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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI
TRANSCRIPT OF PROCEEDINGS
RULEMAKING HEARING

In the Matter of the)
Commission's Proposed Rule)
20 CSR 4240-60.050 and)
Proposed Rescission of 20 CSR) File No. SX-2025-0116
4240-3.305 Relating to Filing)
Requirements for Sewer)
Utility Applications for)
Certificates of Convenience)
and Necessity)

-- AND --
In the Matter of the)
Commission's Proposed Rule 20) File No. WX-2025-0117
CSR 4240-50.060 and Proposed)
Rescission of 20 CSR)
4240-3.600 Relating to Filing)
Requirements for Water)
Utility)
Applications for Certificates)
of Convenience and Necessity)

-- AND --
In the Matter of the)
Commission's Proposed Rule)
20 CSR 4240-10.185 Relating) File No. OX-2025-0118
to Petitions for Water and)
Sewer Infrastructure Rate)
Adjustment)

December 18, 2024
1:00 p.m. - 1:50 p.m.
James C. Kirkpatrick Building
600 West Main Street, Jefferson City, Missouri 65101
Volume 1

NANCY DIPPELL, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

KAYLA HAHN, Chair
GLEN KOLKMEYER,
JOHN MITCHELL,
COMMISSIONERS

Reported By:
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Exhibit Instructions:

Exhibits were retained by PSC.

STAFF EXHIBITS

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Exhibit 1

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1 Proceedings began at 1:00 p.m.:

2 JUDGE DIPPELL: We can go ahead then and
3 go on the record. The Commission has set this time
4 for a Rulemaking hearing in three cases. They are
5 SX-2025-0116, WX-2025-0117, and OX-2025-0118. And
6 those are all the rules -- rulemaking matters, both
7 proposed rules and proposed rescissions, and I'll
8 just read off those rules. I'm not going to read the
9 whole captions.

10 The proposed rule in 20 CSR 4240-60.1 --
11 or sorry, .050 is a proposed rule and a proposed
12 rescission in that same case of 3.305. And then in
13 the 0117 case, 20 CSR 4240-50.060 is the proposed
14 rule and the proposed rescission is in 3.600. And in
15 the 0118 case is 20 CSR 4240-10.185 is the proposed
16 rule and there is no other rescission in that one.

17 So my name is Nancy Dippell; I'm the
18 regulatory law judge presiding over this hearing
19 today. And we've come here today for comments.
20 This -- these rules were published in the Missouri
21 Register on November 15th and this time and place.
22 We are in the Secretary of State's Office, the James
23 C. Kirkpatrick office building because of our hearing
24 rooms being under some renovations.

25 So I think with that, what we're going to

1 do, since this is a rule comment hearing, we don't --
2 we don't need to take entries of appearance. You
3 don't have to be represented by counsel to make
4 comments. Anyone can make comments on the rules.
5 But I will ask if you're speaking on behalf of a
6 company or organization, that you identify that as
7 well as yourself when you give your comments. And
8 that anyone that would like to give comments speak
9 into a microphone. You're welcome to stay at the
10 tables if you're at a table with a microphone or you
11 can come to the podium.

12 I'm going to let Staff go last, but then
13 I will let anyone else make any further responses as
14 we go. So if you need to comment on something
15 someone else said, you can do that, or the prefiled
16 comments. And we're going to take it each case
17 separately so that we can keep straight which rules
18 are being discussed. So we'll just start in
19 numerical order with the Sewer case first and -- and
20 go down the line and we'll do the WSIRA case last.
21 So are there any questions before we get started?

22 MR. COOPER: Judge, I guess a question
23 for you. Given that there's some overlap, actually
24 quite a bit between the Sewer and the Water proposed
25 rules, would it be possible just to take those two

1 together?

2 JUDGE DIPPELL: If -- if we can keep them
3 straight, then -- I thought about doing it that way.
4 Is that the general consensus, that it's easier to
5 take the Sewer and Water together? We can do that.

6 MR. COOPER: Thank you.

7 JUDGE DIPPELL: Just when you're giving
8 your comments, make sure that you identify if it's
9 pertaining to the Sewer case versus the Water case.
10 I know there were some differences in the comments
11 there, but. Okay. We can do that. So let's go
12 ahead then and begin and I'll ask if OPC wants to
13 starts us off.

14 MS. MARTIN: Sure.

15 JUDGE DIPPELL: We can begin with the
16 Sewer and the Water rules, the first two cases;
17 they're all Water.

18 MS. MARTIN: This is Anna. I can never
19 tell if that's on. I do apologize and please --

20 JUDGE DIPPELL: Identify yourself and who
21 you're --

22 MS. MARTIN: So my name is Anna Martin.
23 I am associate counsel with the Office of Public
24 Counsel and we are here to provide our comments today
25 on the Sewer and Water CCN proposed rules. I will

1 say that we have filed additional comments in the
2 WSIRA rule, but we have -- have no oral comments to
3 make at this time. So most of the comments are --
4 are set up to be mostly about the Water and Sewer
5 rules.

6 So the office of the Public Counsel would
7 like to praise the work that PSC Staff has done to
8 improve the Water and Sewer CCN regulations as well
9 as to create the WSIRA rule. From the OPC's point of
10 view, the proposed rules on today's docket clarify
11 the Commission's processes and expectation and --
12 expectations, excuse me, which benefits the
13 utilities, the Commission Staff, as well as the
14 public.

15 In addition to the statements that we
16 will be making today, the OPC has filed comments in
17 the three Rulemaking dockets which the Commission
18 Staff has acknowledged and supports. The Public
19 Counsel wishes to recognize in particular Staff's
20 decision to includes requirements from the proposed
21 rule for the Sewer company CCNs in the proposed rule
22 for the Water utility CCNs. The OPC hopes that the
23 Commission takes the OPC's files -- filed comments as
24 well as Staff's agreements into consideration when
25 determining its ultimate treatment of these proposed

1 rules.

2 Finally the Public Counsel would like to
3 respond to a few suggested edits from Missouri
4 American Water Company, which Staff has also shown
5 support for. Before addressing these points of
6 disagreement, the OPC would like to state that by and
7 large we do agree with MAWC's suggestions; there are
8 merely a few areas we would wish to address. And I
9 will say again as I stated earlier, the concerns that
10 we are sharing now do all relate to the proposed CCN
11 rules.

12 So the first area of concern for the OPC
13 regards MAWC's proposed changes to the, both the
14 Sewer and the Water proposed rules. That's in
15 subsection two. They requested the addition of the
16 statement "unless a public vote has been held."
17 The -- the OPC is concerned with this addition
18 because there have been instances, two recent
19 instances of communities voting to approve the sale
20 of a municipal water system which then had unforeseen
21 issues with the public. If the Utility is not
22 required to inform a system's existing customers when
23 it files a CCN for that system, it may not notify
24 individuals who are unaware that such a vote even
25 took place and were not members of the voting public.

1 Further, for sister -- system customers who have
2 concerns or comments that they would like to -- the
3 Commission to consider when reviewing the CCN
4 application, they will not be given the information
5 required to make those public comments.

6 The second concern that the OPC has found
7 with MAWC's additions to the proposed Water and
8 Sewer CCN rules is -- can be seen in section 3 as
9 well as in the subsection of section 3 which is
10 subsection 3A9. In both portions of the proposed
11 rule, MAWC suggests including languages that would
12 account for instances where the system that the
13 eligible utility is seeking to buy from does not have
14 the information that the regulation requires.
15 However, one of the benefits that the Commission will
16 gain through the promulgation of these rules is the
17 guidance and specificity that the rule otherwise
18 provides.

19 It is well-known that bad facts make for
20 bad law. Therefore, the OPC believes that creating a
21 regulation with an acquired system's failed
22 bookkeeping in mind undercuts the goals of the
23 proposed regulation. Rather, the OPC believes it
24 would be appropriate to promulgate the rules as
25 written and permit the -- the acquiring utility to

1 request a waiver with the Commission to account for
2 the system's poor prior bookkeeping.

3 And other than that, we have no further
4 comments to make at this time.

5 JUDGE DIPPELL: Thank you. And I forgot
6 to acknowledge that Commissioner Mitchell is online
7 and Commissioner Kolkmeier has also joined us.

8 Commissioners, do either of you have any
9 questions for Public Counsel at this time?

10 COMMISSIONER KOLKMEYER: No. Thank you,
11 Judge.

12 JUDGE DIPPELL: Thank you, Commissioner
13 Kolkmeier.

14 COMMISSIONER MITCHELL: No, not at this
15 time.

16 JUDGE DIPPELL: Thank you, Commissioner
17 Mitchell. And if I -- I'll ask if you all have
18 questions at the end of each commenter. And if -- if
19 I don't hear a response, we'll just assume that you
20 don't. And if you have questions as we go, just jump
21 in. I know it can be cumbersome to mute and unmute
22 and try to make sure you're muted when you want to be
23 muted and not when you don't want to be.

24 So, all right. Then I'll just go to
25 Mr. Cooper. I am not sure who all you're

1 representing today. I heard it was several --
2 several entities.

3 MR. COOPER: That's true, your Honor.
4 But first I believe Mr. LaGrand is going to be making
5 some comments on behalf of Missouri American Water
6 Company.

7 JUDGE DIPPELL: All right. Mr. LaGrand.

8 MR. LAGRANDE: Thank you, Judge. My name
9 is Brian LaGrand. I'm the rates director for
10 Missouri American Water, and I've provided comments
11 on all three rules last week. I appreciate Staff's
12 efforts in -- in putting these rules together. I
13 think a lot of it, you know, a lot of it lays out the
14 process that we -- that we currently follow between
15 our application and discovery requests. I think a
16 lot of this just kind of formalizes things that were
17 being already today, so that's, you know, that's
18 great.

19 And I -- and I see that Staff I believe
20 in most cases had agreed with some of proposed
21 changes we made. And the -- and the changes we made,
22 we proposed were really more in just the, you know,
23 from our experience in the implementation of these,
24 you know, in execution of these applications and some
25 of the pitfalls that can come up.

1 So I think, you know, one area I want to
2 talk about and I'll address the comments -- the
3 comments that OPC made because they're related. In
4 both the Sewer and the -- well, in the Sewer
5 proposal, Staff's initial draft, it included a
6 requirement that we file a very detailed rate base
7 calculation using uniform system of account
8 designations and so forth. You know, we had noted
9 that was not in the Water rule, and I think OPC had
10 suggested it would be best to have that in both
11 rules. I think Staff agreed with OPC.

12 So one area of concern about that for us,
13 and this kind of ties in with OPC's other concern, is
14 that with these acquisitions or acquisitions that are
15 part of a -- of a CCN case -- and I know not every
16 CCN case is always an acquisition -- but the -- a lot
17 of times the data that is listed out here is, just is
18 not available. You know, I've been involved in
19 between 40 and 50 acquisitions that Missouri American
20 Water has done in the last 15 years in some capacity.
21 And, you know, we've literally had to sort through
22 shoe boxes of receipts, and Staff I'm sure has
23 experienced some of that as well. Even some larger
24 communities that we have acquired don't have, you
25 know, the records that are listed here.

1 So when it comes to the rate base
2 calculation, I think there's -- that one in
3 particular I think has some concerns for us because,
4 number one, a rate base determination is not made by
5 the Commission as part of a -- of a certificate case.
6 That's made in a rate case. So it's unclear why that
7 level of specificity would be required for a CCN
8 application. And because -- because that's not part
9 of the acquisition of the CCN case, that also creates
10 an issue with one of OPC's suggestions about the -- I
11 think their two suggestions were to include like a
12 purchase agreement, and that's something that the
13 Company does today, and I don't think the Company has
14 really concerns about that.

15 But their second suggestion was -- was
16 talking about whether or not there's an acquisition
17 premium and if there's a plan of recovery. Without
18 knowing rate base, like knowing definitive what rate
19 base is, I -- you can't say for sure that there is a
20 premium or there is not a premium. So I think things
21 related to rate base I think are best -- are best
22 resolved in the context of a rate case itself because
23 those -- because, like I said, rate case
24 determination not -- is not made currently in the
25 certificate cases.

1 And one maybe final comment on OPC's
2 concern about the qualifier that we had suggested for
3 section 3 which, you know, which -- which provides,
4 you know, these things will be required or will be
5 provided if available, you know, I don't know that
6 there's been any acquisition that I've been involved
7 in, like I said it's between 40 and 50 of them, where
8 they've had everything on this list, you know.
9 Sometimes, you know, these are not always -- they're
10 often not sophisticated buyers, they're not large
11 cities being acquired. It could be a subdivision, it
12 could be a mom-and-pop operation where they -- they
13 don't even have financial statements.

14 You know, so in OPC's suggestion that we
15 file a waiver, like a waiver would be requested every
16 single case because the way -- the way it was drafted
17 is that if any of one of these things were not -- not
18 included, then the case could be subject to
19 dismissal. And if that's the, you know, if a case
20 could be dismissed because we can't produce an
21 electric bill, you know, that's really going to tamp
22 down some of the utilities' interest in making these
23 transactions. And there's a lot of time and effort
24 that goes into getting up to the point where the
25 application is filed.

1 You know, we provide all the information
2 that we have and work with the sellers to get things
3 for Staff, the requests and data requests and, you
4 know, we provide a lot of information up front as
5 well. But I think the -- I think it's important to
6 have an "if available" qualifier in there because
7 it's a -- this -- this whole list of things is great
8 in a perfect world, but I don't think we've ever done
9 an acquisition that would -- that would have all
10 these things.

11 I think that -- and those comments apply
12 to both the Water and the Sewer rules, I have the
13 same comments for both.

14 JUDGE DIPPELL: Thank you, Mr. LaGrand.
15 Commissioners, are there any questions for Missouri
16 American at this time? Not hearing any, so thank you
17 sir. Mr. Cooper.

18 MR. COOPER: Thank you, Judge. I'm going
19 to have very brief comments for Confluence Rivers
20 Utility Operating Company, Inc. and for Liberty
21 Utilities Missouri Water, LLC, and then just a couple
22 of tag ons to Mr. LaGrand in terms of Missouri
23 American Water Company.

24 I'll start by saying that Confluence
25 Rivers has asked me to convey that they have no

1 objection to the comments, the reply comments I guess
2 I would -- I would refer to them that the Staff filed
3 late yesterday.

4 Liberty Utilities has asked me to convey
5 that they are supportive of Missouri American's
6 comments in this -- in these Rulemakings, both Water
7 and Sewer.

8 The few additional things I'd like to
9 say, first, and this is just kind of a wordsmithing
10 thing. If the 12B that Staff has proposed in both
11 Water and Sewer with its filing yesterday remains in
12 the rule, I think it does need a little bit of
13 rewriting. It talks currently about whether an
14 acquisition premium exists and if the purchasing
15 facility intends to seek recovery of the cost on the
16 ratepayer. It probably reads better if it says
17 whether an acquisition premium exists and if the
18 purchasing utility intends to seek recovery of such
19 premium in future rates.

20 The other thing in response to OPC's
21 comment about the public vote language that had been
22 proposed in both Water and Sewer by Missouri American
23 Water Company, I would just note that in this rule
24 when we're talking about a seller, we're necessarily
25 talking about a seller that's not currently regulated

1 by this Commission. It's going to be a municipality,
2 it's going to be a water district, it's going to be a
3 homeowner's association, it's going to be maybe
4 somebody that should be regulated but is not at that
5 point in time. And so I think we start really from
6 the spot that we're going to be dealing with entities
7 that are not going to have records in the same way
8 that a regulated entity would.

9 And I say that because certainly, it's my
10 belief anyway, that where we're talking about a
11 seller that is a regulated utility, we're really
12 going to be talking about the Commission's rule of 20
13 CSR 4240-10.105 which requires approval of the
14 Commission for the sale of those regulated assets,
15 and that's why I make that mention. And so then what
16 we're talking about, a public vote here, we really
17 are -- we're talking about a municipality, we're
18 talking maybe about a water district, but public
19 entities that certainly have responsibility to
20 interact with their -- with their customers in a way
21 some other entities might not.

22 In regard to that section 9 comment, and
23 this -- it really wraps into that, the section 9
24 comment where Missouri American had proposed the
25 additional language about any available support

1 documentation, I think it -- it recognizes the nature
2 of the seller in these matters as well as the, sort
3 of the experience that Mr. LaGrand had mentioned in
4 terms of what you are able to acquire and what --
5 what you're not able in some situations to acquire
6 from some of these sellers. Thank you very much.

7 JUDGE DIPPELL: Thank you. And Chair
8 Hahn has joined us. Are there any Commission
9 questions for Mr. Cooper at this time? All right.
10 Thank you, Mr. Cooper. Is there anyone else before
11 Staff that would like to make a comment? All right.
12 Let's go with Staff then.

13 MR. STACEY: Good afternoon. Scott
14 Stacey, deputy counsel, Staff Counsel's Office here
15 for Staff. And we file -- Staff filed a comments and
16 Staff responses late yesterday in relation to the
17 comments that were filed by OPC as well as MAWC and
18 provided responses to that. We were generally
19 responsive or supportive of the changes.

20 There was an error in one of our -- I
21 take that back; that's for the WSIRA rule.

22 We're generally supportive of the -- of
23 the request of OPC as well as MAWC, and we made those
24 comments in responses within that document.

25 But I do have with me Curt Gateley, and

1 may want to have -- or say something as well.

2 JUDGE DIPPELL: Mr. Gateley.

3 MR. GATELEY: Curt Gateley here for
4 Staff. Regarding Mr. Cooper's wordsmithing on 12B,
5 his suggestions regarding putting in "utility"
6 instead of "facility" and some of the other word
7 changes, those are reasonable. I think that it's --
8 it's more clear with those changes.

9 Regarding the section that had the most
10 comments from Mr. LaGrand about information that may
11 not be available when they're making an acquisition,
12 I understand. I understand the points that they're
13 making. This is information that our auditors
14 request right now as part of these acquisitions in
15 attempting to be able to provide an informed opinion
16 to the Commission. So right now if they submit those
17 DRs and a company doesn't have the information,
18 that's their response. This isn't my -- the work
19 that I do. This is requested by our auditors. I
20 personally think that if available, the kind of
21 changes that Missouri American has proposed is the
22 best fit for what we're doing right now.

23 JUDGE DIPPELL: All right. Did you have
24 something further, Mr. Stacey?

25 MR. STACEY: Yes, Judge. OPC and the

1 candidate, they had a concern with the "unless public
2 vote was held" statement that was -- MAWC wanted to
3 put into it. Staff has talked it over and -- or
4 discussed it, and we agree that it probably should
5 not go in, should be taken back out.

6 JUDGE DIPPELL: Okay. Since the Staff
7 filed reply comments after the official written
8 comment period was ended, I'm going to go ahead and
9 mark those as exhibits and -- and include them with
10 the comments today. So I will mark the -- as
11 Exhibit 1, Staff's reply comments in the SX-2025-0116
12 case, and as Exhibit 2 Staff's reply comments in
13 the WX-2025-0117 case.

14 (Staff Exhibits 1 and 2 were marked for
15 identification.)

16 JUDGE DIPPELL: Commissioners, are there
17 any questions for Staff at this time? All right.
18 I'm not hearing any.

19 Was there -- were there any further
20 replies? After hearing everyone's comments, anyone
21 want to make any more comments based on the CCN rules
22 for Water or Sewer? Go ahead, Mr. LaGrand.

23 MR. LAGRANDE: Thank you, Judge. I just
24 want to respond to what Mr. Gateley had said. One
25 thing maybe I neglected to mention in my previous

1 comments, that, you know, at the time we file the
2 application, you know, there -- from that point
3 there's a, you know, we go through, you know, DR
4 process with Staff. And even after we -- if the
5 transaction's approved and even after we take
6 ownership, like, we get better information as we go
7 along. I mean, we may not know all the assets at the
8 time it's acquired. We may, once we take ownership
9 of it, we may then learn more about, oh, here's some
10 more information about assets. And that information
11 will be collected and curated much more thoroughly in
12 advance of a rate case than -- and so our information
13 will be much, much better at that point than it would
14 be at the time the application filed. Because the
15 application's filed, you know, six months or more
16 before the transaction actually happens. So I think
17 that's one of the benefits of -- of pushing some of
18 that to the rate case is that you have more time to
19 get better information together that people can rely
20 on.

21 JUDGE DIPPELL: Okay. Thank you. Are
22 there any other comments for these rules? Public
23 Counsel.

24 MS. MARTIN: Thank you. So the OPC would
25 like to discuss the MAWC's comments about not having

1 the data that's available. The OPC believes that the
2 regulation should be made for ideal cases. It should
3 not be made with a -- with several ways to wriggle
4 out of these requirements. If -- again, if the
5 utility is not able to provide that information that
6 is requested at the time, then they do have the
7 opportunity for a waiver. They could also just
8 inform the Commission that the data is not available
9 at that time but they are working on it.

10 So that is the OPC's main concerns
11 regarding watering down the language about the
12 availability of data and things like that. It is
13 true that there may be instances where there's data
14 that is -- that the Commission would like that is not
15 available. And I do think that, especially because
16 the rule does grant Commission discretion, it says
17 that the Utility is or Company is subject to -- that
18 their CCN case is subject to dismissal. Not "shall
19 be dismissed." It allows for the discretion of the
20 Commission.

21 And I -- from, you know, my years
22 watching this Commission, it does appear that you
23 guys are pretty reasonable and able to work with
24 these companies in consideration of their CCN
25 applications. So if something's not available, they

1 just need to inform the Commission they need to
2 provide a waiver. I don't think that that's too hard
3 to do.

4 JUDGE DIPPELL: Mr. Poston.

5 MR. POSTON: Yes. Marc Poston, also for
6 the Office of Public Counsel. I just want to respond
7 about the comments regarding the notice and whether
8 that a notice would not go out if a public vote had
9 been held. I just thought, you know, we should err
10 on the side of giving the people that are the most
11 impacted by a sale of their system an opportunity to
12 tell the Commission. They could before the sale,
13 obviously, most of the people probably for the sale
14 or against it, but I think they could have some
15 important things to tell the Commission. And if we
16 don't give them a notice of the CCN application, they
17 won't have an opportunity to tell the Commission.

18 And I want to give one brief example.
19 And it's the City of Bolivar. That system when it
20 was acquired, there was a vote of the -- of the
21 people there, but that system actually expanded
22 beyond the boundaries of the city. And so there was
23 people served by that system that didn't even get to
24 vote on it. And so if -- if they don't get a notice
25 here, they wouldn't have gotten notice, an

1 opportunity to even vote in the first instance as
2 well, so. That's all I have. Thank you.

3 JUDGE DIPPELL: All right. Thank you
4 very much. Are there any other comments on the
5 certificate cases?

6 COMMISSIONER KOLKMEYER: Judge, this is
7 Commissioner Kolkmeier.

8 JUDGE DIPPELL: Oh, go ahead,
9 Mr. Commissioner.

10 COMMISSIONER KOLKMEYER: Yes. I'm
11 somewhat confused. Is the -- is the vote of the
12 people still in there? Is that before or after it
13 comes to the Commission?

14 JUDGE DIPPELL: The way the rule is set
15 out right now, it is that the notice goes out if
16 there hasn't been a vote. Is that correct?

17 COMMISSIONER KOLKMEYER: Yeah. I'm
18 not -- I'm talking about the notice. I'm talking
19 about the vote itself. Is that in the proposed -- is
20 that -- the proposed rule, is that still in place,
21 the vote before it comes to the Commission or after
22 the Commission rules on it?

23 MR. COOPER: I -- oh, go ahead.

24 JUDGE DIPPELL: Sorry.

25 MR. COOPER: Mr. Poston.

1 JUDGE DIPPELL: Go ahead, Mr. Poston.

2 MR. POSTON: Okay. I was going to say
3 the way I understand it is the notice, the way that
4 the rule was published, the notice would be required.
5 And Missouri American Water Company has proposed that
6 the notice would not go out if there had been a
7 public vote on the sale of the system. And that's
8 the part that we're opposing, the addition of that.

9 JUDGE DIPPELL: And that would be a
10 notice before it comes to the Commission or after it
11 comes to the Commission? I think that was the
12 Commissioner's question.

13 MR. GATELEY: This is Curt Gateley for
14 Staff. The rule itself does not require a vote. The
15 vote that occurs is for those entities where a vote
16 is necessary. Not all entities or acquisitions would
17 involve a voting group, but the discussion is about
18 whether or not an additional notice would go out if a
19 vote happened. And the points were raised where not
20 every customer of a municipality, for example, is
21 necessarily offered an opportunity to vote, so that's
22 a, for those customers an additional notice would --
23 might be the first time that they had seen that a
24 purchase was going to happen.

25 MR. COOPER: Judge, I --

1 COMMISSIONER KOLKMEYER: Okay. I just
2 have somewhat of an issue about the public voting on
3 it and then approving it and then coming for a CCN.
4 It's like it's almost backwards to me. That we need
5 to approve it, we need to assess the whole situation,
6 go through all the books and everything and approve
7 the CCN and then it go to vote of the people if that
8 vote is necessary.

9 MR. COOPER: Commissioner, this is Dean
10 Cooper. I guess I want to say two things. I want to
11 agree with Mr. Gateley who -- who had indicated that
12 I don't know that the rule impacts the vote process.
13 The votes that are required by the municipalities are
14 separately required by statutes, and -- and so that's
15 where that comes from.

16 I think that as a matter of practice, the
17 timing has been I guess the way that you have been
18 frustrated with it, that is, the vote has come first
19 prior to the application for the Commission,
20 partially because -- and I don't know that you all
21 see these much of the time, but there are a number of
22 votes that are taken where the sale of the utility
23 assets by a municipality does not pass. And so
24 those -- those cases never make it to the -- to the
25 Commission and they never require Staff's review,

1 that sort of thing.

2 It may be tough to even come in for an
3 application to the Commission before the vote because
4 at that point you're talking about a purely
5 speculative transaction. The municipality at that
6 point does not have any authority to sell those
7 assets to the potential purchaser.

8 So while I certainly understand the
9 frustration with the order we're doing it now, I
10 think there's probably some -- there are some reason
11 that it happens in that order that are -- probably
12 still assist the process.

13 COMMISSIONER KOLKMEYER: Okay. I'm aware
14 of, and I wasn't on the commission at that time, I
15 know one water system that the voters turned down.

16 I guess more what I'm -- and not --
17 frustrated with is the dollar amount. So it was --
18 it was put to the vote of the people that this is
19 what we're going to sell it for, this -- here's the
20 dollars. And then when our Staff reviewed
21 everything, the system wasn't worth that much money,
22 but the voters had already approved those dollars.
23 And that's where I guess we could have just turned it
24 down and they had to go back to the vote of the
25 people. But that to me was the biggest frustration

1 was the dollar amount that was put for the sale was
2 already predetermined before we even -- our Staff was
3 able to look at it.

4 JUDGE DIPPELL: Thank you, Commissioner.
5 Is there -- are there any other Commission questions?
6 All right. Anything further before we -- oh,
7 Mr. LaGrand, you had another comment.

8 MR. LAGRAN: Thank you, Judge. Just one
9 very briefly -- brief comment on the topic of the
10 documentation. This is kind of responsive to
11 something that OPC had said. Just to clarify, you
12 know, the documentation that -- that is being
13 provided is not the Utility's documentation; you
14 know, it's the City's documentation. So, you know,
15 we're -- it would be different if it was our
16 documentation. We have, you know, extensive -- and
17 obviously, the Commission, you know, has access to a
18 lot of our records, books and records. But when it's
19 a -- when they aren't our books and records that
20 we're being asked to provide, it -- you know, our
21 ability to, you know, track that down or, you know,
22 create that is -- is more limited than it would be if
23 it was our own records.

24 JUDGE DIPPELL: And OPC would like to
25 make another response.

1 MS. MARTIN: In response to that I would
2 say that the acquiring Company, given that it is a
3 regulated utility under the PSC, is required to prove
4 its case and, therefore, if those documents are
5 required to prove its case, then it is the duty of
6 the acquiring utility to provide those documentations
7 and/or the reason why they cannot provide those
8 documentation or that documentation, sorry.

9 JUDGE DIPPELL: Okay. Is there anything
10 further for the Water and Sewer certificate rules?

11 All right. I think that concludes that
12 part. We can then move on to the Water and Sewer
13 Infrastructure Rate Adjustment rule which is -- we
14 commonly refer to as WSIRA. Are there comments from
15 OPC on -- you said that you didn't have any comments
16 on this rule. Is that correct?

17 MS. MARTIN: At this time the OPC does
18 not have additional comments to the ones that they
19 have filed. I want to say reframe, but I can't
20 remember what the word is. We may have comments
21 regarding any responses that are given at today's
22 hearing.

23 JUDGE DIPPELL: Thank you. Did Missouri
24 American have comments regarding this rule?

25 MR. LAGRAND: Just very briefly. Yeah, I

1 think again the -- the rule proposed that was -- it
2 was just drafted I think, you know, mirrors a lot of
3 what is being done today and I think it bears a lot
4 of similarities to the exist -- to the ISRAs rules.
5 So I think -- and so I think we were -- we only had
6 some minor comments and I think Staff agreed with
7 those, so appreciate Staff's willingness to look at
8 our suggestions.

9 JUDGE DIPPELL: All right. Mr. Cooper.

10 MR. COOPER: Again, I guess in addition
11 to Missouri American and on behalf of Liberty
12 Utilities and Confluence Rivers, and we believe that
13 the adjustments that Staff made through its filing
14 that was made yesterday are appropriate and we'd
15 support those. Thank you.

16 JUDGE DIPPELL: Thank you. And,
17 Commissioners, if you have any comments or questions
18 as we go, just jump in please.

19 Did Staff have additional comments on the
20 Water and Sewer Infrastructure Rate Adjustment rule?

21 MR. STACEY: Again, this is Scott Stacey
22 with Staff Counsel's Office here for Staff. Like we
23 said, I stated before, we are in support of the
24 changes by OPC and as well as MAWC. And we filed
25 that within our comments in Staff responses.

1 However, there was an issue involving
2 subparagraph or subsection C -- or subsection D which
3 would be under I believe subsection 4. Or no,
4 subsection 3, I'm sorry. Subsection 3, subsection D
5 where it states, For requirements listed in this
6 section requiring review or approval by a certified
7 engineer, the items shall be signed, sealed, and
8 dated by a Missouri registered professional engineer.

9 That was an error in stating that Staff
10 would accept that change, remove it from -- from the
11 regulation and would like to leave that in. And I
12 have Curtis Gateley here to respond to that.

13 MR. GATELEY: Curt Gateley for Staff.
14 Generally speaking staff engineers have encountered
15 across several situations documents submitted by a
16 professional engineer expressing the opinion of a
17 professional engineer without the seal. For this
18 rule in particular, if a Utility feels it necessary
19 to retain the services of a professional engineer for
20 a document, then that engineer should seal that
21 document.

22 We have had instances where engineering
23 documents were submitted purporting to state the
24 condition and function of physical equipment that
25 engineers later had to admit they never actually

1 viewed or inspected to be able to make that kind of
2 determination. We've had situations across cases
3 where we've asked for copies of engineering documents
4 that an applicant was replying on and when we get
5 them, they're incomplete. And in most instances
6 where they're incomplete, they're going to have to
7 create a complete one anyway for the Department of
8 Natural Resources' requirements.

9 Missouri American in their comments
10 stated that whether or not a document requires an
11 engineer's seal is a matter for the -- for the Board
12 of Architects, Professional Engineers, et cetera.

13 I'm familiar with dozens of regulations
14 with DNR that require a seal right now, and we have a
15 similar requirement that appears in both the Sewer
16 and the Water CCNs that Missouri American did not
17 object to. Staff is not asking for every time a
18 document happens to be drafted by a person who's an
19 engineer must have a seal. But in those instances
20 where the documents are this is the professional
21 opinion of an engineer, that engineer should have to
22 seal it. And ultimately if they don't provide the
23 seal -- we license these professionals for a reason.
24 If they don't provide the seal, then essentially
25 they're not taking any kind of legal responsibility

1 for the professional opinion that they express.

2 JUDGE DIPPELL: Okay. Thank you.

3 MR. STACEY: And just for clarification
4 it is subsection 4, subsection D.

5 JUDGE DIPPELL: Okay. Are there any
6 commissioner questions for Staff? Are there any
7 additional responses to any of those comments or that
8 change?

9 COMMISSIONER MITCHELL: Just one, Judge,
10 this is Commissioner Mitchell. And I think that
11 Staff's position is consistent with what the duties
12 and responsibilities of a registered professional
13 engineer in the state of Missouri are, so. I believe
14 that to be consistent based on my experience.

15 JUDGE DIPPELL: Okay. Thank you,
16 Commissioner. Are there any other responses?
17 Mr. LaGrand.

18 MR. LAGRAN: Yes, thank you, Judge.
19 Just wanted to respond to the Staff on that, that
20 topic of engineering seal. In our comments we filed
21 one of the, you know, the first thing I noted was
22 that to the -- to Missouri American it was unclear
23 what requirements in the -- in the WSIRA filing this
24 replied to. And that statement really comes from,
25 you know, the, you know, between ISRAs and WSIRA

1 cases, the, you know, ten or more of those that I've
2 been involved in, you know, the WSIRA is -- is a
3 historic case. These are -- these are things -- the
4 information that Staff reviews are things that have
5 already happened. You have invoices. It's not a --
6 it's not a here's the plan for what we're going to
7 do; it's what we have done.

8 So I don't know that -- I'd be curious
9 to -- you know, either in this form or in a private
10 discussion for Staff to provide some examples of what
11 types of things that they were envisioning this
12 would -- this would cover. Because we just -- we
13 just primarily weren't really sure what in a WSIRA
14 case, what types of documents would this reply to.

15 JUDGE DIPPELL: Okay.

16 MR. LAGRAND: Thank you.

17 JUDGE DIPPELL: Mr. Cooper.

18 MR. COOPER: Yeah. Judge, just to add to
19 that a little bit. I think that part of what
20 Mr. LaGrand is talking about is the way this
21 requirement reads. You know, it's very vague and
22 abstract in terms of saying, If there's anything that
23 requires review. Well, I don't know -- I don't know
24 if it becomes an argument before the Commission, if
25 the Commission is qualified necessarily to make that

1 decision. And that was the purpose for the comment
2 that was provided by Missouri American in that
3 regard.

4 Mr. Gateley also mentioned that is there
5 is a requirement for a seal in both the proposed
6 Water and Sewer CCN rules, but in that context it's
7 very clear what's being discussed. What's being
8 discussed there is new construction, and it makes
9 sense that some sort of engineer seal would be
10 appropriate in that instance. So I think it's sort
11 of the unlimited, unclear aspect of how that shows up
12 in the WSIRA rule that we find problematic.

13 JUDGE DIPPELL: Okay. Thank you for that
14 clarification. Are there any other comments or any
15 commissioner questions or comments?

16 I will also, since the response comments
17 were made in the record, I will mark those as Exhibit
18 No. 3 for the OX-2025-0118 case, the response
19 comments of Staff.

20 (Staff Exhibit 3 was marked for
21 identification.)

22 Did Staff have anything further?

23 MR. STACEY: No, Judge.

24 JUDGE DIPPELL: Were there any other
25 comments about the WSIRA rule? I'm not seeing any.

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I appreciate everyone who made comments and participated and came to Jefferson City today to participate. And I believe that that concludes this hearing and we can go off the record. Thank you.

(Off the record at 1:50 p.m.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
COUNTY OF CALLAWAY)

I, Shelley L. Bartels, a Certified Court Reporter, CCR No. 679, do hereby certify that I was authorized to and did stenographically report the transcript of proceedings; and that the foregoing transcript, pages 1 through 36, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 20th day of December, 2024.



Shelley L. Bartels, CCR 679

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