

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

January 13, 2004
Camdenton, Missouri
Volume 3

In the Matter of a Sewer Tariff)
Filing Made by Osage Water Company) Case No. ST-2003-0562

MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

CONNIE MURRAY,
ROBERT M. CLAYTON, III,
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
ASSOCIATED COURT REPORTERS

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 P R O C E E D I N G S

2 JUDGE WOODRUFF: I want to welcome everyone
3 here. My name is Morris Woodruff. I'm one of the judges
4 with the Public Service Commission, and I'm here to conduct
5 the public hearing.

6 I see we've got a witness signup list here.
7 We're going to give everybody a chance to testify that wants
8 to testify. And this, of course, is the Case
9 No. ST-2003-0562. It involves the sewer and water tariff
10 filings made by Osage Water Company. That's what we're here
11 to hear your comments about today.

12 We have two Commissioners here with us today.
13 This is Connie Murray on my left, and Robert Clayton.

14 And as I said, the purpose of the hearing is
15 to take your comments, help guide the Commission in its
16 decision on whether or not to grant these rate requests that
17 have been -- increase requests that have been filed by the
18 company.

19 There'll be a formal hearing in February up in
20 Jefferson City, at which time the attorneys for the various
21 parties will present evidence for the Commission to
22 consider. But this evidence, this testimony that you're
23 going to give to us today is also important for the
24 Commission to get an idea of the mood of the public, what
25 your concerns and interests are.

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 As you can see, we have a court reporter here
2 and the testimony will be transcribed. We have one other
3 Commissioner back in Jefferson City who wasn't able to be
4 here, Steven Gaw. And, of course, he will be able to read
5 the transcript of the testimony that's presented today, and,
6 of course, the other Commissioners will be able to review it
7 as well, and it's certainly very helpful to have it all on
8 the record so we can review it when we need to.

9 You'll be sworn in as a witness, just like on
10 television. I'll ask you to raise your right hand and swear
11 to tell the truth, and that's important so that we can --
12 because this is -- this is a factor that we can consider
13 when we're deciding the case. So it's important that we
14 have it be sworn testimony.

15 How we'll start tonight is we'll begin with
16 opening statements from the attorneys representing the
17 parties, if they wish to make a short opening statement just
18 to introduce themselves. Then I'll call the witnesses based
19 on the signup sheet, and we'll have you come forward here
20 somewhere if you'd rather -- we don't really have a place
21 for you. Let's designate this seat over here as the witness
22 chair.

23 We can have you come forward, and I'll ask
24 your name and where you live and whether you take water or
25 sewer service from Osage Water Company, and we want to try

1 to find out which -- Osage Water Company has several units,
2 as you're well aware. We want to find out which units
3 you're served by.

4 We're going to bring a table out here for the
5 witnesses. And after you've testified, if you'd just stay
6 up here for a moment, and I'm going to give the
7 Commissioners a chance to ask you questions, I may have some
8 questions, and we'll give the attorneys for the parties a
9 chance to ask a few questions also, just to clarify anything
10 that comes up in your testimony.

11 All right. Let's begin, then, with taking
12 entries of appearance from the attorneys, and we'll begin
13 with Osage Water Company.

14 MR. WILLIAMS: Gregory Williams, P.O. Box 431,
15 Sunrise Beach, Missouri 65079, attorney for Osage Water
16 Company.

17 JUDGE WOODRUFF: And for the Staff of the
18 Commission?

19 MR. HAAS: William Haas and Bruce Bates
20 appearing for the Staff of the Public Service Commission.

21 JUDGE WOODRUFF: And for the Office of the
22 Public Counsel?

23 MS. O'NEILL: Yes. Ruth O'Neill for the
24 Office of the Public Counsel and the Public.

25 JUDGE WOODRUFF: Okay. And I'm going to give

1 the Commissioners a chance to make some opening welcoming
2 statements here. Commissioner Murray?

3 COMMISSIONER MURRAY: Well, I'd just like to
4 thank you for being here, and I hope you are able to get
5 some of your questions answered tonight. You can't do it
6 during the hearing part that we're in right now, because we
7 can't answer your questions in that we are serving as
8 impartial judges in this hearing that we will be conducting
9 later in Jefferson City.

10 But I understand that there are some very
11 confusing issues, and I'm sure you-all have a lot of
12 questions, and I hope you are getting some satisfaction
13 tonight in understanding some of these things.

14 JUDGE WOODRUFF: Commissioner Clayton?

15 COMMISSIONER CLAYTON: First of all, let me
16 just introduce myself. My name is Robert Clayton. I come
17 from Hannibal, Missouri, which is in northeast Missouri.
18 I've been on the Commission about seven months now. It is a
19 pleasure for me to be here in Camdenton. I've been here
20 before.

21 We've been doing hearings such as this all
22 over the state on various different companies and utilities,
23 and I must say that, from my perspective, this has been the
24 most well attended. So we're glad that many of you are
25 here. We look forward to hearing from you on the case

1 that's before us. And without any further ado, we'll go
2 ahead and get started.

3 JUDGE WOODRUFF: We'll begin, then, with
4 opening statements from the parties' attorneys, and begin
5 with Mr. Williams.

6 MR. WILLIAMS: Thank you, sir. As I stated,
7 for the record, my name is Gregory Williams. I'm an
8 attorney in Sunrise Beach, Missouri. I represent Osage
9 Water Company, the utility company in this case.

10 The proposal that has been filed with the
11 Commission is for a 25 percent increase in the base monthly
12 charge for water and sewer service, no proposed increase in
13 the commodity charge, in other words the charge per
14 thousands of gallons of water.

15 The company's stated intention is to increase
16 staffing and provide additional revenues for needed system
17 repairs and expansions. That's why the revenues have been
18 requested.

19 JUDGE WOODRUFF: Thank you. For Staff?

20 MR. HAAS: Hello again. My name is William
21 Haas. For those of you who were here during the question
22 and answer session earlier, as has been pointed out, the
23 Staff has filed its testimony in which it takes the position
24 that no rate increase is needed at this time.

25 Thank you.

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 JUDGE WOODRUFF: For Public Counsel?

2 MS. O'NEILL: Thank you, your Honor. As I've
3 said before, my name is Ruth O'Neill, and for those of you
4 that I haven't met before, although I see a lot of familiar
5 faces tonight, I'm happy to meet you. I'm glad that you are
6 able to come, as well as the folks that I've already met.
7 We really appreciate the fact that you've come out. This is
8 your opportunity to enter your evidence, your experience
9 into the record in this case by your testimony.

10 My office is recommending that there be no
11 rate increase at this time for reasons based on the auditing
12 that's been done by the Commission Staff and the review of
13 those audits that people in my office have done.

14 And I think I gave out my number a couple of
15 times. If you don't have it yet, at the end of the hearing
16 if you need to call me for any reason, come on up and I'll
17 give you my phone number and contact information. But thank
18 you for coming out.

19 JUDGE WOODRUFF: Thank you.

20 We'll call the first witness, then, and the
21 first name on the witness signup list is Dennis Wiley, I
22 believe.

23 MR. WILEY: Yes, your Honor.

24 JUDGE WOODRUFF: Please come forward. Would
25 you please raise your right hand.

1 (Witness sworn.)

2 DENNIS WILEY testified as follows:

3 JUDGE WOODRUFF: Be seated. And you said your
4 name was Dennis Wiley?

5 MR. WILEY: My name is Dennis Wiley. I live
6 at 715 Cedar Glen Drive, Camdenton, Missouri 65020. I'm a
7 resident of Cedar Glen Condominiums, and Osage Water Company
8 provides our water and sewer.

9 I'd like to go on record and thank the Staff
10 for being able to take the time to answer a lot of my
11 questions earlier with regards to various legal issues that
12 are evolving around here, and I also appreciated hearing the
13 Staff's response to what they think, whether the rate
14 increase should go through or not.

15 I'd like to -- because they did such a job,
16 I'd like to only enter into the record one statement, and
17 it's my opinion, and we'll leave it at that.

18 From reviewing the file concerning possible
19 receivership of the OWC, there appears to be a common delay
20 due to a lack of counsel for the OWC. Tonight we've been
21 talking about trying to weigh the public good as opposed to
22 the rights of the individuals, and given the fact we're
23 talking about water and sewer, we're talking about obviously
24 a very sensitive subject. Obviously it should done in a
25 very timely manner.

1 Extensions -- as a result, the Public Service
2 Commission has been trying to get a receivership named to
3 deal with this. Extensions have been requested and received
4 since the then counsel was not up to speed on this case with
5 regards to the receivership.

6 According to the article in the 10/13/04 (sic)
7 Lake Sun Leader, a Greg Williams filed for a rate increase
8 as, quote, legal counsel. It is my understanding that
9 Mr. Williams has been one of the original principals in the
10 OWC since its beginning. How can this individual
11 representing OWC for rate request and then disappear into a
12 legal mist when the OWC is in need of a defense?

13 Such action and/or inaction may not be in
14 contempt of court, but it's surely in contempt of the
15 citizens of the company for which it is supposed to be
16 serving.

17 JUDGE WOODRUFF: Stay there for a moment.
18 Commissioners, do you have any questions for Mr. Wiley?

19 COMMISSIONER MURRAY: I don't. I appreciate
20 your testimony. I probably am not going to ask very many
21 questions this evening, because there are a lot of you that
22 want to put your comments in the record and I'm really
23 interested in hearing them. Thank you.

24 JUDGE WOODRUFF: Commissioner Clayton?

25 COMMISSIONER CLAYTON: I would just add,

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 there's a long list here, and I'd love to ask questions and
2 chat for a much longer time, but in the interest of moving
3 along, thank you for being here.

4 MR. WILEY: Thank you.

5 JUDGE WOODRUFF: Mr. Williams, do you have any
6 clarifying questions?

7 MR. WILLIAMS: Your Honor, I don't think it's
8 appropriate for me to ask questions on that particular
9 topic. I would advise Mr. Wiley that I'd be more than happy
10 to speak with him informally off the record. We do have
11 court rules which would prohibit me from any public comment
12 regarding this issue.

13 JUDGE WOODRUFF: Mr. Haas?

14 MR. HAAS: No questions.

15 JUDGE WOODRUFF: Ms. O'Neill?

16 MS. O'NEILL: No questions, your Honor.

17 JUDGE WOODRUFF: Thank you for coming.

18 MR. WILEY: Thank you.

19 JUDGE WOODRUFF: The next name on the list,
20 then, is Louise Timson.

21 MS. TIMSON: May I bring some exhibits?

22 JUDGE WOODRUFF: Certainly. If you'd please
23 raise your right hand.

24 (Witness sworn.)

25 LOUISE TIMSON testified as follows:

1 MS. TIMSON: I'm Louise Timson, and I live at
2 6494 Red Fox Lane in Eagle Woods.

3 JUDGE WOODRUFF: Would You spell your last
4 name, please.

5 MS. TIMSON: T-i-m-s-o-n.

6 JUDGE WOODRUFF: Thank you.

7 MS. TIMSON: And I've lived there for four and
8 a half years now. The earliest people in that neighborhood
9 have been there five years, I think. The people that came
10 first came around December, January, the turn of the year.
11 So I've been there four and a half years.

12 So we have quite a history in Eagle Woods, and
13 an unhappy history. I want to show you some pictures that
14 are of the road right in front of my house that has broken
15 through, probably ruptured water pipes. Even Mr. Williams
16 speculated one time when he came out to look at them that
17 that could be the cause since I think there were two water
18 pipes that went underneath the road, and in both locations
19 we have cracked pavement and rusty, very rusty water coming
20 to the surface.

21 JUDGE WOODRUFF: Do you want us to keep these
22 photographs?

23 MS. TIMSON: You may. I have others. And
24 this newspaper article here shows a garden hose coming from
25 this pump and which went, I don't know, 100, maybe 50, 100

1 yards into my back yard for one year. The garden hose was
2 apparently passing the sewage along through the garden hose
3 because the pump had broken down and a sump pump was put in
4 to substitute. And the hose was in the back -- in my back
5 yard on my property where the main sewer line stand pipe is,
6 and it was there for a year.

7 JUDGE WOODRUFF: Now, if I can interrupt for a
8 moment, just to take care of some housekeeping matters,
9 we're going to mark these as an exhibit. The photographs
10 are going to be Exhibit A.

11 MS. TIMSON: I have other photographs, but I
12 wasn't able to put my hands on them, that showed the sewage
13 standing around another pump area.

14 JUDGE WOODRUFF: And the article is from the
15 Lake Sun Times, that will be Exhibit 2 -- or excuse me --
16 Exhibit B. We do that so we can keep track on the record of
17 what we're talking about.

18 MS. TIMSON: Well, here's some other items.
19 Actually, my neighbor, who wanted very much to be here,
20 could not be here. So I told her I would take her sample.
21 This is out of her kitchen faucet. And I said, how old is
22 that, when was it drawn? And she said within the last six
23 weeks. And these are her filters, water filters.

24 JUDGE WOODRUFF: Rather than taking these
25 physically into evidence, I'm going to try to describe them

1 for the record. First item is a soup jar containing water
2 which is very gray and cloudy, and indicated it's submitted
3 on 1/13 by Linda Hewlett.

4 MS. TIMSON: Hewlett.

5 JUDGE WOODRUFF: Hewlett.

6 MS. TIMSON: And Linda was the person I spoke
7 of that could not be here tonight, but she sent a two-page
8 letter, hoping that I could read it to the group.

9 JUDGE WOODRUFF: Before you do that, we've got
10 these filters, which are also discolored. One is quite
11 brown and the other is kind of a golden color.

12 MS. TIMSON: Very typical of our water
13 filters.

14 JUDGE WOODRUFF: Is this from Mrs. Hewlett
15 also?

16 MS. TIMSON: Uh-huh. Missouri Public Service
17 Commission. It's dated 1/13/04, and this is from Linda
18 Hewlett.

19 I'm a resident of Eagle Woods Subdivision and
20 have been since June of '99. I have had nothing but trouble
21 with my water since OWC switched my house over to their
22 system. I have complained many times but with no good
23 results. My water smells horrible, leaves stains on my
24 clothes, and has left my tub and my driveway outside
25 discolored. That was from a garden hose that was across the

1 driveway.

2 I personally had Debbie Williams in my home
3 and showed her samples of the water and my clothes and then
4 showed her my driveway. I also offered her a glass of water
5 from my kitchen sink faucets, which she declined. I
6 obviously do not drink my water.

7 Parenthetically, we all drink this kind of
8 water. No one drinks their in Eagle Woods.

9 JUDGE WOODRUFF: And you're holding up a jug
10 of distilled water.

11 MS. TIMSON: Yes. Right. Any kind of bottled
12 water is preferred.

13 I obviously do not drink my water, she says.
14 This was in the summer of 2002. Nothing has changed. Where
15 do people like myself go to get help? It seems as if OWC
16 can do whatever it pleases, and yet citizens like myself
17 suffer year after year. Now they want a rate increase.

18 I'm also submitting a letter which was written
19 by my father, Major Ben D. Dority, Sr. U.S. Marine Corps
20 Retired, which was recently submitted and written in the
21 local paper. He has tried to help me and the citizens of
22 Eagle Woods get our water problem solved.

23 I am personally turning to you and asking, no,
24 pleading that you will hear our complaints and finally hear
25 us. I have never heard of an increase of 25 percent at one

1 time, and for the quality of water and service we receive
2 cannot believe they are even asking for an increase.

3 I am submitting a sample of my water and water
4 filter from my home to show you the significance of my
5 complaints. Then I ask you, how would you like to turn the
6 faucet on in your home for a glass of water or a shower or
7 to wash a load of clothes and have this water come out of
8 your faucet and then have to be told to pay a monthly bill
9 plus an additional 25 percent, an outrageous proposal at
10 very best?

11 Please serve the residents of Eagle Woods as
12 we deserve to be treated by the public servants we deserve.
13 I'm absolutely positive that OWC will try and dazzle you
14 with their plight and their legal knowledge of the system,
15 but know that they are not providing us with water that is
16 usable or consumable. Look at my samples which are before
17 you.

18 And then it's signed Linda Hewlett. She has
19 her address on here. It's a copy, if you would like to have
20 that.

21 JUDGE WOODRUFF: We will take that, and I'll
22 go ahead and mark this as Exhibit C. It will be put into
23 the record.

24 MS. TIMSON: And I just wanted to say, if you
25 can see in here, this is full of newspaper articles, and I

1 only have kept some of the newspaper articles. And I
2 counted earlier today that I have 46 clippings that go back
3 to 2000, 2001, and I don't even take the paper anymore, I'm
4 sorry to say, not for that reason, but I don't get nearly
5 all the articles. This is just a sampling of the articles.
6 They're all about problems with OWC.

7 So we residents would like to ask who's going
8 to be responsible and held accountable for this disgraceful
9 delay? Is it Williams? Is it DNR? Is it PSC, the Attorney
10 General's Office? It most certainly is not the residents of
11 Eagle Woods.

12 Thank you.

13 JUDGE WOODRUFF: Thank you. If you'd wait
14 just a moment. Commissioner Murray, do you have any
15 questions?

16 QUESTIONS BY COMMISSIONER MURRAY:

17 Q. Just as to the water sample, did you say that
18 was actually taken from a faucet in --

19 A. Her kitchen faucet.

20 Q. -- the home at 6501 Red Fox Lane; is that
21 right?

22 A. She has her address on there. I'm not sure of
23 the number.

24 JUDGE WOODRUFF: That's what it says, 6501 Red
25 Fox Lane.

1 MS. TIMSON: She's right across the street
2 from me.

3 BY COMMISSIONER MURRAY:

4 Q. And it was taken from the faucet at what point
5 in time?

6 A. Kitchen faucet. I asked her how old it was,
7 and she said within the last six weeks.

8 Q. And the filters are filters for what?

9 A. Water. In her home, I don't believe she has
10 an iron filter. Now, some of the neighbors have paid as
11 much as \$1,200 to add an iron filter besides having a water
12 softener and they paid \$1,200 to put in an iron filter,
13 which has helped.

14 But this other party that I'm speaking of
15 would have been here tonight except her husband was taken to
16 the hospital today. But she's had a terrible problem with
17 her laundry as well, discolored. Sometimes you turn on
18 water, it's always smelly and oftentimes discolored.

19 Q. And then just a little clarification about the
20 hose. Was that --

21 A. Just an ordinary garden hose that was hooked
22 up somehow to the sump pump. Maybe Mr. Williams could
23 describe that better. But the sewage, I understand, from
24 that pump area which was broken was being pumped through the
25 garden hose, I don't know, 100 yards maybe down through the

1 ditch, up in my back yard and went into the stand pipe of
2 the main sewer line.

3 Q. Have you been present when the Department of
4 Natural Resources has been out?

5 A. Oh, yes. I've taken pictures. They've taken
6 pictures of that same thing.

7 Q. When was this garden hose situation?

8 A. It was exactly one year. It was from October
9 of -- now, last year in October was a year, so that would be
10 2002 that I guess it went in in October, and 2003 in October
11 it was removed.

12 COMMISSIONER MURRAY: All right. Thank you.

13 JUDGE WOODRUFF: Commissioner Clayton?

14 QUESTIONS BY COMMISSIONER CLAYTON:

15 Q. Ma'am, does your water look like this?

16 A. No. Mine's not that bad. Some of the homes
17 in the area do have more problems than others.

18 Q. You have any idea what has caused this, why
19 it's bad on one side of the street versus --

20 A. No.

21 Q. -- your side of the street?

22 A. I would assume that there's seepage somewhere
23 of soil or something to create that.

24 Q. How long did you say -- you've lived in Eagle
25 Woods for four and a half years?

1 A. Uh-huh.

2 Q. How long have there been problems with either
3 the water or sewer during that time period?

4 A. Well, the sewer has been -- was the earliest
5 problem because the thing was not, I don't think, completely
6 constructed.

7 Q. Can you tell me when that -- when the first
8 problems that you experienced relating to sewer started?

9 A. It had to be the first summer after we were
10 there because --

11 Q. When would that have been?

12 A. Well, four years ago would be '99. I think we
13 moved in in '99, because it was four years last June.

14 Q. And when was the first occasion that you
15 experienced problems with the water system?

16 A. Well, the water has never been very good. I
17 can't really say when. It seems like --

18 Q. When did you consider it a problem? When did
19 you consider it a problem, from the day you moved in?

20 A. I can't really be sure of that. I don't
21 remember. It's always been with us. I mean, whether it
22 started immediately when we moved in, I couldn't tell you.
23 It was a cul de sac only at that time.

24 Q. Well, just --

25 A. We had a different well. We had a well, a

1 different well at that time, and when we were on that well,
2 the water was fairly good. And I don't remember how long it
3 was until they went on the other well, but ever since that
4 especially the water's been very bad.

5 Q. Well, after the summer of '99, you said the
6 sewer came first, sewer problem.

7 A. Well, yeah, because there was leakage all over
8 the place. We had very foul smell. In fact, it was being
9 pumped. The pumping system was not in effect or even -- I
10 don't know if it was installed at that time.

11 But in any case they were pumping the sewers
12 regularly, probably weekly, and the smell was very foul. I
13 mean, people driving by said, oh, my, there's Eagle Woods.
14 There's that sewer smell.

15 Q. Was it like that when you moved in?

16 A. No, but shortly after.

17 Q. Summer of '99, roughly?

18 A. Probably fall.

19 COMMISSIONER CLAYTON: I don't have any other
20 questions. Thank you, ma'am.

21 JUDGE WOODRUFF: Mr. Williams?

22 MR. WILLIAMS: Thank you, your Honor. Maybe I
23 better step around here.

24 QUESTIONS BY MR. WILLIAMS:

25 Q. Let me ask you a few follow-up questions here.

1 You indicated that you had problems since 1999 when you
2 moved in?

3 A. Well, with sewer, I think the sewers were the
4 first problems that came to mind, and that was because they
5 weren't going down the line properly. They were leaking.

6 Q. And you're aware that Osage Water Company did
7 not build your sewer system?

8 A. Oh, yes, I'm aware of that.

9 Q. And you're also aware that Osage Water Company
10 didn't operate, maintain or have anything to do with your
11 sewer system in 1999?

12 A. Not that I know of.

13 Q. I'm sorry?

14 A. Not that I'm aware of.

15 Q. You know that Osage Water Company was not
16 involved at that time?

17 A. Yeah. I don't know of anything other than
18 that.

19 Q. Okay. And you've indicated your water was not
20 very good when you first moved in?

21 A. Well, the water was better then because we
22 were on a different well. It was a smaller well and there
23 were only a few homes on it. It was after we switched over
24 to the big well that things began to really show up, and I
25 don't know exactly when that was.

1 Q. And you testified that sewers were being
2 pumped at one point in time?

3 A. Oh, yes.

4 Q. And that was by your developer,
5 Mr. Westerhaven; is that correct?

6 A. That's true.

7 Q. And you're aware also that Osage Water Company
8 has a number of disputes with Mr. Westerhaven regarding the
9 sewer systems and water systems?

10 A. I'm aware of that.

11 Q. And that the Department of Natural Resources
12 has a lawsuit against Mr. Westerhaven regarding construction
13 of those water and sewer systems?

14 A. I'm aware of that, too.

15 Q. Okay. With respect to Osage Water Company and
16 its response to complaints, have people shown up when you've
17 called?

18 A. Well, I know that a lot of people have called
19 and people haven't shown up. I don't know that I can say it
20 personally. I haven't called Osage Water that much. We did
21 talk to you out in the street that time about the water
22 coming up through the road. Of course, what's happening,
23 the road is being damaged. In fact, that was last year's
24 picture.

25 Q. Let's talk about the spots in the road a

1 little bit. Are they year-round constantly full of water?
2 Are they a wet weather type of thing?

3 A. In the extreme hot summertime, no, but for
4 instance now there are two places in the road and they're
5 getting bigger and bigger and the cracks are going farther
6 down the road each season. Right now they look just like
7 that.

8 Q. You would agree with me that generally there
9 is a large uphill area across the highway from that roadway
10 that water runs down onto your road?

11 A. I don't know what the flow of water is up
12 there.

13 Q. Well, it's uphill?

14 A. Yeah, we're down.

15 Q. You're at the bottom of the hill?

16 A. But the other spot is up at the top of the
17 hill.

18 Q. But it doesn't -- nothing comes out of it when
19 it's dry; is that right?

20 A. Well, when it's really hot and dry for long
21 periods and hasn't rained.

22 Q. Now, with respect to these water samples, did
23 you take those samples?

24 A. No. Linda took those.

25 Q. Okay.

1 A. I could show you filters that look just like
2 that.

3 Q. Have you ever seen anything like that come out
4 of your water faucet?

5 A. No.

6 MR. WILLIAMS: I don't have any further
7 questions.

8 JUDGE WOODRUFF: Mr. Haas?

9 MR. HAAS: No questions, your Honor.

10 JUDGE WOODRUFF: Ms. O'Neill?

11 MS. O'NEILL: No questions. I'd just like to
12 thank Ms. Timson for coming down tonight.

13 COMMISSIONER CLAYTON: Judge, can I just --
14 for clarification, when did OWC take over? Just could I get
15 a year, time period?

16 MR. WILLIAMS: Certificate was granted in the
17 spring of 2000 and --

18 COMMISSIONER CLAYTON: And that's for both
19 water and sewer?

20 MR. WILLIAMS: Your Honor, subject to being
21 completely wrong, I think they were both in the spring of
22 2000. There was some time frame involved, as the systems
23 were still under construction at that time. I couldn't give
24 you a date that actual operation switched over off the top
25 of my head.

1 COMMISSIONER CLAYTON: Ms. Timson, does that
2 sound right, spring of 2000?

3 MS. TIMSON: You know, I'm really not
4 acquainted with that. That's awfully soon after 1999. I'm
5 not sure when they took over.

6 COMMISSIONER CLAYTON: Okay.

7 MR. WILLIAMS: I could be off by a year.

8 MS. TIMSON: It may be a year off.

9 COMMISSIONER CLAYTON: No problem.

10 JUDGE WOODRUFF: Thank you, Ms. Timson. And
11 you can go ahead and take these.

12 The next name on the list is Celeste Maness, I
13 believe. Please raise your right hand.

14 (Witness sworn.)

15 CELESTE MANESS testified as follows:

16 JUDGE WOODRUFF: You may be seated. Tell us
17 your name and where you live.

18 MS. MANESS: Celeste Maness, 6497 Red Fox
19 Lane.

20 JUDGE WOODRUFF: And spell your last name.

21 MS. MANESS: M-a-n-e-s-s. Basically, I didn't
22 really come too prepared. I've never been to one of these.
23 So mine is going to be very simple, very brief. I did bring
24 some water.

25 I just wanted to talk about the fact that I've

1 been in my house since December 1998. I believe I was the
2 third house in Eagle Woods in the circle. When I moved in,
3 we had wonderful water. We were on a smaller well like
4 Louise said. The water was very good.

5 As far as the sewage problem, there was smell
6 from the sewage the following spring, summer, which would
7 have been spring and summer of 1999. Of course, I didn't
8 notice it when I moved in. Colder weather, you wouldn't
9 notice that.

10 Where we stand right now, I know positively
11 for sure as soon as the well was switched over to the new
12 well, within three days we started having problems with the
13 water as far as smells. I don't know the exact date. I
14 want to say that was probably sometime in early 2000. I
15 have that information. Like I said, I was not as prepared
16 as I should have been for this meeting.

17 My concern is that, as a consumer, a single
18 parent, putting three kids through college, I bought my
19 house. I've worked hard to buy that house. And I pay my
20 water bill every month, I pay my sewage bill every month,
21 and I don't feel like I'm getting the service that I'm
22 paying for.

23 I have to -- I put a water filter on my house
24 for the incoming water. I have a filter on my drinking
25 faucet to filter the water, which does help a little bit.

1 However, those are some more costs that I have to take on.
2 As far as the rust amount in the water, cleaning supplies,
3 you know, your toilet can stay clean for two days and then
4 you've got an orange stool.

5 I have ruined clothing by washing them in my
6 washing machine. If you have a home, you have a washing
7 machine and expect to be able to use it. I'm just very
8 concerned about the fact that I'm not getting what I'm
9 paying for.

10 I'm also concerned about the fact that I don't
11 feel like there's been anybody out there to protect us as
12 consumers. I've been in public service or customer service
13 related business for 25 years myself, and we've always
14 concerned ourselves with making sure that we are providing
15 what we're telling our customers that we'll provide as far
16 as the services that we sell, the products that we sell.

17 And I feel like the community, the residents
18 of Eagle Woods along with obviously very many other
19 communities are being cheated and there's nobody out there
20 to protect us.

21 You know, I've ruined my clothes. It's pretty
22 sad when you can't even wash your white clothes in your
23 washing machine without getting orange streaks. Now, I live
24 right next door to Linda Hewlett, which is the one with the
25 water. At this time I did bring a sample of water. This is

1 out of my kitchen sink.

2 I have a filter coming in to filter the water
3 as it comes in through the house and then another filter on
4 my drinking faucet so that it's not as bad tasting. It
5 doesn't look quite as bad. However, if you fill up the
6 bathtub, you have kind of an orangeish-green color of water.
7 So in a large amount you can see the color. This has got a
8 terrible smell, and this is with two filters.

9 JUDGE WOODRUFF: All right. For the record,
10 this is another jar of water. It looks fairly clear,
11 certainly not as gray as Ms. Hewlett's water. It definitely
12 has an odor.

13 MS. MANESS: And that came out of my faucet at
14 exactly 5:25 this evening as I was rushing to get to
15 Louise's house.

16 I have had a situation where my water turns
17 the same color as Linda's. Now, that is normally -- seems
18 to be some kind of chemical reaction if I'm using the water
19 in the kitchen sink and, believe it or not, if there's
20 something with a lot of oil or butter in it and the soap
21 will turn the water black. I'm not a chemist. I don't
22 know. I don't know why that happens, but it does.

23 But this, like I said, is with two filters on
24 it. I have the expense of replacing those filters on a
25 monthly basis. You know, I don't mind paying for what I

1 get. That's wonderful. And if we could have the water
2 that -- the quality in the water that we should have, that
3 would be great. That's all we want.

4 JUDGE WOODRUFF: Does the quality of the water
5 vary from day to day?

6 MS. MANESS: I would say sometimes it does.
7 The sulfur smell sometimes is a lot worse if we've had a lot
8 of rain. I don't know that much about wells. I don't know.
9 My son had explained to me that the water levels raise, so
10 on and so forth, but I don't know that much.

11 JUDGE WOODRUFF: Commissioner Murray?

12 QUESTIONS BY COMMISSIONER MURRAY:

13 Q. How long have you owned your house?

14 A. Since December 1998.

15 COMMISSIONER MURRAY: Thank you. That's all I
16 have.

17 JUDGE WOODRUFF: Commissioner Clayton?

18 QUESTIONS BY COMMISSIONER CLAYTON:

19 Q. Ms. Maness, I assume that you've made
20 complaints to the company?

21 A. Yes.

22 Q. Have representatives from the company come out
23 and tested your water on occasion?

24 A. I've called DNR before.

25 Q. Before we get to DNR, have you had

1 representatives of the company come out?

2 A. They came out on their own one time, and that

3 was shortly, I believe, shortly after the wells had gone in,

4 maybe like in the spring.

5 Q. Of 2000?

6 A. I believe so.

7 Q. What has been the response of the company

8 regarding the quality of water?

9 A. Well, I have made a few phone calls, and

10 No. 1, I had talked to Debbie about feeling like I should be

11 reimbursed for the loss of the clothing, that I couldn't

12 wash them and so forth. It seems to be that there's always

13 the feeling that it's not really their problem, there's

14 nothing they can do about it, that's how the water is here

15 at the Lake.

16 You know, the well that we were on before was

17 wonderful. I had no complaints about that.

18 Q. Okay. Now, you made complaints to DNR.

19 What's DNR's response?

20 A. Well, that was quite some time ago. I'm

21 really not a real vocal person.

22 Q. Well, there will be no singing here. Don't

23 worry about that.

24 A. I'm not much of a complainer either. So I'm

25 really on the quiet side. For me to even be up here is not

1 something that I would normally do.

2 They had come out and tested the water, but I
3 believe this was shortly -- maybe in the spring after the
4 well was switched over.

5 Q. Spring of 2000 maybe?

6 A. Yes. As far as their response, they had said
7 that the water had a high content of sulfur, and at that
8 time I think that was the only thing that they told me, that
9 it had high iron. There wasn't anything as far as bacteria
10 or anything like that.

11 COMMISSIONER CLAYTON: I don't have any other
12 questions. Thank you for coming.

13 JUDGE WOODRUFF: Mr. Williams?

14 MR. WILLIAMS: No questions.

15 JUDGE WOODRUFF: Mr. Haas?

16 MR. HAAS: No questions.

17 JUDGE WOODRUFF: Ms. O'Neill?

18 MS. O'NEILL: No questions. Thank you.

19 JUDGE WOODRUFF: Thank you for coming.

20 COMMISSIONER CLAYTON: You may take your
21 water.

22 MS. MANESS: I've got plenty of this at home.

23 JUDGE WOODRUFF: The next name on the list is
24 Carl Rhodes. Mr. Rhodes, please raise your right hand.

25 (Witness sworn.)

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 CARL RHODES testified as follows:

2 JUDGE WOODRUFF: You may be seated, and if
3 you'd tell us your name and where you live.

4 MR. RHODES: My name is Carl Rhodes,
5 R-h-o-d-e-s. I reside at 443 Cedar Glen Condo.

6 JUDGE WOODRUFF: And what kind of service do
7 you have, what type of service?

8 MR. RHODES: The complaints I've had, we moved
9 down here five years ago from Kansas City. I don't know how
10 many times -- I just can't recall how many times the water
11 has kicked off, we cannot get water.

12 One of the main ones that I can remember, we
13 called and we was probably out of water for I want to say
14 three hours, and the man would not answer the phone.
15 Finally he answered. He was supposed to be in Sedalia. The
16 man's got a company, but he has no one back here to pick up
17 his gripes.

18 JUDGE WOODRUFF: Which man are you referring
19 to?

20 MR. RHODES: The owner who we would call in to
21 Osage Beach for water service. The person that will stand
22 beside me was my wife. We told her, and she informed
23 another lady, said, well, I know how we can find out where
24 he's at. So she called the sheriff's dispatcher, gave him
25 the number, and called this man and said, we have an

1 emergency at Cedar Glen.

2 Now, this man's supposed to been in Sedalia.

3 He was there within a half hour. Now, I've drove to Sedalia

4 many times. There's no way I can make it in a half hour.

5 But we was out of water that day probably I

6 want to say roughly six, seven hours. Another major

7 incident that had happened was over this past weekend. In

8 unit, I believe it was 412 they're weekend warriors. They

9 haven't been down probably since way before Thanksgiving.

10 They walked into their condo, their water's shut off. Both

11 their tubs and their stools had overflowed with crap.

12 JUDGE WOODRUFF: Backup?

13 MR. RHODES: Yeah. Here's some pictures of

14 it.

15 JUDGE WOODRUFF: Do you want me to keep these

16 pictures?

17 AUDIENCE MEMBER: Yes.

18 JUDGE WOODRUFF: I'll go ahead and mark them

19 collectively as Exhibit D.

20 COMMISSIONER CLAYTON: This is at Cedar Glen?

21 MR. RHODES: Cedar Glen, Unit --

22 AUDIENCE MEMBER: 412. It's written on the

23 back of the pictures.

24 MR. RHODES: Now, I personally saw that

25 myself. But I guess what I'm really trying to say is, the

1 man is trying for a 25 percent increase. Cedar Glen has a
2 new system and the man can't even take care of that, and I
3 could just visualize what these other people are going
4 through that have older systems.

5 So I guess my gripe really is, giving this man
6 a 25 percent increase, he's not going to do any more than he
7 is now. I think we're slipping and sliding in you know
8 what. I just don't see it.

9 JUDGE WOODRUFF: You've been referring to this
10 man. Would that be Pat Mitchell for the company?

11 MR. RHODES: Yes.

12 JUDGE WOODRUFF: Is there anything else you
13 want to add?

14 MR. RHODES: That's about all I had. I know
15 it's going to be a long, drawn-out night so everybody gets
16 their chance.

17 JUDGE WOODRUFF: Commissioner Murray?

18 COMMISSIONER MURRAY: Thank you. I appreciate
19 it.

20 JUDGE WOODRUFF: Commissioner Clayton?

21 QUESTIONS BY COMMISSIONER CLAYTON:

22 Q. Just regarding the pictures, this is your
23 neighbor?

24 A. Yes.

25 Q. Are they going to testify tonight?

1 A. No. They live in Kansas City. They came down
2 over the weekend.

3 AUDIENCE MEMBER: I'm the manager of the
4 association, and I will be testifying regarding that
5 incident later on.

6 COMMISSIONER CLAYTON: What was the
7 approximate date of the photos?

8 AUDIENCE MEMBER: It's on the back, January
9 9th.

10 AUDIENCE MEMBER: Last Friday.

11 AUDIENCE MEMBER: Last Friday. We don't know
12 when it happened. It was dried up when the homeowner came
13 in and found it.

14 BY COMMISSIONER CLAYTON:

15 Q. How about other -- how about the quality of
16 water when its on?

17 A. I have no complaint on the water. We had put
18 in a water system softener and all that. I thought the
19 water was extremely hard, but --

20 COMMISSIONER CLAYTON: Okay. No other
21 questions. Thank you for coming.

22 JUDGE WOODRUFF: Mr. Williams, do you have any
23 questions?

24 MR. WILLIAMS: I do.

25 QUESTIONS BY MR. WILLIAMS:

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 Q. Mr. Rhodes, how long have you lived at Cedar
2 Glen?
3 A. We moved down there five years ago.
4 Q. Has there been any change in the frequency of
5 outages on the water system in the last year?
6 A. I really cannot answer that. I don't think
7 so.
8 Q. Has it gone out regularly in the last year?
9 A. Not in the last year, that I recall. They'll
10 have records of it, I'm sure.
11 MR. WILLIAMS: No further questions.
12 JUDGE WOODRUFF: Mr. Haas or Ms. O'Neill?
13 MS. O'NEILL: No, your Honor.
14 MR. HAAS: No questions.
15 JUDGE WOODRUFF: Thank you for coming.
16 MR. RHODES: Thank you.
17 JUDGE WOODRUFF: Next name on the list is Bob
18 Carson. Please raise your right hand.
19 (Witness sworn.)
20 BOB CARSON testified as follows:
21 JUDGE WOODRUFF: You may be seated. Tell us
22 your name and where you live.
23 MR. CARSON: My name is Bob Carson. I live in
24 Unit 235, Cedar Glen Condos.
25 I have -- I'm concerned about the rate

1 increase. I happen to have owned a home here, summer home,
2 for 35 years before I retired in 1983, and we built a new
3 home and then we moved into -- sold it after 12, 13 years,
4 moved into Cedar Glen Condos.

5 We lived in a subdivision, owned a home there
6 for -- four-bedroom home, and we were on a central water
7 system. There was 24 houses in that subdivision. Our total
8 cost for water was \$25 per year. We had very few
9 complaints. That water system is still there, same water
10 system, same well.

11 The cost of water in this area differs from
12 the cost of water, type of water north of here, northern
13 part of Missouri. The well water here is about as pure as
14 you can find anywhere in the country. It costs very little
15 to drill a well and pump water. So to charge high rates for
16 water in this area is totally ridiculous.

17 The subdivision right across from Cedar Glen
18 Condo is a new subdivision called Minnowbrook Subdivision.
19 Got 32 homes in it, all large, four, five-bedroom homes,
20 high-dollar homes, some of them as much as 6, \$700,000.
21 Their new system they put in, I talked to the owner, the
22 developer and owner of that subdivision who's still selling
23 lots and building houses there.

24 His charge for both the sewer and the water is
25 \$350 a year. That includes not only the water and the

1 sewer, but it also includes snow removal and all of the
2 common grounds mowed, and that's comparable to what we're
3 paying, about over twice that or about twice that.

4 The proposed rates are even more ridiculous.
5 The things that I have heard, and I heard them actually from
6 the office of the Commission, Missouri Public Service
7 Commission, that when we bought our place at Cedar Glen, it
8 was a brand-new place. We bought it because it was
9 brand-new, brand-new everything, brand-new water system,
10 brand-new septic system. We would not have bought it if it
11 had been an older system or older unit. When you buy a new
12 place, you expect it to have all new things.

13 I was told that Osage Water Company to get
14 their rate approved when they bought these older systems and
15 they had lots of problems with them, including a lot of
16 legal problems, which I imagine was plowed into the cost,
17 that they combined all of their units that they own in Osage
18 Beach or wherever along with our brand-new Cedar Glen
19 system, and they based their rate increase request on the
20 total cost of these units they bought.

21 So what has happened is that Cedar Glen
22 residents are paying for all of those old systems that
23 they're -- they have invested in and maybe still are. I
24 don't know. But I don't think it's fair that the Commission
25 would allow that to happen, and I think if that did happen,

1 that that's -- and I was told that that's a fact -- that
2 that is unfair, and we should not be penalized and have to
3 pay for those older systems. They should keep their costs
4 separate. And had that been known at the time people bought
5 at Cedar Glen, I'm sure they would not have bought.

6 That's one of the main points that I wanted to
7 make. This is not the first time that I've testified, put
8 that in the record. But it's something that the auditors
9 from the Commission should have thoroughly checked out and
10 questioned, and I think that it should be checked and made
11 sure that we're not being forced to pay for all of those
12 other systems.

13 That's all I've got to say.

14 JUDGE WOODRUFF: Commissioner Murray, do you
15 have any questions?

16 QUESTIONS BY COMMISSIONER MURRAY:

17 Q. Do you have any comments about the quality of
18 service that you receive?

19 A. The quality of service, we have a new system,
20 so we are not as bad off as a lot. We've had problems. I
21 don't consider them to be more than good maintenance. I
22 don't think there's been good maintain there even on a new
23 system, and we've had some problems with water cutoffs and
24 things that I -- I would guess were due to poor maintenance,
25 not necessarily the system.

1 We've had some new equipment put in, new
2 tanks. We've had some bad water different times, but I
3 think a lot of that is poor maintenance.

4 COMMISSIONER MURRAY: That's all I have.
5 Thank you.

6 MR. CARSON: The pumping of the water out of
7 the ground in this area, all you're talking about is the
8 cost of running the pump. There's no treatment plant
9 whatsoever in pumping that water out and treating it, which
10 is not true if you go north of here, there's a lot of water
11 that has to be treated. That's not true in this area.

12 JUDGE WOODRUFF: Commissioner Clayton?

13 QUESTIONS BY COMMISSIONER CLAYTON:

14 Q. Mr. Carson, I want to make sure that I'm
15 writing this down accurately. Commissioner Murray asked you
16 about the quality of water. You said, well, no, generally
17 the water quality's been good except, well, we have had the
18 water cut off, well, a bunch of times and then the water
19 quality hasn't been very good.

20 Can you tell me how often you've dealt with
21 cutoffs in water service?

22 A. Oh, there's been quite a few times the water's
23 been shut down over -- we've lived there for five years.
24 It's -- it has been shut off quite a lot of different times.

25 Q. What is generally the amount of time that it's

1 cut off?

2 A. Sometimes it's several hours. Sometimes they
3 get it fixed quicker.

4 Q. Could you estimate how many times that's
5 occurred in the last 12 months?

6 A. I don't recall of any time in the last year
7 myself. I'm not there all the time. My wife is.

8 Q. When was the last time they cut off, then,
9 that you recall?

10 A. I don't know. I don't know.

11 Q. Have there been any other water quality
12 issues?

13 A. The water has been cloudy, and I won't drink
14 it. Even now I won't drink it, but it's -- at least it's
15 not cloudy. It was cloudy a lot. And we've had a lot of
16 notices posted that it's -- we have to boil the water, and
17 there's been several of those postings, that we should boil
18 the water before we drink it. A few of those and I just
19 decided we'll drink bottled water.

20 COMMISSIONER CLAYTON: Okay. Thank you very
21 much.

22 JUDGE WOODRUFF: Mr. Williams, do you have any
23 questions?

24 MR. WILLIAMS: Just a couple.

25 QUESTIONS BY MR. WILLIAMS:

1 Q. Mr. Carson, you're a licensed real estate
2 agent; is that right?
3 A. Right.
4 Q. And Cedar Glen prepare an original sales
5 certificate disposing of old tires, how the water and sewer
6 service is provided and what the charges are?
7 A. Right. It was \$10 a month, water was at that
8 time.
9 Q. Okay. Have you seen one recently?
10 THE REPORTER: I'm sorry. I couldn't hear.
11 BY MR. WILLIAMS:
12 Q. I'm sorry. Original sales certificate?
13 A. Have I seen one recently? Yeah, I think I
14 have.
15 Q. Is it accurate?
16 A. I don't recall everything that's on it.
17 Q. Okay. Are you aware that the developers out
18 at your condominium project had problems constructing your
19 sewer system?
20 A. I was not -- I'm not familiar with the
21 problems they had building it.
22 Q. Do you know if they did or they didn't?
23 A. If they had problems?
24 Q. Yes.
25 A. Not as far as I know in the unit I have.

1 MR. WILLIAMS: I have no further questions.
2 JUDGE WOODRUFF: Mr. Haas?
3 MR. HAAS: No questions.
4 JUDGE WOODRUFF: Ms. O'Neill?
5 MS. O'NEILL: No, your Honor.
6 JUDGE WOODRUFF: Thank you for coming,
7 Mr. Carson.
8 Next name is Frank Myers. Thank you for
9 coming. Raise your right hand.
10 (Witness sworn.)
11 FRANK MYERS testified as follows:
12 JUDGE WOODRUFF: Thank you. Tell us your name
13 and where you live and spell your last name.
14 MR. MYERS: Frank Myers, M-y-e-r-s, Cimarron
15 Bay, Sunrise Beach.
16 The problems we have, we don't really have any
17 problem with water quality, except we have a big tank up
18 there on top of the hill, and it's full of rust. It was
19 sitting there for a couple years prior to being used now.
20 They put about seven gallons of bleach in it, which the tank
21 is about as big as this room. I don't know whether seven
22 gallons of bleach made it pure or not.
23 And when they hooked Harbour Bay onto our
24 sewer system, which is on top of the hill, I got a leak
25 coming down off that hill, and these are the -- that's my

1 yard and the water running through it, and run through there
2 2000, 2001, 2002. Then they put 75 to 85 feet of four-inch
3 tile through there and run it down to the lake.

4 JUDGE WOODRUFF: This last picture showing --

5 MR. MYERS: That shows it going into the lake.

6 AUDIENCE MEMBER: Excuse me, sir. Would you
7 please talk louder. I don't hear you, and I'm sure a lot of
8 other people don't hear you either.

9 JUDGE WOODRUFF: Okay.

10 AUDIENCE MEMBER: Maybe if we could turn that
11 table over here.

12 JUDGE WOODRUFF: Let's move the table over
13 here a little bit. Thank you for speaking up.

14 AUDIENCE MEMBER: Thank you, sir. I
15 appreciate it.

16 COMMISSIONER CLAYTON: It seems like a shy
17 group, so feel free to speak up.

18 AUDIENCE MEMBER: I talk loud, you know.

19 JUDGE WOODRUFF: All right. Thank you.

20 MR. MYERS: Another problem we've got with
21 that sewer is when they hooked Harbour Bay into our sewer
22 system, they expanded it, but it took them two years later
23 to finish it. This is a picture of the sewer system up
24 there, and that was -- that green stuff has been there -- it
25 was there for three years. Harbour Bay was hooked on it for

1 a couple years prior to that.

2 JUDGE WOODRUFF: Can I go ahead and keep these
3 pictures?

4 MR. MYERS: Yes.

5 JUDGE WOODRUFF: I'm going to go ahead and
6 mark the pictures of the sewer leakage in your back yard as
7 Exhibit D, and these other pictures of the green scum, I'll
8 mark them as E.

9 MS. O'NEILL: Your Honor, I think we might be
10 at E and F.

11 JUDGE WOODRUFF: Did I miss one?

12 MS. O'NEILL: Mr. Rhodes' photos I think I
13 have written down as D.

14 JUDGE WOODRUFF: You're correct. The
15 photographs of the leak in your yard are E, and the
16 photograph of the sewer system will then be F. Thank you,
17 Ms. O'Neill.

18 COMMISSIONER CLAYTON: Judge, for
19 clarification, can I just ask what bay you said?

20 MR. MYERS: Cimarron Bay.

21 COMMISSIONER CLAYTON: Cimarron, like a
22 Cadillac, Cimarron?

23 MR. MYERS: Yes.

24 COMMISSIONER CLAYTON: I didn't mean it that
25 way. I'm just making sure.

1 JUDGE WOODRUFF: Okay. Anything else you want
2 to add?

3 MR. MYERS: No. That's about it.

4 JUDGE WOODRUFF: Commissioner Murray?

5 COMMISSIONER MURRAY: No questions, but thank
6 you.

7 JUDGE WOODRUFF: Commissioner Clayton?

8 QUESTIONS BY COMMISSIONER CLAYTON:

9 Q. Just to be clear, basically Harbour Bay was
10 put on the system and that's when you started experiencing
11 --

12 A. That's when it started, because it was just
13 one or two buildings. Now they've got four buildings.

14 Q. When that occurred, who did you call to
15 complain?

16 A. I've called the office and I have no answers.
17 They have sent Jeff out. I had Martin Hummel from Jeff
18 City.

19 Q. From where? Where is he from?

20 A. Public sewers.

21 THE REPORTER: I'm sorry. I can't hear you.

22 MR. MYERS: We've still got the problem.

23 COMMISSIONER CLAYTON: I don't have any other
24 questions.

25 JUDGE WOODRUFF: Mr. Williams?

1 MR. WILLIAMS: I do have a few questions.
2 QUESTIONS BY MR. WILLIAMS:
3 Q. Mr. Myers, the photographs you took, when did
4 you take those?
5 A. Those are two or three years ago, but that's
6 when I tried to tell those people that there was water up
7 there leaking, because those things never dried up.
8 Q. I understand that. Does the problem exist
9 today?
10 A. That hole was covered up, but the water is
11 following the trunk line down through there.
12 Q. You're saying it's still in your yard today?
13 A. It's going underneath -- just underneath the
14 grass. They've got a four-inch tile that's taking it down
15 to the lake.
16 Q. Does it come out at the lake?
17 A. Yes.
18 Q. Today?
19 A. Yes.
20 Q. And the other photograph you had was a picture
21 of the sewer plant; is that correct? Is that what it looks
22 like today?
23 A. No. That hole has been covered up, but that
24 water still follows the trunk line down through our yard or
25 someplace. It's coming off the water system or the sewer

1 system.

2 MS. O'NEILL: No questions.

3 MR. HAAS: No questions.

4 JUDGE WOODRUFF: All right. Thank you.

5 Next name on the list is Bill Pohlmann. If

6 you'd please raise your right hand.

7 (Witness sworn.)

8 BILL POHLMANN testified as follows:

9 JUDGE WOODRUFF: You may be seated. Would you

10 tell us your name and where you live.

11 MR. POHLMANN: My name is Bill Pohlmann. I

12 live at Cedar Glen Condos.

13 JUDGE WOODRUFF: Spell your last name.

14 MR. POHLMANN: Yes. P-o-h-l-m-a-n-n. I live

15 at 424 Cedar Glen Condos, and I'm vice president of the

16 Cedar Glen Condo Board of Directors.

17 Part of what I was going to testify on, I'm

18 going to waive to our management of that. One thing I

19 wanted to bring up on the rate increase is the 4,000

20 gallons. Eight months out of this past twelve, I've been

21 there full-time where I've been there through the whole

22 billing cycle, and like this last month I was there, I used

23 1,900 gallons. I know others that were there got into the

24 2,000s.

25 So there's people that use this for weekends.

1 They're not really there. So if I'm there and I think it's
2 7 out of last 12 I had the basic bill because I was way
3 under the amount of gallons. So if you're looking at 212
4 condos and the majority of them are part-time, they're going
5 to be using less than I am, a few of the others that are
6 full-time there.

7 So at that rate, that would cost them \$170
8 more a year, if I understand this correctly, or \$36,000 that
9 we'd be paying for water and sewage that wouldn't even be
10 being used, and I think that is tremendously excessive.

11 One other issue. We had a backup on sewage,
12 and I'll let our management person do that. We had some
13 conflicts, but I'd just like to stress one thing. When they
14 called back and said the reason was because we unplugged the
15 extension cord to the pumping station.

16 After investigating that, and she can testify
17 to it a little more, not only was it on an extension cord,
18 we found out that out of the ten -- out of the seven pumping
19 stations, five of them are on Cedar Glen's electric bill.
20 Only two are being paid by Osage Water, and one is on
21 extension cord.

22 And I think talking about quality there and
23 we've had tremendous problems there, and she'll get into the
24 dates and that. And that's all I have at the present time.

25 JUDGE WOODRUFF: Commissioner Murray, any

1 questions?

2 COMMISSIONER MURRAY: I'll wait. Thank you.

3 JUDGE WOODRUFF: Commissioner Clayton?

4 Mr. Williams?

5 MR. WILLIAMS: No.

6 JUDGE WOODRUFF: Mr. Haas?

7 MR. HAAS: No questions.

8 JUDGE WOODRUFF: Ms. O'Neill?

9 MS. O'NEILL: No, your Honor.

10 JUDGE WOODRUFF: Thank you.

11 The next name on the list is Carolyn

12 Blackburn. Please raise your right hand.

13 (Witness sworn.)

14 CAROLYN BLACKBURN testified as follows:

15 JUDGE WOODRUFF: Tell us your name and spell

16 your last name, please.

17 MS. BLACKBURN: Carolyn Blackburn,

18 B-l-a-c-k-b-u-r-n. I reside at 2020 Highway KK, Eagle

19 Woods, Lot 15, I think.

20 I have been involved with our situation, it

21 will be two years in April. Until that time, I was unaware

22 that I even had Osage Water Company. I thought I had two

23 community wells and a sewage system. Not being too smart, I

24 don't know anything about a lift station. I didn't know

25 where that was supposed to be, because it's quite obvious,

1 knowing what I know now, there was never a lift station in
2 Eagle Woods.

3 So I wasn't too thrilled to find all this out,
4 but there was all these problems going on and different
5 neighbors with different problems. I want to start with the
6 sewage being one. We have had sewage spills in our
7 neighborhood, huge, huge sewage spills.

8 I had called and my husband had called
9 Department of Natural Resources, and we had spills in four
10 different areas. And there were pictures sent to PSC and to
11 the DNR. We have a list of 15 people that get everything.
12 And Celeste, who had testified earlier, behind her house,
13 this big pool of sewage, just stunk. I live down the other
14 way, and I came out my back door and I'm like, what is that?
15 And so we walked the sewage line in Eagle Woods property,
16 and it's spilloffs running everywhere.

17 We called DNR. They came down. We called
18 back when we seen the hose that you have the picture of
19 running and an extension cord -- we have one, too -- running
20 up to run this pump that had been put down in the hole with
21 a water hose. And when I asked the State, I said, when are
22 they going to fix it? He said, well, I told them to fix it,
23 and then he laughed and said, well, I guess that's what he
24 thinks is fixing it.

25 And I don't know who he refers to, because in

1 Eagle Woods we do have a conflict. It's back and forth as
2 to who you're talking to. And since I'm not an expert, an
3 engineer with water or sewage, I'm just a person living in a
4 home that wants service, I don't really want to get into
5 that dispute because it's not who was right or who was
6 wrong. I feel if those people do not agree, they should
7 take the opportunity to take the court action that needs to
8 be taken, not accuse.

9 JUDGE WOODRUFF: Who is it that's in the
10 dispute?

11 MS. BLACKBURN: Osage Water Company and Summit
12 Investment, the builder and Osage Water buying the system.
13 Like I said, I don't know who's right or wrong, because I --
14 you show me a white pipe but, you know, I don't know too
15 much. But I don't think -- we're tired of the blame game.
16 We just want it fixed. We want a good sewage system and we
17 want good water.

18 I live on the flat side of Eagle Woods. So I
19 have good water pressure. I want to say that that black
20 water you've got, only one time has it happened to me, but I
21 went in my bathroom, turned on my water and worse than that
22 came out, pure black, seedy gravel came out.

23 Now, what was weird was I turned on my other
24 faucets, didn't get it. I have three bedrooms. Didn't get
25 it in any of the others. So there's nothing to call on

1 because there was nothing -- the first was I turned it on,
2 because I will not get in the shower immediately when I turn
3 on my hot water. It stinks bad. It stinks too bad to get
4 into the hot water. You've got to let it run a while.
5 We've been told to let it run a while, put some bleach in
6 it, buy filters, do everything.

7 Well, my concerns are about my future of my
8 home that I can't sell living in Eagle Woods because
9 everybody reads the newspaper. This is the bottom of my
10 toothbrush, electric toothbrush. This is the base it sits
11 on. This water -- that's one week. I washed it a week ago
12 just so I could bring it and show you, because I have to
13 scrub it off with a toothbrush and Ajax and everything.

14 Now, if that's happening to my toothbrush
15 holder with the water setting, what's happening to my pipes,
16 what's happening to my refrigerator with the filters running
17 through, the dishwasher, all my appliances? What's
18 happening to the value of my home sitting there with this?
19 And I know that it's not just me. Now, I don't have a
20 filter.

21 JUDGE WOODRUFF: For the record, let me just
22 describe, you've got a toothpaste holder here, or a
23 toothbrush, electric toothbrush holder, I guess it is, with
24 kind of a scaly gray deposit around the base of it.

25 MS. BLACKBURN: Okay. And then this, and I

1 just brought this glass. If you hold it up to the light --
2 because I didn't want to bring my clear one. It's
3 disgusting. This only has liquid ever in it, and it runs
4 through my dishwasher with all the special little glass
5 cleaner and stuff. No glass comes out of my dishwasher
6 looking sparkling clean. It's embarrassing, and it will
7 never -- the film on the sides and stuff will never come
8 off. You can hand wash in our water and they won't come
9 off.

10 People talk about whites. You can't clean
11 whites in Eagle Woods. And if you bleach, we learned you
12 draw out more rust. I don't have as heavy a rust as I have
13 odor and sediment. Now, the other person, Shirley Hamm, is
14 not here tonight and she is -- because her husband went in
15 the hospital, but I was in her home last year when everybody
16 was trying to figure out her water problem. DNR was down.
17 She had awful brown water.

18 Now, she lives going up a little. I don't
19 know if she's getting it back down. But it is true that
20 different homes in Eagle Woods, for why we don't know, have
21 different problems with water. If you're farther up on the
22 hill, you might have trouble more with pressure, but it's
23 the people -- I mean, 100 percent, they all have experienced
24 some type of problems.

25 And then we go to the -- back to the sewage

1 one more time. I think it's terrible. I always feel so
2 fearful of DNR. I'd never want to be a utility company, I
3 can tell you that. But I always thought, I mean, you're
4 going to be in big trouble if you pollute this land of ours.
5 Well, nothing. We -- nothing ever gets done in Eagle Woods.
6 I mean, frustrated.

7 I hope the Public Service Commission talks and
8 listens to what we're saying, because I just want to show
9 you, in 1999 the homeowners that were in Eagle Woods -- not
10 all of us was there -- signed a petition. They didn't even
11 want Osage Water Company to be their sewer, and the reason
12 is because they knew past history and they were scared they
13 would not get good service.

14 You know, can we brush and flush, as some have
15 said in this room? Yeah, I can brush and flush, but I have
16 lived many places in my life and never ever experienced
17 sewer or water problems, and that even includes a little
18 Osage County. I had county water. Never -- lived there 18
19 years. Never experienced any type of water problems, except
20 when something broke and they let us know that we'd have a
21 boil order for a couple days.

22 I don't drink our water. We buy water, which
23 is an extra expense. I don't mind paying for service that
24 is fair, but I feel based on other rates that I have seen
25 personally, I think what they're asking for is totally

1 outrageous from the homeowners.

2 And I did want to -- there's a couple of
3 things that people wanted me to mention. I want to make
4 sure I get them in.

5 If we -- you know, we feel like we work with
6 the State. We've talked to DNR. We know a lot of people by
7 names. We've talked with Ruth O'Neill many times. We've
8 talked to Deborah Neff, who's now no longer with the
9 Attorney General's Office. We talked -- I got so gung-ho, I
10 just wanted it fixed.

11 We have people in our community that want to
12 move for other reasons and they can't because people read
13 the newspaper. The last home that was put on the market
14 sold the first day, and then the paper came out with the
15 letter to the editor, then the next day the people said, you
16 can keep my money but I'm pulling out, because it is -- it's
17 going to be a continuous problem until our systems are
18 brought up to adequate service and that the water -- people
19 come in your house and they don't want to drink your water.
20 They smell it. They don't want to drink it.

21 So I just think that -- we just hope that the
22 Public Service Commission will listen to the voices here
23 tonight, and also I don't want to read them because I know
24 we're time, but I'd like to give these three letters. The
25 Tarrs just left for Florida today. The Johnsons left for

1 Texas yesterday, and Wanda and Jerry Phillips, who have been
2 very involved, I called them. They were in Florida, and
3 they wanted to send their letter to me to give to you.

4 JUDGE WOODRUFF: Okay. We've got one from the
5 Tarrs and the other from the Johnsons?

6 MS. BLACKBURN: The Johnsons.

7 JUDGE WOODRUFF: Okay. We'll go ahead and put
8 these into evidence. The one from the Phillips, is it?

9 MS. BLACKBURN: Yes.

10 JUDGE WOODRUFF: We'll call that G. The one
11 from the Johnsons we'll call H, and the one from the Tarrs
12 we'll call I.

13 Anything else?

14 MS. BLACKBURN: No. That is all.

15 JUDGE WOODRUFF: Commissioner Murray?

16 COMMISSIONER MURRAY: Thank you.

17 QUESTIONS BY COMMISSIONER MURRAY:

18 Q. When was the last time you experienced a
19 sewage spill or you noticed one?

20 A. The last time? And I can't give you the exact
21 dates. It was probably last fall. But there's an area
22 behind my house and to the left maybe one yard away, two
23 yards away from me. Well, when we originally moved into our
24 home, my grandchildren and my neighbor's granddaughter was
25 walking towards the woods and they came back and said they

1 discovered a creek and could they walk through it. And I
2 told my husband, Grandpa, you better go back and see what
3 they're talking about.

4 Well, at that time there was raw sewage, and
5 we had let our builder, because we thought we were in Eagle
6 Woods Association, we let him know. Well, I didn't think
7 anything about it because I didn't know anything about
8 anything at that time. That same spot, there was this wide
9 and this wide, and when they held a stick in it it was over
10 this deep (indicating) of raw sewage. That same spot broke
11 again, and that was one of the last ones.

12 Q. That was last fall, did you say?

13 A. Yes, I'd say it was last fall.

14 Q. Thank you.

15 A. That was the last one that I personally have
16 seen.

17 COMMISSIONER MURRAY: Thank you.

18 JUDGE WOODRUFF: Commissioner Clayton?

19 QUESTIONS BY COMMISSIONER CLAYTON:

20 Q. Did you ever get any response out of DNR? I
21 mean, what was their response? What did they say? Did they
22 say anything? Did they not show up? Did they show up?
23 What happened?

24 A. They showed up and they, you know, said that
25 they would probably give a violation, to who I don't know,

1 and that there's really not much that they can do other than
2 the violation, that it goes from there and it's out of their
3 hands.

4 And we've talked to several people, and Martin
5 Hummel has explained so much to us and he's been very, very
6 nice to speak with, but we still have not gotten any action.

7 COMMISSIONER CLAYTON: Okay. Thank you.

8 JUDGE WOODRUFF: You gave me this petition of
9 the residents of Eagle Woods Subdivision. Do you want me to
10 make this an exhibit?

11 MS. BLACKBURN: Yes, please.

12 COMMISSIONER CLAYTON: I recognize a few names
13 on that list.

14 JUDGE WOODRUFF: It will be J. All right.
15 Mr. Williams, do you have any questions?

16 QUESTIONS BY MR. WILLIAMS:

17 Q. Ms. Blackburn, just so the record's clear,
18 when you say there was a sewage spill last fall, are you
19 talking about 2003 or 2002?

20 A. When the hose was put in -- and I get dates
21 mixed up, so I wish I would have brought that with me. It
22 was taken out in 2003. 2002.

23 Q. So there was a spill in 2002?

24 A. In four different areas.

25 Q. And have you observed company people working

1 out at Eagle Woods on your sewer system?

2 A. No. It's like you -- I work during the day,
3 so --

4 Q. Then let's --

5 A. So no, I have not seen --

6 Q. You haven't seen them there. Have you seen
7 the hole filled in where the sewage was at?

8 A. Actually, when I went down and I looked at it
9 once the hose was put to -- from one place to the other
10 place, actually it looked like it had been drained. Where
11 it was taken I don't know, but it was nasty brown all
12 around. It stunk to high heaven. So if that was cleaned
13 up, that's cleaned up.

14 Q. What about the hose, is it still out there?

15 A. At this time, I don't think so.

16 Q. And you said that DNR indicated they would
17 give a Notice of Violation. Did they actually file a
18 lawsuit against your developer in connection with your sewer
19 system?

20 A. You know, I did ask them about who would get
21 the violation because I know there's such a dispute, and
22 they said that actually you would get the violation and then
23 you would have to go back on Ron Westerhaven. That's what
24 they told me, personally told me.

25 Q. Okay. And you are aware they filed a lawsuit

1 against Mr. Westerhaven?

2 A. I'm aware that he was in suit. I think that
3 from what I get out of it, I feel that they are more
4 concerned that we have three people that are using water and
5 sewage that are illegally hooked up to it. They have never
6 been billed by Osage Water Company because they can't bill
7 them because they're illegally hooked up, and the fact that
8 they -- those homes were sold to people without water and
9 sewage company, I think that is more their concern than
10 anything at the present.

11 Q. Okay. Now, when you say they were illegally
12 hooked up, you mean that the company didn't hook them up?

13 A. My understanding from calling the company,
14 that they were even unaware that they were hooked up, and
15 they don't know and I personally do not know who hooked them
16 up. But considering you're the only water and sewage in the
17 neighborhood, it's a pretty good chance of where they're
18 hooked up.

19 MR. WILLIAMS: Okay.

20 JUDGE WOODRUFF: Mr. Haas?

21 MR. HAAS: No questions.

22 JUDGE WOODRUFF: Ms. O'Neill?

23 MS. O'NEILL: No questions.

24 JUDGE WOODRUFF: You may step down. Thank
25 you.

1 MS. BLACKBURN: Thank you.

2 JUDGE WOODRUFF: Next name on the list is

3 Allen Blackburn.

4 MR. BLACKBURN: Sir, my wife was speaking for

5 me. I thought that was a sign-up sheet. Sorry about that.

6 JUDGE WOODRUFF: Well, thank you. Next name,

7 then, is Virginia Gist.

8 MS. GIST: That's me, and I'll pass along to

9 the next person because we're neighbors and the things have

10 been said by Carolyn that I --

11 JUDGE WOODRUFF: All right. I appreciate

12 that. Marianne Louis or Louis.

13 MS. LOUIS: I'm going to give my time to

14 Mrs. Brown, who's a full-time resident at the condo. I

15 think she probably has more to say.

16 JUDGE WOODRUFF: Okay. Please come forward,

17 Mrs. Brown.

18 MS. BROWN: Is that procedural?

19 JUDGE WOODRUFF: In this case procedure is

20 whatever I say, so it's procedure. All right. I didn't see

21 your name on the list, so I'll just add you here.

22 MS. BROWN: She said she was giving me --

23 JUDGE WOODRUFF: That's fine. That's fine.

24 Please raise your right hand.

25 (Witness sworn.)

1 GERRI BROWN testified as follows:

2 JUDGE WOODRUFF: Thank you. Tell us your
3 name.

4 MS. BROWN: My name is Gerri Brown.

5 JUDGE WOODRUFF: That's Gerri with a J?

6 MS. BROWN: With a G.

7 JUDGE WOODRUFF: With a G. And B-r-o-w-n?

8 MS. BROWN: Right.

9 JUDGE WOODRUFF: Where do you live?

10 MS. BROWN: We live at Harbour Bay Condos.

11 JUDGE WOODRUFF: What would you like to tell
12 us?

13 MS. BROWN: We moved to Harbour Bay in
14 November of 2000. Water's been a problem since we moved
15 there, and it is a new development. Ours was the second
16 building. I'm not really sure how long the first one had
17 been finished. Now we have four condo buildings.

18 And we've had water cut off several times
19 without any warning. So when we have had warnings, we've
20 filled wastebaskets and that sort of thing so we could flush
21 pots and wash hands.

22 What we have as a water problem is the odor
23 that everyone else has been talking about, and I imagine
24 it's the same, and, of course, some wells have that in our
25 area. But I think those things can be cleaned up. The

1 rotten egg smell is sulfur, and it leaves a black stain.
2 Then from time to time we have a lot of mud, sand, grit in
3 the water, and I don't know if that's when there's broken
4 lines and it gets in there. I would say basically probably
5 wherever the water comes into the units we need some sort of
6 a big filter.

7 We also have rust, and that, of course, is
8 harmful not only to pipes and everything, like one of the
9 other ladies was mentioning, it also stains. So it's hard
10 on all of your -- your washing machine. Ours has left --
11 the water has left stains in the bath, because I guess
12 they're not designed to go downhill to drain out. So
13 wherever there's a little bit of water after a shower, it is
14 stained and I can't get it off with anything.

15 And like one of the other ladies was saying,
16 that will depreciate your home. You know, who's going to
17 want stained shower stalls and bathtubs?

18 The other thing that we've seen in the area is
19 there's been a septic, sewer, whatever, odor, and as -- I
20 think one of the pumps, as I understand, for the septic on
21 our building, they all have separate pumps and separate
22 tanks, whatever. I'm not an expert.

23 But more than once we've seen the water hoses
24 hooked in the septic tank running down the sidewalk to the
25 next building and going into that one. Well, it takes more

1 than one hose to get that far. So they're hooked together,
2 and guess what's where those hoses are hooked together -
3 septic drainage on the sidewalks.

4 Well, then last summer it was very
5 conveniently moved from the sidewalk to the, what is it,
6 seawall and that hose was hooked there to the seawall, so
7 then it ran into the lake.

8 And I think that not only should we not be
9 even having to consider an increase, what I'd like to see is
10 a new water company that will give us decent water. I think
11 when people own property in this state they ought to have
12 good water.

13 (Applause.)

14 And that's -- I think that covered everything
15 I was thinking about.

16 JUDGE WOODRUFF: Thank you. Commissioner
17 Murray, do you have any questions?

18 COMMISSIONER MURRAY: I don't believe I do.
19 Thank you, though.

20 JUDGE WOODRUFF: Commissioner Clayton? Ma'am,
21 Commissioner Clayton has some questions for you.

22 MS. BROWN: Who does?

23 JUDGE WOODRUFF: Commissioner Clayton.

24 MS. BROWN: Okay.

25 QUESTIONS BY COMMISSIONER CLAYTON:

 ASSOCIATED COURT REPORTERS
 JEFFERSON CITY - COLUMBIA - ROLLA
 (888) 636-7551

1 Q. Ma'am, they gave you their time. Well, I get
2 a little time, too.

3 Can you tell me where Harbour Bay is?

4 A. Harbour Bay is a neighbor to Cimarron Bay,
5 which is a housing development and Harbour Bay's a condo
6 development. It's at Sack Road and Blue Water Bay. Water,
7 it's 19 Mile Marker.

8 And I understand we use the same holding tank,
9 if that's a water holding tank up there, as Cimarron Bay's,
10 and I don't know where the -- I don't know where the septic
11 thing is.

12 COMMISSIONER CLAYTON: Okay. Thanks very much.

13 JUDGE WOODRUFF: Mr. Williams, do you have any
14 questions?

15 MR. WILLIAMS: No, your Honor.

16 MS. O'NEILL: No, your Honor.

17 MR. HAAS: No, your Honor.

18 JUDGE WOODRUFF: Thank you for coming,
19 Ms. Brown.

20 All right. Then the next name on the list is
21 Jamie Kelley.

22 MR. KELLEY: John Kelley. I'm going to go
23 first before my wife.

24 CHAIRMAN SIMMONS: Okay. If you'd please
25 raise your right hand.

1 (Witness sworn.)
2 JOHN KELLEY testified as follows:
3 JUDGE WOODRUFF: Thank you.
4 MR. KELLEY: The reason why I'm here today --
5 JUDGE WOODRUFF: Tell us your name and address
6 first.
7 MR. KELLEY: My name is John Michael Kelley.
8 I live at 1091B Mariner's Circle, Osage Beach, Missouri.
9 It's a duplex.
10 The reason why I'm here today, I moved in in
11 June, and since September I have noticed I've had some sores
12 on my arms that did not heal up, and they have now become
13 scars. And I was like, honey, why is this, you know,
14 because I do irrigation work and I'm also backflow
15 certified. So I know about cross-contamination and all this
16 stuff under ground. Been doing it for 15 years.
17 Well, on 12/15 I had the water tested myself,
18 and it come back with total chloroform. This is a bacteria
19 that's underground. It lives in the earth and everything,
20 and the only way that you can get it is if you have a
21 cracked pipe or something like that, and that tested
22 positive.
23 Well, I called Osage Water Company, and they
24 came out whenever -- they instructed us to vacate the home.
25 You cannot even boil it or anything. You know, and this

1 here was on 12/15, getting ready for Christmas, you know,
2 beautiful home. Ruined our Christmas, you know, not to
3 mention I showed him my arms and he said, yes, if you have a
4 cut on your arm and you go home and you take a shower and
5 your water's contaminated, you know, it's going to leave the
6 bacteria in there. It's never going to heal.

7 Well, before this I wound up in the hospital
8 with a bacteria in my left bronchilary tube, and I don't
9 know if it's from this. I haven't dug that far yet. I'm
10 still in the process of digging, because I'm just a little
11 guy, and this -- we get brown water off and on through our
12 house, stinks like eggs. There's some times it smells like
13 raw sewage.

14 I've called out to Osage Water Company, got
15 their answering machine, requested for them to get back with
16 me. Well, apparently they showed up once while I wasn't
17 even home and they said they tested it and it tested
18 positive, you know, come back clear. Well, I wasn't there,
19 so I don't know if they even showed up, and plus they should
20 have gave me a notice.

21 Then later on I called her. We -- you know,
22 thank goodness we had a place to stay. We went and stayed
23 at my mom's resort, and she charged us half the rate because
24 she could have rented them out. I healed up for some
25 reason. You know, we all didn't have diarrhea no more. Our

1 stomachs didn't hurt. My 9-year-old, my 12-year-old, my
2 wife, we all got healthy. Didn't have these problems
3 anymore, you know, because my mom's on city water, separate
4 water.

5 Well, from what I understand, the well sits
6 behind Pizza Hut, and it used to control Mariner's Cove
7 Apartments and a lot of other people. Well, they lost the
8 lawsuit against Mariner's Cover because the City of Osage
9 Beach come on and took the apartment complex.

10 Now, with me driving around trying to find out
11 what's going on, I found out that Broadwater Bay is
12 switching over. Their pipe's already in the ground and
13 everything. Meters are already in the ground. City of
14 Osage Water Company told me that our house and Broadwater
15 Bay's the only ones left on this well.

16 Well, I was driving around in the daytime.
17 Well, Broadwater Bay's gone to City of Osage Beach Water.
18 All they got to do is get the meters in the house and
19 they're hooked up. So now here this pipe is, comes from
20 behind Pizza Hut and here's the apartments, here's Pizza
21 Hut, and it goes out here and it's supposed to loop around
22 here, T off here and go over to Broadwater Bay.

23 Well, I asked Debbie, you know, to --

24 JUDGE WOODRUFF: Debbie Williams?

25 MR. KELLEY: -- Debbie Williams, to come out

1 and could she please send somebody. She said, let me call
2 you right back. She said, Jeff's at KK. She said, what we
3 would have to do, we'd have to go all the way to Sunrise
4 Beach, we'd have to ge the truck and trailer, we'd have to
5 go all the way over to Sunrise -- KK, get the equipment,
6 come to your house and start digging and start looking for
7 this problem. That would be just too much hassle. Why
8 don't you turn on your faucets in your entire house, let it
9 run for two days and flush it out that way.

10 This is what Debbie told me, and my wife will
11 verify that because she was on the other end of the line.
12 Okay. The water after, oh, I'd say close to two days it
13 started getting lighter. Okay. And I -- she also admitted
14 to me then, Jeff told her, well, there is no proper way to
15 flush out this line, because they did not install one on
16 this system.

17 So, you know, Miller Lindsey, they're the
18 ones -- they're probably still having the water sampled
19 because they're concerned about e-coli in it. They said
20 within 15, 16 years they have never seen a bad sample like
21 what I took them.

22 And, you know, my kids are scared of the
23 water. I'm scared of the water. My wife is. And, you
24 know, I've caught Osage Water Company in several, not saying
25 lies, but they said it tested clear and then they -- Debbie

1 Williams told me it come back cloudy when they did testing.
2 The first time she told me it was clear. Well, I wasn't
3 present, so I don't know.

4 And I had another test done, and now it is
5 coming clear, you know. But when Broadwater Bay gets capped
6 off and I'm the only one left, the one house, what are they
7 going to do with this \$15,000 pump sitting up behind Pizza
8 Hut which does not have the water holding reservoir, which
9 has already been removed. I don't know if there's one
10 inside because the door's locked, you know. The only people
11 that can answer that is Osage Water Company.

12 And so after Broadwater Bay's cut off and I'm
13 the last person there, I'm going to get all the stagnant.
14 I'm not going to be able to pull enough flow through this
15 line to keep it from going stagnant. I'm always going to
16 have bad water in this house.

17 JUDGE WOODRUFF: You're literally the last
18 person on the line?

19 MR. KELLEY: The last person on this line, and
20 I'm sure this man can answer that.

21 JUDGE WOODRUFF: Okay.

22 MR. KELLEY: But I have been told I'm the
23 last. As a matter of fact, I talked to somebody with
24 Jeff City today. They're the ones that explained to me how
25 the lines go and everything, and they said somebody must

1 have pulled some strings to get Broadwater Bay hooked up to
2 Osage Beach City Water so soon, because it wasn't supposed
3 to happen yet. And he told me how the water lines run and
4 everything.

5 And if they can put on an apartment complex
6 and I'm about a football field away, why can't they put me
7 on the City of Osage Beach? You know, but it was one of
8 your commissioners in Jeff City that explained to me how the
9 pipes go, that they're going to Broadwater Bay, and he said
10 that he was going to investigate this farther because he --
11 this was news to him, too.

12 JUDGE WOODRUFF: Was that Martin Hummel?

13 MR. KELLEY: Yes, it was. Yes, it was.
14 That's who it was. And, you know, our beautiful home, all I
15 want is clean water for my home and my house and, you know,
16 I've had -- whenever I take a shower, I use it as a floss,
17 you know, deal and that's -- I don't know if that's why my
18 throat's -- that's why I got what I got in the hospital, you
19 know. I talked to the M.D.

20 I'm going to find out because, you know, I
21 mean, I literally broke down on my arms and everything, you
22 know, and nobody's -- you know, they said flush it for two
23 days, and this was at Christmas, just before Christmas time,
24 and she said, well, turn on every spigot in your house and
25 flush it today for two days, and, oh, by the way, good luck.

1 I wanted to reach through that phone line and strangle her.

2 Good luck.

3 My kids' Christmas is ruined and everything,
4 and I was quite upset, you know, and that's where I am with
5 this. And I will take this as far as I need to, because I
6 do -- you know, in Osage Beach my mom does own a resort and
7 she does have, like, you know, what needs to be done, you
8 know. But I am concerned with what's going to happen with
9 my house after they lose Broadwater Bay.

10 JUDGE WOODRUFF: Do you want me to keep a copy
11 of this?

12 MR. KELLEY: Yes, that's your copy.

13 JUDGE WOODRUFF: I'm going to mark this as K.
14 This is the Miller Lindsey laboratory report.

15 And, Commissioner Murray, do you have any
16 questions?

17 COMMISSIONER MURRAY: Yes.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. Did I understand you say that your entire
20 family was experiencing health problems?

21 A. Yes. My 9-year-old, my 12-year-old, my wife,
22 me, all went to the doctor for months.

23 Q. Did I understand you to say that when you
24 moved out, all of those health problems cleared up?

25 A. Yes, they all cleared up.

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 Q. And how long did you move out?

2 A. For about two weeks. Well, the time that we

3 had it retested and it come back clear is when we went back,

4 and that's when they told us to flush it for two days.

5 Q. And when you went back, how long was it before

6 your skin problems returned?

7 A. They just started returning here recently.

8 Q. And what about the rest of your family's

9 health problems?

10 A. We're going through cramps. Some of us are

11 experiencing diarrhea and stuff. My kids are still scared

12 to take showers and drink the water, and some of them don't

13 feel good sometimes, some not, you know, but they still have

14 to go to school.

15 Q. Now, is it my understanding that you would

16 prefer to be hooked up to the City of Osage Beach?

17 A. Yes. And from what I was told, that they

18 tried to sell them Broadwater Bay and our resort and our

19 house, but we were too far back for them to buy our -- from

20 what Debbie told me, I believe, the money, politics,

21 whatever, we were not in the works. So they took the

22 apartments and they left us. There was quite a few other

23 apartments that got tore down between us.

24 COMMISSIONER MURRAY: I believe that's all my

25 questions. Thank you very much.

1 JUDGE WOODRUFF: Commissioner Clayton?
2 QUESTIONS BY COMMISSIONER CLAYTON:
3 Q. Just could you give me a general idea of
4 Mariner's Circle is?
5 A. You know where Pickled Pete's is?
6 Q. Who?
7 A. Pickled Pete's?
8 Q. No.
9 A. Grand Glaize bridge?
10 Q. I know where the bridge is, sure.
11 A. Up the hill on the right, Pizza Hut. The
12 well's right behind Pizza Hut. Our house, you hang a right
13 there, right where the old laundry, car wash they tore down.
14 Just follow that on down the loop right behind the
15 apartments. It's called Mariner's Circle.
16 Q. So I should write down Pickled Pete's?
17 A. No. Pizza Hut.
18 AUDIENCE MEMBER: There's a road sign that
19 says Mariner's Circle.
20 MR. KELLEY: Yeah, there is a road sign that
21 says Mariner's Circle.
22 COMMISSIONER CLAYTON: Pickled Pete's.
23 MR. KELLEY: Well, that's across the street.
24 That's where you go for the good water.
25 JUDGE WOODRUFF: Mr. Williams, do you have any

1 questions?

2 MR. WILLIAMS: I do.

3 QUESTIONS BY MR. WILLIAMS:

4 Q. Mr. Kelley, do you live in a duplex?

5 A. Yes, we do.

6 Q. Do you own the duplex or you rent?

7 A. I rent.

8 Q. Was it vacant when you moved in?

9 A. Yes, it was.

10 Q. How long had it been vacant?

11 A. From my understanding, from what Debbie told

12 me, two years.

13 Q. Okay. And did you flush all the faucets in

14 the duplex when you moved in?

15 A. I was not told that it set for two years

16 before I moved in.

17 Q. Is there anyone in the other side of the

18 duplex?

19 A. Yes.

20 Q. Do they have the same problem you do?

21 A. I was instructed not to mention anything to

22 them.

23 Q. You don't know?

24 A. I don't know.

25 Q. And you indicated that you called the water

1 company and they came out and tested your water?
2 A. Yes.
3 MR. WILLIAMS: I don't believe I have any
4 further questions.
5 COMMISSIONER MURRAY: Judge, may I?
6 JUDGE WOODRUFF: Go ahead.
7 QUESTIONS BY COMMISSIONER MURRAY:
8 Q. Who were you instructed by?
9 A. My landlord. You want their name? We'll just
10 say Gaslight Properties.
11 Q. Okay. To not mention the water problems to
12 your --
13 A. To them. Ellerman's Roofing was the one
14 paying the rent to the other side, and I was instructed not
15 to mention nothing to them.
16 COMMISSIONER MURRAY: Thank you.
17 JUDGE WOODRUFF: Mr. Haas or Ms. O'Neill?
18 MR. HAAS: No questions.
19 MS. O'NEILL: No, your Honor.
20 JUDGE WOODRUFF: Thank you, sir. Then
21 Mrs. Kelley. Please raise your right hand.
22 (Witness sworn.)
23 JAMIE KELLEY testified as follows:
24 JUDGE WOODRUFF: Be seated. And tell us your
25 name.

1 MS. KELLEY: Jamie Lynn Kelley.
2 JUDGE WOODRUFF: Kelley is spelled with two
3 Es?
4 MS. KELLEY: Yes.
5 JUDGE WOODRUFF: K-e-l-l-e-y.
6 MS. KELLEY: Yes.
7 JUDGE WOODRUFF: What would you like to tell
8 us?
9 MS. KELLEY: My main concern is I just want
10 clean water. We do not -- after our incident with the water
11 problem, the smell and the raw sewage smell and you turn on
12 the shower and it's yellow, then clear, yellow, clear,
13 yellow, clear, you've got to wait a few minutes, and the
14 smell, we finally had it tested. And when it came back, you
15 know, that it was contaminated, well, we no longer drink the
16 water and we no longer use it for cooking or anything else.
17 Even though it came back that it was okay, I
18 still do not drink the water. I still will not use it for
19 cooking. You know, I just don't trust it at all. And when
20 they told us that we told -- notified them that it was --
21 came back contaminated, and this was during all the
22 Christmas vacation, and they instructed us to run bleach
23 through this and flush out our house for two days, you know,
24 with open water and stuff, and we were like, okay.
25 And so we followed every instruction that they

1 told us to do, and I still -- they still never came out,
2 never once came out to see that we were doing anything
3 properly or to check on our pipes or to check on anything,
4 that we were all right or that the pipes were all right or
5 that the water was okay.

6 After this was all done we said, okay, we've
7 done everything that we've done, that you've told us to do.
8 Would you please come out and retest our water? No, we will
9 not retest your water. I said, what? Why won't you retest
10 our water? Well, because our testing came back that you
11 didn't have contaminated water in the first place, so we're
12 not going to retest your water for you.

13 So I was like, you know, I feel like I'm in an
14 Erin Brockovich movie or something, you know. I mean, you
15 know, I feel like what are we supposed to do to get clean
16 water? You know, what? What? If I pay you a million
17 dollars, am I going to get clean water? You know, is that
18 what it takes? No? Yes? I don't know.

19 But it scares me to death, it really does,
20 because it affects -- I've seen my son have diarrhea and
21 throwing up, thinking he had the flu. Okay. We lived with
22 it for a couple of days. I gave him Imodium AD. I scour my
23 house, because I'm a housekeeper by trade. I clean
24 condominiums. I know what to do to clean things to get
25 germs out of your house. And here I am, I'm cleaning it

1 with contaminated water.

2 You know, no wonder we've been sick, you know.
3 And both of my sons have been sick. I haven't been as sick
4 because I will not drink that water. I brush my teeth with
5 bottled water now, too. I threw away all of our
6 toothbrushes, anything that had anything to do with the
7 water before, you know.

8 And my clothing, I haven't had that experience
9 yet, but now I'm terrified because we got new clothes for
10 Christmas. What's it going to do to my washing machine and
11 to my brand-new clothing? I'm concerned about that, too.

12 And I'm also concerned, I feel -- I feel for
13 all of you who are in this situation, but I am one person at
14 the end of this road. It's just me. They're probably going
15 to say, so what, you know, it's just that one person. You
16 know, I'm terrified about that. I really am. Because you
17 are a lot of voices. You will probably get something done.
18 I hope you get something done.

19 AUDIENCE MEMBER: We feel bad for you, one
20 person. The State lets them leave one person, that's
21 unbelievable that they did that to you guys.

22 MS. KELLEY: I'm one person. And behind Pizza
23 Hut, my husband said there's supposed to be this water
24 purifier tank with the spigot sticking out of the shed that
25 purifies the water as it comes.

1 MR. KELLEY: A holding tank.

2 MS. KELLEY: A holding tank. So we went up
3 there, because he knows about it. Thank God my husband
4 knows about this water stuff and backflow. He went to
5 college to study this stuff. And the tank is missing and
6 the spigot is sitting outside the thing empty. There is no
7 water purifying tank outside.

8 MR. KELLEY: Is there one inside?

9 MS. KELLEY: Unless there's one inside this
10 little shack for this big well, which I doubt. You may
11 go -- we should have taken a picture of it. I wish we would
12 have. But that's how it is right now.

13 JUDGE WOODRUFF: Commissioner Murray?

14 COMMISSIONER MURRAY: Yes.

15 QUESTIONS BY COMMISSIONER MURRAY:

16 Q. Have you seen the results of any testing since
17 this -- you got this test done by Miller Lindsey Laboratory?

18 A. Any other testing of the -- that it's okay
19 now?

20 Q. Have you seen the results of any other tests?

21 A. Besides that one?

22 Q. Yes.

23 A. Yes.

24 MR. KELLEY: You mean theirs?

25 MS. KELLEY: Of theirs, of the Miller testing?

1 BY COMMISSIONER MURRAY:

2 Q. I'm just saying anyone's testing of your
3 water.

4 A. No.

5 Q. You have not. Have you talked to the health
6 department?

7 A. We've talked to Jeff City. I don't know who
8 else we've talked to. We've talked to city hall. We've
9 talked to -- I forget who else we've talked to. We've
10 talked to many people. I don't know who DNR is. Who are
11 they?

12 Q. Department of Natural Resources.

13 A. You guys have talked about them. I guess I
14 need to go to talk to them, too, because I haven't gone that
15 route yet. We've only been doing this since September. So
16 we're new at this.

17 Q. You don't know if you've talked to anyone at
18 the Department of Health?

19 A. No.

20 Q. And have you talked to anyone else about
21 coming out to retest your well other than --

22 A. Miller Lindsey.

23 Q. -- other than Deborah Williams?

24 A. Not besides our own people, no.

25 Q. And what --

1 A. And we paid to have that done ourselves, and
2 the man said that even though it came out clear, you know,
3 the second time after we did whatever they told us to do,
4 and they refused to come out and test it, we tested it
5 ourselves, retested it ourselves, and it came out clear. He
6 said, Miller Lindsey said that it will happen again. You
7 were coming off the top of the well. When it starts coming
8 off the bottom, it's going to come up again, it's going to
9 turn orange, it's going to turn yellow, it's going to turn
10 brown, and it's going to be contaminated again.

11 Q. Okay. I just want to be clear. You had this
12 test performed at your expense?

13 A. Yes.

14 Q. And then you had another test?

15 A. At my expense.

16 Q. At your expense?

17 A. Yes.

18 Q. And the second test showed that there was no
19 chloroform?

20 A. Right, at this time, but he did tell us it
21 will happen again.

22 Q. And what health problems were you personally
23 experiencing?

24 A. Stomach cramps real bad. As a matter of fact,
25 I went to my gynecologist because I thought I was -- there

1 was something wrong with me, and that was Dr. Schwarz, but I
2 didn't bring that documentation with me. But he said -- I
3 had some ovarian looks, you know, and I thought there was
4 something wrong with me, and he said, no, no, no, you're all
5 right, everything looks okay, you know, because I was having
6 some severe stomach cramping. And that's as much as I have,
7 besides the diarrhea.

8 COMMISSIONER MURRAY: I believe that's all I
9 have. Thank you.

10 JUDGE WOODRUFF: Commissioner Clayton?

11 QUESTIONS BY COMMISSIONER CLAYTON:

12 Q. I don't know if this is necessarily a question
13 for you, but is this -- is this anywhere near the other
14 places or are these all -- all the locations far apart, do
15 you know?

16 A. I don't know where their locations are.

17 AUDIENCE MEMBER: We're apart.

18 AUDIENCE MEMBER: They're about five miles by
19 road from us, from Eagle Wood.

20 MS. KELLEY: Oh, we're five miles from you
21 guys?

22 AUDIENCE MEMBER: By road. We used to live --

23 JUDGE WOODRUFF: I need to interrupt
24 everybody. When we're talking like this back and forth, the
25 court reporter can't tell who's talking.

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 COMMISSIONER CLAYTON: My fault. My bad.
2 JUDGE WOODRUFF: All right. Mr. Williams?
3 MR. WILLIAMS: I don't have any questions for
4 her.
5 JUDGE WOODRUFF: Mr. Haas or Ms. O'Neill?
6 MR. HAAS: No questions.
7 MS. O'NEILL: No questions.
8 JUDGE WOODRUFF: You can step down. Next name
9 on the list is Charlie Wilson.
10 MR. WILSON: Your Honor, my wife and I, we
11 have nothing to say right now.
12 JUDGE WOODRUFF: Pass over Charlie and Helen.
13 Jim Cooper. Please raise your right hand.
14 (Witness sworn.)
15 JIM COOPER testified as follows:
16 JUDGE WOODRUFF: Be seated. Tell us your name
17 and where you live.
18 MR. COOPER: My name's James Cooper. We're
19 from the Kansas City area. Two and a half years ago, July
20 of -- that would be 2001, we bought a condo in Cedar Glen.
21 Even though we'd never spent any time at the Lake of the
22 Ozarks, it's really been a delight and we've just really
23 enjoyed it.
24 The only problem we've had is with the water
25 department, and I've had four problems with them. The first

1 problem I've had is we were charged a \$200 deposit, which
2 was not legal, as we found out later. It's never been
3 approved, but they seem to refuse to return the money. And
4 we're the only building that they did that with, and they
5 did stop after our building.

6 The second problem I've had with them is I
7 found them overcharging us for more water than what we were
8 using. I gave them a call, said, hey, we were only down
9 there three or four nights that month. How can that be?
10 And they did stop that. But, you know we didn't get -- we
11 got a month or two where we did pay the extra charges.

12 JUDGE WOODRUFF: When was that?

13 MR. COOPER: This would probably be in the
14 fall of 2001.

15 The second problem I had with them was -- or
16 the third problem I had with them was there was a fee, and I
17 don't know, \$7, \$8. I can't remember. I got the paperwork
18 at home, so I can get it for you, but seemed like it was a
19 \$7, \$8 fee. And my wife was upset about this \$200 deposit,
20 so she paid the bill except for the fee. The next month we
21 got the fee plus an additional \$12 late charge, and she
22 really hit the roof then.

23 The fourth problem I've got is the last three
24 trips down here, this would be since early December, the
25 side of our building has an alarm going off, red light.

1 This would be on the sewers.

2 And from what I'm hearing is we have a pump
3 that's not working, and this has been going on since early
4 December. Seems like it should be an easy problem to work
5 on, but -- and today I did get ahold of them for the first
6 time. They tell me they're trying to get an electrician out
7 there to look at it, but he's too busy at the moment.

8 JUDGE WOODRUFF: Who did you talk to?

9 MR. COOPER: I talked to maintenance of the
10 water company.

11 JUDGE WOODRUFF: Of Osage Water Company?

12 MR. COOPER: Yes. So, you know, it's
13 brand-new. Should be easy to fix, and we're not getting
14 anything done. It has a high-pitched buzzer. It goes off
15 between two and three in the morning, and it's happened four
16 out of the last six nights we've been here.

17 And that's all I've got to say. I hope you
18 don't approve of this, and to raise our rates would be a bad
19 idea for sure.

20 JUDGE WOODRUFF: Commissioner Murray?

21 COMMISSIONER MURRAY: No questions. Thank you
22 very much.

23 JUDGE WOODRUFF: Commissioner Clayton?

24 QUESTIONS BY COMMISSIONER CLAYTON:

25 Q. Mr. Cooper, this buzzer that goes off at

1 2 a.m., do you make a report every time that that occurs?
2 A. Last time I was here I talked to our
3 maintenance people, and this time I talked to them and I
4 gave the water company a call.
5 Q. Do you do it every time that the buzzer goes
6 off or just this last time?
7 A. Just the last two times. So I guess two of
8 the last three times.
9 COMMISSIONER CLAYTON: Thank you.
10 JUDGE WOODRUFF: Mr. Williams, any questions?
11 MR. WILLIAMS: No questions.
12 JUDGE WOODRUFF: Mr. Haas or Ms. O'Neill?
13 MR. HAAS: No questions.
14 JUDGE WOODRUFF: You may step down. Thank
15 you.
16 Next name on the list is Diane Blake.
17 MS. BLAKE: I'll waive it. Kathy is going
18 to -- Kathy Goldsberry.
19 JUDGE WOODRUFF: All right. If you want to
20 come forward, then. Please raise your right hand.
21 (Witness sworn.)
22 KATHY GOLDSBERRY testified as follows:
23 JUDGE WOODRUFF: You may be seated. Tell us
24 your name.
25 MS. GOLDSBERRY: Kathy Goldsberry. I am the

1 association manager for Cedar Glen Condominiums. I'm not a
2 homeowner there. I'm just the manager of the property.

3 Going back to what Mr. Cooper said about this
4 lift station light on that particular building, that alarm
5 is actually -- there's been some problem with that
6 particular lift station since about September of this year,
7 and he has maybe only noticed it since December. That alarm
8 happens to be going off anymore on a daily basis, that
9 there's something wrong within the lift station itself.

10 And every time he's notified myself as the
11 manager of the complex, I have notified the water company
12 and either spoke with Debbie Williams or Jeff -- I'm not
13 sure of his last name -- to report that the alarm has gone
14 off again. And from what I understand, both from Debbie
15 Williams and Jeff, that the pump has been replaced in this
16 lift station, but, of course, there is an electrical problem
17 and they are waiting on the electrician who hasn't -- he's
18 been too busy to come out to take a look at this pump.

19 And they're having to pump it manually every
20 other day, come down and manually work with the floats to
21 get this lift station to pump down, to a point we've even
22 had -- I even had to call on New Year's Day because I
23 received calls again about the alarm going off. I mean, as
24 I said, the alarm goes off anymore on a daily basis,
25 including today.

1 JUDGE WOODRUFF: Is the alarm warning that
2 something's not working?

3 MS. GOLDSBERRY: Correct. There is a silencer
4 that the alarm itself can be silenced, which we take care of
5 that every time we get called, and I do inform the water
6 company of that. And then, of course, the light stays on as
7 a warning that there is something going wrong, that there's
8 something still wrong with that lift station.

9 We have several lift stations at the complex.
10 There's actually seven of them, and we have 212 units. Not
11 all of them are sold, but we are up over 200 units now. We
12 have a total of seven lift stations.

13 I know part of the -- I won't say necessarily
14 the problems. Two of the lift stations are on their own
15 meters. The remaining lift stations are not. They are
16 hooked to the building electric, which I have contacted the
17 builders and spoke with them about that, and they have
18 agreed that they will install separate meters for each lift
19 station so that they will be metered separately. So I have
20 taken care of that.

21 We have another lift station that a pump is
22 bad on, and that's the pictures that you saw earlier of the
23 sewage backup in Unit 410 of Cedar Glen. We're not quite
24 sure exactly when that backed up because at the time the
25 homeowner came down this last Saturday afternoon -- or

1 Friday afternoon, excuse me, it had been there for some time
2 because it had dried up.

3 And so I'm sorry, we don't know exactly when
4 that was backed up, but it was within the last month because
5 as management we were in there on -- last on December 19th
6 to conduct pest control, and there was no mess at that time.
7 The technician and myself, we go completely through the
8 unit. So we would have noticed something like that. So it
9 happened sometime after that day, so between December 20th
10 and January 9th when they came down.

11 When that particular building has more
12 homeowners or weekenders in, you know, we have several
13 full-timers in that building, but when the weekenders come
14 in and there's more homeowners present, I've been informed
15 by several homeowners of that building that there is a major
16 drainage problem, that the toilets aren't flushing properly,
17 the tubs aren't draining properly and the sinks aren't
18 draining properly.

19 We have since had that entire building checked
20 out by a plumber who has found no problem whatsoever within
21 the plumbing of that particular building. All the problems
22 do relate back to that particular lift station.

23 At the time of -- that the sewage backup was
24 noticed, I was able to contact the water company and Jeff
25 responded right away. The pumps were not running in that

1 lift station, and prior to opening the cover to it, it was
2 noticed that there was raw sewage that had spilled out from
3 underneath the cover into the rocks that surround that
4 cover.

5 I'm told the same answer with that particular
6 lift station is that there's an electrical problem and that
7 they are waiting on the electrician. And that particular
8 lift station, the problems actually go back to almost
9 summertime with that.

10 There is a third lift station which is in
11 between Buildings 4 and 5 that somehow -- and I don't know,
12 because I can't speak for construction at all. That
13 particular lift station is running off of an extension cord
14 plugged into an outlet on the side of the building.

15 Back in -- I have some documentation here that
16 I will give to you. Back in the beginning of December -- I
17 wasn't at the property at the time. There was somebody
18 filling -- I was out on sick leave and there was another
19 manager there that was filling in for me. Had some
20 problems, and I can't quite figure out exactly what went on,
21 to be honest. I know of two things.

22 No. 1, they were contacted for one of the lift
23 stations, and I can't say for sure which lift station it
24 was, whether it was the one between 3 and 4 or the one
25 between 4 and 5, because in this memo from Debbie Williams

1 to AA Septic Company, she actually makes reference in a
2 round-about way to both.

3 She specifies about the lift station between
4 Building 3 and 4, that it was pumped that afternoon, but she
5 also makes reference to the extension cord on Building 5,
6 that when they responded to that call they found the
7 extension cord unplugged, and she blamed the management
8 company or our employees for unplugging that extension cord,
9 which I never actually knew was there at that time 'til I
10 read all this correspondence.

11 So I would like to give all this
12 correspondence to you.

13 JUDGE WOODRUFF: We'll go ahead and mark it
14 as L.

15 MS. GOLDSBERRY: Okay. It actually goes the
16 back to the current because the current top pages were my
17 final response to the water company, which Martin Hummel
18 does have a copy of that.

19 Anyway, to some of the other problems that
20 we've had, besides our lift stations, No. 1, early on this
21 year we ran into problems where I was contacted because
22 homeowners were without water, and we still have some
23 homeowners who always contact myself first and then contact
24 the water company.

25 And one particular homeowner had contacted the

1 water company, and it was after hours or on a Saturday when
2 the office wasn't open, and I got a call after that from
3 that particular homeowner because the answering machine at
4 the office said something to the effect -- and I don't
5 recall the exact name that was stated, something like
6 Sundown Properties, and she thought she had the wrong
7 number.

8 And at that time none of the homeowners at
9 Cedar Glen were aware that Environmental Utilities was
10 stepping in as the management company for Osage Water
11 Company. So there were other homeowners at that time who
12 also felt that when the answering machine did say
13 Environmental Utilities, they thought they had the wrong
14 number as well when they were trying to report water outages
15 or other such problems.

16 Back in July we had a water main break, and it
17 happened -- the break was found on the evening of July 2nd,
18 and it was a water main break under one of the newer
19 buildings, and it -- that particular break had to do more
20 with construction.

21 But the way that played out with the water
22 company was the break was found at around 6 p.m. on
23 July 2nd, and the water was turned off to that particular
24 building to stop the water leak. The water company was
25 contacted that evening. Notices weren't posted for a boil

1 order until late the afternoon of the 3rd.

2 That boil order stayed on clear over the 4th
3 of July holiday, and basically wasn't lifted until the 7th,
4 which was the Monday following the 4th of July holiday. And
5 I do understand that there's certain procedures as far as
6 water testing by DNR or another certified water company --
7 and I don't mean water company, I meant service -- that it
8 takes I was told 24 to 48 hours to get the results of the
9 test to find out when -- when the boil order could be
10 lifted. So I know with that being the holiday, I'm sure
11 that that probably played into the long period of time that
12 the boil order stayed on.

13 But I believe that was when -- if I'm not
14 mistaken, that was when homeowners were calling and
15 realizing that, thinking that they had gotten the wrong
16 phone numbers when they were trying to call to find out.
17 They got the answering machine that said Sundown Properties
18 and/or Environmental Utilities, which they weren't aware of
19 that at the time.

20 That was the second boil order of the year.
21 The first boil order that we had was earlier in the spring,
22 and that was basically because of a contamination problem
23 because of a large holding tank at the property. That boil
24 order was posted right away and then lifted right away once
25 the second round of testing went on, and this one went on

1 for a longer period of time.

2 The other item has to do with a tariff, and
3 that's part of what Mr. Cooper was referring to as a
4 deposit. Back in July, I believe it went into effect July
5 of 2001, from what I understand there was a tariff that
6 approved the water company to charge a hookup fee, a \$150
7 hookup fee for water and a \$150 hookup fee for sewer.

8 And I was in contact with Martin Hummel quite
9 a bit because a lot of these new homeowners as they moved in
10 were charged \$300 to be hooked up to water and sewer service
11 at Cedar Glen. That hookup fee is, from what I understood
12 at the time, is originally paid by the developers or the
13 construction company once the building's hooked up.

14 I was told by Martin Hummel that that
15 particular tariff did not apply to a condominium complex.
16 It was only supposed to be charged to single-family homes in
17 an official hookup. Whereas, the buildings there at Cedar
18 Glen, they're hooked up from start of the building as the
19 units close, and I'm talking about approximately at least 16
20 units to a building. So 16 different homeowners were
21 charged this \$300 fee.

22 And I was told by Martin Hummel that some of
23 the paperwork with the full explanation of that tariff
24 needed to be straightened out, and a lot of homeowners
25 decided not to pay it. They lodged complaints through the

1 Public Service Commission's hotline and felt that as long as
2 it was a formal complaint, that they did not -- you know,
3 that they would withhold that fee.

4 I don't actually know where that stands as of
5 now, but I know a lot of homeowners feel that they were
6 charged that in error, and the ones who paid that feel that
7 they'll never see that money back again.

8 That's basically all I have.

9 JUDGE WOODRUFF: Thank you. Commissioner
10 Murray?

11 COMMISSIONER MURRAY: Thank you. I think in
12 the interest of time I won't ask you questions, but I
13 appreciate the information.

14 JUDGE WOODRUFF: Commissioner Clayton?

15 COMMISSIONER CLAYTON: I don't have any.

16 MR. HAAS: No questions?

17 MS. O'NEILL: Thank you.

18 JUDGE WOODRUFF: You may step down. Thank
19 you.

20 We are past the assigned quitting time. I do
21 want to hear as many people tonight as we can. I know the
22 court reporter's been going for two and a half hours now,
23 and I'm sure she's getting quite weary. So we'll take about
24 a five-minute break and we'll come back at five minutes 'til
25 nine and proceed.

1 (A BREAK WAS TAKEN.)

2 JUDGE WOODRUFF: Let's continue on here. The
3 next name on the list is Dennis Blake.

4 (Witness sworn.)

5 DENNIS BLAKE testified as follows:

6 JUDGE WOODRUFF: You may be seated.

7 MR. BLAKE: Dennis P. Blake, B-l-a-k-e, 433
8 Cedar Glen Condos, Camdenton.

9 I'm the president of the homeowners
10 association, and we are interested in purchasing the water
11 company from whoever owns it, and to this date we don't know
12 who owns it. We've got documentation in the Lake Sun
13 newspaper that nobody seems to know who owns Osage Water.

14 According to the facts and figures presented
15 in the paper here, with the rate increase our units will be
16 grossing \$144,000 to Osage Water after the rate increase
17 compared to 120,000 now. That's based on 200 units which
18 are now attached.

19 Back in November of 2002, according to the
20 Lake Sun Leader, Deborah Williams, OWC receives about
21 \$15,000 per month. That's total. She testified last week
22 that her salary and that of two employees is more than
23 one-half of the company's monthly income. So we're going to
24 more than double that. So that's that portion.

25 All this is Lake Sun Leader information, by

ASSOCIATED COURT REPORTERS
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 the way. I don't know if you care.

2 April 3rd, 2001, PSC okays OWC rate hike.
3 Controversial lake water company gets 75 percent increase;
4 Commission says it will revisit the issue if the service
5 does not improve.

6 The service has not improved. They gave it to
7 them anyway. This is what we can't as homeowners
8 understand, why we're even thinking about another rate
9 increase.

10 I got one question for you folks. Is OWC a
11 public or a private water company?

12 JUDGE WOODRUFF: It is a public utility. It's
13 owned by private individuals.

14 MR. BLAKE: In other words, this \$2 fee that
15 they charge at one particular time is correct in charging
16 that?

17 JUDGE WOODRUFF: I can't answer that.

18 MR. BLAKE: Okay. I didn't think you would.
19 July 29th, 2002, they sent us a letter saying, on this
20 month's water bill you will notice a \$2 charge for this
21 year's primacy fee. This is mandated by the Missouri State
22 Legislature, blah, blah, blah.

23 And in that it says, an annual fee for each
24 customer connection with a public water system is hereby
25 authorized. If it's a public water system, I've got no

1 problems with it. If it's a private water system, I've got
2 a big problem with that.

3 This is from their March 5th, 2000 article.
4 Kathy Goldsberry, who oversees management of Cedar Glen
5 development for Professional Management Group of Lake Ozark
6 said there have been a number of complaints about service to
7 the 83 units at the time of the development. Those
8 complaints, she said, run the gamut from murky and heavily
9 chlorinated water with problems with one of the sewage lift
10 system lift stations. It is very frustrating, Goldsberry
11 said.

12 She went on to say that residents of Cedar
13 Glen have no choice but to continue to do business with OWC.
14 A second development in Osage Beach managed by PMG has
15 reported similar problems with water and sewage service.
16 Goldsberry said PMG has no regulatory authority over OWC and
17 their hands are tied. However, she said, the management
18 company has responsibility to protect the rights of their
19 tenants.

20 And this is one reason we want to buy the
21 system. We were told by our attorneys that since everything
22 is in the court's hands, you might say, we can't do that.
23 We can't do it because it's in receivership. It's in
24 receivership because, A, according to news articles, they're
25 insolvent, and B, they're in noncompliance of fixing

1 problems that they already have.

2 So, therefore, as owners of units connected to
3 OWC, we respectfully submit that you fail to ratify what
4 they're requesting, a rate increase. I've got more of this
5 stuff, but if you guys really want to dive into this, just
6 read the Lake Sun Leader. I mean, everything's right there.
7 It doesn't take a brain surgeon to read this stuff to figure
8 out that, A, they're not doing their job.

9 I don't have anything else. We've been here
10 long enough anyway.

11 JUDGE WOODRUFF: Commissioner Murray?

12 COMMISSIONER MURRAY: I don't have any
13 questions, but thank you very much.

14 JUDGE WOODRUFF: Commissioner Clayton?

15 QUESTIONS BY COMMISSIONER CLAYTON:

16 Q. Have you-all made an offer to buy?

17 A. We talked to Charlie McElyea and he advised us
18 that, I think he contacted PSC and said that at this time,
19 since it's in receivership, that Missouri wants to --

20 Q. It's not in receivership. That's not a true
21 statement.

22 A. Well, okay. It's in the courts to be
23 determined whether it's in --

24 Q. So you haven't made an offer?

25 A. Because we were told that we couldn't at the

1 time.

2 Q. And you-all, the association has an attorney
3 working on its behalf?

4 A. Right.

5 Q. In this regard?

6 A. Yes.

7 Q. Who is that?

8 A. That's Charlie McElyea.

9 Q. Is that here at the Lake or Camdenton or --

10 A. He's right behind the courthouse.

11 JUDGE WOODRUFF: Go ahead.

12 MS. GOLDSBERRY: The developers in previous
13 years did contact Osage Water Company, both Pat Mitchell and
14 Greg Williams, to purchase back the water and sewer and they
15 were denied.

16 JUDGE WOODRUFF: Anything else, Commissioner?

17 COMMISSIONER CLAYTON: No.

18 JUDGE WOODRUFF: Mr. Williams?

19 MR. WILLIAMS: Would you please make an offer?

20 MR. BLAKE: Pardon me?

21 MR. WILLIAMS: Would you please make an offer?

22 MR. BLAKE: Sure.

23 MR. WILLIAMS: That's a question, I guess.

24 JUDGE WOODRUFF: Mr. Haas or Ms. O'Neill?

25 MR. HAAS: No questions.

1 MS. O'NEILL: No.

2 JUDGE WOODRUFF: You can step down.

3 The next name on the list is Cecelia Jones.

4 MS. JONES: I'll withdraw.

5 JUDGE WOODRUFF: And the next name is Frank,

6 starts with a V. He may have left.

7 Last name on the list, then, is Ron

8 Westerhaven. I believe he's left as well.

9 All right. Would either of the Commissioners

10 like to make any closing remark? Commissioner Murray?

11 COMMISSIONER MURRAY: There's not much I can

12 say at this point, but thank you very much.

13 COMMISSIONER CLAYTON: And from my

14 perspective, thank you everyone who's testified and just

15 been here.

16 JUDGE WOODRUFF: Thank you all for coming, and

17 with that we are adjourned.

18 WHEREUPON, the public hearing was concluded.

19

20

21

22

23

24

25