 system. If you look on that sheet, the first system  
9 for water, does that match the number that you have  
10 in your -- that you have for cash vouchers expense  
11 lag for Raytown Water?

12 A Those two numbers match.

13 Q Is that where you got the number for  
14 Raytown Water?

15 A It would be -- honest, I looked through  
16 several of her work papers, and I don't recall using  
17 this one, but I, unfortunately, did not follow up  
18 with the -- with the backup documentation for cash  
19 vouchers.

20 Q So without being able to direct me to  
21 where your number for cash vouchers expense lag came  
22 from, do you still believe that 46.89 is appropriate  
23 for Raytown Water Company?

24 A Yes, ma'am.

25 MS. ASLIN: No further questions.



1 Actually, I also can move for the admission of  
2 Exhibit 118?

3 JUDGE HATCHER: Exhibit 118 consisting of  
4 two pages, a public version and a confidential  
5 version. The judge will prepare the public  
6 version, as it will be blank. But the  
7 Commission prefers to have a blank public  
8 version to show consumers. So you've heard the  
9 motion from Staff Counsel. Are there any  
10 objections to the admission of Exhibit 118?  
11 Hearing none, so admitted.

12 (Staff Exhibit 118 admitted.)

13 JUDGE HATCHER: And Mr. Cooper?

14 MR. COOPER: Just for the purposes of the  
15 record, I do not have any questions.

16 JUDGE HATCHER: Thank you. The Company  
17 has no questions. That takes us to  
18 commissioner questions. I'll ask if there are  
19 any commissioner questions for Mr. Riley? I'll  
20 come back and ask that. I do have a few bench  
21 questions.

22 QUESTIONS BY JUDGE HATCHER:

23 Q Have you filed cash-working capital  
24 testimony in prior commission rate cases?

25 A Yes, sir.

1 Q Do you know approximately how many times?

2 A Probably two or three.

3 Q And your surrebuttal referred to the  
4 Empire rate case. I'm going to give you the rate  
5 case number ER-2014-0351. Can you explain what you  
6 meant when you stated that Staff and Empire agreed  
7 to use information concerning CWC calculations that  
8 were developed in the 2012 case?

9 A Well, in Staff's -- in the 2014 case,  
10 Staff did what they used to -- what they used to do  
11 with every case is they filed a Staff report.  
12 That's their original initial kind of an explanation  
13 of each subject in -- in the rate case, and under  
14 cash-working capital in their staff report that I  
15 referred to in the footnote, on page 51, it goes on  
16 to read, "However, Staff did not review the revenue  
17 lags and expense lags for fuel, purchase power, in  
18 this case to determine whether those values should  
19 change from the lags agreed to in case number  
20 ER-2012-0345. For all other lags contained in the  
21 CWC accounting schedule, Staff utilized CWC lags  
22 that were agreed to by Empire and Staff in Empire's  
23 last rate case." And I believe that would be 2012.

24 Q What is your understanding of when Staff  
25 performs a lead lag study?

1           A       Well, I, of course, notice that they have  
2 not done them in small water cases, but they'll do  
3 a -- they will either do their own lead lag study,  
4 but usually what it will be is an adoption of the  
5 companies, but usually I notice that with larger  
6 companies. Say, like Ameren or Evergee or  
7 somebody -- hires somebody to do a lead lag study,  
8 and, of course, they spend a great deal of time  
9 putting them together, and Staff not all always, but  
10 Staff will adopt that lead lag study and then  
11 interject their own expense totals.

12                   JUDGE HATCHER: I'm going to have  
13 questions about the entire report, Ms. Martin.  
14 I understand that you are going to want to  
15 offer that as an Exhibit?

16                   MS. ASLIN: The OPC has the cash-working  
17 capital portion of that report if -- that we  
18 were going to enter as the Exhibit. If you  
19 would like to see it now or if you would like  
20 me to wait.

21                   JUDGE HATCHER: Would you go ahead and  
22 please pass that out, because the Bench is  
23 going to have some questions on that, and then  
24 I also like to prepare counsel for the coming  
25 question of offering or admitting this as an

1 Exhibit and whether we want the entire report  
2 or just the cash working capital portion. So  
3 those are just things to keep in mind.

4 Q (By Judge Hatcher) I'm going to turn to  
5 page 53. It listed that a number of lags it  
6 determined were unlikely to have significantly  
7 changed. Would you explain why some lags and,  
8 that's -- if I understand correctly, the lag is the  
9 payment of bills, okay, why they wouldn't change  
10 much over time?

11 A Why they wouldn't --

12 Q Yes.

13 A Well, normally, one of the payment --  
14 payment of bills normally isn't -- doesn't normally  
15 change, especially with, you know, large water  
16 companies. They've worked out payment schedules for  
17 most, you know, chemicals and, you know, there's  
18 discounts and that sort of thing that they're kind  
19 of a constant. So, you know, like payroll. You get  
20 paid every 15 days. And that's constant. So as  
21 you'll notice on most cash working capitals that the  
22 revenue lag, which is the collection portion of it  
23 is usually constant, and that's why I just went  
24 ahead myself and used 43, because I found 43 in  
25 several different cash working capital schedules.

1 So actually the expenses are rather constant also  
2 for the most part, give or take.

3 Q Then -- it just triggered something. You  
4 were talking about the 43. Is that based off of the  
5 tax payments? Never mind. Strike that. Let's get  
6 back to our other questions. Talking about the 43  
7 days, and you cite some specific documents that  
8 support your statement of referring to finding 43  
9 days kind of as a repetitive number?

10 A Well, what I'll -- what I end up citing  
11 is actually would be Jane Dhority's -- her reference  
12 to 43.61. And I had looked over some cash-working  
13 capitals from earlier cases at Raytown Water, and  
14 they didn't complete the cash-working capital. I  
15 mean, you're familiar with the schedule.

16 The schedule was in place, however  
17 the only thing that was on the schedule itself,  
18 there wasn't any totals, but 43 was the revenue lag.  
19 So I went ahead and adopted that one. Now, to  
20 actually say did I find some calculations of how --  
21 how the revenue -- you know, how the billing and I  
22 don't have any of those available. I just found  
23 whatever everybody was using. You know, as I said  
24 Jane Dhority was 43.16, and the one I found on the  
25 past Raytown one was 43, you know, so I'm not going

1 to -- that's to be honest, that's close enough for  
2 me.

3 Q Did you look at documentation for specific  
4 expense lags in specific categories?

5 A I could say I did. However, I did not  
6 rely on them as much I relied on Dhority's. I did --  
7 I did -- I looked over, as I said, I looked over  
8 Confluence; I looked over Missouri American; and I  
9 looked over their -- their schedules, the Staff  
10 schedules, but really I relied on more on Dhority  
11 than anything else.

12 JUDGE HATCHER: Thank you. I'll ask once  
13 again, are there any commissioner questions?  
14 That's the end of the Bench's questions. Are  
15 there any commissioner questions for Mr. Riley?  
16 Hearing none, we'll go back to  
17 Recross-examination. Ms. Aslin?

18 MS. ASLIN: No questions.

19 JUDGE HATCHER: Mr. Cooper?

20 MR. COOPER: No questions.

21 JUDGE HATCHER: Redirect? Oh, oh, oh,  
22 sorry. I really apologize. Let me take care  
23 of the -- Exhibit 118. I have not asked for  
24 that yet. Are there any objections and does  
25 anybody want to discuss this? Are there any

1 objections to the admission of Exhibit 118,  
2 these two pages? Hearing none, so admitted.  
3 (Staff Exhibit 118 admitted into the record.)

4 JUDGE HATCHER: Sorry, Ms. Martin, your  
5 floor.

6 REDIRECT EXAMINATION BY MS. MARTIN:

7 Q How are you today, Mr. Riley?

8 A Oh, we're good.

9 Q I'm trying to get better about saying last  
10 names rather than first names, so, okay. So in  
11 response to Ms. Aslin's question about whether the  
12 Staff -- whether you believe the Staff fulfilled its  
13 obligation in regards to this rate case, you said  
14 no. Can you explain why you do not believe Staff  
15 fulfilled its obligation to Raytown in this rate  
16 case?

17 A Well, I -- I believe Staff should have  
18 done a cash-working capital. I don't think it -- I  
19 don't think it's, you know, Niemeier -- Niemeier's  
20 testimony said, you know, they only have 150 days.  
21 I don't find any reason why they can't come up  
22 with -- Staff does all the work for small water  
23 companies, so they put together all of the expenses,  
24 all the revenues.

25 They know what the billing is. I

1 mean, I used 43. I'm not going to argue if they say  
2 it's 43.5. They can come up with the numbers to be  
3 fairly close for a cash-working capital. And, you  
4 know, they want to argue that -- that some of the  
5 numbers are off, I mean, they had every opportunity  
6 to point it out to me in a technical conference, or,  
7 you know, they aren't written in stone for me, but  
8 they wouldn't do it. And I think -- I think the  
9 rules and regs say they need to do it.

10 And they may not be able to do it for  
11 every mom and pop, you know, trailer park or an  
12 apartment that suddenly has got to fall under the  
13 Commission's rules, but in this particular instance,  
14 this is a large enough water company, and, like I  
15 said, they put all numbers together. They can come  
16 up with the cash-working capital argument for this,  
17 and, you know, it can be -- it can be juggled like  
18 around like any other, you know, issue, and then  
19 come up with some sort of agreement or take it to  
20 hearing, but to say they do not do it, that lets the  
21 Company down.

22 The Company doesn't have to do this.  
23 I'm showing -- I'm showing, you know, where -- in  
24 fact, the Staff report that this cash-working  
25 capital, it goes right at the top of the page, says



1 that Empire did not perform a lead lag study  
2 specific to cause. Empire is what, the seventh  
3 largest utility in the State of Missouri? They  
4 didn't do a lead lag study, but Staff did. So they  
5 let them down.

6 Q Okay. And do you have any other reasons  
7 that you believe that the Staff did not fulfill its  
8 obligation to the Company or to the Company's  
9 customers in this case, not related to cash-working  
10 capital?

11 A Well, I've -- I've argued about pay and  
12 how they -- how they look at meter readers and that  
13 sort of thing, but there's, you know, overall, I'm  
14 disappointed with how much -- how little questioning  
15 they did on some expenses. So I'm -- I just feel  
16 that overall that is not that a good of an audit.

17 Q And do you believe that the Staff relied  
18 too much on Company numbers and assertions?

19 A Well, when I find -- when I read some of  
20 their testimony that, you know, they don't do a  
21 cash-working capital; they expected the Company to  
22 do it. You know, they put in half the AMI meters  
23 but they went ahead and let three meter readers stay  
24 in the revenue require, you know, it just seems like  
25 they just -- they're just punching the ticket.

1 Q And when -- do you do any review of the  
2 auditing report?

3 A I read over the auditing report and the  
4 reports that they included with -- on EFIS as far  
5 as, you know, with their agreement with the Company.

6 Q Okay. And did you -- I know the auditing  
7 portion of Staff also provided numbers for things  
8 like O&M and things like that, do you believe that  
9 they fulfilled their obligation in that sense, or do  
10 you think they also took the Company's numbers and  
11 ran with it?

12 A Well, for specific numbers that you have  
13 to refer to the other witnesses, but as a whole, I  
14 thought they didn't do diligence in a lot of -- they  
15 didn't question a lot of numbers that came out. You  
16 know, I've argued about overtime. We have  
17 Mr. Payne's arguing about overtime. You know, the  
18 O&M is being argued by Mr. Robinette and, you know,  
19 like I'm disappointed they didn't do a cash-working  
20 capital. I'm really disappointed they didn't come  
21 back after I pointed out they should have done the  
22 cash-working capital and work with me, but they  
23 refused to do that. So, yeah, I'm disappointed all  
24 the way around.

25 MS. MARTIN: Okay, thank you. We are

1 complete. We are finished.

2 JUDGE HATCHER: Thank you, Mr. Riley.  
3 You're excused from the witness stand subject  
4 to recall. And, Ms. Martin, have we marked the  
5 Staff Report portion yet?

6 **THE WITNESS: You need to enter that.**

7 MS. MARTIN: Oh, no, I didn't know if you  
8 wanted me to enter that under OPC or under  
9 yours. So if you would -- because you had  
10 asked for it, but I will do it -- I will take  
11 care to enter this in -- now. Do you need me  
12 to set a foundation for the document?

13 JUDGE HATCHER: No.

14 MS. MARTIN: Okay. So OPC moves to enter  
15 Staff Report or the portion of Staff Report for  
16 ER-2014-0351 onto the record as Exhibit 2,016.

17 JUDGE HATCHER: 17?

18 MS. MARTIN: 17.

19 JUDGE HATCHER: Hundred?

20 MS. MARTIN: 1700.

21 JUDGE HATCHER: Sorry, the exhibit number  
22 is 217.

23 MS. MARTIN: Oh, yes.

24 JUDGE HATCHER: 216 was Dr. Mark's  
25 rebuttal.

1 MS. MARTIN: Yes.

2 JUDGE HATCHER: Okay. Exhibit 217 is a  
3 portion of a Staff Report. Under the normal  
4 course of business the Commission tends to  
5 frown on portions of things, and we also want  
6 to make sure that we aren't unnecessarily  
7 photocopying. Are there any objections to this  
8 portion? Thank you, no objections being heard.  
9 217 is admitted onto the record.

10 (OPC Exhibit 217 admitted into the record.)

11 JUDGE HATCHER: Mr. Payne, thank you, sir,  
12 for coming down.

13 (Manzell Payne sworn.)

14 DIRECT EXAMINATION BY MS. MARTIN:

15 Q Welcome, Mr. Payne. I will give you a  
16 moment -- do you need to adjust your seat?

17 A **It's fine.**

18 Q Okay. Can you please state and spell your  
19 first and last name?

20 A **Manzell Payne, M-a-n-z-e-l-l, P-a-y-n-e.**

21 Q By whom are you employed and in what  
22 capacity?

23 A **I'm employed by the Office of Public  
24 Counsel as a utility regulatory auditor.**

25 Q And are you the same Manzell Payne that

1 prepared the prefile testimony that has been  
2 premarked as Exhibits Number 207 and 208?

3 **A I am.**

4 Q Okay. Do you have any corrections to your  
5 testimony today?

6 **A No.**

7 Q Okay. If I were to ask you the questions  
8 in your testimony today, would your answers be the  
9 same?

10 **A Yes.**

11 Q And are those answers true and correct to  
12 the best of your knowledge?

13 **A Yes.**

14 MS. MARTIN: Your Honor, I offer Exhibits  
15 numbered 207 and 208 onto the record.

16 JUDGE HATCHER: You've heard the motion.  
17 I'm not going to repeat the question. Are  
18 there any objections? Hearing none, 207 and  
19 208 are admitted into the hearing record.

20 (OPC Exhibits 207 and 208 admitted into the record.)

21 JUDGE HATCHER: Did you tender the  
22 witness?

23 MS. MARTIN: That's what I was about to  
24 say.

25 JUDGE HATCHER: Go ahead.

1 MS. MARTIN: I tender the witness now for  
2 Cross-examination.

3 JUDGE HATCHER: Excellent, thank you.  
4 Ms. Aslin.

5 CROSS-EXAMINATION BY MS. ASLIN:

6 Q Good afternoon, Mr. Payne.

7 **A Good afternoon.**

8 Q Could you please turn to page two of your  
9 surrebuttal testimony?

10 **A Yeah, I'm already there.**

11 Q All right, so starting at line 8, you ask  
12 the question, has Staff or the Company specifically  
13 detailed the amount they are proposing to be added  
14 to rate case expense for the Company attorney, and  
15 you respond no; is that correct?

16 **A Actually, I was in my rebuttal testimony,  
17 sorry. Can you state that again?**

18 Q If you start at line 8, in response to the  
19 question, "Has Staff or the Company specifically  
20 detailed the amount they are proposing to be added  
21 to rate case expense for the Company attorney", you  
22 respond no; is that correct?

23 **A Yes.**

24 Q So would it be possible for Staff to know  
25 how much rate case expense Raytown has accrued to

1 this point in the rate case?

2 **A Yes, if --**

3 Q That's -- thank you, you've answered my  
4 question. Do you know when Raytown will no longer  
5 be incurring legal expenses in this case?

6 **A I'm guessing after the -- probably, briefs  
7 that Mr. Cooper has set earlier.**

8 Q Then you could turn to page 3, also in  
9 your surrebuttal testimony.

10 **A Yes.**

11 Q You discuss the proposal of 50/50 sharing  
12 mechanism for rate case expense starting at line 15,  
13 and you specifically reference a few different  
14 companies including Empire Gas, Missouri American  
15 and Spire. Do you see that?

16 **A Yes.**

17 Q Are you aware that those companies are not  
18 eligible to file under the Staff-assisted small  
19 utility rate case procedures?

20 **A I am aware but there are other --**

21 Q Okay, thank you. And would you agree with  
22 me that legal expenses are unavoidable for these  
23 large companies when they file a rate case?

24 **A Yes.**

25 MS. ASLIN: Okay. Thank you. No further

1 questions.

2 JUDGE HATCHER: Mr. Cooper?

3 CROSS-EXAMINATION BY MR. COOPER:

4 Q Thank you, Your Honor. On page 7 of your  
5 surrebuttal, you list several employees of Raytown  
6 Water, correct?

7 A Are you saying at line 16 or where  
8 exactly?

9 Q Well, I'm just -- I'm looking at the chart  
10 that's --

11 A Okay.

12 Q -- between line 6 and 7. I guess really  
13 qualifies as line 7.

14 A Yes, yes.

15 Q And you have identified an office manager,  
16 accounting clerk and a customer service person,  
17 correct, amongst -- there's one more but those are  
18 three of the titles, correct?

19 A In -- in row 7 or column 7.

20 Q No, again, it's line 7, I believe. 1, 2,  
21 3, 4, 5, 6 and, yes, in column 7.

22 A Yes, that is how I am listing them going  
23 off of the DR requests 0019 from the Company in  
24 response. That's how they do their salary ranges  
25 and job descriptions.



1 Q And you don't think their job titles are,  
2 I guess, column 2, which you listed in column 2?

3 A I did a comparison off of what they  
4 compared their -- what they said their salary ranges  
5 and what they're justifying those are. I did a  
6 comparison off of how they listed in their response  
7 and their DR and how they also have their titles.

8 Q And this may be a bit of strange question,  
9 but as you were doing your work for this part of  
10 your testimony, did you consider whether office  
11 manager, accounting clerk, customer service person,  
12 would have the authority to hire and fire people in  
13 the Company?

14 A It depends on the company you're speaking  
15 about, yes. You can say different management,  
16 senior management can hire and fire people. It's  
17 just the practice of that company in this case. In  
18 this case, this company uses just their vice  
19 president as the hiring and firing person. I think  
20 the president will also, who is marked down as a  
21 general manager, could also probably fire -- hire  
22 and fire people as well.

23 Q But none of the other folks that you've  
24 listed, correct?

25 A Not to my knowledge have they hired or

1 **fired anyone.**

2 Q You don't know whether they have authority  
3 or don't have the authority, right?

4 **A No.**

5 Q Okay. And talking about the same three  
6 people or the same three positions, did you  
7 consider, before filing your testimony, whether any  
8 of those positions would have -- be able to exercise  
9 discretion and independent judgment with respect to  
10 matters of significance?

11 **A Which positions are you actually talking**  
12 **about?**

13 Q The same. I guess what you've listed as  
14 office manager, accounting clerk, customer service  
15 person.

16 **A Okay, so can you repeat that question for**  
17 **me?**

18 Q Before you file your surrebuttal  
19 testimony, did you consider whether any of those  
20 folks would be able to exercise their own discretion  
21 and independent judgment with respect to matters of  
22 significance?

23 **A I think that, yes, they would have -- they**  
24 **should have that opportunity, that independence to**  
25 **do that but if they are not and it is taken to**

1 higher management, that's also a commonly practiced  
2 things in business.

3 Q So as to this company, you really don't  
4 know, right?

5 A I do not, no.

6 Q Okay. Is it your belief that if the  
7 Company changes its approach for all of these  
8 employees to a salary and not paying overtime that  
9 that ends the question in regard to payment of  
10 overtime for those employees?

11 A I am not -- if you look past on page 8, I  
12 am not necessarily recommending the Commission order  
13 this Company not to pay their workers overtime. I  
14 am mainly looking at the fact that revenue  
15 requirement should only have what Staff has agreed  
16 that the base salary should be, and that is without  
17 overtime and for these certain positions. So if the  
18 Company decides to pay overtime or benefit after the  
19 fact that's not in rates, that is at their  
20 discretion, yeah.

21 Q Well, if it's not at their discretion,  
22 what if there's a federal statute that would require  
23 them to pay overtime? Are you aware of any such  
24 statute, I guess, is my first question?

25 A I can't remember -- I cannot recall the

1 actual name of the statutes, but if you're paying an  
2 hourly versus salary than hourly workers are paid  
3 overtime, yes.

4 Q But are there circumstances where even  
5 though you're paying a salary that the federal law  
6 would require you to still pay overtime in certain  
7 situations?

8 A I am not able to recall that at this  
9 moment in time. I do know that if you generally are  
10 getting paid a salary, you are going to possibly  
11 work more hours than a 40-hour week and that's just  
12 the way it goes. There are incentives to be  
13 salary -- getting a salary wage instead of an hourly  
14 wage. And that comes with being paid more than  
15 those under you that are getting paid that hourly  
16 wage, but they have the incentive to get time and a  
17 half for the extra hour worked. There's an offset  
18 to both sides.

19 Q But, again, you're not aware of any  
20 federal statute that would require the payment of  
21 overtime for employees, right?

22 A Not off the top of my head.

23 MR. COOPER: That's all the questions I  
24 have.

25 JUDGE HATCHER: Thank you. That will take

1 us to commissioner questions. I'll pause for a  
2 minute for any commissioner questions. Again,  
3 that is star 6 if you're on the phone. And the  
4 Bench does have a couple of questions, and as I  
5 have been doing, we'll ask again for  
6 commissioner questions.

7 QUESTIONS BY JUDGE HATCHER:

8 Q I want to talk about rate case expenses.

9 **A Okay.**

10 Q Would -- I'm going to switch the terms. I  
11 think one of the testimonies today, we had changed  
12 or had questioned the term "residual" and that  
13 changed to total?

14 **A Yeah, I remember that.**

15 Q Okay. So I'm going to use the total,  
16 instead of the word "residual". But would the  
17 inclusion of the total rate cases expenses from 2020  
18 in the current rate cases revenue requirement, would  
19 that cause to be retroactive rate making?

20 **A If you -- can you ask that again,**  
21 **actually?**

22 Q Would OPC consider it to be retroactive  
23 rate making if the rate case expenses from 2020 were  
24 included in the current cases' revenue requirement?

25 **A Through Staff's normalization, that's how**

1 they're including it and that's how they've always  
2 done it. So I do not believe that is retroactive  
3 rate making.

4 Q Would -- would you agree that, and I don't  
5 want to rehash this because we're talking about the  
6 briefing period, I'm sorry, strike that. I'll just  
7 move on to the next question.

8 Would you agree that if there wasn't  
9 a hearing in this case that the rate case expense  
10 for Raytown would be lower than whatever it will end  
11 up being?

12 A Yes. I --

13 Q I'll let you finish.

14 A However, there are ways that this could  
15 have been settled before the hearing happened in  
16 settlements, so if there was a problem that OPC or  
17 Staff saw beforehand and that got settled before --  
18 or the rate case happened at all, than it could have  
19 been lower than what Staff put in to their day 120  
20 and the day 150. And going on from that, whatever  
21 is included after -- during the hearing in those  
22 expenses go up as well, but I think depending on  
23 where you're at and how negotiations are going  
24 through the rate case, the expense could be lower or  
25 higher.

1 Q Do you have any empirical evidence to  
2 support your statement that people who are paid  
3 salary work more than 40 hours a week?

4 A Not -- no, not at this time, I do not.  
5 Through my previous position at my other job that I  
6 held as a business analyst and auditor over  
7 financial statements from businesses, there were  
8 times when you would see salary workers were working  
9 more than the 40-hour week. However, they were not  
10 reporting overtime. They were -- they understood  
11 that was how a business works. They have other  
12 incentives that they get paid by being paid a salary  
13 that hourly workers do not.

14 JUDGE HATCHER: Thank you. Are there any  
15 commissioner questions for Mr. Payne? Okay,  
16 hearing none, we'll go back to  
17 Recross-examination. Ms. Aslin?

18 RECROSS-EXAMINATION BY MS. ASLIN:

19 Q In your rebuttal testimony, could you --  
20 could you turn to page 3?

21 A I'm there.

22 Q And you state that -- I believe it's the  
23 rate case expense included in day 150 is \$3,119, and  
24 then that should be sufficient enough for recovery  
25 by the Company?

1           **A     Yes, that is the current rate expense is**  
2           **rounded up \$3,118.73 cents.**

3           Q     Okay. But for the sake of conversation,  
4           we'll just say 3,119.

5           **A     Yes.**

6           Q     Are you aware that as of day 150 rate case  
7           expense only included expenses related to the  
8           customer notice and postage?

9           **A     Yes, but --**

10          Q     Okay, thank you --

11          **A     -- I was not asking for a 50/50 share --**

12          Q     So therefore rate case expense could not  
13          be lower than what it was at day 150, correct?

14          **A     Through your normalization, if you don't**  
15          **include --**

16          Q     It's a yes or no question, Mr. Payne.

17          **A     So then ask -- can you ask that question**  
18          **again, because I'm not sure --**

19          Q     Yes. So as of day 150, rate case expense  
20          included only the customer notice and postage. So  
21          would you agree with me that is not possible for  
22          rate case expense to have been any lower in this  
23          case than that number?

24          **A     I'm not sure that's actually true, because**  
25          **wouldn't it be -- it would be the normalization**



1 **where they bring in 2020 --**

2 Q The total amount of rate case expense is  
3 quoted in your testimony, Mr. Payne.

4 **A For this case, is the 3,000. However --**

5 Q Exactly. So in this case, yes or no,  
6 could rate case expense have been lower than \$3,119  
7 as of day 150?

8 **A For what you're --**

9 Q Yes or no, Mr. Payne. Please answer my  
10 question.

11 **A No, then I guess.**

12 MS. ASLIN: Thank you, no further  
13 questions.

14 JUDGE HATCHER: Mr. Cooper?

15 RECROSS-EXAMINATION BY MR. COOPER:

16 Q Would it be your expectation based upon  
17 the non-unanimous stipulation that another mailing  
18 would be made in this case at the end of the case  
19 once the new rates are known?

20 **A I think for the increase that has**  
21 **happened, then it seems only right that that should**  
22 **be the --**

23 Q But whatever increase is ultimately  
24 awarded, they have -- the Company is going to have  
25 to send another notice in this case, isn't it?

1           **A     Yes.**

2           Q     So presumably even at 3,119 in rate case  
3     expense, they'd only be getting half of their  
4     ultimate rate case expense even if they didn't have  
5     legal representation, correct?

6           **A     Can you say that again?**

7           Q     So with the cost -- I believe you say the  
8     3,119 for this case, was wholly based upon the  
9     mailing and postage, correct?

10          **A     Yes.**

11          Q     And so if you assume that the Company at  
12     the end of this case is going to make another  
13     customer notice, their ultimate expense, even in  
14     that scenario, is going to be twice as much as what  
15     was built into the non-unanimous agreement, correct?

16          **A     If you look at it that way, are you saying**  
17     **that the 3,119 is just going to be the same amount**  
18     **for the second notice?**

19          Q     Uh-huh.

20          **A     And if you look at how Staff is taking**  
21     **their number over two years until the next rate**  
22     **case, if you took the 319 that is said in my**  
23     **rebuttal before I recommend amortization, the 319**  
24     **that would get covered over for two years would**  
25     **be -- could suffice for both of those.**

1 Q Yes, assuming it's normalized over two  
2 years?

3 A Yes, assuming.

4 Q But how do you -- let me look at this just  
5 real quick. I guess what I'm seeing your testimony  
6 is that you described as the current rate case  
7 expense as of the filing of your rebuttal testimony,  
8 correct?

9 A For this case, yes.

10 MR. COOPER: Okay. Thank you. That's all  
11 the questions I have.

12 JUDGE HATCHER: Thank you, and Redirect?

13 REDIRECT EXAMINATION BY MS. MARTIN:

14 Q Mr. Payne, Ms. Aslin asked you to read or  
15 to list the companies that they recommended the  
16 50/50 sharing recommend -- or the companies that  
17 they recommended the 50/50 sharing mechanism for  
18 Empire -- that you said Empire, American Water and  
19 Spire. Were there any other examples of cases where  
20 the -- or where the Staff recommended a 50/50  
21 sharing mechanism?

22 A Yes, there are. As Staff witness said  
23 earlier, the Twin -- make sure I -- Twin Hills -- or  
24 Indian Hills, sorry. Actually I just -- never mind.  
25 My address is Twin Hills, sorry. Indian Hills, they

1 recommended that as well and then also in the most  
2 recent Confluence case, Staff Witness Dhority in her  
3 direct -- direct testimony, page 8, line 17, also  
4 recommended a 50/50 sharing for rate case expense.

5 Q Okay. Is Confluence a bigger or a smaller  
6 company in the State of Missouri than Raytown?

7 A Are you talking water connections or --

8 Q Yeah, water connections.

9 A They are smaller than Raytown in the State  
10 of Missouri, yes.

11 Q Okay. Ms. Aslin also asked about your --  
12 the day 150 situation with the fact that we wouldn't  
13 be able to add these payments and things like that.  
14 Can you -- you began to answer her with why this was  
15 a slightly different than your Direct. Can you  
16 finish that answer for me?

17 A I'm not sure I really fully remember her  
18 question so --

19 Q Okay. Let me -- I will -- so this is  
20 not -- this isn't your surrebuttal, sorry. She  
21 referred to page 3 of your rebuttal testimony, I  
22 apologize, and she said that the day 150 numbers  
23 could not account for this rate case; is that  
24 correct? Do you remember that conversation?

25 A Yes.

1 Q And you began to respond as to why your  
2 thoughts may have changed between your rebuttal and  
3 your surrebuttal. Can you finish that answer for  
4 me?

5 A I -- I don't fully remember what I was  
6 going to say in that time period when she asked that  
7 question.

8 Q Was --

9 A So I think it's hard for me  
10 to actually answer.

11 Q Was there any solution that you had  
12 regarding the rate case expense as handled in this  
13 case -- to handle in this case?

14 A Well, solution for rate case expense that  
15 I gave was to exclude the normalization -- or the  
16 2020 case added with the current rate case and  
17 dividing those by two and taking those over two  
18 years. My initial recommendation was to exclude  
19 2020 rate case expense and go off solely of what  
20 rate case expense for the current case is, which is  
21 3,119 rounding up.

22 My second recommendation in my  
23 surrebuttal, moving on after Staff wanted to include  
24 attorney fees, was for there to be -- basically, to  
25 follow Commission precedent to add in a rate -- a

1 50/50 sharing mechanism for rate case expenses that  
2 are not the postage fees. So that is Mr. Cooper's  
3 fees, but that can also include if the Commission  
4 decides to include the 2020 case and do a -- do the  
5 average and going over, that would include  
6 accounting fees in 2020, so there should be a  
7 mechanism -- a sharing mechanism for that if that is  
8 truly how Staff wants to do their recommendation of  
9 normalizing for the next two years. That is kind  
10 of -- that is what I am saying for rate case  
11 expense.

12 Q Okay. So from the Bench and in response  
13 to a question by Mr. Cooper, you said that generally  
14 if someone is salaried, they work more than 40 hours  
15 a week. Is that the case for both of the salaried  
16 employees in this instance?

17 A That both salaried -- Mr. Clevenger and  
18 Ms. Clevenger?

19 Q Yes.

20 A From my knowledge, and I can't remember  
21 the exact DR, Ms. Clevenger, who is salaried,  
22 actually does not work 40 hours a week. She works,  
23 I think, it was 32 to 34 hours a week, but still  
24 gets paid her full salary.

25 Q Oaky.

1 JUDGE HATCHER: I need to clarify: who is  
2 Ms. Clevenger?

3 MS. ASLIN: Ms. Clevenger is a corporate  
4 secretary. She is -- yeah, she is also a  
5 member of Raytown Water. I apologize.

6 **THE WITNESS: Sorry.**

7 Q (By Ms. Martin) Okay. One moment, sorry.  
8 So give me one moment, I am looking at my notes. Do  
9 you still believe, when we're talking about the  
10 different things we've -- that the Commission has  
11 done, has the Commission ever amortized rate case  
12 expense?

13 A I do not know a specific case, but I have  
14 seen where part of rate case expense has been  
15 amortized, yes. And that is a depreciation study,  
16 which is there is no 50/50 sharing for.

17 Q Okay. And you said there have been other  
18 examples of the 50/50 sharing mechanism?

19 A Yes.

20 Q Okay. How much has Raytown been able to  
21 recover for their rate case expense since 2020; do  
22 you know?

23 A So currently rates -- rate case expense is  
24 I believe, \$5,146 over three years. It's  
25 effectively -- what were my exact -- \$15,429 in rate

1 case expense has been recovered so far since 2020.

2 Q Okay. Do you believe it is proper for  
3 customers to be the only -- to be required to pay  
4 the entire legal fees for the rate case expense?

5 A I do not believe that is proper for  
6 customers to pay for 100 percent of rate case  
7 expense that are other than customer notice and  
8 depreciation studies. I think there should be a  
9 sharing mechanism between the Company and the rate  
10 paper.

11 Q And why do you believe that?

12 A Well, one, is Commission precedent and  
13 it's been that way since 2017. And for the reason  
14 of it being a small water case, small assisted water  
15 case, doesn't seem right to me as Staff has pointed  
16 out from the previous witness, that a small water  
17 case had a 50/50 sharing in Indian hills. And that  
18 was for attorney fees and part of that  
19 was actually -- part of those attorney fees, one of  
20 attorneys in that case, they did not know what his  
21 expenses were going to be so they actually included  
22 it -- or excluded it, my bad, excluded it from their  
23 rate case expense. So they didn't even include it  
24 when they normalized that, and they actually  
25 normalized that amount over five years and made that



1     **number a lot smaller. That's not to impact the**  
2     **ratepayers.**

3           Q     And how many ratepayers were in that case?

4           A     **I do not know off the top of my head.**

5           Q     But it was small water?

6           A     **Yes.**

7           MS. MARTIN:   Okay, thank you. I am  
8     complete, and I now -- I was going to say I  
9     tender the witness but I don't think we do.

10          JUDGE HATCHER:   I just wanted to make sure  
11     there wasn't anything else. Excellent.  
12     Mr. Payne, you are excused from the witness  
13     stand subject to recall as we do.

14          **THE WITNESS:   Thank you.**

15          JUDGE HATCHER:   You're welcome, and  
16     welcome to the Public Service Commission.  
17     Ms. Martin, I believe we are on your last and  
18     the last witness in the case. Go ahead.

19          MS. MARTIN:   Give me -- give the OPC one  
20     moment. I believe that our witness stepped out  
21     for a second.

22          JUDGE HATCHER:   Well, let's use the time  
23     constructively. Anybody thinking about  
24     anything we need to bring up as we're going to  
25     be ending the hearing in the next short time

1 frame? I'm thinking we still have a due date  
2 for all of our paperwork. I'm -- I'm happy  
3 with two Fridays from now. That is a lot  
4 longer than: a, initially, we discussed, and it  
5 is a week longer than I normally give for late  
6 filed, et cetera, paperwork.

7 In this case, Thanksgiving is coming next  
8 week, and I am more concerned about briefs and  
9 the judge's responsibility to produce a draft.  
10 I'm more worried about those things than if you  
11 all can get in your paperwork in one week  
12 versus two. The transcript is going to take  
13 ten business days. I don't recall if this was  
14 the case where was it requested but nobody  
15 followed up to ask again. I think that's all  
16 the announcements we have and we have our  
17 witness in the box. So let's move with that.  
18 Thank you, ma'am. Please raise your right  
19 hand.

20 (Angela Schaben sworn.)

21 JUDGE HATCHER: Thank you, please have a  
22 seat. Ms. Martin, your witness.

23 DIRECT EXAMINATION BY MS. MARTIN:

24 Q Hello, Ms. Schaben. Can you please state  
25 and spell your name?

1           **A     Angela Schaben, A-n-g-e-l-a,**  
2           **S-c-h-a-b-e-n.**

3           Q     And by whom are you employed and in what  
4           capacity?

5           **A     The Missouri Office of the Public Counsel**  
6           **as regulatory auditor, utility regulatory auditor.**

7           Q     Are you the same Angela Schaben that  
8           prepared the prefiled testimony that has been  
9           premarked with Exhibits 209, 210 and 211?

10          **A     Yes.**

11          Q     Okay. Are there any corrections to your  
12          testimony?

13          **A     Yes. On surrebuttal page 11, line 13,**  
14          **should be 1993 instead of 1994.**

15          Q     Thank you. And other than that one  
16          correction, if I were to ask you the questions in  
17          your testimony today, would your answer be  
18          substantially the same?

19          **A     Yes.**

20          Q     Okay. Are those answers true and correct  
21          to the best of your knowledge?

22          **A     Yes.**

23                 MS. MARTIN: Your Honor, I offer Exhibits  
24                 numbered 209, 210 and 211 onto the record.

25                 JUDGE HATCHER: You've heard the motion by

1 Counsel; I'll combine the question into one.

2 Are there any objections to the admission of  
3 those exhibits? Hearing none, they are all so  
4 admitted.

5 (OPC Exhibits 209, 210 and 211 admitted into the  
6 record.)

7 JUDGE HATCHER: To repeat for the record  
8 209, 210, 211.

9 MS. MARTIN: I tender the witness for  
10 Cross-examination.

11 JUDGE HATCHER: Ms. Aslin?

12 CROSS-EXAMINATION BY MS. ASLIN:

13 Q Good afternoon. Could you turn to page 14  
14 of your direct testimony?

15 JUDGE HATCHER: Say the page again.

16 MS. ASLIN: 14.

17 JUDGE HATCHER: Thank you.

18 **A Yes, I have it here.**

19 Q (By Ms. Aslin) And just generally, the  
20 latter half of the page starting at line 15, would  
21 it be a proper characterization of your testimony to  
22 say that you are expressing concerns about Raytown  
23 Water being a family run business or employing large  
24 numbers of family members? I guess if you'd like, I  
25 can point you to a specific portion. Starting on

1 page 25, you say, "RWC's audit committee could not  
2 be not viewed as independent with its composition of  
3 two familial board members" --

4 MS. MARTIN: Objection, I don't see a page  
5 25.

6 MS. ASLIN: I said --

7 JUDGE HATCHER: 14.

8 MS. ASLIN: I said line --

9 MS. MARTIN: Oh, I thought you said page  
10 25, sorry.

11 Q (By Ms. Aslin) And the meetings consist of  
12 only family members. Further up.

13 A **It's hard to see how they can really be**  
14 **independent, if it's --**

15 Q So it would be fair to characterize that  
16 OPC has concerns about that?

17 A **There were concerns raised in the**  
18 **management audit.**

19 Q Does OPC still have concerns about that?

20 A **It really depends on -- I think it's fair**  
21 **to say there are some concerns.**

22 Q Okay. To your knowledge, is there any  
23 applicable statute or Commission rule prohibiting  
24 utilities from being family-run businesses?

25 A **Not that I'm aware.**

1 Q Could we move to your surrebuttal, page 2.  
2 Just let me know when you're there.

3 A I am here.

4 Q All right, starting at line 4, you state  
5 that, "Utility regulators exist specifically to  
6 combat situations such as this one where staff in  
7 Raytown are seeking to raise consumer rates by 42.5  
8 percent in a three-year period." Did I read that  
9 correctly?

10 A You did.

11 Q So do you believe that the Commission  
12 should only be looking at how much a customer is  
13 paying for utility service and ignore what rates are  
14 necessary for safe and adequate service?

15 A I don't think that's the characterization  
16 of that --

17 Q Okay.

18 A -- of that specific phrase.

19 Q We're going to move on now to the  
20 management audit. You are familiar with the 1993  
21 management audit, correct?

22 A I am familiar with the 1993 management  
23 audit.

24 Q And you would agree with me that that was  
25 30 years ago?

1           **A       It was 30 years ago.**

2           Q       And would you agree with me that that case  
3 was closed in the year 2000?

4           **A       It was closed after the implementation**  
5 **plans were satisfactory, which I believe was**  
6 **approximately around 2000.**

7           Q       Okay. Do you think Staff should not be  
8 allowed to change its approach to things, like  
9 Company management over a 30-year period?

10          **A       I think the fundamental principals of**  
11 **management still apply from 30 years ago.**

12          Q       Okay. Thank you.

13          **A       Yeah.**

14          Q       Is it possible that something Staff viewed  
15 as concerning in 1993 could be resolved in a way  
16 that was not detailed in the management audit? In  
17 other words, would you agree that most issues likely  
18 have multiple solutions?

19          **A       I think it depends on the issue.**

20          Q       Well, yes --

21          **A       What you're speaking.**

22          Q       So some could? Yes or no?

23          **A       It depends on the issue.**

24          Q       In regards to Raytown's current business  
25 practices, do you have any reason to believe that

1 Raytown customers have been harmed by any deviations  
2 from the recommendations in the 1993 management  
3 audit?

4 **A I think that's a general characterization**  
5 **that's difficult to quantify.**

6 Q So yes or no? Have -- do you have any  
7 reason to believe that they are being harmed or not?

8 MS. MARTIN: Objection, asked and  
9 answered.

10 MS. ASLIN: I don't know if I got a yes or  
11 a no.

12 MS. MARTIN: She said that it's hard to  
13 quantify.

14 MS. ASLIN: That's -- is that a no?

15 MS. MARTIN: I think that the implication  
16 is it's hard to -- for her to be able to say  
17 yes or no definitively since she cannot  
18 quantify whether or not they would be harmed or  
19 how much.

20 MS. ASLIN: Okay. Well, I can move on.  
21 So if you're uncertain, do you then have no  
22 empirical data to show that customers are being  
23 harmed?

24 **THE WITNESS: I think that would be a**  
25 **better question for a witness like Dr. Marke or**



1           **Mr. Robinette who reviewed --**

2           Q       (By Ms. Aslin) So you have no empirical  
3 data to show that Raytown customers are being harmed  
4 by any deviations from the management audit, is that  
5 correct?

6           **A       Myself? I don't.**

7           Q       Okay. Are you an expert in management  
8 audits?

9           **A       I have --**

10          Q       Yes or no, ma'am?

11          **A       Yeah.**

12                   MS. ASLIN: Thank you. I don't have any  
13 further questions.

14                   JUDGE HATCHER: Thank you. Mr. Cooper?

15                   MR. COOPER: Okay. I thought you were --

16                   JUDGE HATCHER: Oh, no, no.

17                   MR. COOPER: Sorry.

18                   CROSS-EXAMINATION BY MR. COOPER:

19           Q       Would you agree with me that Raytown Water  
20 is not a publicly traded company?

21           **A       They're not on the exchange that's**  
22 **monitored by SEC, if that's what you mean.**

23           Q       Would you also agree with me that board  
24 members are elected by shareholders?

25           **A       But board members are elected by**

1     **shareholders who are mostly the Clevenger family,**  
2     **right? Uh-huh.**

3           Q     I don't know if they mostly are.  
4     Certainly some are. In fact, I think your testimony  
5     says they're not majority but -- but -- so bottom  
6     line --

7           **A     Shareholders or board members?**

8           Q     Board members, I think in your testimony.  
9     But, regardless, going back to my -- kind of the  
10    start of this string, would you agree that board  
11    members are elected by shareholders?

12          **A     The board members are elected by**  
13    **shareholders.**

14          Q     And that's true of every corporation,  
15    correct?

16          **A     That is true.**

17                MR. COOPER: Okay. That is all the  
18    questions I have, Your Honor?

19                JUDGE HATCHER: Thank you. We will ask  
20    for commissioner questions. If there's any  
21    commissioner questions. I don't hear any. The  
22    Bench does have a couple and will of course ask  
23    the commissioners one more -- one more time.

24                QUESTIONS BY JUDGE HATCHER:

25          Q     I wanted to talk about the management

1 audit. Were there any specific recommendations from  
2 the management audit that OPC found that Raytown was  
3 not following?

4 A Yes. And that is the -- you know, the  
5 formal competitive bidding procedures, the automated  
6 generated ledger, the reimbursement of personal use  
7 of a company vehicle on a monthly basis at a  
8 competitive rate and, again, with the formal bidding  
9 process, the bidding for vehicles and the  
10 implementation of the accounting procedures, which  
11 required the charging of non-regulated businesses  
12 for the use of company resources, which I think I  
13 already said in a roundabout way.

14 Q (By Judge Hatcher) Okay. I'm counting  
15 three that you listed.

16 A I mean, those were my major -- the  
17 business management practices were my major ones.

18 Q If I recall and I reference one of the  
19 handouts from yesterday, which is this spreadsheet,  
20 and I don't -- this was attached to somebody's  
21 testimony. Oh, it was attached to your testimony,  
22 so it's already in evidence, but there are 48  
23 recommendations.

24 A Uh-huh, yes.

25 Q Does OPC have any reason to believe that

1 the majority are not being followed?

2 A Well, several of those recommendations are  
3 related to, like, field water technology that might  
4 be outdated now. It's the business recommendations  
5 that are still mostly relevant. They are  
6 relevant today.

7 Q Okay.

8 A I mean, not all of those recommendations  
9 are -- yeah.

10 Q You mentioned that a couple times and both  
11 in your prefile testimony and today, the concept  
12 that in 30 years, the management practices are  
13 generally remaining best practices. Those were the  
14 things -- do you have any empirical evidence to  
15 support that?

16 A Well, I've been with the State -- I've  
17 been a State employee for, like 19 years --

18 Q You spent a lot of time in IT, though.

19 A Three years. I spent three years in IT.

20 Q Okay.

21 A But around six or seven years, I've worked  
22 with contracts, procurement practices, directly and  
23 indirectly. You know, I've helped program  
24 managers --

25 Q So your call -- you're calling on your

1 previous experience and the direction of the  
2 employer being State of Missouri as your evidence  
3 those business practices are still relevant today?

4 **A Right. I've worked with program managers**  
5 **on writing, contract deliverables --**

6 Q Thank you. I don't need to go through  
7 that. How many employees do you know are in the  
8 State of Missouri working for the State?

9 **A Well, there's a lot of employees in**  
10 **general but --**

11 Q Yes.

12 **A -- the departments I've worked for are**  
13 **smaller, although there's, you know, each department**  
14 **can have its own policies and procedures regarding**  
15 **procurement.**

16 Q Okay. So would you disagree if I gave a  
17 range of state employees between 30,000 and 60,000?  
18 That that's the total number give or take as a good  
19 ballpark estimate of how many people work for the  
20 State of Missouri?

21 **A That's a good ballpark, but one individual**  
22 **department is not going to house all of those**  
23 **employees.**

24 Q How many departments are in the state  
25 government?

1           **A     About 13, give or take. 14.**

2           Q     And are you familiar with what OA means?

3           **A     Office of Administration.**

4           Q     And they do a lot of procedure of  
5 contracts over state government, right?

6           **A     They are the central office over  
7 procurement but the individual departments work on  
8 their own and collaborate with OA.**

9           Q     Do you know about how many employees  
10 Raytown has?

11          **A     It is about 17, approximately. But  
12 clearly, you know, a contract process is you can use  
13 it effectively, no matter what the size of the  
14 company.**

15                   JUDGE HATCHER: Okay. Thank you. I'll  
16 ask if there are any commissioner questions.  
17 Again, this is the last witness. Are there any  
18 commissioner questions for Ms. Schaben?  
19 Hearing none, let's go to Recross-examination.  
20 Ms. Aslin?

21                   MS. ASLIN: No questions.

22                   JUDGE HATCHER: Mr. Cooper?

23                   MR. COOPER: No questions.

24                   JUDGE HATCHER: Redirect?

25                   REDIRECT TESTIMONY BY MS. MARTIN:

1 Q Hello.

2 A Hello.

3 Q Ms -- Ms. Aslin asked you if there were  
4 concerns with Raytown Company being a family run  
5 business; do you remember that?

6 A I do remember.

7 Q Do you have happen to have your testimony  
8 with you? Including attachments.

9 A I have my testimony -- which attachments?

10 Q Attachment ADSD3. It is the initial brief  
11 of the City of Raytown for WR-9285?

12 A I don't have that attachment, but I do  
13 recall it.

14 Q Okay. I have it with me so I'm going to  
15 give you a little bit to read. It's not long. It's  
16 a sentence.

17 JUDGE HATCHER: Okay. What page should  
18 the rest of us go to?

19 MS. MARTIN: First page is page 1. It's  
20 page 1, and it's the first paragraph. Okay,  
21 thank you. Can you read the portion, I think  
22 it's the end of the paragraph where they speak  
23 about the number of family members working for  
24 Raytown. If I had mine in front of me I would  
25 point to it directly.

1 JUDGE HATCHER: Is the sentence beginning,  
2 "Not content", in the middle of the paragraph?

3 **THE WITNESS: Okay.**

4 JUDGE HATCHER: Is that the sentence,  
5 Ms. Martin?

6 MS. MARTIN: Yes.

7 **THE WITNESS: Okay. "Not content with**  
8 **providing well compensated employment for at**  
9 **least seven members of the Clevenger clan,**  
10 **including its 84-year-old matriarch, the**  
11 **Company also wants an additional \$495,374 a**  
12 **year in revenues from its ratepayers, which**  
13 **would result in an unprecedented 22 percent**  
14 **return on equity."**

15 Q (By Ms. Martin) Okay, and can you move to  
16 page 8 of that brief. It will also only be a  
17 sentence.

18 **A Okay.**

19 Q It's right before the surcharge. Can you  
20 read that last sentence?

21 **A "The City strongly recommends that before**  
22 **the next rate case in 18 months that the Commission**  
23 **order a management audit of this Company."**

24 JUDGE HATCHER: Okay, I'm not going to let  
25 her read that statement into record.



1 MS. ASLIN: Okay, yeah. I -- can you  
2 express the general. Not --

3 JUDGE HATCHER: It's already in evidence  
4 that everyone can read it that needs to if you  
5 need to cite it.

6 MS. MARTIN: So could you fair to state  
7 that in the City's view, the quote --

8 MR. COOPER: Objection.

9 JUDGE HATCHER: Yeah --

10 MR. COOPER: I don't think the witness  
11 should be --

12 JUDGE HATCHER: Yeah.

13 MR. COOPER: -- what the City says.

14 MS. MARTIN: Okay.

15 Q (By Ms. Martin) Does the City say anything  
16 about addressing the family run business aspect of  
17 Raytown in this brief?

18 **A I believe so.**

19 Q Okay. And they are concerned?

20 **A They are concerned.**

21 Q Okay. So Ms. Aslin also asked if the  
22 issues could be solved in ways that are not brought  
23 up in that management audit. Do you remember that  
24 conversation?

25 **A Yes.**

1 Q Okay. Are the issues that the OPC has  
2 brought up in this case relating to that -- that  
3 relate back to that management audit solved in your  
4 opinion?

5 A No.

6 Q Okay. So you -- one of the examples you  
7 gave of examples of -- that they were not fulfilling  
8 was not utilizing the competitive bidding process.  
9 Do you remember that?

10 A Yes.

11 Q Okay. Can you give an example of not  
12 utilizing that competitive bidding process?

13 A For the AMI investment.

14 Q And do you know around about how much that  
15 AMI investment was?

16 A Well, originally, it was estimated to be  
17 around 3.8 million, but now it's -- well, the last I  
18 saw it was over four million.

19 Q Okay. So do you think that it is a harm  
20 to customers for there not be a competitive bidding  
21 process in consideration with that AMI?

22 A Yes.

23 Q Okay. Mr. Cooper asked about how the  
24 Commission handles private corporations. Do you  
25 remember that conversation?

1           **A     Yes.**

2           MR. COOPER: I'm going to object --

3           **THE WITNESS: Public --**

4           MR. COOPER: I didn't think my questions  
5 related to how the Commission handles private  
6 corporations --

7           MS. MARTIN: What your -- I'm sorry, can  
8 you repeat that question that you had asked?

9           MR. COOPER: I believe I stated they were  
10 not a publicly traded --

11          MS. MARTIN: Oh, that's what it was.

12          MR. COOPER: -- company. Nothing to do  
13 with regulation by this commission certainly.

14          MS. MARTIN: Okay, I apologize. Okay. So  
15 pardon me.

16          Q     (By Ms. Martin) So Mr. Clevenger  
17 characterized this -- Mr. Cooper, sorry,  
18 Mr. Clevenger. As a not publicly traded Company; is  
19 that correct? Okay. Do you remember the  
20 conversation discussing this company as a not  
21 publicly traded conversation?

22          **A     I remember.**

23          Q     Okay. So with -- with publicly traded  
24 utilities, is it normal for them to still have  
25 regulations despite not being publicly traded?

1           **A     Yes.**

2           Q     Okay.  You talked a little bit about the  
3 automated, the -- one of the other requirements was  
4 the automated general ledger and the automation of  
5 the financing.  Do you remember that?

6           **A     I remember.**

7           Q     Okay.  Do you know if there's been any  
8 struggle with the automated general ledger -- with  
9 the general ledger not being automated for Raytown  
10 in this case?

11          **A     There has been a struggle getting**  
12 **information, such as the month end financial**  
13 **statements and -- well, an accurate amount entered**  
14 **into the ledger related to the vehicles that were**  
15 **sold.**

16          Q     Okay.  And regarding the financial  
17 statements that you just discussed, do we -- have we  
18 been able to get any of their financial information  
19 in a timely manner in this case?

20          **A     Not that I recall.**

21          Q     Okay.  So we asked about the State of  
22 Missouri, how many employees -- Judge Hatcher asked  
23 how many employees the State of Missouri has; do you  
24 remember that?

25          **A     I remember.**

1 Q Do you know how many individuals in  
2 Missouri -- live in Missouri?

3 A I think it's over 6 million now,  
4 approximately.

5 Q Okay.

6 A Maybe.

7 Q And can you reiterate with me how many  
8 connections or customers exist for Raytown Water?

9 A Was it approximately 6,500?

10 Q Okay. And so poor management decisions,  
11 do you think that that affects -- monetarily affects  
12 600 -- or 6,500 people more or less than 6 million?

13 A More.

14 Q Okay.

15 A Economies of scale.

16 Q Okay. Does the State of Missouri or OA  
17 require competitive bidding for large scale capital  
18 projects?

19 A They do.

20 Q Okay.

21 A Last I checked it was anything over either  
22 ten or 20,000 require competitive bidding.

23 Q Okay. And given that you stated if there  
24 would be more of an affect on customer -- on pardon  
25 me -- on mismanagement for 600 -- 6,500 customers

1 than for the 6 million of Missouri, do you think  
2 that means that the management of those financials  
3 is more or less important that it would be for the  
4 State of Missouri?

5 **A More important.**

6 MS. MARTIN: Okay, thank you. I am  
7 complete. Or I am finished.

8 **THE WITNESS: What about the other --**

9 MS. MARTIN: Oh. Well, I don't think we  
10 can enter it in. We have records so -- we just  
11 had just some driving records. No questions.  
12 It was -- yeah, don't worry about.

13 JUDGE HATCHER: Okay, understood.  
14 Ms. Schaben, appreciate your being here to  
15 testify today. You are excused, not subject to  
16 recall because you're the last witness.

17 **THE WITNESS: Okay.**

18 JUDGE HATCHER: Let's talk about next  
19 steps. December 6 is initial post-hearing  
20 briefs. December 13th are reply briefs. That  
21 date matches the Staff-assisted rate case  
22 timeline, which is why that date was chosen, I  
23 believe. Today's the 17th, so I'm expecting  
24 transcripts in a maximum of ten business days,  
25 which is next Friday, December 1st. Yes.

1 MS. ASLIN: Will that be affected by the  
2 holiday.

3 JUDGE HATCHER: Will what be effective  
4 (sic)?

5 MS. ASLIN: The transcripts.

6 JUDGE HATCHER: I -- they have a ten-day  
7 business -- they have ten business days under  
8 contract.

9 MS. ASLIN: Okay.

10 JUDGE HATCHER: So the latest would be two  
11 Fridays, ten business days. And that second  
12 Friday is December 1st, I believe. Somebody  
13 will throw something at me if I'm wrong but --

14 MS. ASLIN: Would it be possible to  
15 expedite? Since -- this is I think where  
16 you're talking about -- we didn't bring that --  
17 sorry about that.

18 JUDGE HATCHER: So here's the problem.  
19 It's a small company rate case and expedited  
20 transcripts cost double.

21 MS. MARTIN: Who pays for the  
22 expeditation -- expedited?

23 JUDGE HATCHER: Typically, the Commission.  
24 I -- boy, that is subject to check. Somebody  
25 will tell me when I get upstairs, I'm sure.

1 But you should know, I've gotten in a lot of  
2 trouble for ordering expedited transcripts when  
3 I first got here because I did not know the  
4 price doubled. So I just was, like, oh, yeah,  
5 sure, we'll do that.

6 So, I just wanted to put that in  
7 everybody's head that that's happening. I  
8 would like to talk about the two notices that I  
9 will produce to us on Monday. Notice of all  
10 exhibits admitted. That is the general and  
11 standard practice, that will just be a list of  
12 all the numbers that we have admitted, so that  
13 all parties have one piece of paper that they  
14 can go to show person's name, rebuttal. Okay.

15 Then the second one, I will be issuing a  
16 notice of orders given during this hearing. It  
17 just summarize all these little things, that  
18 I'm going to go over now. Assigning an errata  
19 sheet to the Company. I'll figure out who it  
20 was when I listen to the tape. I'm assigning  
21 an errata sheet to -- to everybody -- I can't  
22 read my writing. Response to -- I'll figure  
23 that one out in a minute. So then I'm also  
24 going to be putting in that notice I ordered  
25 Exhibit 400. Those are work papers regarding



1 Truck 20206; that was Staff. Exhibit 401, that  
2 was the known and what's the rest of that  
3 phrase?

4 MS. ASLIN: Measurable.

5 JUDGE HATCHER: Thank you. Known and  
6 measurable. I put it in my notes but I only  
7 got like the first four letters. Known and  
8 measurable case expenses. I've already given  
9 all the little details what we're looking for.  
10 402 was the Suez presentation. That was an  
11 Attachment A to the application in the finance  
12 case. The judge took notice of that and will  
13 file that as a paper exhibit copy. And  
14 Exhibit 403 requesting the copy from the  
15 company of its USG contract, and I am  
16 specifically requesting Mr. Cooper to review  
17 that contract for confidentially information.  
18 Please make sure that that review is included  
19 in your rate case cost of service, sir.  
20 Billing or whatever it is.

21 MR. COOPER: As on -- while we're on that,  
22 as a hint on my errata sheet, I believe it's  
23 Ms. Thompson is the only person for us that we  
24 have.

25 JUDGE HATCHER: Is -- okay. Have we set a

1 date for all of this to be due? The errata  
2 sheet, the exhibits, blah, blah, blah. Let's  
3 set a Thursday, November 30th. I know that  
4 that is close to the -- it's a week away from  
5 initial briefs, but, and this is a big heads up  
6 for anybody who might be objecting to any of  
7 these exhibits, I am going to set a short time  
8 period of one day for objections.

9 The reason I am making it shorter than the  
10 norm is this case has a compressed time frame.  
11 We are also giving two weeks in between now and  
12 that submission. I expect that any review that  
13 would take place would not be taking place in  
14 the 24 hours between when it's due and when  
15 objections are due. So I just want to make  
16 that clear. I'm going to give the parties  
17 extra time to submit it, but I'm only going to  
18 give one day for objections, because I figure  
19 at that point, you know if you want to object.  
20 Just file something, okay? And so due date of  
21 Thursday the 30th. Are there any other matters  
22 before I adjourn this proceeding? Excellent.  
23 We are adjourned and off the record.

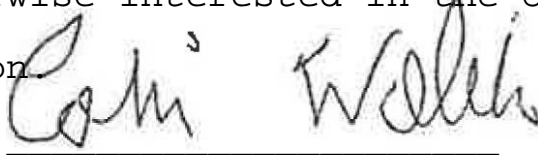
24 (Hearing was adjourned at 2:46 p.m.)  
25

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1 I, Colin Wallis, in and for the State of  
2 Missouri do hereby certify that the witness  
3 whose testimony appears in the foregoing  
4 Examination Under Oath was duly sworn by me;  
5 that the testimony of the said witness was  
6 taken by me to the best of my ability and  
7 thereafter reduced to typewriting under my  
8 direction; that I am neither counsel for,  
9 related to, nor employed by any of the parties  
10 to the action in which this examination was  
11 taken, and further that I am not relative or  
12 employee of any attorney or counsel employed by  
13 the parties thereto, nor financially or  
14 otherwise interested in the outcome of the  
15 action.

  
Colin Wallis

16  
17 within and for the State of Missouri  
18  
19  
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25

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