

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

In the Matter of the Joint
Application of Confluence Rivers)
Utility Operating Company, Inc.,)
and Missouri-American Water)
Company for Authority for)
Confluence Rivers Utility)
Operating Company, Inc. to) SM-2025-0067
Acquire Certain Sewer Assets of)
Missouri-American Water Company)
in Callaway and Morgan Counties,)
Missouri)

THURSDAY, JUNE 26, 2025

9:00 a.m.

Governor Office Building
200 Madison Street
Room 310
Jefferson City, MO 65101

VOLUME II

JOHN CLARK, Presiding
SENIOR REGULATORY LAW JUDGE

KAYLA HAHN, Chair
MAIDA J. COLEMAN
GLEN KOLKMEYER
JOHN MITCHELL,
COMMISSIONERS

Reported By:
Sarah J. Pokorski

A P P E A R A N C E S

For Missouri-American Water Company and
For Confluence Rivers Utility Company, Inc.
Brydon, Swearngen & England
Dean Cooper
312 East Capitol
P.O. Box 456
Jefferson City, Missouri 65102
dcooper@brydonlaw.com

For Missouri-American Water Company
Timothy Luft, Senior Director, Corporate Counsel
727 Craig Road
St. Louis, Missouri 63141
timothy.luft@amwater.com

For Confluence Rivers Utility Operating Company, Inc.
L. Russell Mitten, General Counsel
1630 Des Peres Road
Suite 140
Des Peres, Missouri 63131
rmitten@cswwgroup.com

Office of the Public Counsel:
Lindsay VanGerpen
200 Madison Street
Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
lindsay.vangerpen@opc.mo.gov

Public Service Commission Staff:
Staff Counsel Department
Andrea Hansen
Casi Aslin
200 Madison Street
Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov

Court Reporter:
Lexitas Legal
Sarah Pokorski
Missouri CCR No. 745
711 North 11th Street
St. Louis, Missouri 63101
314-644-2191

P R O C E E D I N G S

(Starting time of the hearing: 9:00 a.m.)

JUDGE CLARK: Good morning. Today is June 26th, 2025, and the current time is 9:00 a.m. This proceeding is being held in Room 310 of the Governor Office Building in Jefferson City, Missouri. The Commission has set aside this time today for an evidentiary hearing in the case captioned as In the Matter of the Joint Application for Authority for Confluence Rivers Utility Operating Company, Incorporated to Acquire Certain Sewer Assets of Missouri-American Water Company in Callaway and Morgan Counties, Missouri. And that is Case Number SM2025-0067.

And this case concerns the joint request to transfer 19 small sewer systems from Missouri-American Water Company to Confluence River, and a corresponding certificate of convenience and necessity. This requested transfer is from one Missouri-regulated utility to another.

My name's John Clark. I'm the regulatory law judge that will be presiding over this hearing today and tomorrow. Commissioners will also be

present. The Chair of the Commission, Kayla Hahn, will be present in person, I believe, today. Present either in person or via WebEx today are going to be Commissioners Maida Coleman and Glen Kolkmeyer. To my left, you can see Commissioner John Mitchell, who is here in person as well.

If you have a phone at this time, I'd like you to see that it is turned on vibrate or silent. And if you are speaking, please remember to turn on your microphone and speak clearly. We have a court reporter joining us via WebEx, and they are going to be taking down everything that is said. It is important that they be able to hear clearly, and they can't hear what is not said into the microphone.

At this time, I'm going to ask counsel for the parties to enter their appearance for the record, starting with Missouri-American Water Company.

MR. COOPER: Yes, Judge. This is Dean Cooper from the law firm of Brydon, Swearngen & England, PC. The address is in the file. I'm appearing both on behalf of Missouri-American Water Company and Confluence Rivers Utility Operating Company, Inc. today. Also appearing for Missouri-American Water Company is Timothy Luft, Senior Director and corporate counsel for Missouri-American.

His address is also in the file. And appearing on behalf of Confluence Rivers is L. Russell Mitten, general counsel.

JUDGE CLARK: Okay. I believe that covers both utilities. Is there anybody else who's counsel for either utility that I need to address?

On behalf of the Staff of the Commission.

MS. HANSEN: Entering an appearance for Andrea Hansen and Casi Aslin.

JUDGE CLARK: Thank you, Staff. On behalf of the Office of the Public Counsel.

MS. VANGERPEN: Good morning. Lindsay VanGerpen on behalf of the Office of the Public Counsel. And our address is also in the record. Thank you.

JUDGE CLARK: Thank, you Public Counsel.

Preliminary matters? Are there any pending motions or preliminary matters that I need to address at this time?

MS. HANSEN: Judge Clark, SCO does have one preliminary matter. We have consulted with each of the other parties, and we are going to change the order of our witnesses. It's going to be Johnny Garcia, then it's going to be Adam Stamp, and after that it's going to be Jarrod Robertson.

JUDGE CLARK: So Garcia first, then Stamp, then Robertson?

MS. HANSEN: That's correct.

JUDGE CLARK: And it's my understanding that we have to take -- there are two witnesses that we have to take today on the 26th. And one of those is Mr. Stamp, and the other is Mr. Silas. Has that changed?

MR. COOPER: That has not changed, Your Honor.

JUDGE CLARK: All right. Thank you.

MS. HANSEN: That has not changed.

JUDGE CLARK: Are there any other preliminary matters or pending motions? I hear and see none.

Now, I do know that there's some confidential information, at least some confidential numbers in this case. I may not recognize those right off if they come up. I'm going to rely largely on the parties to let me know if there is confidential information that would require me to go in camera. If I see something that -- that I have a question about, I will ask, and certainly go in camera if we need to do so. Although in looking at it, we may be able to address a lot of these without actually going into the

numbers.

Now, it's my understanding the parties have put forth two issues for the Commission's determination. What legal standard must the Commission apply in deciding this case. And I'm a little confused about how that's not answered within the second issue. And hopefully, the parties can explain that to me. Would the sale of the subject Missouri-American Water Company wastewater systems to Confluence Rivers Utility Operating Company be detrimental to the public interest is the second issue.

With that, unless there's anything else I need to take up, I'm going to go ahead and start with opening statements. And opening statement first from -- and are you doing this as a combined Missouri-American/Confluence opening statement, or are we going to have two separate opening statements here?

MR. COOPER: No. We will -- we will keep it to one, Your Honor. Yeah. It will be one statement that covers both the applicants.

JUDGE CLARK: And I hadn't planned on doing any sort of mini openings for each issue. I thought one just to cover both of them.

And I'll note for the record that the

Chair of the Commission, Kayla Hahn, has joined us.

And Mr. Cooper, you may start whenever you're ready.

OPENING STATEMENT BY MR. COOPER

MR. COOPER: Good morning. As indicated previously, I am providing opening statement on behalf of both Missouri-American Water Company and Confluence Rivers this morning.

Just to review a little bit, the transaction that we are addressing this morning concerns 19 systems that Missouri-American seeks to sell and Confluence Rivers desires to purchase. 18 of those systems are in Callaway County, one of those systems is in Morgan County. As of March the 3rd, 2025, the total number of active connections for the 19 systems was 616. The smallest of the systems had approximately 13 active connections, and the largest served approximately 83 connections.

The assets to be sold by the -- Missouri-American were among the assets it acquired from Aqua Missouri many years ago, pursuant to approval granted by the Commission in Case Number WO-2011-0168 when Aqua largely exited the State of Missouri as a

regulated utility.

The first issue that's listed on the list of issues, as the Judge noted, is the standard. We believe the standard to be applied by the Commission is rooted in the constitutional concept of property rights. The owners of property have a constitutional right to determine whether to sell their property or not. To deny them that right would be to deny them an incident important to ownership of property. A property owner should be allowed to sell his property, unless it would be detrimental to the public.

Courts have further stated that an applicant need not show that the transfer will produce the greatest benefit to the public, or any net benefit at all, but only that the transfer will not work to the detriment of the public. However, if the Commission does identify a detriment, it is viewed its task to call for a netting of detriments and benefits. The Commission has -- has applied this no-detriment standard in which all of the benefits and detriments in evidence are considered.

The applicants believe there is no detriment associated with Confluence Rivers' acquisition of the wastewater systems at issue. This is a proposed transaction between two existing

Missouri public utilities, both providing safe and adequate service, both having shown that they are capable of maintaining and rehabilitating wastewater systems, and both of which have been through rate cases before the Commission fairly recently.

The purchaser, Confluence Rivers, has been a Missouri public utility since March of 2015, and provides water service to approximately 6400 connections, and sewer service to approximately 6500 connections in the state of Missouri, pursuant to CCNs that have been previously granted by this Commission. It is an experienced owner and operator of wastewater systems, and specializes in running and rehabilitating small systems, and charges rates that are currently less than those charged by the seller.

The customers of the subject wastewater systems represent a small percentage of the Missouri-American wastewater customers. And after the acquisition, will represent a relatively small percentage of Confluence Rivers' wastewater customers.

The Office of the Public Counsel lists in its testimony and in its statement of position five alleged detriments associated with this application. The first question is, of course, whether any of these items are detriments at all.

The first listed by the OPC is that the customers of the 19 systems will go from receiving service from the largest publicly-traded investor-owned water utility in the United States and Missouri to receiving service from a much smaller entity. Although ownership of the system would indeed transfer from the largest publicly-traded investor-owned water utility, there's nothing detrimental in that fact as -- as it applies to this transaction.

As stated before, Confluence Rivers is an established Missouri public utility. It is an experienced owner and operator of wastewater systems in this state, specializes in running and rehabilitating small systems, and has demonstrated its ability to competently provide high-quality wastewater service to its current customers.

Moreover, while Confluence Rivers' parent, CSWR, is smaller than American Waterworks Company, it is still a significant entity. Over its decade-long existence, CSWR has grown to become one of the largest investor-owned water and wastewater utilities in the United States. It currently has more than 100 full-time employees, which includes a full-time employee who is responsible for the oversight and performance of Confluence Rivers' water

and wastewater operations within the state of Missouri. That in-house workforce is supplemented by skilled and experienced third-party operators who provide customer service, and operations and maintenance services for CSWR and its utility affiliates.

CSWR, through its utility affiliates, is operating water and/or wastewater systems in 11 states currently. The affiliate group currently owns and operates more than 940 water and wastewater plants. On a daily basis, CSWR subsidiaries treat about 36.5 million gallons of wastewater from -- from almost 100,000 wastewater connections.

So although CSWR and Confluence Rivers aren't the largest water and wastewater utility in the United States, there can be no doubt that the proposed purchaser of the 19 systems at issue in this case is a substantial utility that is both qualified and able to provide safe and reliable service to the customers of these systems.

The second alleged detriment is that customers of these 19 systems will likely be subject to higher rates. The OPC makes various allegations as to future rates. A comparison of future rates for either Missouri-American or Confluence Rivers is

difficult, if not impossible, because the future values of elements critical to the calculation of the future revenue requirements of both Confluence Rivers and MAWC, such as operating costs, capital structure, and return on equity, are both unknown and unknowable at the present time. Additionally, timing of investments; timing of rate cases; use of the Missouri Water and Sewer Infrastructure Act, or WSIRA; possible implementation of a future test year; and most importantly, the Commission's ultimate decisions in the future, will have a significant impact, which further complicates the ability to even guess what either company's rates will be.

However, we can compare the current MAWC rates being paid by the customers of these systems with those being paid today by Confluence Rivers' wastewater customers, all of which contain impacts of past investments, operating costs, and rates of return utilized by the Commission in setting rates for the applicants. This comparison shows no significant difference in rates between the companies.

MAWC's base rate for these customers at the time of the application -- at the time the application was filed was \$65.36, and these customers were actually paying \$68.56 monthly by the time direct

testimony was filed when WSIRA was -- was considered.

As of May 28th, 2025, Missouri-American's base rate is \$74.11, which resulted from the Commission's case WR-2024-0320. Confluence Rivers' current District 1 rate is \$60.21, and its District 2 rate is \$70.83, an average of \$65.52.

As of closing, Confluence Rivers proposes to charge the customers of the subjects systems the MAWC base rate that was in place when the application was filed. That's the \$65.36. This rate would represent a decrease from the rate currently charged these customers, and would not change for some time, as Confluence Rivers currently has no rate case on file, and new rates would likely not become a fact until 11 months from its next general rate case filing.

Thus, we believe any allegation of detriment alleged as to rates that may be authorized by the Commission in the future is not supported by the best evidence available, the current Commission-approved rates of Missouri-American and Confluence Rivers.

The third alleged detriment is that MAWC's remaining customers will continue to pay costs as if the systems were still in operation. It -- it's

hard for me to first respond to this, because fortunately or unfortunately, it's the way rate-making works. Things change between rate cases. And ultimately, they are adjusted. And there's nothing that the Commission can do in this case to reduce Missouri-American's rates without running afoul of various case law, and -- and statutes, in terms of how rates are set. However, I would mention that remaining customers will also be -- be paying rates based on an assumption that a portion of the costs are being shared by the 616 customers of these systems, so there is a balancing factor.

But again, going back to the original point, many items upon which Missouri-American's base rates are founded will -- or either have or will change going forward. This fundamental aspect of rate-making should not be seen as a detriment associated with a specific sale of properties, especially where the customers involved represent only 616 customers among Missouri-American's over 500,000 water and sewer connections in the state.

Further, it bears noting that in its last general rate case, Missouri-American proposed an adjustment for the sale of these systems as a part of its future test year proposal, and then subsequently

as a part of its proposed isolated adjustments. No party supported that isolated adjustment. So we -- we are here as a result of the circumstances as they have played out.

OPC alleges that there is a detriment because an acquisition premium exists. The possible existence of an acquisition premium or adjustment of some sort, which is merely a difference between the purchase price and that original cost at the time of closing, in some amount is not a detriment unto itself. I say in some amount, because we won't really know what that amount is until closing, as the purchase price remains static while the net original cost will continue to change until closing, because of the increase in depreciation reserve, additional investment being made, or both.

Confluence Rivers' original intent was to keep the purchase price close to net original cost. As is stated in the testimony of Mr. Silas, Confluence Rivers agrees with Staff that it expects an updated rate base level will be established when Confluence Rivers files its next rate case that includes these systems.

Further, Confluence agrees that Staff takes the position that rates should be based upon the

remaining net book value of the original cost of the utility plant at the time it was placed in service, without regard to any acquisition adjustment above or below the original cost.

Consistent with those understandings, if an acquisition premium exists at closing, Confluence Rivers does not expect to recover that premium in rates.

The fifth alleged detriment is that 18 of the 19 wastewater systems are closer to existing Missouri-American systems than Confluence systems.

First, I would note that there is a difference between wastewater systems and water systems, and employees of one are not necessarily capable and qualified to deal with the other type of system. And Mr. Kadyk can address that.

But as pointed out in Mr. Silas' testimony, Confluence Rivers is no stranger to owning and operating systems that are spread out. Since it commenced operations, Confluence Rivers and its pre-merger affiliates have acquired systems in geographically-dispersed locations across Missouri, and successfully provided safe and adequate service to those systems. Schedule HAS-2 to the surrebuttal testimony of Mr. Silas shows the geographic dispersion

of the counties where Confluence Rivers acquired water and wastewater systems between February of 2015 and September of 2020, the initial years of the company's operations.

If the company believed Confluence Rivers could provide service to systems in these dispersed locations -- and the company believes that it has -- the Commission should have no fear that a much more experienced and operationally-mature company can successfully assimilate the systems under consideration in this case.

In conclusion, again, Confluence Rivers' acquisition of the subject Missouri-American wastewater systems will not be detrimental to the public interest, and should be approved by the Commission subject to the conditions and actions proposed by the Staff of the Commission. That's all I have at this time.

JUDGE CLARK: Are there any Commissioner questions? And if Commissioners have questions, please feel free to ask them at any time.

Thank you, Mr. Cooper. I have no questions for you.

Does the Staff of the Commission have an opening statement?

OPENING STATEMENT BY MS. HANSEN

MS. HANSEN: Good morning, and may it please the Commission. My name is Andrea Hansen, and I'm here representing Commission Staff.

Our collective overarching purpose in these next two days is to determine whether Missouri-American Water Company can sell 19 wastewater systems to Confluence Rivers Utility Operating Company.

Before we can determine whether or not Missouri-American can sell these systems to Confluence, we need to, one, determine what -- what is the proper legal standard to apply in this case; and two, determine whether or not this sale would be detrimental to the public interest. The proper legal standard to apply in this case is the not detrimental to the public interest standard that was first handed down by the Missouri Supreme Court in 1934, and reiterated in 1980 as the Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest. This standard has not been weakened by subsequent case law. It still remains as the standard. This case does not require that the public be benefited by the sale. It only requires

that the sale does not result in a detriment to the public.

In 2021, the Missouri Western District Court of Appeals gave instruction regarding what the Commission is required to consider in applying the not detrimental to the public interest standard. Specifically, the court says that at times, the Commission needs to look at the proposed transaction, and consider how the transfer of assets might eliminate benefits that would otherwise be available.

It is important to note that a benefit may -- that may be lost due to this proposed sale is just one factor that the Commission considers when it balances all appropriate factors to determine whether or not the sale results in a net detriment to the public interest.

Essentially, what the court is saying here is that the Commission needs to look at all the relevant factors involved in the proposed sale, weigh the factors, so including the detriments and the benefits, and determine whether or not there is a resulting detriment after weighing those factors. It should be noted that this 2021 case specifically states that there is no exhaustive list of considerations that may influence whether a sale is

detrimental to the public.

Staff routinely implements a number of analyses to determine whether or not cases of this type are detrimental to the public interest, and is happy to apply any additional analyses that the Commission sees fit.

Staff initially found that this proposed transaction was not detrimental to the public interest, and it stands by this finding.

Five detriments are identified by the OPC in their position statement. So let's go through them together, and I will tell you why they're not really the detriment as OPC is alleging them to be.

First, the OPC argues that customers affected by this transaction will go from a large company that has a lab and full-time staff to a smaller utility that is predicated on finding distressed systems and using only contracted employees. Staff's response to this is both companies, regardless of size, are subject to the same regulatory standards of safe and adequate service, whether or not these companies rely on contracted services. Additionally, Missouri-American also relies on contracted services for some of its functions.

Second, the OPC alleges that customers of

these 19 systems will likely be subject to higher rates due to losses of economies of scale; and higher cost of service items, such as planned capital expenditures, cost of capital, which can include the cost of debt, and depreciation expense. Staff's response to this is case law from the Missouri Supreme Court states that the risk of an increased cost of debt is just one factor for the Commission to weigh when deciding whether or not to approve a merger. It is reasonable to infer that this also applies to sales.

The Missouri Western District Court of appeals put a finer point on what I stated before when it names higher rates as one of the factors that it considered in these types of cases. Confluence does not have an ongoing rate case at this time, and we do not know that Confluence's rates will be higher than Missouri-American's rates in the future. What we do know is that Confluence is standing by its original proposal of charging the customers at issue \$65.36 a month until new rates are approved by the Commission. Both companies charge rates that are presumed to be reasonable because they were approved by the Commission.

Third, the OPC states Missouri-American's

remaining customers will continue to pay costs as if those systems were still in operation. Staff's response to this is in light of the fact that Missouri-American's last rate case, which is WR-2024-0320, due to the fact that that case was settled, and because of the way Missouri-American allocates cost, it is impossible to know what costs are being born by other customers. If this acquisition is approved, Missouri-American will no longer be collecting revenues from these systems' rate payers.

Fourth, OPC states that there is an acquisition premium of a certain confidential amount. Our response to this is the sale has not yet occurred, and the amount of this purchase to be -- and the amount of this purchase to be included in rates will not be determined until the next rate case. In fact, Staff states in its report if the Commission approves this sale, and I quote, Staff would expect that an updated rate base level will be established when Confluence files its next rate case for these systems. Staff goes on to state that its position in prior cases is that no acquisition adjustment -- acquisition adjustment above or below net book value should be reflected in rates.

Fifth and last, the OPC states that 18 of the 19 wastewater systems are closer to the existing Missouri-American systems than Confluence systems. Staff finds that there is nothing inherently inefficient in using local -- a local contractor to operate these 19 systems, which are all in close -- not all of them. 18 of them are in close proximity with each other.

At first, the OPC was in favor of this sale, as long as Staff and the joint applicants agreed to four additional conditions to this sale. Three of these conditions were based on speculative information. The OPC later abandoned their position regarding these -- these conditions, and took up the position in the sale -- or took up the position that this sale should not be approved. Thus, while OPC's stance regarding this sale has shifted during the lifetime of this case, its rationale behind its stances is based in speculation.

Johnny Garcia, a financial analyst with Staff, will be testifying regarding rate of return and miscellaneous financial analysis issues.

Adam Stamp, a research and data analyst with staff, will be testifying regarding public comments, engineering reports and budgets. Mr. Stamp

also has extensive field experience at the PSC, including interaction with customers and review of facility operations.

Jarrold Robertson, a senior research and data analyst with staff, will be testifying regarding general policy matters, business models, and consolidated rates.

There are additional staff employees who contributed to the staff report, but who did not file testimony. Those individuals are in the building today, and they will be available for questions from Judge Clark and the Commissioners should there be any questions.

So in conclusion, Staff's position is that after considering all the relevant factors, Confluence Rivers' acquisition of the 19 Missouri-American systems is not detrimental to the public interest, and should be approved by the Commission.

Thank you. And I'm happy to answer any questions that you may have, or direct you to the individual who can answer those questions.

JUDGE CLARK: Are there any Commission questions? Thank you, Ms. Hansen.

Any opening on -- on behalf of the Office of the Public Counsel?

MS. VANGERPEN: Yes, Your Honor.

OPENING STATEMENT BY MS. VANGERPEN

MS. VANGERPEN: Good morning, and may it please the Commission. My name is Lindsay VanGerpen, and I'm here this morning on behalf of the OPC.

Commissioners, Judge Clark, this seemingly simple, small wastewater acquisition case should not be overlooked. From the surface, it appears that this is just another example of Confluence Rivers purchasing small wastewater systems. But looking closer, and diving deeper into the joint application, cracks begin to show. These are not isolated systems looking for a buyer with the capital budget available to perform long overdue upgrades. No. In fact, 18 of these 19 systems are located just mere minutes from this building, right across the river in Callaway County. The remaining system is located approximately one hour away in Morgan County. The common theme with these systems are that they are properly constructed, and have been well-maintained, but they are aged.

These are also not municipal systems looking for a buyer so that the municipality has funds

to complete other necessary projects.

This is also not a situation where a utility is looking to stop providing wastewater service.

And though these are small systems, this is also not a situation where these small systems are looking to be consolidated under a larger corporation so they can spread costs over a larger customer base.

Rather, this case is nearly the exact opposite of many of those situations. This case is unique, in that the owner of these 19 small systems is none other than Missouri-American Water. As this Commission is well aware, Missouri-American is a large, sophisticated corporate entity, and is the largest provider of wastewater service in the state of Missouri. There's simply no better wastewater utility in the state for taking advantage of economies of scale; as well, as this Commission is aware from Missouri-American's recent rate case, has the funds and expertise necessary to operate these small systems.

It also admits that it's actively collaborating with the Missouri Department of Natural Resources to take corrective action for the few systems that do have compliance issues.

Missouri-American also intends to retain ownership of its other small wastewater systems, including those in the close area surrounding these systems. In fact, as a result of Missouri-American's recent rate case, the Commission recently approved rates that were calculated assuming Missouri-American's continued ownership of these systems.

So if this case is different from the wastewater acquisition cases that typically come before this Commission, how should the Commission begin to analyze it?

Now, given the unique circumstances of this case, where both the buyer and the seller are regulated utilities, the Commission's standards, the Tartan Criteria, and the technical, managerial and financial, or TMF, criteria, fail to provide really little, if any, guidance in this case. Rather, they essentially end in a tie because both Confluence and Missouri-American can serve these systems.

So we have to dig a little deeper. We have to really think about all aspects of the service that customers would receive under both Confluence's and Missouri-American's ownership, and then we have to compare the two.

So no party to this case disputes that

the Commission must approve this transfer unless it -- it is detrimental to the public interest. That's the key here. Will the customers of these systems suffer a detriment with regard to their quality of service or the justness and reasonableness of their rates if the Commission approves this transaction? The standard requires the Commission to balance all of the benefits and detriments of the sale to determine whether a net detriment exists. It's the applicant's, or in this case the joint applicants' burden to show that this transaction is not detrimental to the public interest.

What does this look like, though? To make this legal standard easy, I'd like for you all to imagine the scales of justice. On one side, there are detriments; and on the other side, benefits. If the scales are balanced, the Commission must approve the sale. If no detriment -- no net detriment exists -- excuse me -- the Commission cannot stand in the way of an owner selling its property, and the transaction is simply a matter of managerial discretion. But the inquiry doesn't stop there. If the scales show that the detriments of the transaction outweigh the benefits, the Commission must reject the proposed sale.

In this case, the OPC sees the scales

weighed down by detriments. I'd like for you all to turn to the handout that was handed out before I began my presentation. And it's also here on the screen. And this is how the OPC sees the scales in this case: significantly weighed down by detriments.

These detriments relate both to quality of service issues, and the likely future rates that customers would pay if Confluence becomes the customer service provider.

On the other hand, the only clear benefit for customers of these systems is that they would see a rate decrease for their wastewater service. Though this \$8.75 per month rate reduction would be a welcome benefit for customers, it's likely only temporary, as Confluence plans to file a rate case in the third or fourth quarter of this year. This temporary benefit fails to outweigh the heavy detriments identified by the OPC.

So at a high level, what are these detriments? Some are straightforward. For instance, Missouri-American has access to American Water's laboratory, which it has described as one of the premier water laboratories in the country. Confluence, on the other hand, has provided nothing to show that it has access to a similar laboratory.

Similarly, Missouri-American is the largest provider of wastewater service in the state of Missouri. In fact, Confluence's wastewater customer base is approximately 75 percent smaller than Missouri-American's. A smaller customer base means less people to share in the cost to provide service, which generally means higher costs for each individual customer. This is especially concerning in this case given Confluence's traditional focus on acquiring small, distressed systems in need of large capital infusions.

So here, not only will there be fewer customers to share in the costs, there will also likely be higher capital costs themselves relative to the size of the utility. These higher costs often equate to higher rates for customers.

Another straightforward detriment, the acquisition premium that Staff identified in this case. Though the Commission need not decide in this case whether Confluence will recover that cost from its customers, it must consider whether it is reasonable, and -- and factor it into its cost analysis when deciding whether a net detriment exists.

Now, some of the detriments the OPC identified require a bit more background. So for

instance, the difference in operational models. Missouri-American uses full-time employees to operate and maintain its systems. Confluence, on the other hand, relies on a single regional manager for all of its water and wastewater operations in the state. It then retains independent contractors to perform many of the operation and maintenance tasks for its systems. The full-time Missouri-American employees who operate and maintain these specific systems are dedicated professionals who have a diverse knowledge of Missouri-American systems. As Missouri-American recognized, this allows for efficient decision-making that considers historical changes to the systems, and future planning efforts to improve the systems. Similarly, their connection to Missouri-American allows them access to the entire knowledge base of American Water, and that's not true of an independent contractor. These full-time employees are also stationed out of Missouri-American's service center located here in Jefferson City, which is a short drive to these systems.

Confluence, on the other hand, employs only a single company individual to oversee the operations of the entire company in the state, both water and wastewater operations. Then, rather than

receiving attention from dedicated company employee, systems are operated and maintained by independent contractors who are not directly controlled by the company.

Though both operational models provide, in many instances, safe and adequate service for customers, when compared side by side, clearly service from dedicated employees, who have access to broad -- to a broad knowledge base, and who maintain a service address close to these systems is far superior.

Another detriment is the higher cost of service inputs. So these higher cost of service inputs, without reductions in other areas, will lead to higher future rates for customers. These higher cost of service inputs relate to things like traditionally higher rates of return, and traditionally higher capital spend. Though the OPC attempted to identify offsets to these higher cost of service inputs, it became clear throughout the discovery process that neither Missouri-American nor Confluence had conducted an analysis to identify these savings. In fact, Confluence itself has assumed a rate higher than that currently charged by Missouri-American in completing its feasibility study for this case. So though customers may experience savings in

the initial months following the transaction, these higher cost of service inputs mean they will likely pay more over time under Confluence's ownership. Again, because Confluence intends to file a rate case before the end of this year, if the Commission authorizes this transaction, customers will know the effect of this acquisition on their rates within the next about 18 months.

So thinking back to the scales that I introduced earlier, and looking at these factors assuming Missouri-American's ownership, the scales look like this, with -- weighed down on the benefits side of the scale. However, assuming Confluence's ownership, the scales tilt significantly in the other direction, on the detriment side of the scale, offset only with a benefit of temporarily lower rates.

So now, Commission, before I leave you this morning, I want to make clear that the OPC is not here to say that Confluence will provide inadequate service to these systems. But as this Commission is also well aware, based on its past experience, it cannot be disputed that Confluence differs from the -- Missouri-American in important and significant ways.

Just as Missouri-American and Confluence are unique, so is this case. In fact, this case will

likely set a precedent for the future of water and wastewater acquisitions in Missouri. The Commission must ensure that it is not setting a precedent that allows regulated utilities to trade systems and corresponding acquisition premiums back and forth with little Commission oversight.

So in this unique circumstance where both the buyer and seller are utilities regulated by this Commission, and will likely provide customers with safe and adequate wastewater service, the Commission has to dig deeper, and look beyond the traditional standards. When the question is whether customers will experience a net detriment as a result of the transaction, the Commission must look at all aspects of the customer service under both Missouri-American's and Confluence's ownership. In doing so, it becomes clear that in this case, customers will experience detriments as a result of this transaction. Though any of these detriments is likely enough to deny the relief requested in the joint application, clearly it's the collective weight of them that significantly outweigh the benefit customers will receive.

Missouri-American and Confluence have failed in their burden to show that the transaction will not result in a net detriment to customers. For

these reasons, the OPC is asking this Commission to deny the relief requested in the joint application. The practical outcome of this is simply that customers will continue to receive service from Missouri-American.

Now, Commissioners, Judge Clark, I encourage you to ask our witnesses questions. We have Mr. David Murray and Dr. Geoff Marke with us here today. Mr. Murray has opined on the cost of service issues, while Dr. Marke has opined on the quality of service issues. I'm also happy to answer any questions that you may have.

JUDGE CLARK: I believe the Chair of the Commission has a question for you, and possibly for Mr. Cooper on behalf of the utilities.

CHAIRMAN HAHN: Thank you, Miss VanGerpen. In your opening, one of your slides on the proposed transaction, you mentioned that the systems -- the 19 systems have been properly maintained but are aged. Can you tell me, of the 19 systems, how many of the systems are at the end of their useful life?

MS. VANGERPEN: Without consulting the Staff recommendation, I -- I wouldn't be able to tell you off the top of my head. But that phrasing is from the Staff recommendation. That is how they

characterize the systems overall.

CHAIRMAN HAHN: Okay. So I may -- may need to ask a staff witness. Okay. Thank you.

And then I do have two questions for Mr. Cooper as well. Mr. Cooper, when does CSWR plan to file their next rate case?

MR. COOPER: Consistent with what Ms. VanGerpen said, the company has said that it has targeted the third and fourth quarters of this year for the filing of a rate case. You know, per usual, it -- for all companies, it's easy to say that, but it's harder to nail down a particular time period, and some circumstances change, so --

CHAIRMAN HAHN: Understood. And if this transaction were approved, what would be taken into account in the next rate case? Just the system acquisition cost, and not any acquisition premium as agreed to by the companies? Or help -- help me better understand.

MR. COOPER: So -- yeah. As I was saying in my opening statement, Confluence Rivers -- it would be a question for Confluence Rivers. Confluence Rivers does not expect to receive recovery of any acquisition premium that may ultimately result. As I mentioned also, we won't really know the amount of

that until the closing, although Staff has made an estimate, based upon information as of a particular point in time.

CHAIRMAN HAHN: Okay. And then one other question on lab services. I know CSWR has several systems. They do access lab services. How does that occur?

MR. COOPER: Well, I'm -- I don't know, is the shorter answer to that. Mr. Silas may know, if you would like to direct that to him.

CHAIRMAN HAHN: Thank you. Sorry. One more for Ms. VanGerpen. In CSWR's last rate case, one of the contested issues was contracted employees versus in-house employees. And I recall the Commission ordered a study to determine which -- basically which model would be more efficient. Do you have access to that study? Has it been completed? What's the -- you know, from OPC's view, if you are alleging that their operational model is a detriment, what's -- do you have that? And what's your support for that?

MS. VANGERPEN: Sure. So I would also encourage you to direct this question to Dr. Marke. But I'll do my best to give you an answer as well. So I believe the study has been completed. And I'm going

to look to Mr. Cooper. I believe it is in the record in this case. I believe it has been attached to Mr. Silas' testimony, if I -- if I remember correctly.

MR. COOPER: That's correct. Yes.

MS. VANGERPEN: Okay. But OPC's issue here is less about the efficiency of the contractor model for Confluence in particular, and more about we are -- our -- our allegation of detriment is that when we look at the two companies side by side, you know, what -- who would customers rather have serve them. Would we rather have full-time employees who are controlled by the company, who have access to this broad knowledge base? Or would customers be better served by independent contractors? And so in this particular case, the issue is less about the efficiency of that particular model for Confluence, and more focused on comparing Missouri-American to Confluence, if -- if that makes sense. I may be doing a poor job of explaining that.

CHAIRMAN HAHN: Thank you.

MS. VANGERPEN: You're welcome. And again, Chair Hahn, I just want to reiterate to ask that same question to Dr. Marke.

CHAIRMAN HAHN: Thank you.

JUDGE CLARK: Are there any other

Commission questions?

COMMISSIONER MITCHELL: I have just one.
And this may be --

THE REPORTER: Sorry, sir. I don't think
your microphone is on.

COMMISSIONER MITCHELL: Sorry. I just want
to make sure I clearly understand the companies'
position regarding the acquisition premium. When this
comes through in the next rate case, this will be seen
at book value without regard to an acquisition
premium. Is that -- is that correct?

MR. COOPER: That -- that is Confluence
Rivers' expectation. Yes.

COMMISSIONER MITCHELL: Okay. Thank you.

JUDGE CLARK: Ms. VanGerpen, at one point
you had said that the Commission needs to look past
the Tartan Factors. But you also said that both
utilities could provide service. Just kind of as an
overview of clarification for me, the Tartan Factors
are not the dispute that OPC has with Staff and the
Utilities. Is that correct?

MS. VANGERPEN: That's correct. Our --

JUDGE CLARK: So -- so is -- is Staff --
I'm sorry. Is Public Counsel of the opinion that most
of, if not all of those, are already satisfied?

MS. VANGERPEN: We don't dispute that Confluence could provide service to these systems. Confluence is regulated by this Commission, and we don't dispute that they could provide service to these systems. This isn't a situation where we have a buyer who's unknown, who, you know, may not have that same technical, managerial, financial capacity that regulated utilities do in this state. But our position is that those Tartan Criteria, the TMF criteria that Staff looked at in its recommendation really just result in a tie in this case, because we've got two regulated utilities. And so that's our position with regard to those standards.

JUDGE CLARK: Okay. So OPC isn't challenging any of the Tartan Factors?

MS. VANGERPEN: That's correct.

JUDGE CLARK: So the only -- assuming the standard, so the only issue that -- that OPC is asking the Commission to look at is whether there is a detriment to the public interest when the factors are all meta'd.

MS. VANGERPEN: Yes. Just to put a bit finer point on it, we allege that there is a net detriment in this case. So we don't dispute that there is a benefit here, that customers would receive

a decrease in their rates, you know, at least temporarily, upon if the Commission were to approve this acquisition. But we -- our position is that there is a net detriment, even assuming that benefit exists.

MR. COOPER: Thank you.

MS. VANGERPEN: You're welcome.

JUDGE CLARK: And I'm going to -- Mr. Cooper, since you and Mr. Mitten are representing both companies, I'm going to -- unless you separated them out, I'm going to treat them kind of combined. So since we have no further opening statements, the Utilities may call their first witness.

MISSOURI-AMERICAN AND CONFLUENCE RIVERS CASE IN CHIEF

MR. COOPER: Your Honor, we would call MAWC witness Stephen Kadyk.

JUDGE CLARK: And Mr. Kadyk, would you raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

THE WITNESS: Yes.

STEPHEN KADYK,
OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO
TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated.

THE WITNESS: Thank you.

MR. COOPER: Judge, before I proceed, you
may have noticed on our exhibit list that we provided
to you that we have an errata sheet associated with
Mr. Kadyk's direct testimony, and I'd like to hand
that out at this time.

JUDGE CLARK: Are there any objections? I
don't see why there would be, but --

DIRECT EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Would you please state your name.

A. Stephen Kadyk.

Q. And by whom are you employed? In what
capacity?

A. I am an engineering director at --
engineering manager at Missouri-American Water.

Q. Have you prepared -- caused to be prepared
for the purposes of this proceeding certain direct and
surrebuttal testimony in question and answer form?

A. Yes, I have.

Q. And is it your understanding that that testimony has been marked as Exhibits 100 for the direct testimony, and 101P and 101C for your surrebuttal testimony, public and confidential?

A. That is correct.

Q. Do you have any changes that you would like to make to that testimony at this time?

A. Only the submitted Exhibit 102.

Q. So you're referring to what has been marked as Exhibit 102 that was handed out a few minutes ago?

A. Correct.

Q. And would you identify for us, or tell us what that first change is that's listed on your errata sheet.

A. Yes. So the -- the first change is the table of customer counts that has been -- between the submittal of the application and now, there is normal changes in customer counts. And there was also a change identified by OPC that we agreed with, and we switched the customer counts for Golden Ponds and Hunters Creek. There was some misallocation of parcel data in our database. And that was corrected, and it's shown onto the March 3rd, 2025 numbers. So the new customer count should be labeled as six oh -- 616 versus 606.

Q. And then there's a second item listed on your errata sheet as well. What is that?

A. That is the total customer count between the application and March 3rd. And it's now at 616.

Q. And then the third item on that sheet?

A. The minimum and maximum customer counts on the 19 systems was listed from 11 to 83, and now it's from 13 to 83.

Q. If I were to ask you the questions that are contained in Exhibits 100 and 101 today, as now amended, would your answers be the same?

A. Yes, they would.

Q. Are those answers true and correct to the best of your information, knowledge and belief?

A. They are.

MR. COOPER: Your Honor, I would offer Exhibits 100, 101, and 102 into evidence, and tender the witness for cross-examination.

JUDGE CLARK: Are there any objections to admitting Company -- or MAWC Exhibits 100, 101, both public and confidential, and 102 onto the hearing record? I hear no objections. And those are admitted.

MR. COOPER: Thank you, Your Honor.

JUDGE CLARK: Do you have further

questions?

MR. COOPER: I do not. The witness is -- we tender the witness for cross-examination.

JUDGE CLARK: Thank you. Any questions from -- hold on just a second. I believe Staff gets first cross-examination.

MS. HANSEN: Yes. But we have no questions. Thank you.

JUDGE CLARK: Any cross-examination from Public Counsel?

MS. VANGERPEN: No questions, Your Honor.

JUDGE CLARK: Thank you. Mr. Kadyk, you may be excused. Oh, I'm sorry. Are there any Commission questions? I apologize. Go ahead, Commissioner Mitchell.

COMMISSIONER MITCHELL: Thank you.

EXAMINATION BY COMMISSIONER MITCHELL:

Q. Do you know if any of the systems that are under consideration here have any compliance issues with the State?

A. Yes. There is currently negotiations on an AOC for two different systems within Missouri-American Water of these 19. And we work closely with the MDNR to meet all of our deadlines with those AOCs. And we've got projects that will address the compliance

issues that meet the timelines at the AOC.

Q. Do you know generally what those issues are?

A. Yeah. Ammonia -- ammonia limits was two of the main things identified. There was some capacity issues that are also identified. But those will be addressed with the same improvements.

Q. Okay. And one of the things that OPC brings up is that 18 of the 19 wastewater systems are in close proximity to other systems that Missouri-American Water is operating now. Do -- do you know, are those water systems, or wastewater systems, or are they a combination of both?

A. So the main location that OPC is talking about is our water system. And we do have crossover employees that do both at those. But mainly, the operational staff at that -- Jefferson City is water system operators.

Q. Okay. Thank you.

A. Yeah.

JUDGE CLARK: Are there any further Commission questions?

EXAMINATION BY CHAIRMAN HAHN:

Q. I will ask, and also ask Staff. But of the 19 systems, how many are at the end of their useful lives?

A. It -- depending on how you define useful life. There are changes that happen within the regulatory environment that we don't know for sure as of now. If those changes came about, there could be closer to end of useful life for some of these systems. But the ones that we know are at the end of their useful life have been addressed by the MDNR, and are under AOCs, or have projects in place that they will be brought back into compliance.

CHAIRMAN HAHN: Thank you.

JUDGE CLARK: Any redirect from the companies?

MR. COOPER: Judge, I think Staff and OPC get another shot here.

JUDGE CLARK: I think you're right. I'm a little rusty. Any recross from Staff based upon Commission questions?

MS. ASLIN: No questions.

JUDGE CLARK: Any recross from the Public Counsel based on Commission questions?

MS. VANGERPEN: Yes, Your Honor. Just briefly.

CROSS-EXAMINATION

QUESTION BY MS. VANGERPEN:

Q. Good morning, Mr. Kadyk. I apologize if I

said your name incorrectly.

A. That's okay. Get used to it.

Q. So in your discussions with Commissioner Mitchell, you mentioned that the OPC relied on the close proximity to Missouri-American's water systems. Is that correct?

A. (INDICATING.)

Q. But Missouri-American has wastewater systems in this area as well. Is that correct?

A. Yes. That's true.

Q. And of those wastewater systems, those include both small systems and large systems. Correct?

A. Yes.

Q. And those systems are located in Cole County -- in Cole County. Correct?

A. Yes.

Q. Are -- does Missouri-American operate any waste -- other wastewater systems in Callaway County?

A. I would have to look at the location. I'm not for sure on like the exact location of all the other systems, besides these 19 right now.

Q. Okay. But you do know that there are other wastewater systems, at least in Cole County?

A. Yes.

Q. Okay. Thank you, Your Honor. No -- oh, one -- and just to confirm, Missouri-American is not intending to sell those systems. Is that correct?

A. At this time, we have no arrangements to sell any other wastewater systems.

Q. And Missouri-American actually intends to continue operating those systems. Correct?

A. At this point today, yes, we do.

MS. VANGERPEN: No further questions.
Thank you, Your Honor.

JUDGE CLARK: Thank you. Any redirect from the Utilities?

MR. COOPER: Yes. Thank you, Your Honor.

REDIRECT EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Mr. Kadyk, you had a question from Commissioner Mitchell about systems with compliance issues. And you mentioned two systems. Which two systems are those?

A. They are -- let me make sure I get the correct -- so they are Golden Pond and the Highlands, are the two that have AOCs at this time with the DNR.

Q. You were also asked questions by OPC counsel in regard to close proximity to water, and -- and wastewater operations. But let me ask this. In terms

of your employees, and their certification, is there a difference between employees that work on the water systems and those that are able to work on the wastewater systems?

A. Yes. The different certifications are required to operate and maintain water systems and wastewater systems. Those are different regulated operator classifications under the DNR criteria.

Q. And in addition to full-time employees, does Missouri-American currently use contract employees for some types of work that is performed on its wastewater systems?

A. Yes, we do. There are certain specialty items that need to be done by contract employees that's more efficiently subcontracted out instead of keeping that expertise in-house at all times.

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

JUDGE CLARK: Okay. Mr. Kadyk, I believe you're excused.

THE WITNESS: Thank you.

JUDGE CLARK: Wait. Hold on two seconds. I don't believe we usually allow recross after redirect; do we? I didn't think so.

MR. COOPER: No, Your Honor. I'm not

familiar if you have.

JUDGE CLARK: Okay. You're excused. Thank you. And the Utilities may call their next witness.

MR. COOPER: We would call Confluence Rivers' witness, Mr. Aaron Silas at this time.

JUDGE CLARK: Mr. Silas, would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

MR. SILAS: I do.

AARON SILAS,
OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO
TELL THE TRUTH, TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated.

DIRECT EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Would you please state your name.

A. Aaron Silas.

Q. By whom are you employed, and in what capacity?

A. I'm employed -- employed by Central States Water Resources, or CSWR, as the assistant vice-president over our regulatory operations and our customer experience department.

Q. And you're appearing today on behalf of Confluence Rivers?

A. I am.

Q. Have you caused to be prepared for the purposes of this proceeding certain direct and surrebuttal testimony in question and answer form?

A. I have.

Q. Is it your understanding that that testimony has been marked as follows: That Exhibit 1 is your direct testimony; that Exhibit 2C is schedule -- the confidential schedule to that testimony, AS-1-C; and that Exhibit 3, both P and C, is your surrebuttal testimony in public and confidential forms?

A. Yes.

Q. Do you have any changes that you would like

to make to that testimony at this time?

A. No.

Q. If I were to ask the questions which are contained in the exhibits today, would your answers be the same?

A. Yes.

Q. Are the answers true and correct to the best of your information, knowledge and belief?

A. They are.

MR. COOPER: Your Honor, I would offer Exhibits 1, 2C and 3, 3P and 3C, into evidence at the time.

JUDGE CLARK: Are there any objections to admitting Confluence Rivers' Exhibits 1; 2, Confidential; and 3, both Public and Confidential onto the hearing record? I hear none. Those -- those exhibits are admitted onto the hearing record. Go ahead.

MR. COOPER: Your Honor, we would tender Mr. Silas for cross-examination.

JUDGE CLARK: Any cross-examination from the Commission Staff?

MS. ASLIN: No questions. Thank you.

JUDGE CLARK: Any cross-examination from public counsel?

MS. VANGERPEN: No, thank you, Your Honor.

JUDGE CLARK: Are there any Commission questions for this witness?

EXAMINATION BY CHAIRMAN HAHN:

Q. Good morning, Mr. Silas. Just a couple questions. On the handout that OPC provided during their opening statement, they have a scale of items that are detriments. And the first one is no lab. Can you talk -- talk about how CSWR accesses lab services, and just talk me through that.

A. Absolutely. So it's -- it's my understanding from the statement of position that OPC is talking about research labs. I don't know if that's absolutely correct. But I'll speak about both kind of labs.

So from the research lab perspective, I don't know the specifics of how we interact with research labs, but I do know that Confluence has been part of multiple different kinds of pilots for wastewater treatment systems that have resulted in savings of millions of dollars for -- for lagoon rehabs. So the first being side stream MBBRs. And the second being we are currently kind of in the middle of a pilot of the first MABR in -- in state history, which is a membrane aerated biofilm reactor,

which helps to treat ammonia and total nitrogen. So in my role, I don't know the specifics of how all of that works, but I do know that -- that we do participate in pilots.

And all the other kind of laboratory services that we utilize, I think are pretty standard. So we work with our operations personnel to -- to utilize the labs that are available in the state of Missouri.

Q. If we're just talking about sampling labs, or, you know -- do you have a contract with certain labs? I just -- I'm trying to establish that -- how you get your water/wastewater testing completed.

A. Absolutely. Yeah. So we do utilize consistent labs through our operations personnel. So our third-party operators are required by contract to perform those samples, and -- and utilize those laboratory services.

Q. Okay. So it's the third-party contractor that's actually responsible for the lab contract, not CSWR?

A. In my understanding, we are ultimately responsible. It's in our contract that they perform those services for us. But if something were to be missed, Confluence is ultimately responsible. So we

have oversight into all of that. We ensure it's all happening appropriately. But the operations personnel are the ones, you know, doing the actual work, delivering samples, that kind of thing.

Q. Do you have an example of where an operator hasn't performed something that needed performed? And how did CSWR go about the lab work for that item?

A. I don't have any example where -- where that would have occurred.

Q. Okay. Also, I'd asked previously about the operational model. In CSWR's last rate case, the Commission had requested or ordered the company to do an analysis of in-house employees versus contractors. My understanding is that should have some confidential provisions. But would you be able to give public testimony of a summary of the outcome of that attachment?

A. I can. Yes. So Confluence did perform the -- the full cost/benefit analysis of the third-party operations that was required from the last rate case. We were able to conclude that as of September 30th, 2023, the costs would be much greater to internalize those operations than the run rate of third-party operations costs for -- for Q4 of 2023. We were able to talk about some of the benefits and

detriments of -- of that. And while potential benefits do include, you know, direct management over operations, and -- and potential cost stability, the conclusion of the analysis was that it would be much more costly to internalize operations at that time. I will also add that as part of that same condition, we are required to do a -- a revamp of that study and file it with the next rate case.

Q. Thank you. Also, Ms. VanGerpen alluded to kind of the customer experience: Would the customer prefer a larger company like Missouri-American, or a smaller company like Confluence because Missouri-American has in -- in-house employees versus Confluence has contracted. In your last rate case, I would say customer service was a significant issue. I would like to understand, from your perspective, what's been done, if you have customer experience metrics that you could share or point to so that when a customer does call, they have someone that is familiar with their systems. Do you have any of those metrics that you could share with us?

A. Absolutely. So in this past December, I actually started to head the customer experience department. And we've done a whole lot of different initiatives to ensure that the customers are

experiencing a -- a positive interaction with both our agents and our operations personnel.

So in terms of metrics, I do have a few in my -- in my surrebuttal testimony. I pulled some additional metrics as well. So the most recent week of data, which is 6/13 through 6/19, 40 percent -- 39 to 40 percent of our customers chose to take a survey in regards to our services. And of those 40 percent that took said survey, 94.83 of them rated our service perfectly, which means they answered yes to all the questions, in was the agent knowledgeable, did you get your situation resolved, and was the agent friendly.

On top of that, we've also launched an internalized work-order resource team in the customer experience department, which basically just means that we have even more direct insight into the service situations whenever we dispatch a technician. So what that means is now Confluence Rivers and our personnel are directly interacting with customers on service interactions to ensure that, first of all, the task is dispatched immediately, within 15 minutes, to a technician. And second, we follow up with the customer at the end to ensure that the situation was resolved appropriately. So all of that really kind of goes into the fact that since the last rate case, we

have launched several initiatives to make sure that the customer experience is as good as it can possibly be.

Q. Thank you.

JUDGE CLARK: Other Commission questions?

COMMISSIONER MITCHELL: Thank you.

EXAMINATION BY COMMISSIONER MITCHELL:

Q. Good morning.

A. Morning.

Q. I want to run kind of the lab and operational model questions sort of together here. So is it fair to say that with regard to compliance testing, ultimately CSWR is responsible for that compliance testing?

A. Correct. Yeah. The regional manager, whose name is -- is Justin Lundgren, who's in charge of the Confluence Rivers operations, he oversees all of that. We also have an internal compliance department that tracks all of that as well. So yes, ultimately, we have direct oversight, and -- and are directly responsible for the compliance of these systems.

Q. And fair to say that all of the laboratory -- all of the laboratory services that you engage are certified by DNR?

A. Correct.

Q. Okay. Kind of a similar question with regard to the operational model. At the end of the day, CWS -- Confluence is the permit-holder. And fair to say that they have ultimate responsibility for the compliance of each of the plants.

A. Correct.

Q. And not the contract operators.

A. Absolutely.

Q. Thank you.

A. Thank you.

EXAMINATION BY JUDGE CLARK:

Q. This may have been clear to everybody else, but it confused me just a touch. When the Chair of the Commission asked you whether or not Confluence had contracts with laboratories, I saw you nodding. When you answered the question, you indicated that it was required of the third-party contractors you -- you -- you contract with. So does -- does Confluence have a contract with labs? Or does Confluence's contract with third-party vendors require them to have a contract with labs? Or does Confluence's contract with third-party vendors just require them to use Missouri labs, or other labs?

A. I don't know the specifics of -- of how -- of who is contracted where.

Q. Okay. And without getting into the numbers in this case, because those numbers are confidential, is Confluence Rivers requesting that the Commission approve an acquisition premium?

A. No.

JUDGE CLARK: Thank you. Any redirect based upon Commission questions from Staff?

MS. ASLIN: No questions.

JUDGE CLARK: Any redirect based upon Commission questions from the Office of Public Counsel?

MS. VANGERPEN: Yes, Your Honor.

CROSS-EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Mr. Silas.

A. Morning.

Q. So I'd like to touch on a few different areas here. So first, starting with the study about the independent contractors. I believe you talked about that with -- with Chair Hahn. Could you tell us who conducted that study.

A. It was internal personnel. It was headed by a vice-president at our company, Michael Duncan.

Q. And so there was no outside third party that looked at this? This was an internal study?

A. We did have an outside third party look at it as well. Scott Madden.

Q. But ultimately, it's an internal personnel who produced that?

A. Correct.

Q. Thank you. I believe in your discussions with the Commission, you also talked about your regional manager, Justin. And I apologize. I have forgotten his last name. How big is his region?

A. He oversees the operations personnel for the entire state of Missouri.

Q. And does he oversee operations in any other states?

A. He does not.

Q. And now I'd like to turn to the acquisition premium. So have you reviewed Staff's report and recommendation in this case?

A. I have.

Q. And you would agree with me that Staff calculated that an acquisition premium existed as of the time that they issued that report?

A. Yes.

Q. And you would agree with me that we will not know any updated numbers until Confluence files its next rate case. Is that correct?

A. Yes. Yeah. The -- the Commission likely wouldn't know any updated numbers until the next rate case. Correct.

Q. So at this time, the only numbers that are in the record for this case are those that exist in Staff's report and recommendation?

A. That is my understanding.

MS. VANGERPEN: Just a moment, Your Honor. No further questions, Your Honor. Thank you Mr. Silas.

THE WITNESS: Of course.

JUDGE CLARK: Any redirect from the Utilities?

MR. COOPER: Yes, Your Honor.

REDIRECT EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Mr. Silas, you were discussing the contractor study with Ms. VanGerpen. Was that study provided to Staff at OPC prior to or around the filing of this case?

A. Yes.

Q. It was. And -- and presented to them at that time?

A. Correct.

MR. COOPER: That's all the questions I

have at this time, Your Honor.

JUDGE CLARK: Okay. As I understood it, Mr. Silas could only be here today. Is there any objection to finally excusing him? I see none. Mr. Silas, thank you for your testimony. You're excused.

THE WITNESS: Thank you.

MR. COOPER: And just -- and just for others' knowledge, the requirement really was that -- that he -- he not be here tomorrow. So you will likely see Mr. Silas the rest of the day in the -- in the hearing room, so --

JUDGE CLARK: I'll keep that in mind if I have further questions. It's my intention to go ahead -- that's -- that's the last of your witnesses. Is that correct?

MR. COOPER: That's correct, Your Honor.

JUDGE CLARK: Does -- does MA -- does Missouri-American or Confluence have further evidence or testimony they wish to offer? Or are you resting at this time?

MR. COOPER: We do not have any further testimony to offer at this time, Your Honor

JUDGE CLARK: Okay. It's my intention to go through Staff's first witness, if possible, and

then to take a short break. So with that in mind, Staff, you may call your first witness.

PUBLIC SERVICE COMMISSION STAFF CASE IN CHIEF

MS. HANSEN: We'd like to call Johnny Garcia.

JUDGE CLARK: And Mr. Garcia, would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you are about to give at this evidentiary hearing is the truth.

MR. GARCIA: Yes.

JOHNNY GARCIA

OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated. Staff, go ahead.

DIRECT EXAMINATION

QUESTIONS BY MS. HANSEN:

Q. Mr. Garcia, can you please state and spell your name for the record.

A. Johnny Garcia. J-O-H-N-N-Y. G-A-R-C-I-A.

Q. By who are you employed, and in what capacity?

A. I'm employed by the Missouri Public Service Commission as a financial analyst.

Q. All right. Did you prepare the surrebuttal testimony in this case which has been marked as Exhibit 201?

A. Yes, I did.

Q. At this time, do you have any corrections to make to Exhibit 201?

A. No.

Q. If I asked you the same question today within Exhibit 201, would your answers be the same or substantially similar?

A. The same. Yes.

Q. Are those answers true and correct to the best of your knowledge and belief?

A. Yes.

Q. Did you contribute to the Staff memo which is attached to Jarrod's -- Jarrod Robertson's rebuttal testimony?

A. No. A member -- another member of staff, who was on leave for a majority of the case, did. But I've since reviewed and analyzed it, and agree with other staff member's position.

Q. All right. Are you the appropriate Staff employee to ask questions regarding the financial

analysis portion of the Staff memo?

A. Yes.

MS. HANSEN: Thank you. At this time, I offer Exhibit 201 into the record.

JUDGE CLARK: Are there any objections to admitting Exhibit 201 onto the hearing record? I hear none. That exhibit is so admitted.

MS. HANSEN: Thank you, Judge Clark. At this time, I tender Mr. Johnny Garcia for cross-examination.

JUDGE CLARK: Any cross-examination from the Utilities?

MR. COOPER: No questions, Your Honor.

JUDGE CLARK: Any cross-examination from the Office of the Public Counsel?

MS. VANGERPEN: No questions, Your Honor.

JUDGE CLARK: Any Commission questions at this time? I hear none. Mr. Garcia, I have no questions for you. With that in mind, thank you for your testimony. And you may be excused.

THE WITNESS: Thank you.

JUDGE CLARK: Since that was so quick, I'm going to go ahead and go to Staff's second witness. So Staff, you may go ahead and call your second witness.

MS. HANSEN: Thank you, Judge Clark. At this time, we would like to call Mr. Adam Stamp to the stand.

JUDGE CLARK: Mr. Stamp, would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

MR. STAMP: I do.

ADAM STAMP
OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO
TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please go ahead, Staff.

DIRECT EXAMINATION

QUESTIONS BY MS. HANSEN:

Q. Mr. Stamp, can you please state and spell your name for the record.

A. My name is Adam Stamp. A-D-A-M. S-T-A-M-P.

Q. By who are you employed, and in what capacity?

A. I am an analyst for the Missouri Public Service Commission.

Q. Did you prepare the surrebuttal testimony in this case, which has been previously marked as Exhibit

203?

A. Yes, I did.

Q. At this time, do you have any corrections to make to Exhibit 203?

A. No.

Q. If I asked you the same question today within Exhibit 203, would your answers be the same or substantially similar?

A. Yes.

Q. Are those answers true and correct to the best of your knowledge and belief?

A. Yes.

MS. HANSEN: Thank you. At this time, I offer Exhibit 203 into the record.

JUDGE CLARK: Are there any objections to admitting Staff Exhibit 203 onto the hearing record? I see none.

MS. HANSEN: Thank you, Judge Clark. At this time, I tender Mr. Adam Stamp for cross-examination.

JUDGE CLARK: Staff's witness -- Exhibit 203 is admitted onto the hearing record.

MS. HANSEN: Apologies.

JUDGE CLARK: Any cross-examination from the Utilities?

MR. COOPER: No, Your Honor.

JUDGE CLARK: Any cross-examination from the Office of the Public Counsel?

MS. VANGERPEN: No, thank you, Your Honor.

JUDGE CLARK: Are there any Commission questions for this witness? I hear none. And I have no questions for you at this time, Mr. Stamp. So you are excused. Thank you.

THE WITNESS: Thank you.

JUDGE CLARK: And Staff, you may go ahead and call your third witness.

MS. HANSEN: Thank you, Your Honor. At this time, we'd like to call Mr. Jarrod Robertson to the stand.

JUDGE CLARK: Mr. Robertson, would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

MR. ROBERTSON: Yes.

JARROD ROBERTSON
OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO
TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated. Staff, go

ahead.

DIRECT EXAMINATION

QUESTIONS BY MS. HANSEN:

Q. Mr. Robertson, can you please state and spell your name for the record.

A. Jarrod Robertson. J-A-R-R-O-D.
R-O-B-E-R-T-S-O-N.

Q. By who are you employed, and in what capacity?

A. I'm with the Missouri Public Service Commission as a senior analyst within the Water, Sewer, Gas and Steam Department of the Industry Analysis Division.

Q. Did you prepare the rebuttal and surrebuttal in this case which have been previously marked as Exhibits 200 and 202?

A. Yes.

Q. I apologize. Exhibit Number 200 is both Confidential and Public. Is that correct?

A. Yes.

Q. At this time, do you have any corrections to make to Exhibits 200 and 202?

A. Yes, I do.

Q. All right. Can you tell me those -- those corrections.

A. Yes. The first would be within the Staff recommendation memorandum.

Q. Okay.

A. And essentially, we have some input errors within the narrative pertaining to the customer counts for a few of these systems as they compare to the table.

Q. Okay.

A. Would you like me to read what those are?

Q. Yes, please.

A. All right. And my apologies. I have a clean document in front of me which no longer has the highlights, so I'm going to have to find these for us.

Q. No problem at all.

A. All right. Okay. The first error or edit we would like to bring up would be with the Hillers Creek customer count, as inputted in the narrative of 47. It is actually 43 within the table.

Q. Okay.

A. And these numbers I'm reading -- reading aloud in the table match the table from the application as well submitted by the parties.

Q. Okay. Thank you. Can you specify which page of the memo you are on.

A. Yes, I can. The table itself is on Page 3 of

17. And the narratives for each system follow after. And Hillers Creek is on Page 6. So the next -- next edit would be the narrative stating 52 customer counts for Hunters Creek when that is actually 67.

And then we've got another for Ozark Meadows, where it's stated as 30 customer connections, and that is 26 on the table.

And that appears to be -- oh, one last one, for the Highlands. On Page 8 of 17, it is stated as 60 when it is actually 29 customer count.

Q. I'm sorry. Was that 6-0 or 1-6?

A. 6-0.

Q. All right. And then did you have another correction?

A. Yes, I did, for my surrebuttal. That would be on Page 2, where I referred to, on Line 6, Dr. Marke's surrebuttal testimony, and it should have been rebuttal.

Q. All right. And these are all of the corrections. Is that correct?

A. That is correct.

Q. Okay.

JUDGE CLARK: And there's been a number of corrections. Would Staff be able to submit errata sheets for the rebuttal and surrebuttal testimony of

Mr. Robertson?

MS. HANSEN: Absolutely, we can do that.

JUDGE CLARK: Would you be able to do that by the end of the day on Friday?

MS. HANSEN: We can do that.

JUDGE CLARK: And I will allow until July 2nd, next Wednesday, for objections. And so those will be, I assume, separate ones for each testimony. So that will be Exhibit 204 and 205.

MS. HANSEN: All right. Thank you. We -- we will do that.

JUDGE CLARK: Okay. Go ahead. Sorry to interrupt.

MS. HANSEN: No problem at all.

Q. (BY MS. HANSEN.) Mr. Robertson, if I asked you the same question today within Exhibits 200 and 202, would your answers be the same or substantially similar?

A. Yes.

Q. Are those answers true and correct to the best of your knowledge and belief?

A. Yes.

MS. HANSEN: Thank you. At this time, I offer Exhibits 201 and 202 into the record.

JUDGE CLARK: Any objections to Exhibits --

Staff's -- 200, the rebuttal testimony of Mr. Robertson, and Exhibit 202, the surrebuttal testimony of Mr. Robertson onto the hearing record?

MS. VANGERPEN: Your Honor, can I just ask a clarifying question to see if I have an objection.

JUDGE CLARK: Please go ahead.

MS. VANGERPEN: Thank you.

CROSS-EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Mr. Robertson, are your updated numbers, do those match the updated numbers that the company submitted in its errata sheet this morning?

A. The 616 total?

Q. Yes.

A. They do not. They relate to the application numbers, so the 606.

Q. Okay. So the numbers are being updated to match the application as filed?

A. That's correct.

MS. VANGERPEN: Okay. Thank you, Your Honor. No objection.

JUDGE CLARK: Okay. Exhibits 200 and Exhibit 202 are admitted onto the hearing record. And that would be Exhibit 200, both Confidential and Public.

MS. HANSEN: Thank you, Judge Clark. At this time, I tender Mr. Jarrod Robertson for cross-examination.

JUDGE CLARK: Any cross-examination from the Utilities?

MR. COOPER: Yes, Your Honor.

CROSS-EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Mr. Robertson, in Staff's statement of position, it concludes by saying Staff, cognizant of the fact that there is no exhaustive list of considerations influencing whether or not a sale is detrimental to the public, performed a thorough analysis using the above-mentioned criteria as a guide, considered all relevant factors, and found that the proposed sale is not detrimental to the public interest. Is that statement consistent with your understanding of how Staff arrived at its recommendation in this case?

A. Yes, it is.

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

JUDGE CLARK: Any cross-examination from the Office of Public Counsel?

MS. VANGERPEN: Yes, Your Honor. Just

briefly.

RECROSS-EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Mr. Robertson.

A. Morning.

Q. Mr. Robertson, did you issue Data Request Number 51 to Confluence on May 29th of this year?

A. Could we look at an example of that so I may speak to that.

Q. Sure.

A. Lot of numbers.

MS. VANGERPEN: Your Honor, I actually have printouts of that. May I approach the witness and hand those out.

JUDGE CLARK: Please.

MS. VANGERPEN: Thank you. Just for clarity of the record, Your Honor, I would like to refer to this document as Exhibit 304, just for identification purposes.

Q. (BY MS. VANGERPEN.) So Mr. Robertson, I just want to ask you again, now that you've refreshed your recollection. Did you issue Data Request Number 51 to Confluence on May 29th of this year?

A. Yes. Staff issued this on -- on that date.
Yes.

Q. Did you receive a response to that request?

A. Yes.

Q. And did you review that response to the request?

A. I did review that. Yes.

Q. And Mr. Robertson, is the document that you're holding, is that both Staff's Data Request Number 51 as well as Confluence's answer to that data request?

A. Yes.

Q. And is this a true and accurate copy of those -- of that data request and Confluence's response?

A. To the best of my ability to understand. Yes.

MS. VANGERPEN: Thank you. Your Honor, I'd like to admit Exhibit 304 into evidence.

JUDGE CLARK: Are there any objections to admitting Public Counsel Exhibit 304, which is Staff Data Request 51, onto the hearing record?

MS. ASLIN: I just want to mention that both the data request and the response are confidential.

MS. VANGERPEN: Yes, Your Honor. They are. We don't dispute that.

JUDGE CLARK: Thank you. Any objections?
I see none. Exhibit 304, Confidential, DR51 of Staff,
is admitted onto the hearing record. Please go ahead.

MS. VANGERPEN: Thank you, Your Honor.

Q. (BY MS. VANGERPEN.) Mr. Robertson, I'd now
actually like to switch gears a little bit and talk
about Data Request Number 52.

Your Honor, may I approach the witness
with this document as well?

JUDGE CLARK: Yes.

MS. VANGERPEN: Thank you.

JUDGE CLARK: And if we can get a copy of
51 now, please.

MS. VANGERPEN: Yes, Your Honor. Of
course.

Q. (BY MS. VANGERPEN.) So Mr. Robertson,
similarly to Data Request Number 51, did you issue
Data Request Number 52 to Confluence on May 29th of
this year?

A. Yes.

Q. And did you receive a response to -- to that
data request?

A. Yes.

MS. VANGERPEN: And I apologize, Your
Honor, I -- I should have mentioned for clarity

purposes the OPC would like to identify this document as Exhibit 305.

Q. (BY MS. VANGERPEN.) And did you review Confluence's response to that request?

A. Yes.

Q. And Mr. Robertson, is the document that you're holding, to the best of your knowledge, both Staff's Data Request Number 52 and Confluence's response to that data request?

A. Yes.

Q. And is that a true and accurate copy of the data request and Confluence's response to it, to the best of your knowledge?

A. Yes.

Q. And for clarity, this -- the request is public, but the response is confidential. Is that correct?

A. Yes.

MS. VANGERPEN: Your Honor, I would like to admit Exhibit 305 into evidence.

JUDGE CLARK: Any objections to admitting -- or admitting Public Counsel Exhibit 305, Confidential, DR 52 and its response, onto the hearing record?

MS. HANSEN: One point of order. Both the

requests -- oh, sorry. Sorry about that.

JUDGE CLARK: Okay. Are there any objections? I see none. Public Counsel Exhibit 305, Confidential, DR 52, is admitted onto the hearing record.

MS. VANGERPEN: Thank you, Your Honor. Your Honor, we have no further questions.

JUDGE CLARK: Okay. Hold on just a second. I'm going to mark this exhibit. Are there any Commission questions for this witness? I hear none.

EXAMINATION BY JUDGE CLARK:

Q. Mr. Robertson, I have -- I have one question for you. Staff is supporting the transfer of assets from Missouri-American to Confluence. Is that correct?

A. That is correct.

Q. Is Staff opposing an acquisition premium in this case?

A. Yes.

Q. Why?

A. That would probably be a question better addressed from an auditing Staff member.

JUDGE CLARK: Is there an auditing Staff member that would be available to answer that question?

MS. HANSEN: Ms. Melanie Marek is in the building, and she can answer that question.

JUDGE CLARK: Okay. We may come back to that later. I have no further questions. Any redirect?

REDIRECT EXAMINATION

QUESTIONS BY MS. ASLIN:

Q. Mr. Robertson, you stated that Staff is opposing an acquisition premium in this case. Is that correct?

A. That is how I answered. Yes.

Q. Would it be more accurate to state that Staff believes that making any determination about an acquisition premium at this point is not appropriate for this case?

A. That would be more accurate. Yes.

MS. ASLIN: Thank you.

FURTHER EXAMINATION BY JUDGE CLARK:

Q. Now my next question. Why would that be more accurate?

A. That is what Staff's recommended within their memorandum.

Q. Okay. That is acceptable.

All right. If there's no further questions, Mr. Robertson, you may step down. And does

Staff have any further witnesses or evidence at this time?

MS. HANSEN: We do not, Your Honor.

JUDGE CLARK: Okay. I'm going to take -- it is now 10:44. I would like to take a recess until 10:55. And if -- if you could have Ms. Marek available, I would appreciate that. All right. We're in recess. Let's go off the record.

(OFF THE RECORD.)

JUDGE CLARK: Okay. It is now 10:55. Let's go back on the hearing record. Staff, would you like to call Witness Marek.

MS. HANSEN: Staff calls Witness Marek to the stand.

JUDGE CLARK: And would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

MS. MAREK: Yes, I do.

MELANIE MAREK
OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO
TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated. I don't

believe Staff has any questions for you; do they?

EXAMINATION BY JUDGE CLARK:

Q. Okay. I had asked the previous witness, Mr. Robertson, if Staff was supporting an acquisition premium. And I was told that you were the witness who could explain staff's position on acquisition premiums.

A. That's correct.

Q. As it relates to this case. Okay. Would you go ahead.

A. To explain our position? So we calculated the difference between the purchase price and the net book value, which did give us a figure. That figure's confidential. However, we're not recommending, and no one's requesting an acquisition premium in this case. But our general stance is that it not be born by the rate payers, but instead by the shareholders in a typical acquisition case.

Q. And what's the reasoning for that?

A. I would say basically it's because it stops a -- or prevents or deters a -- a company from purchasing -- or selling something, basically, for additional profit, if they're the ones that are having to take that hit financially, or buying it to give another company profit.

JUDGE CLARK: Thank you. Are there any Commission questions? I hear none. Are there any questions based upon my questions? Starting with the Utilities.

MR. COOPER: No questions, Your Honor.

JUDGE CLARK: Public counsel, any questions for this witness?

MS. VANGERPEN: Yes. Just -- just briefly, Your Honor.

CROSS-EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Ms. Marek.

A. Marek.

Q. Sorry.

A. That's okay. Everyone --

Q. I just want to clarify. Staff did, in its memorandum attached to its report and recommendation, calculate a difference between the net book value and the purchase price in this case. Correct?

A. That is correct.

MS. VANGERPEN: No further questions, Your Honor.

JUDGE CLARK: Thank you. Any questions from Staff?

DIRECT EXAMINATION

QUESTIONS BY MS. ASLIN:

Q. I just have one clarifying question. When you were talking about acquisition premiums with Judge Clark, I believe you had mentioned something about Staff's view on acquisition premiums in acquisition cases. And I just wanted to clarify. I believe you meant rate cases, because Staff doesn't -- we're not recommending any sort of decision on an acquisition premium at this time. Correct?

A. That's correct.

Q. Okay.

A. Not in acquisition cases.

MS. ASLIN: Thank you.

JUDGE CLARK: Thank you for that clarification. Are there any further questions for this witness before I excuse them? Okay. Thank you, Ms. Marek, you're excused.

THE WITNESS: Thank you.

JUDGE CLARK: I believe I already asked this, but I'm going to ask again. Does Staff have any further witnesses or evidence they wanted to present at this time?

MS. HANSEN: We do not, Judge Clark. Thank you.

OFFICE OF PUBLIC COUNSEL'S CASE IN CHIEF

JUDGE CLARK: Okay. Thank you. Public Counsel, you may call your first witness.

MS. VANGERPEN: Thank you, Your Honor. OPC calls Mr. David Murray to the stand.

JUDGE CLARK: And would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth?

MR. MURRAY: I do.

DAVID MURRAY

OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO TELL THE TRUTH, TESTIFIED AS FOLLOWS:

JUDGE CLARK: Please be seated. Staff, go ahead. I'm sorry. Public Counsel, go ahead.

MS. VANGERPEN: Thank you, Your Honor.

DIRECT EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Mr. Murray. Can you please state your name and spell it for the record, please.

A. My name's David Murray. And my last name is spelled M-U-R-R-A-Y.

Q. Thank you. And by whom are you employed, and in what capacity?

A. By the Missouri Office of Public Counsel, as a utility regulatory manager.

Q. And are you the same David Murray who caused to be prepared rebuttal and surrebuttal testimony in this case?

A. Yes.

Q. And do you have any corrections or additions to your written testimony that's been pre-marked as Exhibits 300 and three -- 301, both Public and Confidential versions?

A. I do have a correction to my rebuttal testimony. It is on Page 3, Footnote 1. I indicated after adding the \$2.19 per month for WSIRA that the resultant rate is \$67.55. That is incorrect. The WSIRA surcharge was \$3.20, and the resulting rate was \$68.56.

Q. Thank you, Mr. Murray. With that correction in mind, if I asked you these same questions today, would your answers be the same or substantially similar?

A. Yes.

MS. VANGERPEN: Your Honor, I offer Exhibit 300 and 301, both Public and Confidential versions,

for admittance into the record.

JUDGE CLARK: Any objections to admitting Exhibit 300, the rebuttal testimony, and Exhibit 301, the surrebuttal testimony of Mr. Murray onto the hearing record? I see none. Just for consistency's sake, would Staff file an errata sheet. Or I mean OPC file an errata sheet.

MS. VANGERPEN: We certainly can, Your Honor.

JUDGE CLARK: And could you do that by the end of the day on Friday?

MS. VANGERPEN: We can.

JUDGE CLARK: And I will make that Exhibit 306. And I will allow until next Wednesday, July 2nd for objections to said errata sheet. With that, seeing no objections, Exhibits 300 and Exhibit 301 are admitted onto the hearing record.

MS. VANGERPEN: Thank you, Your Honor. And we would tender Mr. Murray for cross.

JUDGE CLARK: Any cross-examination from the Commission Staff?

MS. ASLIN: Yes.

CROSS-EXAMINATION

QUESTIONS BY MS. ASLIN:

Q. Mr. Murray, I know you have quite -- quite a

bit of experience. How many years of experience do you have working at OPC, and previously for Commission Staff?

A. About 25 years.

Q. And in that time, do you have any idea how many rate cases you've worked on?

A. I -- I -- it's in my -- it's attached to my testimony.

Q. But it's been quite a few?

A. Yeah. It's quite -- quite a few.

Q. Okay. Can you recall any rate case where the Commission has ordered rates that were equal to or higher than the rate requested by the company in its direct filing?

A. I believe they have done with small water and sewer companies. But I don't think that's occurred for a large utility.

Q. Okay. So would you agree with me that at the conclusion of its next rate case, Confluence's Commission-approved rates will likely be lower than what is requested in their direct filing?

A. I do not know.

Q. But based off of the pattern, you wouldn't feel comfortable saying that that's likely?

A. There's always a first time. But I don't --

do not know.

Q. Okay. Do you think that Missouri-American's rates will be higher in five years than they are right now?

A. There's a lot of rates for Missouri-American, so I -- I do not know.

Q. Do you believe that their residential sewer rates will be higher in five years than they are right now?

A. I do not know.

Q. Do you think in ten years, they'll be higher than they are right now?

A. With the technologies and what have you of -- of potential changes to sewer systems, I just -- naturally, inflation, and -- and -- and with the -- if you had the same plants that you have right now, that require the upgrades, then yes, the labor and the -- the capital required to -- to -- to make necessary repairs and improvements to those systems would -- should cause that cost to go higher.

Q. Do you think that the same is true of Confluence's residential sewer rates?

A. Well, I know that Confluence is filing a rate case at the end of this year. So I don't think they would be filing a rate case unless they planned to

increase their rates.

Q. So other than an assumption that both companies' rates will increase in the future, I believe you stated this, but you would agree with me that there's no way to know exactly what those rates will be. Correct?

A. There's no way to -- to know exactly what those rates will be. There's a way to evaluate cost of service inputs.

Q. Okay.

A. And that's what I did.

MS. ASLIN: All right. No further questions.

THE WITNESS: Thank you.

JUDGE CLARK: Any questions from the Utilities?

MR. COOPER: No questions.

JUDGE CLARK: Are there any questions from the Commissioners? Commissioner Mitchell has a question.

COMMISSIONER MITCHELL: Thank you.

EXAMINATION BY COMMISSIONER MITCHELL:

Q. OPC asserts that there -- that there would be higher cost of service inputs in the handout that Ms. VanGerpen sent around. So could you elaborate on

what those higher cost of service inputs might be, and -- and how you arrived at the conclusion that they'd be higher.

A. Sure. I mean, I'm a -- my specialty is a -- is analyzing cost of capital and recommending rates of return for all rate cases. And, you know, I have a lot of experience with -- with Confluence, and of course its predecessor utility subsidiaries, which were consolidated to form Confluence in about 2019. I don't recall exactly.

But yeah, they have -- consistently have claimed that they could not raise traditional types of debt issuances. For the longest time, they had an affiliate financing transaction that had a 14-percent rate assigned to it. It wasn't until five -- well, maybe even seven years before Confluence actually secured -- I say traditional debt financing. Actually bank financing from CoBank. That was at a cost of 6.6 percent. These are -- these are stated costs. These are not a matter of estimation like with the cost of equity.

And Missouri-American has an embedded cost of debt of 4 1/2 percent. So there's 200 basis points right there, 2 percent, that -- that is obviously a higher cost. And -- and -- for

Confluence.

And Confluence requested a much higher common equity ratio in its most recent rate case. In 2023, they requested a -- about a 70-percent common equity ratio. Missouri-American requested a common equity ratio of 50 percent. Confluence indicated they needed that higher common equity ratio because they wanted to continue to make acquisitions, which may include troubled systems that needed a tremendous amount of capital investment. My response to that was that your current rate payers should not be subsidizing the future acquisitions -- the acquisition activity of Confluence.

Ultimately, the -- the Commission did adopt a lower common equity ratio, but it wasn't after we had to have significant debate about it. Missouri-American voluntarily just recommends a 50-percent common equity ratio with the lower cost of debt. They actually recommended a lower return on equity.

The total rate of return difference between the two cases, between Confluence and Missouri-American was 300 basis points, 3 percent. That's not an insignificant difference in cost of capital.

And then I also evaluated Missouri-

American's plans for capital investment. And this is just based on their information. I'm not an engineer. I don't -- I don't know exactly what needs to be done. But I just compared the two, Missouri-American and Confluence's plans, and Confluence had engineering reports that identified improvements for all the -- all the 19 systems, where Missouri-American had information about -- specific information about three of the systems, non-specific information, which I couldn't determine from the other systems. So I did not factor that into the -- into the cost of investment, because it's not disaggregated. Missouri-American did not have that detail. So I focused -- and -- and -- and not that I didn't try to try to see if there was -- and actually asked the company, and -- and Staff if they could determine if there were potential operating cost savings or -- or overhead cost savings that could occur with the transfer of assets.

But I identified the -- the higher capital cost. And that's in my testimony. And so the higher capital cost consisted of a much higher requested rate of return, and even a higher authorized rate of return by the Commission, because Confluence does indicate that it needs a higher return for the

risk of its special niche.

And -- and then, of course, some variation in the estimated amount of investment.

Q. Thank you.

JUDGE CLARK: Chairman Hahn has a question for you, Mr. Murray.

THE WITNESS: Yes.

EXAMINATION BY CHAIRMAN HAHN:

Q. Mr. Murray, as you're kind of recapping those recent rate cases, it jogs my memory. And I remember the Commission -- when Confluence did a request to hike debt/equity ratio, the Commission imputed a 50/50 capital structure. And then similarly, Missouri-American did not concede to capital structure initially. It was a contested issue, and there was a difference. I think the difference was smaller than the 70, you know, that was originally requested by Confluence. But I can't -- I think for both, I mean, at least for this most recent Missouri-American one, wasn't it still a contested issue?

A. It was contested. But they just requested just slightly, by 50.3-percent common equity --

Q. Yeah.

A. -- versus Confluence's 70 percent. And I believe the reason why the Commission adopted a

hypothetical with Confluence is because the -- the ownership model of private equity owning a CSWR is very opaque. It's -- it's -- American Water, I can go to their SEC filings, and look at what their financial statements are, and how they capitalize the parent company. And with the ownership of -- of CSWR, but, you know, indirectly Confluence, unfortunately, I've not been able to review that information to see exactly how they're financing at a higher level, and so it's been very difficult.

Q. Do you recall the exact ROE that was requested by Missouri-American in the last rate case? In the most recent rate case?

A. I think it's 10 1/2, if I recall correctly. 10.75. 10.75. I'm sorry.

Q. I think that's right. With the zone of reasonableness going all the way up to 11.75, and -- do you recall what was requested by Confluence in their ROE?

A. It was 11 1/2, or somewhere in that area.

Q. And the Commission ordered 9.9?

A. That's correct.

Q. Okay. And were -- thank you, Mr. Murray.

THE WITNESS: Thank you.

EXAMINATION BY JUDGE CLARK:

Q. What are transactions costs in a case like this?

A. Transaction costs? I -- the only transaction cost that I specifically reviewed is in -- I don't know if this would be more of a -- this is more of a transition cost, the -- the preliminary survey engineering cost that -- that Confluence is incurring to -- to evaluate the -- the targets, which was \$220,000, I believe. But I don't know what the other transaction costs are.

Q. So are you saying that that -- that preliminary survey, that that is or is not a transaction cost? You used the word transition cost, and I'm not familiar with that term.

A. Well, because the transition, that has to do more with Confluence's internal cost, not necessarily that -- it doesn't have to do with the interaction with Missouri-American. It has to do with their due diligence. And that has been, you know, something that has -- I believe has been requested been recovered in -- in past rate cases involving Confluence. So that's a cost that -- that is just a result of them having to do their own analysis or assessment of the condition of the systems.

Q. And you said that typically was or was not allowed in rate base?

A. Yeah. I don't recall exactly, you know, whether or not that was -- that was -- that was put in rate base. I just don't -- I don't recall right now. I'm sorry.

Q. No. That's fine. Thank you. Thank you.

I have no further questions. Any recross from Staff?

MS. ASLIN: No questions.

JUDGE CLARK: Any recross from the Utilities.

MR. COOPER: Yes.

CROSS-EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Let me start with this. And I think you said it. But there's a difference between requested ROEs, debt structure -- or debt costs, capital structures, and those items as they may ultimately find their way into rates. Correct?

A. Yes.

Q. You were just talking about transaction and transition fees. Correct? Or costs.

A. Yes.

Q. Those are generally something that's looked

at in a rate case to determine recoverability of certain costs associated with a transaction. Correct? Or an acquisition.

A. Looked at in a rate case, but discussed in context of an acquisition case.

Q. And you mentioned a \$220,000 figure. You get that for surveying costs. Correct?

A. Yes. That's what was in the -- attached to the application. Yes.

Q. And that was a number and a feasibility -- or in a feasibility statement. Correct? Or feasibility study?

A. That's the information that I had. Yes.

Q. And you have no idea whether those are actual costs, or costs that have been incurred. Correct?

A. I have not reviewed that specifically. No.

Q. And lastly, you talked about a whole lot of cost inputs in response to Commission questions. But would you agree with me as we sit here today the monthly Missouri-American rate is higher than either of Confluence Rivers' district rates for wastewater?

A. Yes. That's a fact.

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

JUDGE CLARK: Any redirect from Public

Counsel?

MS. VANGERPEN: Yes, Your Honor.

REDIRECT EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Mr. Murray --

A. Morning.

Q. -- again. So -- so there are a couple things that I want to touch on here. I believe in both your discussion with Staff counsel, and also with Commissioner Mitchell, you talked about the difference in what is requested and what is actually awarded. In this case, the OPC used what information it had.

Correct?

A. Yes. I relied on information in the application, and Staff's recommendation, and -- and their, you know, information from data request responses.

Q. And did you also rely on information based on your past experience with both Missouri-American and with Confluence?

A. Yes.

Q. And I believe in your discussion with Staff, you had mentioned that you've got quite a bit of experience. And so it -- would it be fair to say that you're quite familiar with both of these companies?

A. I am. Yes.

Q. And did the OPC attempt to find offsets for these higher capital costs that you're referencing?

A. I did. And even though -- even though I, as we pointed out, don't think we, as the Office of Public Counsel, have the burden of proof, I also want to try to solve problems and -- and -- and get to -- to whether or not, you know, this is a transaction that may make sense. I mean, that's what we're here for. So I -- I tried to look at information potentially as to what the overhead costs for connection might be for these systems, and what the operations costs for these systems might be, issued data requests requesting if the company or Staff had, you know, tried to do so. And -- and the answer was this is just speculation. And -- and I don't know, my -- my view is -- is we need to try, because this is a transaction that is -- you know, these are sewer systems that -- that can be -- as has been pointed out, can be run by either company. But there are different opinions as to what types of investments need to be made in these systems. Obviously there -- you know, as we -- as I pointed out, there -- I consider it to be the higher cost of capital, and capital costs to be a detriment. So if there were

offsets, I welcomed that information to try to -- to try to do a full evaluation as to whether or not this transaction, you know, looks like it might be detrimental. And -- and -- and I did not receive any information.

Q. And so just to clarify, you did issue data requests. In those answers, were the companies able to identify any kind of cost savings? Had they performed any kind of analysis?

A. No.

Q. Did either offer to perform an analysis to look for those savings?

A. No.

Q. Then I'd also like to go back to kind of our discussion about how OPC used what information that it had. Is there additional information in this case that suggests what rate customers might pay in the future?

A. Yes. I mean, the only rate that has really, I guess, been developed with -- considering all the current systems, and -- and operations expenses, and overhead, and connections, and what have you is what Confluence itself offered in its feasibility study, and then also expanded upon in the responses to Staff DRs.

Q. Okay. And I don't want to get into that particular number, because that number is confidential. But would you agree that that number is, in fact, higher than the rate Missouri-American currently charges?

A. Yes. It's higher. And it's not -- it's not broken out based on District 1 or District 2. If that's an average, then the District 1 rate would be higher than -- you know, even higher than an average rate -- or District 2 would be higher than that average rate, but District 1 would be lower.

Q. And just for clarity of the record, what is the difference between District 1 and District 2 that you're referring to?

A. From a financial person's perspective, I'll just keep it very simple. District 1 is more or less the less sophisticated lagoon-type systems. District 2 is -- is more mechanical, contained treatment systems that -- that I think 16 or 15 of the systems have of these 19 systems.

Q. And that's for Confluence. Correct?

A. That's Confluence. Correct.

Q. Okay. And that higher rate that we were talking about, who developed that higher -- who developed that rate?

A. The company.

Q. And when you say the company, which company are you talking about here?

A. Sorry. Sorry. Confluence.

Q. And did Confluence perform any kind of analysis to find that rate?

A. They did. I didn't see work papers provided along with the response to Staff's data request. It just -- it just provided a qualitative description of -- of what they considered in estimating that rate.

Q. Okay. And when you said Staff's data request, which data request are you talking about?

A. 51 and 52.

Q. And those have been entered into the record in this case as Exhibits -- OPC Exhibits 304 and 305. Correct?

A. Yes.

MS. VANGERPEN: Your Honor, can we briefly go in camera to discuss the actual amount of that rate. That is a confidential number.

JUDGE CLARK: Yes, we can. We will go in camera. Anybody who is not authorized to hear this information needs to leave the room. I'm getting a thumb's up that everybody in here can hear this information. The stream's muted. Thank you. So they

can't hear?

THE REPORTER: I'm sorry. Is this intended for the record?

JUDGE CLARK: No. I apologize. I should have gone off record for -- for this technical stuff.

(OFF THE RECORD.)

IN CAMERA SESSION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IN CAMERA SESSION CONCLUDED

JUDGE CLARK: Okay. We are out of in camera. Any further questions from Public Counsel?

MS. VANGERPEN: No, thank you, Your Honor.

JUDGE CLARK: Thank you for your testimony, Mr. Murray. You may be excused. Public counsel, you may call your next witness.

MS. VANGERPEN: Thank you, Your Honor. The OPC would call Dr. Geoff Marke to the stand.

JUDGE CLARK: Would you raise your right hand to be sworn. Do you solemnly swear or affirm that the testimony you're about to give at this evidentiary hearing is the truth.

DR. MARKE: I do.

GEOFF MARKE

OF LAWFUL AGE, HAVING BEEN DULY SWORN OR AFFIRMED TO TELL THE TRUTH, TESTIFIED AS FOLLOWS:

DR. MARKE: Please be seated.

MS. VANGERPEN: Thank you, Your Honor.

DIRECT EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. Good morning, Dr. Marke. Please state your name, and spell it for the record.

A. Geoff Marke. And that's G-E-O-F-F. Mark, M-A-R-K-E.

Q. By whom are you employed, and in what capacity?

A. I'm the chief economist with the Missouri Office of Public Counsel.

Q. Are you the same Dr. Geoff Marke who caused to be prepared rebuttal and surrebuttal testimony in this case?

A. I am.

Q. Do you have any corrections or additions to your written testimony that has been pre-marked as Exhibits 302 and 303, both public and confidential versions?

A. I do not.

Q. If I asked you those same questions today, would your answers be the same or substantially so?

A. Yes.

MS. VANGERPEN: Your Honor, I would offer Exhibits 302 and 303, both public and confidential versions, for the record.

JUDGE CLARK: Are there any objections to admitting Exhibit 302, the rebuttal testimony, and Exhibit 303, the surrebuttal testimony of OPC witness Dr. Marke onto the hearing record? I see none. Those witnesses -- or those exhibits will be admitted, both public and confidential.

MS. VANGERPEN: Thank you, Your Honor. We would tender Dr. Marke for cross.

JUDGE CLARK: Any cross-examination from the Commission Staff?

MS. HANSEN: Yes, Judge Clark. We do have a couple of cross-examination questions.

CROSS-EXAMINATION

QUESTIONS BY MS. HANSEN:

Q. Good morning, Dr. Marke.

A. Good morning.

Q. All right. So first I'm going to refer you to your rebuttal testimony. And that's going to be Page 3, Lines 19 through 23.

A. Yes.

Q. And then I'm also going to refer you to -- let's see -- sorry. One moment. I do apologize. I think I'm going to refer you to the first line of Page 4. Okay. You know, I do apologize. Did I say rebuttal or surrebuttal?

A. Rebuttal.

Q. Rebuttal. Okay. I was on the wrong testimony. I do apologize for that. Okay. All right. So I'm going to refer you to Lines -- or Page 3, Lines 19 through 23, and then the first line of Page 4. You can let me know when you're there.

A. I'm there.

Q. All right.

JUDGE CLARK: And this is the surrebuttal testimony. Correct?

MS. HANSEN: I do apologize. This is the rebuttal testimony.

JUDGE CLARK: Okay.

Q. (BY MS. HANSEN.) Okay. So here you state I believe CSWR's business model is wholly unique in the regulated utility sector. Based on my observation, CSWR largely functions as an intermediary middleman, operating as a vehicle to allow private equity partners to invest in these distressed systems, while handing off the operation and maintenance tasks associated with those systems to local, contracted services. That is what your testimony states. Is that correct?

A. That's correct.

Q. Do you know of any instance in which this

Commission has denied Confluence's CCN because of Confluence's practice of using contracted services?

A. I'm not aware of any.

Q. Okay. All right. And then again, I'm going to refer you to your rebuttal testimony, on Page 5. And then if you would let me know when you're there, I will get started on that.

A. You can get started.

Q. Perfect. All right. So on Page 5, you have a table identifying the number of EFIS comments for Confluence's last rate case, and for MAWC's last rate case. Is that right? Am I reading that correctly?

A. That's correct.

Q. Okay. So can you walk me through this table. The total number of customer comments during Confluence's last rate case is 257. Is that right?

A. That is what I have. Yes.

Q. Okay. Then the total number of customer comments during MAWC's last rate case is 146?

A. Yes.

Q. Okay. And 257 is 76 percent more than 146. Is that correct?

A. Could you repeat that.

Q. Yes. I think -- let's see.

A. Oh, I see in my testimony.

Q. Yeah. Your testimony. Yeah. Okay. All right. Not a math person. Thank you. In your testimony, you describe these comments as critical comments. Is that correct?

A. That's correct.

Q. Okay. Were any of these comments critical of the CSWR business model?

A. I think that's difficult to answer. I mean, how do you separate the business model from the business actions? I mean, the customers were critical of the company and its service. I think that's reflective of that business model.

Q. Did any -- can you give any specific examples of customer comments that were -- that specifically talked about customer-service issues regarding I guess the contracted services. Or did -- did the customers ever specify, you know, whether these services were provided by contractors?

A. I can't recall.

Q. Okay. And then can you tell me, did you read all of these comments?

A. I have, at times. Yes.

Q. Okay. Thank you. All right. And then in your surrebuttal testimony -- so I'll let you get there, and then I'll get there as well.

A. Okay.

Q. All right. And then I'm going to refer you to Pages 9 through 11.

A. I'm there.

Q. All right. So on Pages 9 through 11, you discuss the concepts of technical, managerial and financial capacity, or TMF capability. Is that correct?

A. That's correct.

Q. All right. And then I'm going to refer you specifically to Page 11, Lines 1 through 4.

A. I'm there.

Q. Okay. All right. In response to the question does this framework assist the Commission in determining whether the sewer acquisition between two Commission-regulated public utilities results in a net detriment to customers, you state no, this standard does not apply to sewer systems. Is that correct?

A. That's correct.

Q. Okay. All right. So then I'm going to refer you to, again, your surrebuttal testimony. We're going to Page 2, Line 19.

A. Okay.

Q. All right. So in Line 19 of Page 2, you refer here to a -- a case called Osage Utilities

Operating Company versus Missouri Public Service Commission. Correct?

A. Correct.

Q. Have you read this case?

A. I have read the -- the cited standard. Well, let me -- have I -- at what level?

Q. You know, I'm -- have you read this case in its entirety?

A. My familiarity with the case is largely confined to the appeals process.

Q. Okay. And so I do apologize. I meant, you know, the -- the appellate opinion as well.

A. Okay.

Q. Uh-huh. So you read the appellate opinion?

A. Ms. Hansen, I can't recall right off the top of my head at this point.

Q. Okay. Well, are you aware that the court in this case stated no exhaustive list has been announced of the considerations that may influence whether a sale is detrimental to the public?

A. Yes.

Q. Okay. Are you also aware that this same case -- or in this same case, the court cited the purchasing company's TMF capabilities when it was weighing the benefits and the detriments of the

acquisition, and the court determined the TMF -- the company's TMF capabilities were a substantial benefit in that acquisition?

A. Yes.

Q. Thank you. And then one more question for you. Dr. Marke, I'm going to refer you to your rebuttal testimony.

A. Okay.

Q. And it's going to be Page 11. And it's going to be Lines 3 through 5.

A. I'm there.

Q. All right. So in response to -- or in discussion of the acquisition premium, you state if the Commission elects to transfer assets, I would support the Staff's position as it pertains to not allowing an acquisition premium in the reflected rates. Is that what you say in your testimony?

A. That is what I say in my testimony.

MS. HANSEN: Thank you very much. No further questions.

JUDGE CLARK: Any cross-examination from the applicant Utilities?

MR. COOPER: Briefly, Your Honor.

CROSS-EXAMINATION

QUESTIONS BY MR. COOPER:

Q. Dr. Marke, you refer to comments in the last Confluence Rivers rate case being about the company and service. Correct?

A. Yes.

Q. Would you agree that most of those comments primarily had to do with the proposed rate increase?

A. Yes.

Q. Would you also agree that given the nature of that rate -- rate case, that a large number of the customers would not have been through a rate increase case for many years, or maybe ever?

A. Yes.

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

JUDGE CLARK: Are there any Commission questions?

EXAMINATION BY COMMISSIONER MITCHELL:

Q. Just one, Dr. Marke. And since Ms. VanGerpen invited us to ask you about this, I mean, what -- what -- where do you specifically think that -- oh. Where do you specifically think that the -- the quality of service would suffer if this transaction occurred?

A. It's a great question, Commissioner. So, you know, my -- my take on it is, at a high level, what I'm hearing today, and -- and throughout the testimony, at least from the Staff, is that these are all regulated utilities. The Commission has discretion over, you know, future increases or decreases, and anything in between.

The reality of it is -- is that these -- you know, all of our utilities are very different. You know, they all have different business models, they have different resources, they have different risk profiles, they have different costs. Customers can't choose their provider.

So we've got this whole system in place, and it's -- it's largely predicated on this idea of economies of scale, and decreased inefficiencies. American Water is a really good example of that. They're able to go ahead and acquire systems at a much cheaper -- and -- and operate them at a much cheaper level than they otherwise would in a vacuum. The size difference between American Water and CSWR, their business model, and the overall public perception is -- is categorically different.

So the case that Staff cited back, you know, that I reference in my testimony, the Osage

Sewer case, you know, these are cases where CSWR was going out and acquiring distressed systems. These are systems that, you know, operators, you know, walked away, or they let it, you know, disrepair. Contrast the systems that are being acquired. You know, 90 percent of them -- I think we heard two systems that have some ammonia issues that are already being, you know, worked out through DNR. 96 percent of these systems are -- are good systems. They don't need any additional repair. If I'm a customer of that system, I need -- and knowing what I know, I know that I would be walking -- I'd be changing the provider, I'd be getting a short-term bill discount until the next rate case. And we can all, I guess, reasonably infer as to what, you know, those future rates are. But directionally, it is a more expensive company to run. There is more risk involved in that.

And you see that, you know, Mr. Murray's, you know, discussions about cost of capital. I think it's an obvious perception in terms of economies of scale, in terms of, you know, its business model, you know, one where you have a contractual employee with one designated individual who functions as an overseer across the entire state of Missouri, versus having a service company down the street, you know, complete

with -- with a crew of people, let alone the resources that American Water provides customers.

But on -- even if we ignored all of those facts, again, the business model is such where all of these private water utilities across America, you know, it's -- it is clear that they want to acquire future systems and increase that capital. Like I get that. That makes perfect sense. CSWR has made a career out of focusing on ugly systems, getting those ugly systems. And it's all predicated on past customers helping subsidize all of those systems. The larger that customer base, the more you can spread those costs around. When you've got a-million-plus customers for American Water, you can do that pretty well without going ahead and inducing rate shock in any one particular instance. When you've got a much, much, much smaller base like CSWR, that means those customers who don't have any -- those -- those customers today that we're talking about that do not need to make the capital investments will be subsidizing each incremental distressed system that comes on. They're going to be paying more, because there's less people to go around.

And if we just assume costs are -- are constant, they're going to increase with, you know,

supply chain constraints and everything else, you know, across two utilities, then the numbers just play out where you have fewer customers -- you're basically taking a step back from what -- what I believe regulation is intended to do. So you've got economies of scale? No. We're going to move back and have less of that. We're going to have a further erosion in terms of operational efficiencies. And I get that's -- that's my personal opinion.

You know, we made a case of that in the last Confluence case between the contractual model versus an in-house model. But I think there's a perception issue. I think that bears out with -- I know it bears out with me. I guess I would say just -- just a smell test. I mean, if you were to ask these customers, you know, would you prefer to be serviced by the largest investor-owned water utility in America, with a service system -- customer-service system, you know, just down the street, with a crew of -- of water and wastewater experts? And keep in mind, American Water's not getting rid of all of their sewer systems. You know, we -- we heard up here that they've got systems throughout Cole County. Versus a system that's predicated on acquiring distressed systems, and contracting all those services out, but I

get a discount for a few months? Six months? I'm not sure that benefit outweighs that -- that short discount benefits -- the uncertainty and the risk and the directional cost increases I think that are obvious. So that's -- that's why -- that's why our office is here today.

Q. You mind if I follow up with -- with a question. Another question is that's a -- a logical explanation as to what might motivate the buyer in this transaction. What -- what's your opinion on what might motivate the seller in this transaction?

A. It would -- again, and -- and -- and I realize the question is asking for a speculative opinion on my end. I think that there is some operational conveniences associated with not having to send the existing American Water customers across the river to go service this. I think there's an opportunity to make a few dollars off of it. I've got the -- beyond that, I don't think I can conclusively say one way or the other.

Q. Fair enough.

A. Yeah.

Q. Thank you.

A. Thank you.

EXAMINATION BY JUDGE CLARK:

Q. I've been debating whether I'm going to be sorry asking these questions. Between Missouri-American and Confluence Rivers, at this point in time, whose rates are higher?

A. American Water's.

Q. And is it OPC's thought that -- given that Confluence has indicated they're going to be filing a rate case in the third or fourth quarter of this year, is it OPC's opinion that Confluence's rates will then be higher after that?

A. Not just then, but long-term, again, it's -- it's the -- think of it in terms of just absorbing a risk, you know, that would take place if, you know, there was a large boil order, you know, there's contaminate with, you know, a given system. I believe American Water's in a better position to provide a cost-effective solution to those problems, because of economies of scale, than a contractual model with much, much, much smaller customer base.

Q. Would it be fair to say that -- that -- that future rates are completely unknown?

A. This specific rate, yes. I mean, I would say that is an uncertainty. Directionally, I think we can -- I have a degree of confidence that they're

going to increase.

Q. You had -- you had indicated you said that the expectation would be the rates would generally move up, given economies of scale and supply chain costs. Is -- isn't the assumption that in a vast majority of the times that the -- that utilities are applying for a rate change that that rate is going to go up?

A. So it would be the loss of economies of scale. That's the key difference. You're going from the largest investor-owned utility -- water utility in America to a very much, many smaller model, much smaller customer base, much smaller resources. For all of those reasons, yes.

Q. But it -- the rates for either company in the future at this point are speculative.

A. Well, we know -- we know what the rates are today. What -- what we know about future investments within the information that's in the record -- and Mr. Murray talked about some -- some DR responses and some analysis. You know, our -- our concern is that even looking at the capital investments -- and I -- I realize this is a snapshot in time. American Water didn't look across all 19 investments. But there's clear cost differences between their expected capital

planned investment. I mean, right there, there's -- there are differences. And that is a direct reflection of the type of company that, again, American Water is able to go ahead and bring those costs down because of its size, because of its power.

Q. Are you aware of any two regulated utilities in Missouri that have the same rates?

A. I suspect there might be something that's close, but, you know, it would be an apples to oranges comparison, probably, across any utility. And I mean that it's -- you know, we talk about rates as a moment in time. Right? You know, where is the company at in terms of their surcharges, and what's being applied, you know, different taxes. So if it's just focusing on -- the answer's probably no. I mean, just get to that.

Q. Look at this from -- from -- from a different end, does -- does Missouri law allow -- do you know if Missouri law allows a customer to change providers for a rate differential?

A. I can't answer that, sir. I'd probably defer to my attorney on that.

JUDGE CLARK: Okay. Thank you.

Any recross from the Commission Staff?
I'm sorry. I apologize. Chair Hahn has a question.

EXAMINATION BY CHAIRMAN HAHN:

Q. Dr. Marke, I still think I'm new at the Commission. But in the past, has OPC ever taken a position against a system acquisition before?

A. Against a system acquisition? Yes.

Q. Were those between two regulated investor-owned utilities?

A. Yes.

Q. Yes. And can you give me OPC's position in those -- in that example, or --

A. Sure.

Q. Was it for something similar?

A. So it's a great question. And that -- that is really -- when this case came to our attention, you know, the first thing that -- that I flagged that seemed odd was the use of the Tartan Criteria in this, the TMF criteria being applied to this. My -- my experience with the Tartan Criteria is largely, you know, we apply that methodology to certificates of convenience and necessity. You know, we think of it in transmission cases, and stuff like this. I've always, you know, been taught, I've always operated under the assessment, you know, of a no-net-detriment standard. When I apply a no-net-detriment standard, I look at the two utilities. And it's really just --

there's a degree of objectivity, and there's a degree of normative perspective on it. And I say the normative perspective, and that comes to a quality of service, and stuff like that.

But you compare the utilities, and at the end of the day, if that transaction should net out to be at least neutral or better. And that -- that's what we did here. We -- we looked at lots of different variables. Mr. Murray, you know, provided the cost of capital, you know, perspective on that. We looked at overall customer perception and comments. And we just got through with -- with an enormously large Missouri-American Water rate case, the largest one that I've -- I've ever experienced. We didn't have that -- as many of those customers come out. And to -- to go to the actual trouble of filing EFIS, and -- and making that, where we saw that with Confluence. And Mr. Cooper's right. You know, a lot of that is -- is a direct result of, you know, the type of systems that were being acquired there. But yeah, the -- the customers did not seem particularly happy with the service that was being provided. That's one element of it.

The other element was -- is looking at the business model themselves. And as I had explained

to Commissioner Mitchell, it is just a very different system. It's a very different model. And it's a very different scenario. In past small water acquisition cases or sewer cases, you -- we really -- you know, the emphasis had been on distressed systems that are -- that need somebody to take over. And in that case, Confluence has -- has absolutely stepped up. I mean, we're -- we're a better state because of them for that. That's not the case here. I mean, this is -- this is, again, the largest investor-owned utility in the country, versus a company that is -- is really predicated on buying distressed systems. And there's -- there are cost implications for that. There just are.

So we're right. We can't say well, it's unknowable what rates are. But given my position, what we're looking at here, I think, you know, reasonable minds can easily identify the fact that one -- one model exposes customers to more risk in the future than the other model.

Q. Is that what OPC's position was in previous cases between investor-owned utility acquisition cases as well?

A. I have never been involved in a case like this in particular, where you had what -- what I would

argue as -- as a better-positioned company acquiescing their services to a company that isn't in a better position. We've had -- my contentions with past acquisition cases, we've employed the same methodology of comparing and contrasting, and looking at a number of -- a host of other factors. But I really -- I can't think of a situation in the past where I've had something like this. I mean, it's always been on the other side.

CHAIRMAN HAHN: Thank you.

JUDGE CLARK: Any recross from Commission Staff?

MS. HANSEN: Yes, Judge Clark. A couple of questions.

RECROSS-EXAMINATION

QUESTIONS BY MS. HANSEN:

Q. Dr. Marke, I think when you were speaking to Chair Hahn and also Chair Mitchell that Confluence largely acquires distressed systems. Is it your opinion that Confluence should only be allowed to acquire distressed systems?

A. No.

Q. So you also mentioned to Chair Hahn that -- the effort that Confluence customers took to make comments in EFIS in their last rate case. Is that

correct?

A. That's correct.

Q. Okay. Are you aware of any formal customer-complaint cases that Confluence customers have filed?

A. I can't speak to that.

MS. HANSEN: Okay. Thank you. No further questions from us.

JUDGE CLARK: Any cross-examination from the Applicant Utilities?

MR. COOPER: Yes, Your Honor.

RECROSS-EXAMINATION

QUESTIONS BY MR. COOPER:

Q. There was a lot going on there. I won't try to go through all of it. I think largely, it's -- you know, it's consistent with the testimony that's gone back and forth. But in terms of future rates, would you agree with me that Missouri-American Water Company has been a common user of the WSIRA process since that became effective?

A. Yes.

Q. And you would expect that to continue in the future?

A. Yes.

Q. Would you expect that at some point in the

future, Missouri-American would file a rate case based upon a future test year?

A. Yes.

Q. You mentioned that Missouri-American might be in a better position to deal with sort of large projects that might be required of the water system, I think, during this testimony. Were you here this morning when Mr. Kadyk indicated that in terms of larger, more complicated projects, that Missouri-American actually uses contract labor for those?

A. I think what Mr. Kadyk said specifically is for -- for specialty work. I -- I don't believe he was -- well, the record will be what the record is. My understanding -- my interpretation of hearing him was over operational issues, if there was a specific test, if there was a specific employee that needed to -- to do something, if that expertise wasn't there, then they would do that. But -- I'm thinking out loud. I would agree.

Q. Okay. You also mentioned sort of projected investments for these 19 systems. And I guess starting with the -- you -- we both, I think, start with the premise that projections are projections. Right?

A. That's correct.

Q. But are you familiar with Mr. Kadyk's surrebuttal testimony where he applied a portion of the sort of general capital investment amount that had been included in the -- Missouri-American's DR, along with the specific project estimate -- estimations, and determined that it -- at least in terms of these projections, Missouri-American's projected investment for these 19 systems is actually larger than that projected by Confluence Rivers?

A. I am familiar with -- with the statement. I've not had the opportunity to -- to analyze that.

Q. Okay. An awful lot of your responses to the Commission question was really premised on the fact that Missouri-American and its parent, American Waterworks Company, are large. Correct? And you -- you at least see advantages associated with that size. Correct?

A. That's correct.

Q. And as OPC said before, Missouri-American's the largest in the country, and the largest in Missouri. Correct?

A. American Water is, in the country and Missouri. Yes.

Q. Is the result of your position that -- and we'll be specific to Missouri-American -- that

Missouri-American could never sell a system because it's so large, and it could never find a purchaser that would be of equal size?

A. I would have to evaluate that on a case-by-case basis, Mr. Cooper.

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

JUDGE CLARK: Any redirect from Public Counsel?

MS. VANGERPEN: Yes, Your Honor.

REDIRECT EXAMINATION

QUESTIONS BY MS. VANGERPEN:

Q. So Dr. Marke, I -- there's been kind of a theme as we've gone through cross here about how future rates may be speculative. Is there any evidence in the record here of what rate Confluence may charge in the future?

A. My understanding is some assumptions based off of the DR responses.

Q. And those assumptions have led to a future rate -- a possible future rate?

A. A future rate. Yes.

Q. That Confluence has itself identified?

A. That's correct.

Q. And that rate is higher than that which is

currently being charged by Missouri-American.

Correct?

A. That is correct.

Q. And Confluence did conduct an analysis to come to that rate. Correct?

A. That's correct.

Q. Now, we've also talked a lot about how rates may be speculative because of information that's unknown. Did Missouri -- did the OPC attempt to conduct discovery to find information that could be used to identify those rates?

A. Yes.

Q. What kind of responses did we -- did you receive?

A. Responses that did not provide any comfort for us moving forward. So directionally, you know, our position had not changed.

Q. And were either of the companies able to identify any kind of offset or reduction in cost of service to identify the higher costs that the OPC had identified?

A. No. And -- and that's an important distinction. So, you know, in some acquisition cases, we -- you know, if the scales are distorted in one way or the other, a company will come in and offer

additional benefits to offset that. You know, sometimes that's a bill credit, or, you know, additional disallowances in future considerations on capital investments. It -- it can vary to try to offset that. There's -- there's nothing like that that exists in this case. And the closest thing the company came up with is well, we'll -- and this wasn't in their application itself. It came out, really, I think, in their position statement. It's like well, we'll keep the existing rate that -- that American Water is applying. And again, from our perspective, that's a very short-term gain that -- that doesn't offset the risk that I articulated earlier.

Q. And Dr. Marke, you've been with the OPC for a little while. You have experience with prior Missouri-American and Confluence rate cases. Correct?

A. I have. Yes.

Q. Were you involved in the last Confluence rate case?

A. I was.

Q. Do you recall if the Commission made a finding with regard to rate-of-return elements that would be higher given Confluence's business model?

A. Yes.

Q. What was the Commission's finding? Do you

recall?

A. It was a higher level. I know Mr. Murray, I think, just stated these numbers. I don't remember them off the top of my head. But at least it was predicated on the fact that there's a degree of risk associated with this company in acquiring distressed assets.

Q. So that's something the Commission itself has recognized?

A. It is.

Q. Now, I want to turn to something you were just talking about with Mr. Cooper. And that is the WSIRA surcharge and the future -- use of the future test year. Are you familiar with those two items?

A. I am.

Q. And is there anything that has recently changed how those affect rate-making in Missouri?

A. They've expanded. And they've expanded the -- not only, you know, the scope of projects that can be included, but who can participate in that. And moving forward, my understanding is that CSWR has met the minimum threshold to effectively do everything that Missouri-American Water can, in terms of expedited recovery, and increased surcharges.

Q. And based on your experience in rate-making

in Missouri, do you expect that Confluence would take advantage of those surcharges?

A. I would be surprised if they don't.

Q. Thank you. And now I just want to follow up additionally on the contract labor for Missouri-American. The OPC attempted to discover who operates these systems for Missouri-American. Are you aware of that?

A. Yes.

Q. And did Missouri-American identify any specific employees who operate these systems for Missouri-American?

A. I can't remember. I don't believe they required names. But yes.

Q. Okay. And those were company employees?

A. Those were company employees. Yes.

Q. Along that same vein, I believe this was in your discussion with Commissioner Mitchell. You talked about how the OPC has brought up before the use of contractors for Confluence Rivers. Is the OPC taking any position on Confluence's use of contractors in this particular case? I might need to rephrase that.

A. Okay. I --

Q. Let me --

A. Okay.

MS. VANGERPEN: I apologize, Judge. I'm going to rephrase that question.

Q. (BY MS. VANGERPEN.) In the prior Confluence Rivers case, the OPC took a position that Confluence should not be using independent contractors. Is that correct?

A. That's correct.

Q. Is the OPC attempting to support that position in this case?

A. That is not -- I'm not -- I'm -- I'm not -- well -- the confines of this case, I'm not recommending or looking at arguing over whether or not Confluence needs to change their business model. I make it clear that I don't think their business model is -- I don't think it -- in the long term, I don't think it -- presently, it's -- it's conducive for -- for rate-payers. I think there's a degree of risk that's associated with it. My testimony articulates a lot of the concerns that I expressed in the last Confluence case. But to be clear, like my focus is really just on looking at the no-net-detriment standard, and looking at all of those issues in its totality.

Q. So the Commission doesn't have to take a

position on that issue --

A. Did not.

Q. -- on this particular case. It's confined solely to the net-detriment --

A. That's correct.

Q. -- standard. And just two last things. Just to clear any misunderstandings, the OPC is not requiring a benefit in this case. It's looking for no net detriment. Is that correct?

A. That is correct.

Q. And then lastly, Staff counsel asked you some questions about the Osage Utilities case. Are you aware if the circumstances of that case were similar to the circumstances of this case, as far as was the acquiring -- or the selling utility also a regulated utility --

A. Right.

Q. -- who was currently providing adequate -- adequate service?

A. It is a different utility model.

MS. VANGERPEN: No further questions, Your Honor.

JUDGE CLARK: Thank you, Dr. Marke. You're excused.

THE WITNESS: Thank you.

JUDGE CLARK: Any further evidence or witnesses from Public Counsel?

MS. VANGERPEN: No, Your Honor.

JUDGE CLARK: I have one questions for Staff's attorneys. I maybe could have asked this up front, but I wanted to see if it came out. In Staff's recommendation, and in their recommendation Number 4, it said require Confluence to submit adoption notice prior to closing on assets to adopt the existing Missouri-American tariffs. In its response, they instead proposed using Confluence tariffs and rates, Page 6. Are you familiar with what I'm talking about?

MS. HANSEN: Can you point us to the page that you're referring to. Thank you. Sorry. Can you state that one more time.

JUDGE CLARK: Bear with me just a minute. I'll pull it up. On Staff's recommendation, it's Page 17 of 17, contains Condition 4. I would have to look through to find the response. If you'll give me just a moment, I will do that.

MR. COOPER: Judge, if you'll allow me to -- to jump in just a -- a little bit.

JUDGE CLARK: I believe I -- I believe I know what it is.

MR. COOPER: Okay.

JUDGE CLARK: In your response, it says under Number 5, here Missouri-American will still be a sewer corporation after the close on the subject transaction; thus rather than adopting Missouri-American's tariff in whole, Confluence Rivers proposes as follows. Confluence Rivers proposes to utilize the existing customer rates for the 19 wastewater systems. Confluence Rivers would further plan to submit tariff sheets, to be effective before the closing on said assets, to include service area and service -- written description and rates to be included in the EFIS tariff PSC MO Number 31 applicable to sewer service. I believe that's correct. Am I off?

MR. COOPER: I think that's correct. And I would just add, if that -- just so it makes more sense, the reason that the company had a slightly different proposal as to the tariffs was exactly what was said, which is many times, the company is buying an entire system. And this happens for Missouri-American as well sometimes. They will adopt the entire tariff book in EFIS as a part of that, and then those tariffs get blended together in the next general rate case. Given here that Missouri-American will still be a sewer corporation post-transaction, or -- or acquisition, we can't really adopt, or we -- the

Confluence Rivers can't really adopt their entire tariff book. Right? The tariff book needs to stay in EFIS. And so that was the reason for kind of being a little bit more particular about which sheets would be filed by Confluence Rivers prior to a closing. And the -- the reference to the rate sheet, of course, in time, would have been January of this year, when the base rate for Missouri-American was the thirty-five -- or the \$65.36 that Confluence Rivers has proposed to charge.

JUDGE CLARK: Thank you. So to -- to kind of shorten that, Confluence Rivers -- if the asset transfer is approved, Confluence Rivers would like to submit tariff sheets rather than adopt tariff sheets. Is Staff opposed to that?

MS. ASLIN: No.

JUDGE CLARK: Thank you. Let's go off the record momentarily.

(OFF THE RECORD.)

JUDGE CLARK: I would like to briefly at this time go over exhibits, and be sure that everything -- that we all agree on everything that's been entered, and to be sure that it is, in fact, entered. And I'm going to go through it as quickly as I can. Starting with Confluence Rivers. Confluence

Rivers, I have as offered and admitted Exhibit 1; Exhibit 2C; Exhibit 3P and 3C.

MR. COOPER: That's consistent with what I have, Your Honor.

JUDGE CLARK: For Missouri-American, I have Exhibit 100; Exhibit 101, Public and Confidential; and Exhibit 102 admitted.

MR. COOPER: Also consistent with what I have.

JUDGE CLARK: From Staff, I have Exhibit 200, Confidential and Public; Exhibit 201; Exhibit 202; Exhibit 203.

MS. ASLIN: Correct.

JUDGE CLARK: And then to be admitted -- or to be submitted errata sheets of Exhibit 204 and 5. But those are not admitted yet.

And then for Public Counsel, I have Exhibits 300, Public and Confidential; Exhibit 301, Public and Confidential; Exhibit 302, Public and Confidential; Exhibit 303, Public and Confidential; Exhibit 304, Confidential; Exhibit 305, Confidential. Is that correct?

MS. VANGERPEN: Yes, Your Honor. And then we will also have Exhibit 306, and that will be Mr. Murray's errata sheet.

JUDGE CLARK: Okay. And as I indicated before, next -- next Wednesday, July 2nd is the deadline for any objections to information contained in the errata sheets.

Sarah, when will transcripts be available?

THE REPORTER: I would have to look at my backlog to see what it would be in the regular course of business, but you can just tell me when you need it, and I can get it done by then.

JUDGE CLARK: I don't think anybody requested expedited transcripts, so I believe that we are working on a standard 10-day assumption.

THE REPORTER: Okay. If you change your mind, just let me know.

JUDGE CLARK: Okay. And that -- that would put transcripts available roughly around the 7th of July.

I have down that briefs -- that there will be an initial brief due July 18th. Is that everybody's understanding? I see a lot of heads shaking yes. And I have that reply briefs will be due July 28th. Is there anything else that the Commission needs to take up at this time before I adjourn this hearing and go off the record? I hear and see

nothing. With that, I will adjourn this proceeding.
Thank you all for being present today, and being
prepared. And we'll go off the record.

(Ending time of the hearing: 12:14 p.m.)

I N D E X
Page 1

	Page
Opening Statement by Mr. Cooper	8
Opening Statement by Ms. Hansen	19
Opening Statement by Ms. VanGerpen	26
Missouri-American and Confluence Rivers' Case in Chief	42
Stephen Kadyk	
Direct Examination by Mr. Cooper	43
Examination by Commissioner Mitchell	46
Examination by Commissioner Hahn	47
Cross-Examination by Ms. VanGerpen	48
Redirect Examination by Mr. Cooper	50
Aaron Silas	
Direct Examination by Mr. Cooper	53
Examination by Commissioner Hahn	55
Examination by Commissioner Mitchell	60
Examination by Judge Clark	61
Cross-Examination by Ms. VanGerpen	62
Redirect Examination by Mr. Cooper	64
Public Service Commission Staff Case in Chief	66
Johnny Garcia	
Direct Examination by Ms. Hansen	66
Adam Stamp	
Direct Examination by Ms. Hansen	69
Jarrold Robertson	
Direct Examination by Ms. Hansen	72
Cross-Examination by Ms. VanGerpen	76
Cross-Examination by Mr. Cooper	77
Recross-Examination by Ms. VanGerpen	78
Examination by Judge Clark	82
Redirect Examination by Ms. Aslin	83
Further Examination by Judge Clark	83

I N D E X
Page 2

Melanie Marek	
Examination by Judge Clark	85
Cross-Examination by Ms. VanGerpen	86
Direct Examination by Ms. Aslin	87
Office of Public Counsel's Case in Chief	88
David Murray	
Direct Examination by Ms. Van Gerpen	88
Cross-Examination by Ms. Aslin	90
Examination by Commissioner Mitchell	93
Examination by Chairman Hahn	97
Examination by Judge Clark	99
Cross-Examination by Mr. Cooper	100
Redirect Examination by Ms. VanGerpen	102
In Camera Session	107
In Camera Session Concluded	108
Geoff Marke	
Direct Examination by Ms. VanGerpen	109
Cross-Examination by Ms. Hansen	110
Cross-Examination by Mr. Cooper	117
Examination by Commissioner Mitchell	117
Examination by Judge Clark	123
Examination by Chairman Hahn	126
Recross-Examination by Ms. Hansen	129
Recross-Examination by Mr. Cooper	130
Redirect Examination by Ms. VanGerpen	133

E X H I B I T S

EXHIBIT	ADMITTED
100	45
101P	45
101C	45
102	45
1	54
2C	54
3P	54
3C	54
201	68
203	70
200C	76
200P	76
202	76
304C	80
305C	82
300P	90
300C	90
301P	90
301C	90
302P	110
302C	110
303P	110
303C	110

REPORTER'S NOTE: Exhibits not provided for inclusion
in the transcript.

CERTIFICATE OF REPORTER

STATE OF MISSOURI)
) ss.
COUNTY OF PHELPS)

I, Sarah J. Pokorski, Certified Court Reporter within and for the State of Missouri, do hereby certify that the hearing which appears in the foregoing transcript was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Sarah Pokorski, CCR 745

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June 26, 2025

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June 26, 2025

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