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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

In the Matter of)
Missouri-American Water)
Company's Request for) File No. WR-2024-0320
Authority to Implement)
a General Rate Increase for)
Water and Sewer Service in)
Missouri Service Areas)

WEDNESDAY, NOVEMBER 13, 2024

11:00 a.m.

Jefferson City, MO 65101

via WebEx

VOLUME VIII

KEN SEYER, Presiding
REGULATORY LAW JUDGE

Reported by: Melissa Eicken

1 LAW JUDGE SEYER: Let's go on the record.
2 Today is November 13th, 2024. It's 11:00 o'clock a.m.
3 The commission has set this time for a discovery
4 conference in the case captioned as In the Matter of
5 Missouri-American Water Company's Request for
6 Authority to Implement a General Rate Increase for
7 Water and Sewer Service Provided in Missouri Service
8 Areas. It's Commission File Number WR-2024-0320.
9 This conference is being conducted via video and phone
10 only on Cisco Webex.

11 My name is Ken Seyer. And I am the
12 regulatory law judge in this matter. And we'll begin
13 with the attorneys making their entries of appearance,
14 beginning with the company.

15 MR. COOPER: Judge, this is Dean Cooper
16 from the law firm of Byrdon, Swearingen, and England,
17 PC, appearing for Missouri-American Water Company.

18 LAW JUDGE SEYER: All right. Thank you.

19 MR. LUFT: Judge, this is Tim Luft,
20 appearing for Missouri-American Water Company.

21 LAW JUDGE SEYER: All right. And for the
22 Commission Staff.

23 MS. ASLIN: Casi Aslin for Commission
24 Staff.

25 LAW JUDGE SEYER: Thank you. And for the

1 Office of the Public Counsel.

2 MR. CLIZER: John Clizer with the Public
3 Counsel.

4 LAW JUDGE SEYER: All right. And I see
5 Mr. Coffman is on as well.

6 MR. COFFMAN: Yes. John Coffman, appearing
7 on behalf of Consumers Council and AARP.

8 LAW JUDGE SEYER: All right. Thank you,
9 Mr. Coffman.

10 The Commission set this discovery
11 conference at the request of the Office of the Public
12 Counsel and pursuant to Commission Rule 20 CSR
13 4240-2.090 Sub 8, Sub B. Mr. Clizer indicated in an
14 e-mail sent to me yesterday and to the other parties
15 that there was a discovery dispute between OPC and
16 Missouri-American Water Company.

17 So Mr. Clizer, please describe for me that
18 discovery dispute.

19 MR. CLIZER: Certainly. And to begin, I'm
20 going to speak slowly and clearly. For whatever
21 reason I begin to break up, please let me know. The
22 dispute can broadly be grouped into four categories,
23 one of which we might have a pending resolution on.
24 And I have been in contact with the company. We might
25 have some potential resolutions on the others, but

1 due to the shortness of time between now and the
2 filing of direct testimony, I'm going to run through
3 all four just at high level. The first concerns the
4 company's objection and refusal to answer OPC DRs
5 3004, 3005, 3006, and 3009. If the company and the
6 Commission wishes, we can kind of discuss those
7 individually, but I'm grouping them together because I
8 felt that the objections were primarily the same
9 across all of them, and I just -- for expediency.

10 LAW JUDGE SEYER: Yeah.

11 MR. CLIZER: So, again, at a very high
12 level, and I invite the company to disagree or correct
13 me if they feel I'm not paraphrasing this correctly,
14 but these four DRs are effectively asking for more or
15 less information from American Water Company, the
16 parent company or other affiliates concerning board of
17 directors, minutes, materials or other documents that
18 were created pursuant to ongoing operations. And I
19 apologize. I'm trying to paraphrase to keep things
20 simple. And I believe that the objections made were
21 primarily on the basis of relevancy, and I believe
22 maybe subject to control. Tim and/or Dean, if you
23 want to jump in and correct me if I've misspoken
24 there.

25 MR. COOPER: Yeah. That's correct. Those

1 are the two primary objections. When it gets back
2 around, I think I've got a little bit extra to add,
3 but -- but I would agree with you, John.

4 MR. CLIZER: All right. These are all
5 information, and again, I can go at a higher level if
6 you -- if the Commission so desires or if we need to,
7 but we believe that all of the information that we are
8 requesting is relevant in as far as it helps to have a
9 understanding of the affiliate financing transactions
10 that occur between American Water Company and its
11 financing arm, the American Water Capital Corporation
12 and Missouri-American Water. And again, at just a
13 high level Missouri-American Water receives debt
14 financing through debt issuances made by
15 Missouri-American Water -- sorry, American Water
16 Capital Corporation which is an affiliate, so.

17 We're trying to get information from those
18 affiliates to understand the debt offerings that
19 they're issuing to help understand the financial
20 impacts on Missouri-American Water Company. And the
21 information that we are requesting was requested
22 predominantly similarly in the last Missouri-American
23 Water case which was 2022, and I believe that the
24 Commission ultimately ordered the company to provide
25 that information. So we are more or less attempting

1 to just recreate what was done in the last case.

2 And I'm going to pause here. I have, I
3 should say, in the room with me, because the other
4 parties cannot see, Mr. David Murray and Mr. John
5 Riley, the two experts who had issued those DRs. So
6 if the Commission has a question, may defer to either
7 of the experts to clarify if I misspoke.

8 LAW JUDGE SEYER: Okay. I think I
9 understand the nature of your -- of the first dispute.
10 And -- and Mr. Cooper, would you like to respond
11 further?

12 MR. COOPER: Yeah. Why don't we do that,
13 and then -- if that's okay, and then Mr. Clizer can
14 move on to the other categories.

15 Real briefly, as -- as Mr. Clizer
16 mentioned, the -- our -- one of our objections is, you
17 know, this is Missouri-American Water Company. It's
18 the entity that operates in the State of Missouri.
19 It -- it's certainly subject to the jurisdiction of
20 the Commission and none of the records that are being
21 referred to in this category are Missouri-American
22 records. They're all American Waterworks records.
23 Essentially, no possession, custody or control is a
24 part of that. It -- the Commission has before made a
25 finding that Missouri-American has no legal authority

1 to obtain information and documents from its corporate
2 parent and affiliates. And we think that is certainly
3 the case from a legal standpoint. Missouri-American
4 is limited to requesting this information from
5 American Water, and it -- and it really has no way to
6 unilaterally provide any of this American Water
7 information.

8 I would also note that it's my
9 understanding that -- that to the extent this -- this
10 goes further, that Chuck Hatfield here in Jefferson
11 City has been engaged or in the process of being
12 engaged for the purpose of representing American
13 Water. I -- I certainly don't.

14 It -- a couple of things, Mr. Clizer talked
15 about information related to the affiliate
16 financing -- financing transactions. 3005, you know,
17 doesn't limit itself in that way. It wants all
18 minutes, presentation materials, and handouts for the
19 American Waterworks board of director meetings from
20 January 1st of 2023 to current. Similarly, 3,006,
21 wants all audit, finance, and risk -- risk committee
22 meeting minutes, presentation materials, and handouts
23 for the same time period, so. It -- on their face,
24 they're not limited to -- to transactions or the
25 financing transactions that were referenced. On

1 3,009, that one's a little different. That's the one
2 that asks for impairment evaluations. They're --
3 Mr. Clizer is -- is correct, that the company did not
4 provide any -- any documents. I will note that -- in
5 that response, the company did explain that annually
6 there's an assessment of qualitative factors to
7 determine whether a quantitative testing is necessary
8 and that the 2019 impairment report which has been
9 provided is the most recent quantitative assessment
10 that's been performed by the company on the company's
11 goodwill, so. I -- that -- that one's a little
12 different in that there has been a narrative response
13 and what we believe to be the most recent quantitative
14 calculation for -- for that issue has been provided.

15 One -- one more thing. Mr. -- Mr. Clizer
16 mentioned that ultimately the company was ordered to
17 provide these documents in the last case. I don't --
18 I don't agree with that. I think that what was really
19 ordered was for American Water to produce these --
20 these documents because the -- the OPC had filed a
21 motion asking for an order, and I don't have the
22 statutory provision right in front of me, but. It may
23 be 386.480, but they had filed for a separate order to
24 direct American Water to provide those, not
25 Missouri-American. That's what I have at this time,

1 Your Honor.

2 LAW JUDGE SEYER: All right. I'm not sure,
3 Emily, are we actually recording this?

4 EMILY WALTHERS: Yes, sir, we are.

5 LAW JUDGE SEYER: Okay. Because I'm not
6 seeing an indication on my screen that it is being
7 recorded. Thank you. And I apologize.

8 MR. LUFT: There's a little red dot up at
9 the top. I think that means it's recording.

10 LAW JUDGE SEYER: Thank you. And I'm
11 seeing a chat message from Brian Bear.

12 So Mr. Bear, if you'd like to enter your
13 appearance.

14 MR. BEAR: Yes. I apologize. I -- I
15 didn't want to interrupt the parties in the middle of
16 their argument. Brian Bear on behalf of the City of
17 Riverside. I was logged on via phone, but, you know,
18 now I'm on the -- the Webex. My entry of appearance
19 will be filed shortly with the Commission. But
20 otherwise, I'm just here to listen. Thank you.

21 LAW JUDGE SEYER: Okay. All right. Okay.
22 Mr. Clizer, anything further on the first category?

23 MR. CLIZER: So a couple of things. And
24 first, just as a general question, I guess, to
25 Missouri-American water, have you requested the --

1 these documents from American Water Company?

2 MR. COOPER: Yes.

3 MR. CLIZER: And your parent company has
4 refused to provide them?

5 MR. COOPER: They have not provided them.

6 MR. LUFT: Not yet. We'll see.

7 MR. CLIZER: Do you know what the time
8 frame or when they would potentially be able to
9 respond?

10 MR. LUFT: Well, so you know, Chuck
11 Hatfield represents them, and he's just being engaged,
12 and then they want to talk to him about what's being
13 requested and go through it, and I guess, they will
14 confer with their attorney and make a final decision
15 on what they're going to provide to us.

16 MR. CLIZER: All right. I'm just going to
17 cut to the point here. Obviously, there's a potential
18 that we go down the route that happened in the last
19 case where we have to file pursuant to the Commission
20 requesting information directly from American Water
21 Company. That would require a lot of, you know, work,
22 not just on our end, but for the American Water
23 Company, and I would assume that Missouri-American
24 Water would like to forestall that work. If, you
25 know, we can short circuit that by having American

1 Water Company provide the information and
2 Missouri-American can then provide to us, that would
3 be a -- feel a tremendous reduction on the workload of
4 everybody involved here, but you know, that also is
5 contingent on the timeliness of how quickly those
6 things can go. And I appreciate that the company is
7 currently claiming that it effectively doesn't have
8 the ability or capacity to determine that because
9 American Water Company is a separate legal entity --
10 even though Missouri-American Water Company is a
11 wholly owned subsidiary. I would just point out that
12 to the extent that we're attempting to get a
13 resolution that doesn't necessitate having to do
14 additional filings before the Commission, that seems
15 like it would be a clear avenue forward, if something
16 can be worked out.

17 Then specifically with regard to 3009, my
18 understanding from what Mr. Cooper stated was that the
19 company provided the last quantitative analysis. It
20 is our understanding that there is an annual
21 qualitative analysis. So I guess, my question is,
22 does the company or are you aware -- this is to
23 Missouri-American Water, whether there is a 2019 or
24 2020 qualitative analysis of the goodwill impairment
25 review.

1 MR. COOPER: Well, I think -- yeah. I
2 think the way we responded to that, that DR indicates
3 that there is a qualitative assessment done annually.

4 MR. CLIZER: So -- so there is a
5 qualitative assessment that would exist that could --
6 theoretically be responsive to this. I just want to
7 confirm that such a thing exists because the way you
8 had described it earlier seemed to suggest that it
9 might not, and I want to make sure that's clear.

10 MR. COOPER: Well, we're quickly getting
11 beyond my knowledge once we branch out beyond what's
12 indicated in that 3009 response, so. I will beg off
13 going beyond that.

14 MR. LUFT: I just don't have authority to
15 speak on behalf of American Water. Simply put. I
16 just don't represent them.

17 MR. CLIZER: Well, then I would turn to the
18 judge and I would say, you know, clearly, I think that
19 the -- the Commission will have to make some kind of
20 determination vis-a-vis, the argument that there is a
21 lack of control, but does the Commission need
22 additional argument regarding the relevance of these
23 documents, since that was another part of the
24 objection?

25 LAW JUDGE SEYER: Yeah. I mean, if you

1 can -- if you can help me understand a little bit
2 better how these documents are relevant to this case,
3 yeah.

4 MR. CLIZER: Sure. All right. This is
5 going to require a little bit more time, and I might
6 defer again to my expert here or he might interrupt me
7 if I misspeak, but I'm just going to go through the
8 four individually at a high level. So 3004 --

9 LAW JUDGE SEYER: Let me interrupt you,
10 Mr. Clizer. It -- is it -- is it your intention
11 following today's conference to file a formal motion
12 to compel?

13 MR. CLIZER: Only to the extent that it
14 would be necessary. I mean, if I can reach some kind
15 of resolution without going down that path, that would
16 be ideal, too.

17 LAW JUDGE SEYER: Okay. I was just --
18 it -- if -- if that was the path we were going down,
19 you know, maybe that would be something that you would
20 present in writing in your motion. But, no. I'm
21 sorry, go ahead. Go ahead and --

22 MR. CLIZER: Again, I stress, like, the OPC
23 wants these documents. I intend to pursue them in
24 some form or fashion. If the Commission is going to
25 go down the path of saying that it has to be taken up

1 before American Water Company, then I can leave off
2 this discussion right now, because that will be done
3 as part of that determination or if we believe that
4 the documents might be able to be produced through
5 Missouri-American Water within a timely enough fashion
6 that they could be utilized for direct rebuttal
7 testimony that we have coming up December 6th or at an
8 absolute minimum for the responsive testimony that
9 would follow that, you know, and the company is not
10 going to stand on the relevance objections, then that
11 would be another solution that wouldn't necessarily
12 have to go through this, so.

13 MR. COOPER: Yeah. I don't think we're
14 going to solve that on -- on this call.

15 MR. CLIZER: So then, Judge, which would
16 you prefer? What would you ask of me at this point --
17 juncture?

18 LAW JUDGE SEYER: Well, if you can
19 summarize why -- summarize your relevancy argument for
20 me.

21 MR. CLIZER: Okay. I'm going to try and do
22 that as relatively quickly as I can. And 3004 was
23 a -- related to the American Water Capital
24 Corporation's debt issuances, since January 1st, 2023,
25 and requested copies of all investment, bank,

1 financial advisor presentations, copies of all
2 materials presented, discussed at American Water
3 Company -- sorry. American Waterworks Company finance
4 committee meetings, and copy of all materials
5 presented, discussed at American Waterworks Company's
6 board of director meetings. We believe this is
7 relevant because the American Water Capital
8 Corporation is the financing subsidiary of American
9 Waterworks Company. It issues debt directly to
10 third-party debt investors, and then lends the
11 proceeds from this debt to American Water and American
12 Water's subsidiaries include Missouri-American Water
13 Company who is the company at the -- in this case.
14 The cost of the debt loaned to MAWC through affiliate
15 promissory notes should be based on the terms of the
16 bonds issued by the American Water Capital
17 Corporation. This is directly relevant to
18 Missouri-American Water's requested rate of return for
19 purposes of setting its revenue requirement. And the
20 funds American Water Capital Corporation loans to
21 American Water are used to make equity contributions
22 to its subsidiaries which includes Missouri-American
23 Water Company.

24 So Missouri-American Water Company is
25 requesting an equity return from -- for American

1 Water's debt finance capital, i.e., equity infusions.
2 Effectively, it's double leveraging to use the shorter
3 term. The requested information is to provide
4 information about the debt securities that are priced
5 based on the risk and return profile of American Water
6 based on the risk and return profile of its water and
7 wastewater subsidiaries.

8 And OPC Witness Murray had discovered
9 information and decisions related to parent company
10 debt issuances which prove that the company -- the
11 parent company is not optimizing a lower cost of
12 capital at the utilities' subsidiary level.
13 Effectively, that the parent company is utilizing the
14 parent subsidiary relationship in order to boost its
15 capital returns and is, therefore, purposely
16 mismanaging the capitalization of the subsidiary,
17 which we believe would generate an argument for why
18 the Commission should utilize a different
19 capitalization methodology than the actuals.

20 Does that make sense? Would you like me to
21 continue to the next one or are there any questions
22 related to that one?

23 LAW JUDGE SEYER: No. I don't have any
24 questions.

25 MR. CLIZER: All right. For 3005, we

1 requested all copies or to make available for review
2 all American Waterworks Company board of directors,
3 minutes, materials, related documents, and all
4 accompanying materials or handouts presented or
5 distributed whether electronic presentations or
6 materials in hard copy format during the period
7 covering January 1, 2023, through the most recent
8 period available. We believe that this is relevant
9 because substantive financing strategic investing
10 decisions are made at the parent company level.
11 American Water targets a more leveraged capital
12 structure -- between 40 percent to 45 percent common
13 equity -- than it requests for purposes of setting
14 Missouri-American Water's rate of return -- which is
15 about 50 percent common equity. Access to American
16 Water's internal deliberations, discussions, and
17 approvals of investing and financing decisions is
18 likely to lead to discovery of evidence that
19 contradicts the arguments it makes in testimony. For
20 example, in the past rate case, American Water Company
21 has threatened to limit investment in
22 Missouri-American Water if the Commission sets
23 Missouri-American Water's rate of return based on a
24 capital structure consistent with that of American
25 Water. Missouri-American Water has also asserted that

1 if its the ratemaking capital structure was set
2 similar to American Water's this would cause its risk
3 profile to increase to the point that it might
4 hypothetically have to have a below investment grade
5 risk. American Water has gone so far as to seek
6 privately issued credit ratings for Missouri-American
7 Water, not available to the public or used to attract
8 debt capital to attempt to prove this point. Access
9 to American Water's substantive financing strategic
10 investing discussions at board of director meetings
11 may allow the production of evidence that either
12 confirms or contradicts Missouri-American Water's
13 testimony.

14 OPC Witness Murray has frequently cited to
15 parent company board of director's materials and
16 discussions in its rate of return testimony to provide
17 the Commission with relevant information related to
18 assessing the reasonableness of overall cost of
19 capital estimates and the assumptions used to derive
20 them.

21 Are there any questions related to that one
22 or would you like additional information?

23 LAW JUDGE SEYER: No questions.

24 MR. CLIZER: All right. With regard to
25 3006, this was asked to provide all copies and -- or

1 to make available for review all American Waterworks
2 Company's audit, finance, and risk committee meetings,
3 and the -- meeting minutes, related reports,
4 documents, and all accompanying materials or handouts,
5 presented, distributed, whether electronic
6 presentation in material and hard copy format during
7 the period covering January 1, 2023, through the most
8 recent period available. And similar to the
9 explanation of the prior one with the understanding
10 that American Water's audit, financing, and risk
11 committee materials will have more details related to
12 American Water's financing strategies for itself and
13 its subsidiaries.

14 OPC Witness Murray has frequently offered
15 finance and risk evidence from parent company finance
16 committee or similar types of committees, materials
17 which provide insight into the company's internal
18 reviews on the capital market and cost of capital
19 conditions which differ from the company's ROR
20 witness. I want to really emphasize that last point.
21 We've had multiple cases where the company's own
22 internal documentation contradicts the testimony being
23 presented by the company to the Commission from its
24 rate of return witness, and we believe that that
25 contradiction demonstrates both the reasonableness,

1 the truthfulness of the rate of return witness as well
2 as the reasonableness of our own position.

3 MR. COOPER: John, is that allegation as to
4 Missouri-American, specifically or just general
5 experience from the Office of Public Counsel?

6 MR. CLIZER: I would say generally. But
7 it's certainly information that we look for in every
8 company at a minimum for that reason. Any other
9 further questions?

10 LAW JUDGE SEYER: No. Go ahead, Mr.
11 Clizer.

12 MR. CLIZER: Very will. And lastly, 3009,
13 in response to Staff Data Request Number 15,
14 Missouri-American Water Company provided 2019 goodwill
15 impairment evaluation. However, according to American
16 Waterworks Company's annual SEC 10-K filing, page 35,
17 American Waterworks Company performs a goodwill
18 impairment review annually, so we -- please provide
19 the American Water Company's annual goodwill
20 impairment review since January 1, 2020. And again,
21 the relevance here is that American Water has
22 \$1.1 billion of goodwill on its balance sheet in the
23 recent years, and in order to ensure that it's
24 carrying value of water and wastewater assets are not
25 overstated, American Water's required to at least

1 qualitatively assess the financial risk and profile of
2 its regulated utility assets. This may include
3 estimated investment growth, usage growth, economic
4 growth, and environment considerations which may
5 impact the value of American Water's utility assets.
6 The more directly related to the cost of capital
7 American Water's assessments will also consider
8 whether changes in the cost of capital have caused the
9 value of its regulated utility assets to change. In
10 past, Missouri-American Water testimony OPC Murray has
11 specifically introduced information from goodwill
12 impairment test to reveal the company's views on cost
13 of capital for purposes of valuing its investments.

14 LAW JUDGE SEYER: All right. Any response,
15 Mr. Cooper?

16 MR. COOPER: Yes, Judge. Thank you. As to
17 304 -- or 3004, I should have mentioned this earlier,
18 I believe that there has been a response to Sub 1,
19 copies of all investment, bank, financial advisor
20 presentations that was requested, so I -- I think
21 that -- that our dispute here really concerns Sub 2
22 and Sub 3. I would note that in -- in response to
23 Mr. Clizer's statement about relevance and talking
24 about these debt issuances, these information about
25 the debt issuances, I believe has been provided to the

1 Office of Public Counsel. It is this discussion at
2 the finance committee, potentially or discussion,
3 potentially, at the board of director's meetings that
4 they're really looking for in that one. They do have,
5 again, the issuances themselves that they can utilize
6 how they deem appropriate within the case.

7 3005 and 3006, Mr. Clizer talked about
8 financing discussions that they're interested in, and
9 I would remind, as I said earlier, that that's not how
10 those DRs are limited. They ask for all discussions
11 in both instances, minutes, presentation materials,
12 and handouts, not merely those related to financing
13 matters. So I guess, as related to relevance, it's --
14 say, it's overbroad. And in 3009, as indicated
15 before, yes, there are qualitative assessments done.
16 However, only if there's a need, is there a
17 quantitative assessment. The OPC has the most recent
18 quantitative assessment, and by virtue of the fact
19 that American Water's publicly traded, any negative
20 result from that would have a requirement for
21 essentially release to the public, so. The -- the
22 absence of that, I think tells them what they need to
23 know. But that's what I have to say about those four.

24 LAW JUDGE SEYER: All right.

25 MR. CLIZER: So may I respond just very

1 briefly on that?

2 LAW JUDGE SEYER: Yes.

3 MR. CLIZER: On a couple of high level
4 notes, I want to point out, and this is just broadly
5 across the spectrum, kind of remind people of the
6 nature of the relevance objection at the discovery
7 level, it should be viewed very -- construed very,
8 very broadly. I mean, the purpose here is just trying
9 to have a -- more of an understanding. The actual
10 basis is -- you know, is it likely to even lead to
11 the -- the admission of possible evidence, not even
12 whether itself is admissible, so. I just kind of want
13 to continue to throw that out there broadly. With
14 regard specifically to the idea that, well, we have
15 the issuances themselves, that's not the point. The
16 point here is, trying to understand what
17 Missouri-American Water and/or its parent and
18 affiliates state behind closed doors with regard to
19 those issuances. When I say behind closed doors, I
20 mean, within their board of directors minutes and
21 materials which is information that should be
22 discoverable, but it's really getting to the idea of,
23 yes, we know what they've said, and now we want to
24 know what their internal assessment is.

25 And then with regard to the quantitative

1 and qualitative, I mean, again, I can let Mr. Murray
2 speak up, if I'm incorrect here, but if the
3 qualitative report exist, they have potential relevant
4 information. I don't know why I should be limited to
5 just quantitative reports.

6 LAW JUDGE SEYER: All right. Okay. Is
7 that everything regarding the first category?

8 MR. CLIZER: As it relates to the
9 relevance, and again, we've already discussed the
10 issue related to the control. I mean, I would
11 continue to posit that I respect the legal reality
12 that these are technically different organizations,
13 but note the completely owned subsidiary nature of
14 Missouri-American Water Company. I continue to
15 believe that this is being utilized more as a screen
16 to prevent the discovery of important documents, but
17 you know, I'm prepared to move forward if the
18 Commission chooses to go down the path that was walked
19 last rate case. I would prefer if at all possible to
20 avoid having to force that on everybody, though.

21 LAW JUDGE SEYER: All right. Okay. What
22 is the second category in dispute?

23 MR. CLIZER: All right. The second
24 category in dispute concerns DR 1300 which was
25 complete and unredacted -- we requested complete and

1 unredacted copies of the company's tax returns in
2 electronic format. And we received --

3 DAVID MURRAY: The response to staff was
4 that they would be made available at a location agreed
5 to.

6 MR. CLIZER: Right. And we have received
7 the electronic formats in the past. And, so we're
8 just simply asking for the electronic format copies
9 again. I believe that's effectively it.

10 MR. COOPER: And Mr. Clizer and I discussed
11 this a little bit the other night at the local public
12 hearing. We -- we believe that -- and not that this
13 is the answer to everything, obviously, but we believe
14 that in the last case, because of the sensitive nature
15 of these tax returns, that Mr. Riley came to my office
16 initially to review those, and then we worked with him
17 on some copies that he needed after he had first taken
18 a look at it, and I think we're -- we're certainly
19 willing to take that same approach.

20 LAW JUDGE SEYER: Okay. So are you saying,
21 Mr. Cooper, this potentially is something that can be
22 worked out?

23 MR. COOPER: Well, I think that's probably
24 a question for Mr. Clizer. He was going to -- when we
25 spoke last, he -- he did not have a reaction to that.

1 I think he was going to speak with his -- his folks,
2 so. That -- that's at least a -- a way to work it out
3 that's on the table.

4 MR. CLIZER: Dean, is your offer -- would
5 that include unredacted copies of those tax returns,
6 being made available for physical review?

7 MR. COOPER: I'm only hesitating because I
8 don't remember, John, what we had last time. I -- I
9 would need to look.

10 MR. CLIZER: Judge, give me one second, if
11 you would, please.

12 LAW JUDGE SEYER: Uh-huh.

13 MR. CLIZER: I mean, again, I -- I don't
14 know -- I don't want to be too difficult of a person
15 here, but we have gotten the electronic copies in the
16 past. It's a substantial ease on our resources to be
17 able to -- to have access to those even if they were
18 the redacted versions. So I would ask the company
19 to -- to reconsider sending us the electronic copies.

20 MR. COOPER: We -- I mean, all I can say
21 sitting here is, we can talk about it.

22 LAW JUDGE SEYER: Okay.

23 MR. CLIZER: So at this stage, Judge, it
24 doesn't seem like there's necessarily a dispute as to
25 the provision of the information as much as the

1 methodology by which the information might be
2 provided, so. I would suggest that we maybe talk more
3 offline, the OPC and the company, and that the
4 Commission simply recognize that the rule requirement
5 has been met on this to the extent further filing
6 would be necessary unless you want to make a direct
7 ruling of some kind now.

8 LAW JUDGE SEYER: No. Let's see if -- if
9 the two of you can get to a resolution on this.

10 MR. CLIZER: Okay. I am going to move on
11 then.

12 LAW JUDGE SEYER: Yes.

13 MR. CLIZER: This next one is a little
14 unorthodox, and it actually concerns effectively a
15 staff data request, number 52, which the OPC, based on
16 the information it has access to, believes the company
17 has provided incomplete reply to staff.

18 Now, the reason the OPC is bringing this up
19 is because the OPC intends to rely on staff's data
20 response or rather, the company's response to staff's
21 data response in order to forego needing to send our
22 own duplicate DR. And I think as a matter of course,
23 in order to cover our bases, we have already, in fact,
24 sent a duplicate DR of this, so. We're in a little
25 bit of a weird position here, I will grant, because we

1 are discussing an OPC concern with an incomplete
2 response that is the mirror to the DR that's already
3 been provided to staff, if that makes a degree of
4 sense there.

5 LAW JUDGE SEYER: Yes.

6 MR. CLIZER: I'll pause just in case the
7 company wants to -- or anybody else, for that matter,
8 wants to address what I just said.

9 MR. COOPER: Yeah. Only in that -- yeah.
10 We would agree 52 is a staff DR that the company
11 believes it's responded to. We also agree that we've
12 received, you know, 3010, the DR you referenced. I
13 note that it's not very far along, that we haven't
14 gotten to either -- certainly, haven't gotten to a
15 response deadline and have -- have not gotten to
16 the -- the objection deadline for that one either as
17 of today, so.

18 MR. CLIZER: And that is all accurate. Do
19 you have any response directly to the issue related to
20 the idea that it's an incomplete response?

21 MR. COOPER: Only -- only in that -- and
22 this somewhat goes back to where we talked -- what we
23 talked about earlier, that Missouri-American, you
24 know, gets -- can respond with what documents it
25 receives from American Water. These, again, are

1 American Water documents, not Missouri-American Water
2 documents, and we certainly believe that -- that
3 everything we have has been provided in response to 52
4 or maybe even that we can have. You might -- I don't
5 know whether you were involved or not, but this won't
6 come as a surprise to you that maybe in the last case
7 some of this issue came up, and there was -- it became
8 apparent that -- that some of these reports were given
9 to American Water under agreement that American Water
10 would not release them further. So we kind of have --
11 there's a complicating factor in there, but in terms
12 of Missouri-American, we certainly believe that we
13 have provided a complete response to 52.

14 LAW JUDGE SEYER: And Mr. Clizer, you
15 really did not touch on it, but what was the nature --
16 or if Ms. Aslin, if you'd like to respond, what's the
17 nature of the data request?

18 MR. CLIZER: I'm going to -- unless
19 Ms. Aslin wishes to speak up, I was going to turn it
20 over to Mr. Murray to explain it.

21 DAVID MURRAY: This is David Murray with
22 the Office of Public Counsel, technical person, not an
23 attorney, but anyway.

24 LAW JUDGE SEYER: Uh-huh.

25 DAVID MURRAY: That's a DR request, copies

1 of all broker, you know, investment analyst, equity
2 research on -- on the parent company, American Water,
3 for a defined period of time. I think staff's DR had
4 it from January 1st, 2022 as -- as Mr. Cooper pointed
5 out -- and I guess, I don't think we -- I don't know
6 that we brought this in front of the Commission. I
7 might have -- I think I mentioned it in my testimony,
8 but I believe Mr. -- I think I received an e-mail from
9 Brian LaGrand in the last case indicating that there
10 was some firms, Wells Fargo comes to mind, maybe
11 research, I don't remember, that they said they were
12 waiting for approval from those firms to -- before
13 they would provide copies of those. I -- I'm just --
14 I mean, obviously, we're involved with a lot of other
15 companies here in Missouri, and I never encountered
16 this problem with -- you know, with those other
17 utility companies, so. You know, that's why we're,
18 you know, bringing this up because I noticed that
19 there was quite a few, you know, equity research firms
20 that cover American Water where no reports were
21 provided in response to the staff DR, so that's why,
22 you know, we're bringing it to -- it to your attention
23 and indicating, you know, although, I would prefer to
24 try to, you know, understand investors' views of
25 American Water and subsidiaries to the full extent

1 possible because that's very important in
2 communicating what investors' views are for expected
3 or required rate of return, I do have to rely on
4 the -- the company to -- to cooperate with us to -- to
5 provide us access to that information on coverage of
6 their parent company.

7 LAW JUDGE SEYER: Okay.

8 MR. COOPER: I guess, ultimately, I'm not
9 sure that -- in going back to where we started with
10 this, I'm not sure it's really ripe for action yet,
11 Judge. But I -- I think the parties at least
12 understand one another, if that -- to what extent that
13 accounts for anything here, so.

14 LAW JUDGE SEYER: Right.

15 MR. CLIZER: Well, on that note, I would
16 ask then -- and again, a bit unorthodox here, but in
17 the event somewhere down the line that -- that we
18 receive a response to our DR that suggests that it's
19 effectively the same as what staff received, and we
20 continue to believe that there's an issue, would it be
21 permissible at this point to suggest that we have
22 foregone with the -- with the requirements of the rule
23 as it relates to having this discussion right now
24 then? In other words --

25 LAW JUDGE SEYER: Yes.

1 MR. CLIZER: -- is there any reason to
2 suspect that we're going to have to do this again?

3 LAW JUDGE SEYER: No. I -- it would
4 satisfy the rule.

5 MR. CLIZER: Okay. In that case, then, I
6 think -- I think that takes care of that.

7 LAW JUDGE SEYER: Okay.

8 MR. CLIZER: All right. If there's nothing
9 else on that one, I will move on to the last one. And
10 this one actually is the one we -- I think we might
11 have a resolution. I -- and the only reason I'm
12 bringing it up here, again, is -- is in order to
13 satisfy the rule just in case. We had requested
14 information on American Water Company's standalone
15 cost of long-term debt. We had requested that in a
16 DR. It would appear that based on some e-mail
17 exchanges today that information -- the company has
18 stated that information is -- has been made available
19 through a -- a staff data response, and I think we are
20 just in the process of attempting to confirm that we
21 can find it, and I -- one second. Dean, are you --

22 MR. COOPER: Yeah. I was -- I think --
23 Mr. Clizer, I think there's been a little bit more
24 communication since then. It may be Mr. Murray
25 tapping you on the shoulder, but. If this is 3002, I

1 think -- we've taken a look -- we understand now what
2 Mr. Murray is -- is -- was pointing out and at least
3 working on a solution to that, so.

4 MR. CLIZER: So, yeah. I mean, again, as
5 long as the company is -- I'm prepared to wait on that
6 as long as we can --

7 JOHN RILEY: Yeah. Brian La Grand, I
8 received your e-mail, and I replied to it, and I
9 appreciate that. And I think we're -- I think you
10 know, but I could not derive that information from
11 what has been provided, so. You know, Mr. LaGrand
12 said he was looking into it, and I think we're heading
13 in the right direction there.

14 MR. CLIZER: But, again, just for the sake
15 of it, I would like the Commission to reflect, if
16 possible, that the rule has been dealt with in the
17 event that there's some future breakdown here,
18 although, I am cautiously optimistic that we'll reach
19 an agreement, and nothing further will need to proceed
20 for this one.

21 LAW JUDGE SEYER: Right. Right. It'll be
22 so noted that you satisfied the rule on that.

23 MR. CLIZER: All right. So that's the high
24 level of the four disputes. Or three and asterisks
25 one --

1 LAW JUDGE SEYER: Uh-huh.

2 MR. CLIZER: -- if you will.

3 LAW JUDGE SEYER: All right. Then, I
4 guess, my question is, where do we go from here?

5 MR. CLIZER: Well, as I indicated before,
6 I -- it sounds like we might have a solution --
7 definitely sounds like we have a solution to that
8 fourth one. It sounds like we might definitely have a
9 solution to the second one. Try to figure out exactly
10 how we're going to exchange the information. The
11 third dispute that was raised, I appreciate everyone
12 saying that it's not ripe. I think that's a fair
13 statement, but you can understand why I believe I took
14 the position I did and with regard to first one.

15 LAW JUDGE SEYER: Uh-huh.

16 MR. CLIZER: Again, I recognize the
17 company's arguments related to its belief that it
18 doesn't have control over those documents. I think
19 that I've established the relevance of those
20 documents. And I would prefer, if at all possible, if
21 American Water provides those documents to
22 Missouri-American Water, and they timely enough
23 provide them to us, it would forego any additional
24 filing. The entire difficulty comes down to one of
25 timing that while --

1 LAW JUDGE SEYER: Uh-huh.

2 MR. CLIZER: -- I appreciate
3 Missouri-American Water's representation that it
4 doesn't have, you know, that information to -- doesn't
5 know the timing component of it at this stage, if I
6 can get some kind of concrete understanding of when a
7 decision would be made, that would help.

8 MR. COOPER: And I acknowledge Mr. Clizer's
9 point there. I -- I think we left at least
10 temporarily those four for a little additional
11 conversation whether it's between me and Mr. Clizer or
12 the -- or Missouri-American Water and Mr. Clizer or
13 counsel for American and us and Mr. Clizer to -- to
14 see where we are for sure. I -- I think that some
15 additional conversation would be worthwhile.

16 LAW JUDGE SEYER: Uh-huh.

17 MR. CLIZER: And I think we're prepared to
18 work with that with the understanding -- and I keep
19 coming back to this, that if things fall through, and
20 we feel like it's necessary to bring this to the
21 commission's attention, that the rule has been met
22 with, and that I'm free to proceed with filing a
23 motion to compel and/or in the alternative some kind
24 of motion to request documents directly from American
25 Water Company. I mean, I believe that what we've done

1 in the past will most likely repeat itself if we can't
2 reach some other kind of agreement, but I need the --
3 I need to follow through all the whole checklist
4 requirements.

5 MR. COOPER: Yeah.

6 MR. CLIZER: So I'm prepared to continue
7 working with Missouri-American Water to try to resolve
8 this. And, so I need that in the alternative.

9 MR. COOPER: Yeah. We believe that, that
10 would be reasonable, John. Or Mr. Clizer.

11 LAW JUDGE SEYER: And then, Mr. Clizer,
12 just to make sure I've got this straight, can you go
13 through the DRs by category that are in dispute? Just
14 kind of a review for me and make sure it's --

15 MR. CLIZER: All right.

16 LAW JUDGE SEYER: You're working with this
17 day to day. This is all kind of new for me, so.

18 MR. CLIZER: So the first four --

19 LAW JUDGE SEYER: Uh-huh.

20 MR. CLIZER: -- which I grouped together
21 are --

22 LAW JUDGE SEYER: Uh-huh.

23 MR. CLIZER: -- 3004, 3005, 3006, and 3009.

24 LAW JUDGE SEYER: Uh-huh.

25 MR. CLIZER: And they all, in general,

1 relate to information controlled by or not controlled
2 by, that's not the word I want to use.

3 MR. COOPER: You're afraid to do so.

4 MR. CLIZER: Information related to
5 Missouri-American Water's parent company or
6 affiliates, primarily their board of directors
7 minutes, materials, et cetera, or other documents that
8 have been prepared on their behalf such as the
9 quantitative or qualitative goodwill impairment
10 studies.

11 LAW JUDGE SEYER: Right.

12 MR. CLIZER: Try to leave that broad.

13 LAW JUDGE SEYER: Uh-huh.

14 MR. CLIZER: So I don't have to be
15 corrected. The second one is, requesting specific
16 access in electronic format to the unredacted company
17 tax returns.

18 LAW JUDGE SEYER: Uh-huh. And I believe
19 you indicated that was DR 1300?

20 MR. CLIZER: 1300, correct.

21 LAW JUDGE SEYER: Okay.

22 MR. CLIZER: The third one concerns what we
23 believe to be missing information related to what was
24 staff 52, and we have effectively duplicated it, I
25 believe, as OPC DR-3010, and I -- I will completely

1 concede that has not come due yet, but. Again, I feel
2 like it's fairly obvious how we did what we did. And
3 then the last version -- sorry, last one was 3012 --
4 No. 3002.

5 LAW JUDGE SEYER: Okay.

6 MR. CLIZER: And that concerns the American
7 Water Company's standalone cost of long-term debt,
8 which we are, sounds like, potentially, going to be
9 able to resolve.

10 LAW JUDGE SEYER: Okay.

11 MR. CLIZER: Does that answer your
12 question?

13 LAW JUDGE SEYER: Yes, it does. And
14 that actually reflected what I was jotting down as --
15 as it was being discussed, so that gives me a little
16 assurance that I didn't miss any DRs or there weren't
17 any -- we weren't talking about DRs that -- that the
18 two of you are familiar with but had not actually been
19 brought up today. So is there anything further today?

20 MR. CLIZER: I don't have anything further.

21 LAW JUDGE SEYER: Okay. And if you all
22 agree that there's nothing further to discuss today,
23 let's go off the record and -- or adjourn the hearing
24 and go off the record.

25 (Audio ended.)

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I, Melissa J. Eicken, Certified Court Reporter of Missouri (957), Certified Shorthand Reporter of Illinois (084-004481) and Registered Professional Reporter (55739), do hereby certify that I was asked to prepare a transcript of proceedings had in the above-mentioned case, which proceedings were held with no court reporter present utilizing an open microphone system of preserving the record.

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Date: November 24, 2024

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