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JOHN T. CLARK, Presiding
REGULATORY LAW JUDGE

MAIDA J. COLEMAN,
COMMISSIONER

REPORTED BY:
AMANDA N. FARRAR, CCR
ALARIS LITIGATION SERVICES

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APPEARANCES

For the Complainant Pro Se:

MR. EDWARD LANDER
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For Missouri-American Water Company:

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

2 (The hearing commenced at 9:03 a.m.)

3 JUDGE CLARK: We'll go on the record.

4 Good morning. Today is March 22nd, 2018, and the
5 current time is 9:03 a.m. Can everybody hear me
6 okay?

7 MR. LANDER: Yes.

8 MS. CARTER: Yes.

9 JUDGE CLARK: The Commission has set
10 aside this time for an evidentiary hearing in Edward
11 Lander, complainant, vs. Missouri-American Water
12 Company, respondent, File No. WC-2018-0099. My name
13 is John Clark. I'm the regulatory law judge
14 presiding over this hearing.

15 Let's have counsel for the parties make
16 their entrance of appearance starting with
17 Mr. Lander.

18 MR. LANDER: My name is Edward Lander.
19 I'm pro se, but attorney, member of the Missouri
20 Bar.

21 JUDGE CLARK: And what's your current
22 bar number?

23 MR. LANDER: 17648.

24 JUDGE CLARK: For Missouri-American
25 Water Company.

1 MS. CARTER: Diana Carter with Brydon,
2 Swearengen & England, 312 East Capitol Avenue,
3 Jefferson City, Missouri for Missouri-American Water
4 Company.

5 JUDGE CLARK: And for Commission Staff.

6 MS. ASLIN: Casi Aslin for Commission
7 Staff, 200 Madison Street, P.O. 360, Jefferson City,
8 Missouri 65102.

9 JUDGE CLARK: I'm going to ask anybody
10 who hasn't silenced their cell phone yet to do so.

11 I'm going to ask at this time are there
12 any preliminary matters or any pending motions that
13 need to be taken up at this time, Mr. Lander?

14 MR. LANDER: No.

15 JUDGE CLARK: Ms. Carter?

16 MS. CARTER: None. Thank you.

17 JUDGE CLARK: Ms. Aslin?

18 MS. ASLIN: None.

19 JUDGE CLARK: Thank you. And I'm going
20 to ask you to speak up, Ms. Aslin. Mr. Lander has
21 indicated to me that he's sometimes hard of hearing.

22 MS. ASLIN: Okay.

23 JUDGE CLARK: All right. Now, in regard
24 to a witness list, there wasn't one submitted. So,
25 that means that I get to choose the order that the

1 witnesses will go in. Mr. Lander I'm going to allow
2 to go first, and then I'm going to allow
3 Missouri-American Water to put on their witness, and
4 then I will allow Staff to put on their witness.

5 Good morning, Commissioner.

6 COMMISSIONER COLEMAN: Good morning.

7 JUDGE CLARK: We were just doing initial
8 remarks.

9 Now exhibits, I don't have premarked
10 exhibits, an exhibit list from any party as of yet.
11 I received an exhibit from Staff, which I assume,
12 Ms. Carter, did you receive that exhibit?

13 MS. CARTER: Yes.

14 JUDGE CLARK: And, Mr. Lander, I don't
15 believe you've had an opportunity to look at it.

16 This is going to be Staff's. Is that
17 your only exhibit?

18 MS. ASLIN: Yes. Yes, it is.

19 JUDGE CLARK: All right. That will be
20 Exhibit 100.

21 And you can hang onto that for now,
22 Mr. Lander.

23 MR. LANDER: Thank you.

24 JUDGE CLARK: At this time I'm going to
25 allow the parties to make a brief opening statement.

1 Mr. Lander, I'm going to give you an
2 opportunity to go first. So, this is an opportunity
3 to make an opening statement and basically it's not
4 your opportunity to testify, but it's your
5 opportunity to give an opening argument, if you wish
6 to give one.

7 MR. LANDER: Thank you. Well, I'll make
8 it brief.

9 I received a very, very high water bill,
10 not for the first time. One time before -- well,
11 let me say this: My wife died on Mother's Day two
12 years ago and I was her care giver for two years.
13 She had Alzheimer's. And I don't say that for
14 sympathy purposes. I say it to explain why I didn't
15 pay attention to my water bills. I had a very high
16 water bill and I called the water company. They
17 sent somebody out. The guy came -- walked in my
18 house and said your toilet's running and said if you
19 get it fixed, we'll reduce your bill. I got a flap
20 for the toilet and it cost a couple bucks and the
21 leak stopped and they reduced my water bill
22 substantially, for which I thank you, water company.

23 I have a swimming pool which holds
24 10,000 gallons of water, which I don't empty every
25 year. I cover it and then fill in maybe a third of

1 that amount. I have a sprinkler system. The year
2 in question was a year that had a lot of rain, and I
3 don't have my sprinkler system on any automatic. I
4 put it on when the time comes. And so, I use more
5 water in the late spring and summer for sprinkler
6 and swimming pool purposes.

7 When I got the latest bill that I'm
8 appealing, I called the water company out and the
9 guy checked the meter and it wasn't -- nothing was
10 running when I had everything turned off. So, not
11 being an expert in meters, I assume that something
12 was wrong with the meter and that I was being
13 overcharged. So, I filed this appeal, and I got
14 charts of my previous usage, which indicate to me
15 that I have never used so much water as I have been
16 charged for and from what I appealed for.

17 And that's enough of an opening
18 statement. My testimony will be similar to what
19 I've already said.

20 JUDGE CLARK: Thank you, Mr. Lander.
21 Missouri-American Water Company.

22 MS. CARTER: Thank you.

23 The water company is certainly
24 understanding of Mr. Lander's situation and
25 sympathetic to the circumstances that caused him not

1 to look carefully at his bills in years past.

2 As Mr. Lander said, there was a high
3 bill in 2015 I believe, a leak was discovered and
4 the company provided an adjustment. The company is
5 not required at any time to provide an adjustment to
6 rates based on a leak on the customer's side of the
7 meter, and that's what we're talking about here is a
8 leak on the customer's side of the meter.

9 Missouri-American, however, just as a matter of
10 practice and as a courtesy, gives all customers a
11 one-time leak adjustment if the customer calls in
12 and takes the steps necessary to fix the leak. So,
13 if they know the customer is going to remedy the
14 situation and not continue to allow that water to be
15 wasted, Missouri-American makes a leak adjustment.

16 There was a second leak at Mr. Lander's
17 property and, again, Missouri-American did a
18 courtesy leak adjustment. So, that was the second
19 time, which is not done as a matter of course, but
20 was done in this case as an extra courtesy to
21 Mr. Lander. So, he's already had the two leak
22 adjustments.

23 Mr. Lander has an AMI meter at his
24 property, so there is much more detailed information
25 on usage than there would be for some other

1 customers and for all customers at some utilities.

2 And Emily Vetter is here with
3 Missouri-American Water Company and she'll describe
4 the usage report that we have and that will be
5 Company Exhibit 200.

6 With the AMI meter we're able to see
7 usage by hour and in this case the company has those
8 hourly records beginning with the third quarter of
9 2016 and then continuing up through the present.
10 So, for the period in question we have very detailed
11 usage records. It may be that Mr. Lander again has
12 a leak on his side of the meter. There's no
13 indication that there's any problem on
14 Missouri-American's side of the meter, no leak
15 discovered, and the meter was checked and found to
16 be working properly.

17 At this point the company cannot just
18 keep making leak adjustments every time there may be
19 a leak on the customer's side of the meter and
20 especially if they're not being fixed in a timely
21 manner. At this time there's no indication to
22 Missouri-American that there's anything unusual
23 going on in terms of water usage.

24 And so, we'll just have the one witness
25 and the one company exhibit, Exhibit 200, which

1 shows a graph that, I believe, is similar to what
2 Mr. Lander has with him and then also the detailed
3 hourly usage.

4 JUDGE CLARK: Thank you, Ms. Carter.
5 Staff of the Commission.

6 MS. ASLIN: Thank you.

7 To begin, I would just like to state
8 that Staff discovered a bit of an inconsistency
9 between the company's answer and its report this
10 morning.

11 JUDGE CLARK: Ms. Aslin, hold on just a
12 second.

13 MR. LANDER: Ask her to speak slower,
14 not louder, so I can understand what she's saying.

15 JUDGE CLARK: Mr. Lander's asking if you
16 could speak a little bit slower so that he can
17 understand you.

18 MS. ASLIN: All right. I will.

19 So, in reviewing Mr. Lander's complaint,
20 it is unclear what year billing period he is
21 referring to. So, in the company's answer they
22 reference 2017 bill and Staff represents a 2016
23 bill, but we come to the same conclusion.

24 Now, Mr. Spratt, who prepared Staff's
25 report, he's not available today, but Mr. Busch is

1 here, has reviewed that report and that memo and all
2 the bills that are available to us. And I would
3 just like to state that we still come to the same
4 conclusion that there has been no violation of
5 statute, Commission rule, or Commission-approved
6 tariff. Thank you.

7 JUDGE CLARK: Thank you, Ms. Aslin.

8 At this time I'm going to allow the
9 parties to testify.

10 Mr. Lander, you're going to be
11 testifying on your own behalf; is that correct?

12 MR. LANDER: Yes.

13 JUDGE CLARK: Be aware that after you
14 testify that both the counsel for the water company
15 as well as counsel for the Staff of the Commission
16 will be entitled to cross-examine you. Okay?

17 MR. LANDER: That's fine, yes.

18 JUDGE CLARK: All right. Would you
19 raise your right hand in order to be sworn, please.

20 EDWARD LANDER,
21 the Complainant, having been first duly sworn
22 testified under oath as follows:

23 JUDGE CLARK: Thank you. Go ahead and
24 offer whatever testimony you would like to offer
25 today.

1 MR. LANDER: Okay. Well, first of all,
2 like I said in my statement, I have trouble hearing
3 and I was very preoccupied with taking care of my
4 wife and I didn't pay attention to water bills first
5 of all. Before I retired, the money didn't bother
6 me and now that I'm trying to live on Social
7 Security I pay more attention to that kind of stuff.

8 So, when I got the water bill in 2016, I
9 called the water company and the fella came out. He
10 heard the leak in the toilet. I fixed it. They
11 reduced the bill. I have no recollection of having
12 a second leak adjustment. I'm not saying it didn't
13 happen. I'm just saying that I never made a
14 complaint before this one. And as far as me having
15 another leak is concerned, when the guy came out to
16 test my meter, when I turned everything off in the
17 house there was no water flowing through which
18 indicates to me that I didn't have another leak.

19 So, I don't understand how I could use
20 900,000 gallons of water in a quarter even with my
21 swimming pool, which holds 10,000 gallons, and my
22 sprinkler system, which wasn't used much during that
23 period. So, I appealed to the water company and I
24 appealed to the Public Service Commission. I sent
25 the water company a check for \$300 for that period,

1 which I don't think they cashed. Thank you. And
2 I'm asking for relief because I can't believe that I
3 used that much water and I know I didn't have a
4 leak. And I thank the water company for adjusting
5 my prior leak. I don't remember adjustment for the
6 second leak, but I know I don't have a leak now and
7 I know in my -- that it's impossible for me to have
8 used 900,000 gallons of water in that period.

9 End of testimony.

10 JUDGE CLARK: Cross-examination by
11 Missouri-American Water Company.

12 MS. CARTER: I have no questions. Thank
13 you.

14 JUDGE CLARK: Cross-examination by
15 Staff.

16 MS. ASLIN: No questions. Thank you.

17 JUDGE CLARK: Any questions from the
18 Commission?

19 COMMISSIONER COLEMAN: Yes, I have one
20 question.

21 QUESTIONS BY COMMISSIONER COLEMAN

22 **Q. Mr. Lander, you said that you do**
23 **remember one bill that the water company made an**
24 **adjustment for?**

25 A. Uh-huh.

1 **Q. Do you remember when that was?**

2 A. I think it was in 2016, but I'm not
3 sure. I think the water company would know that and
4 I would take their word for it.

5 **Q. And when, as far as you know, is the**
6 **water company claiming that they made a second**
7 **adjustment for you?**

8 A. I don't know. We can ask them, though.

9 **Q. Sure. We can.**

10 A. And I'll be glad for her to tell me.
11 She's got all the records.

12 COMMISSIONER COLEMAN: Thank you,
13 Mr. Lander. Thank you.

14 JUDGE CLARK: I've got a couple
15 questions for you, Mr. Lander.

16 QUESTIONS BY JUDGE CLARK

17 **Q. You had referenced during your**
18 **testimony, you said 900,000 gallons, and I'm looking**
19 **at your complaint. Your complaint says**
20 **200,000 gallons. Do you know what the actual water**
21 **usage amount you're complaining over is?**

22 A. You have to look at the bill.

23 **Q. And that actually brings me to my second**
24 **question, if we can go ahead and do that as well.**
25 **What bill is -- what is the month and the year of**

1 **the bill that your complaint is about?**

2 A. Can I ask the water company if they
3 know? If not, I can go through my records.

4 Q. I understand, but at this time I'm
5 asking you. So, if you could tell me -- I want to
6 know from you.

7 A. 2017.

8 Q. And how much water usage was alleged in
9 that bill?

10 A. I believe 900,000 gallons.

11 Q. Now, you had a couple of exhibits that
12 you -- did you want to offer those to the Court --
13 or I'm sorry, to the Commission? Is there anything
14 you wanted me to take a look at?

15 A. No, sir.

16 Q. Now, you indicated that you had the flap
17 fixed on your toilet, and you did that personally?

18 A. Yes.

19 Q. So, you didn't have a plumber do it?

20 A. No.

21 Q. But that's a relatively easy thing to
22 do?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes.

1 **Q. And that was in 2015?**

2 A. '16, I think.

3 **Q. 2016.**

4 A. Their records would reflect exactly when
5 they reduced my bill.

6 MR. LANDER: Am I right?

7 **Q. (By Judge Clark) You'll have an**
8 **opportunity to ask them questions a little bit**
9 **later.**

10 A. Okay.

11 **Q. But you believe it was in 2016 that you**
12 **replaced that flap?**

13 A. Yes.

14 **Q. Did you replace one -- how many toilets**
15 **do you have in your house?**

16 A. Seven.

17 **Q. How many flaps did you replace?**

18 A. One.

19 **Q. How many toilets were running?**

20 A. One.

21 **Q. And how did you make that assessment?**

22 A. When the man from the water company came
23 in, he heard it, which I couldn't hear because of my
24 hearing disability, and that's how I found out it
25 was leaking. So, historically, my father-in-law was

1 in the plumbing supply business and as a result I
2 got -- had several clients that were in the plumbing
3 supply business and I knew where to get a flap and I
4 knew how to put it on, so I did, and that's all.

5 **Q. Was that the only time that somebody**
6 **from Missouri-American informed you that your toilet**
7 **was running?**

8 A. Yes.

9 **Q. And they only informed you that one**
10 **toilet was running?**

11 A. Yes.

12 **Q. Did you have any plumbing work done to**
13 **your house at any other time from 2015 to 2017?**

14 A. I had a garbage disposal replaced.

15 **Q. But garbage disposals don't use water?**

16 A. I know, but it's a plumbing matter.

17 **Q. I appreciate your answer. I was just**
18 **saying that more for myself.**

19 JUDGE CLARK: Okay. Those are all the
20 questions I have for you.

21 Is there any recross from
22 Missouri-American based upon Commission questions or
23 my questions?

24 MS. CARTER: No.

25 JUDGE CLARK: Is there any recross from

1 Staff based upon Commission questions or my
2 questions?

3 MS. ASLIN: No, Judge.

4 JUDGE CLARK: At this time, Mr. Lander,
5 is there anything else that you wanted to tell the
6 Commission in the way of testimony?

7 MR. LANDER: No, sir.

8 JUDGE CLARK: Missouri-American Water
9 Company, you may call your first witness and only
10 witness.

11 MS. CARTER: Emily Vetter.

12 JUDGE CLARK: Ms. Vetter, would you
13 raise your right hand to be sworn.

14 (The witness was sworn in.)

15 JUDGE CLARK: Thank you. Would you,
16 please, state and spell your name.

17 THE WITNESS: Emily Vetter, E-M-I-L-Y.
18 V as in victor --

19 MR. LANDER: Excuse me.

20 THE WITNESS: I'm sorry. You want me to
21 slow down?

22 MR. LANDER: No. You can talk as fast
23 as you want, but look at me instead of her.

24 THE WITNESS: Okay. E-M-I-L-Y, V as in
25 victor, E-T-T-E-R.

1 MR. LANDER: Thank you.

2 JUDGE CLARK: Proceed.

3 DIRECT EXAMINATION

4 BY MS. CARTER

5 **Q. Ms. Vetter, how are you employed?**

6 A. I work for Missouri-American Water as a
7 business service specialist. One of my
8 responsibilities is to review customer complaints
9 and respond to the Public Service Commission and
10 various other entities that we receive customer
11 complaints from.

12 **Q. Are you familiar with the utility's**
13 **policy regarding leak adjustments?**

14 A. Yes.

15 **Q. And what is that policy?**

16 A. We, as a courtesy, offer a one-time leak
17 adjustment per customer account and that leak
18 adjustment is calculated by using the customer's
19 usage from the same time the previous year as their
20 average. We subtract that average from your high
21 bill and then you receive 50 percent of that excess
22 usage back as a courtesy credit.

23 **Q. At some point was one of those initial**
24 **courtesy leak adjustments done for Mr. Lander?**

25 A. Yes. Our records show that Mr. Lander

1 received a toilet leak adjustment on January 16th of
2 2016 for the billing period of August 25th of 2015
3 to November 19th of 2015.

4 **Q. And then at some point was there a**
5 **second leak adjustment for Mr. Lander's property?**

6 A. Yes. Our records show that Mr. Lander
7 received a second courtesy leak adjustment for a
8 toilet leak on November 7th of 2016.

9 JUDGE CLARK: November -- excuse me?

10 A. November 7th of 2016. That was for
11 billing periods of May 27th of 2016 through
12 August 24th of 2016.

13 **Q. (By Ms. Carter) So, there were two leak**
14 **adjustments. I believe both were made in 2016; is**
15 **that correct?**

16 A. Correct. We received the request for a
17 leak adjustment on September 28th of 2015 for the
18 first one. Our billing department processed that
19 request on January 16th of 2016.

20 **Q. And then when did you receive a request**
21 **regarding the second leak?**

22 A. November 1st of 2016, and our billing
23 department processed that request on November 7th,
24 2016.

25 **Q. What is an AMI meter?**

1 A. The meter itself is not AMI. The
2 reading device is AMI. So, it's a standard --

3 MR. LANDER: What does AMI stand for?

4 THE WITNESS: Automatic -- I'll have to
5 recall, but it's automated meter reading
6 infrastructure.

7 MR. LANDER: Okay. I'm sorry.

8 THE WITNESS: You're fine.

9 A. AMI is a reading device that submits an
10 RF frequency that uploads to a data collection unit
11 that there in turn is stored in a secure database
12 where we have hourly meter readings from your water
13 meter. That was installed on October 25th of 2016.

14 **Q. (By Ms. Carter) And that is specific to**
15 **Mr. Lander's residence?**

16 A. That meter and that AMI device is
17 specific to your residence.

18 MS. CARTER: I'm going to hand you what
19 we've marked as Company Exhibit 200?

20 MR. LANDER: Is this my copy or his?

21 MS. CARTER: That's for you to look at,
22 Mr. Lander, since it's the one in color.

23 MR. LANDER: It's the same as this that
24 they furnished me before?

25 THE WITNESS: That is the same graph.

1 This has your 2018 billing period in here as well.
2 Whereas, when we sent you this, we hadn't billed for
3 2018 yet. So, it includes this quarter as well.

4 MR. LANDER: And you want this back?

5 MS. CARTER: You can hold onto it for
6 right now. It also has additional pages. These are
7 your AMI hourly meter readings, which shows how much
8 water was used each hour.

9 Commissioner, would you like one?

10 And Judge, would you like one?

11 JUDGE CLARK: Have you offered it?

12 MS. CARTER: Not yet.

13 JUDGE CLARK: Why don't you go ahead and
14 offer it.

15 MS. CARTER: I would offer Exhibit 200.

16 (Company's Exhibit 200 was offered into
17 evidence.)

18 JUDGE CLARK: Mr. Lander, do you have
19 any objections to Exhibit 200?

20 MR. LANDER: No, but I have some
21 cross-examination about it, which I'll save until I
22 cross-examine.

23 JUDGE CLARK: But you don't have any
24 objection to it being admitted onto the record?

25 MR. LANDER: Not a valid one.

1 JUDGE CLARK: Do you have an invalid one
2 you'd like to make?

3 MR. LANDER: I'm going to -- I'm going
4 to restrain myself on that.

5 JUDGE CLARK: Staff, do you have a copy
6 of Missouri-American Water's exhibit?

7 MS. ASLIN: I do not have a copy of
8 that, no.

9 JUDGE CLARK: Do you have any reason to
10 believe that you have an objection to it?

11 MS. ASLIN: I do not have any reason to
12 believe that I would object to that.

13 JUDGE CLARK: Ms. Carter, can you get a
14 copy to them?

15 MS. CARTER: Yes. I was looking to see
16 if I have it on my email so I could forward it to
17 you right now, but I'm afraid I don't have it as one
18 document.

19 JUDGE CLARK: What I'm going to do is
20 I'm going to give till the end of the day Friday for
21 Staff -- I would like you to today or tomorrow
22 morning at the latest get that exhibit to Staff
23 counsel.

24 And, Staff counsel, you'll have till the
25 end of the day on Friday to voice any objections you

1 may have to the admission of that exhibit onto the
2 record.

3 Other than that, I'm going to
4 provisionally admit Exhibit 200, the usage
5 information provided by Missouri-American Water
6 Company onto the record, subject to any objections
7 received from Staff counsel.

8 (Company's Exhibit 200 was admitted into
9 evidence.)

10 JUDGE CLARK: Go ahead.

11 MS. CARTER: Thank you.

12 **Q. (By Ms. Carter) And, Ms. Vetter, if**
13 **you'll, please, describe what you have in front of**
14 **you, Exhibit 200.**

15 A. So, this information is data that I
16 pulled from our billing systems. We switched to a
17 new billing system in 2013. So, this is also usage
18 from our previous billing system as well back to
19 2004 which shows your historical consumption for
20 each quarter.

21 So, on the colored graph here, the
22 yellow line indicates your disputed third quarter
23 billing for 2017. So, the yellow lines indicate
24 each third quarter going all the way back to 2004.
25 That is your usage history that we have. So, pages

1 2 through I think it was 12 have your hourly meter
2 reading information from October 25th of 2016 up
3 until yesterday, March 21st at 12 p.m.

4 MR. LANDER: Too much information.

5 A. Yeah. So, what this data provides,
6 which we're able to query from the records that
7 we -- that we keep, that we retain, is what your
8 hourly reads were and what your consumption is per
9 hour. That helps us, you know, identify leaks for
10 customers that you wouldn't previously may not know
11 about because you could have an underground leak,
12 you could have a toilet leaking, things of that
13 nature that, you know, customers wouldn't previously
14 have been aware of because we didn't have this
15 technology until 2015 roughly.

16 So, when we look at your hourly usage,
17 you typically use, you know, 5 gallons, no gallons,
18 but when we start flipping through your usage
19 history, last winter was pretty normal, didn't
20 really have any large usage of gallons going on
21 during that time. Although, it does show, these go
22 from 12 a.m. all the way to 11 p.m. at night where
23 you have constant consumption on your water meter.
24 Now, it's not 50 gallons an hour, but it does show,
25 you know, for example, January 27th of 2017 between

1 12 a.m. you used .5 gallons of water. Between 12
2 and 1 a.m. you used .3 gallons of water. Typically,
3 customers don't use water in the middle of the night
4 because you're sleeping. So, that to us would
5 indicate you might have something leaking.

6 Now, we flip forward to April of 2017
7 and in May, when customers typically start filling
8 pools, turning irrigation systems on. We start to
9 see a jump in your usage really starting with May,
10 starting on May 12th of 2017 to May 13th of 2017.
11 Your usage starts showing 589 gallons, 600 gallons
12 an hour, and then it will stop maybe because you
13 stopped filling your pool or you turned your
14 irrigation system off, but then --

15 JUDGE CLARK: I'm going to say at this
16 point that I've allowed this to go on a while
17 because it's for both foundational and explanatory
18 purposes, but I think at this point we're well off
19 into narrative. So, I'm going to ask you to bring
20 your witness in with questions.

21 MS. CARTER: Yes. Thank you.

22 THE WITNESS: Sorry about that. I'm
23 just more of a person who typically wants to explain
24 water bills. So, I apologize.

25 JUDGE CLARK: Well, I believe some

1 amount of explanation was required there, but I
2 think we've kind of gone beyond that at this point.

3 THE WITNESS: Yeah. Sorry about that.

4 MS. CARTER: And I don't think I have
5 any other questions for Ms. Vetter.

6 JUDGE CLARK: Mr. Lander, do you have
7 any cross-examination at this time?

8 MR. LANDER: Yes. Yes, I do.

9 JUDGE CLARK: Go ahead, please.

10 CROSS-EXAMINATION

11 BY MR. LANDER

12 Q. In your opinion, is your meter system
13 100 percent, absolutely foolproof?

14 A. In my opinion?

15 Q. Uh-huh.

16 A. I wouldn't say it's 100 percent
17 foolproof. What would you refer to as our system?
18 Are you referring to your water meter or are you
19 referring to --

20 Q. I'm referring to the meter system and
21 the billing that -- the accuracy of the water usage
22 that you bill for is 100 percent accurate.

23 A. The meters that we install are tested
24 from the factory. Before we install them, they get
25 a seal of approval for them, you know, registering

1 usage correctly, and at any time if a customer does
2 dispute their usage, we will remove the meter at a
3 customer's request and test its accuracy.

4 **Q. Did you remove mine at my complaint?**

5 A. We did in 2016, but not in 2017 because
6 we did not receive a request to do so.

7 **Q. Now, my question is: Is the meter**
8 **system 100 percent foolproof in your opinion?**

9 A. A meter system? A meter can go wrong,
10 it can stop. In my experience with the water
11 company, your water meter typically slows down over
12 time.

13 **Q. So, it's not foolproof?**

14 A. No, it's not foolproof, but I would say
15 that it is more to the customer's advantage as
16 opposed to the company's.

17 **Q. How many gallons did you bill me for in**
18 **the quarter that I'm appealing?**

19 A. If I had to look at this bar graph here,
20 that would be indicative of -- and I don't -- I
21 apologize. I don't have the exact bill right here
22 in front of me, but that would show in hundreds of
23 gallons. So, that would be almost 2 million gallons
24 during that quarter.

25 JUDGE CLARK: For the record, which year

1 were you referencing on Exhibit 200?

2 THE WITNESS: Me?

3 JUDGE CLARK: Yes.

4 THE WITNESS: The quarter that I'm
5 referring to is quarter three of 2017, which is the
6 quarter I believe Mr. Lander is disputing. This one
7 here, sir, yes.

8 **Q. (By Mr. Lander) Thank you.**

9 A. You're welcome.

10 MR. LANDER: Can I ask another question?

11 JUDGE CLARK: I apologize. I
12 interrupted only to clarify the record. It is still
13 your cross-examination. You can ask whatever
14 questions you would like.

15 **Q. (By Mr. Lander) And that quarter was**
16 **what on the calendar?**

17 A. Your billing period for that?

18 **Q. Uh-huh.**

19 A. Would typically be between -- without
20 looking at it, it would probably be somewhere around
21 May to August of each year, if I'm remembering
22 correctly.

23 **Q. That makes sense. That's when I fill my**
24 **pool and I have my sprinkler system working.**

25 **On this chart that you presented here in**

1 **2011 there's a very unusual spike. It's the first**
2 **quarter and it's way, way up to the top.**

3 A. Yes, sir.

4 **Q. Can you explain that?**

5 A. Without going back and looking at our
6 billing records to 2011, I wouldn't have that
7 information as to whether you possibly had a leak
8 during that time. It could also have been --

9 **Q. It wouldn't be attributable to my**
10 **swimming pool and my irrigation system?**

11 A. Unless your previous meter readings were
12 estimated, that would be true.

13 **Q. And then in 2005 there's an unusual**
14 **spike in the fourth quarter?**

15 A. Uh-huh.

16 **Q. Can you explain that and can you explain**
17 **the unusual spike in -- no. That's the swimming**
18 **pool quarter.**

19 **Can you explain this spike in the --**

20 A. 2005?

21 **Q. Uh-huh.**

22 A. That is a billing period where you would
23 typically potentially still be watering because that
24 quarter would go from August to November.

25 **Q. Thank you.**

1 In your experience, does a household
2 with only one person living in it use less water
3 than a household with a whole family?

4 A. Yes.

5 Q. Okay. Are you aware that I'm living
6 alone?

7 A. I am.

8 Q. Can you explain why I got 2 million
9 gallons of water in that quarter?

10 A. Based on your AMI usage data, which we
11 briefly went over, it indicates that you have filled
12 your pool, used your irrigation system, and you may
13 also have an ongoing leak.

14 Q. Now, if I have a pool that holds
15 10,000 gallons of water and I fill it once a year,
16 even though I don't empty it, how does that relate
17 to 2 million gallons?

18 A. Without knowledge of the pool system
19 that you have, some water evaporates and some
20 customers have where the water automatically
21 refills. I can't answer that question because I'm
22 not an expert in pools.

23 Q. Would you say it's reasonable to assume
24 that the evaporation from the pool is a lot less
25 than 2 million gallons?

1 A. Without knowledge of, you know, how
2 water evaporates and the rate it evaporates in and
3 things like that, I couldn't answer that question.

4 **Q. Thank you for being honest about that.**

5 MR. LANDER: I have no further
6 questions.

7 JUDGE CLARK: Any cross-examination from
8 Staff?

9 MS. ASLIN: I just have one question for
10 clarification.

11 CROSS-EXAMINATION

12 BY MS. ASLIN

13 **Q. When you were talking to Mr. Lander**
14 **about the usage in the third quarter, there was a**
15 **lot of reference to 2 million gallons. Did you mean**
16 **200,000?**

17 A. That could possibly be. This chart is
18 in hundreds of gallons. So, I would have to look at
19 his water bill to --

20 **Q. All right. I'm looking at the answer**
21 **filed by the company and that's where I'm getting**
22 **the numbers from.**

23 A. And I apologize if I misrepresented
24 that.

25 MR. LANDER: I accept your apology.

1 **Q. (By Ms. Aslin) I just want to make sure**
2 **we're all on the same page.**

3 A. Yes, ma'am. Based on the answer that we
4 provided, Mr. Lander was billed for 191,900 gallons
5 during May to August of 2017. So, this was --

6 JUDGE CLARK: My understanding was I
7 heard -- I heard Mr. Lander say 2 million gallons.
8 I don't believe I heard the witness say
9 2 million gallons.

10 MS. ASLIN: I have no further questions.

11 JUDGE CLARK: Any questions from the
12 Commission?

13 COMMISSIONER COLEMAN: Yes.

14 QUESTIONS BY COMMISSIONER COLEMAN

15 **Q. Ms. Vetter, good morning.**

16 A. Morning.

17 **Q. So, I believe testimony shows that an**
18 **adjustment was made on January 16th of 2016**
19 **regarding Mr. Lander's service, also on November 7th**
20 **of 2016. So, twice in 2016. One for service in**
21 **2015. One for service in 2016. As a result of**
22 **these adjustments, had a service representative been**
23 **sent out each time to determine if there was a leak**
24 **or look at the meter?**

25 A. Based on what Mr. Lander has provided,

1 he had a visit at least one time. I don't have that
2 information as to what day that service visit
3 occurred, but we could -- we could look at our
4 records to validate that.

5 **Q. So, when the company provides a credit**
6 **as a courtesy, what type of proof do you need that**
7 **there might have been an issue, or is any proof**
8 **required to provide this courtesy?**

9 A. Typically, we used to ask for proof of
10 repairs in the form of a receipt. I do believe that
11 we updated that to where a customer's verbal
12 statement that he repaired something, and then as
13 proof of evidence of a leak being repaired the
14 customer's usage goes down the following billing
15 period, we would allow a leak adjustment without
16 having proof of repairs.

17 **Q. And I need a clarification from you**
18 **regarding something you said, that in 2016 the meter**
19 **was replaced.**

20 A. Correct.

21 **Q. But I believe I also heard you say that**
22 **it hasn't been replaced since, no request has been**
23 **made?**

24 A. That's correct.

25 **Q. So, are these meters only replaced when**

1 **a customer request that they be?**

2 A. No, ma'am. Based on the meter size, we
3 have a replacement period length of service, and I
4 believe Mr. Lander may have a 5/8 inch meter. If he
5 has a 5/8 inch meter, our replacement period is 15
6 years. So, that meter would stay in the ground for
7 15 years. If it's a larger meter, the change-out
8 period length of service actually goes down.

9 **Q. Clarify again for me. What did your**
10 **statement mean of no request was made in 2017?**

11 A. Typically, a customer, while they're
12 disputing their bills, would contact us and saying
13 they're disputing their bill, our disputes process
14 would escalate and we would, at the customer's
15 request, either offer a meter test or the customer
16 would ask for a water meter test. We would remove
17 the meter and test it, but we had not received any
18 such request for 2017's usage.

19 **Q. Typically, even if a customer requested**
20 **it, would it be normal for Missouri-American Water**
21 **to make a replacement of a meter two years in a row?**

22 A. Not typically. Not without a customer
23 requesting a water meter to be tested, unless we
24 find that the meter is not functioning properly,
25 like the meter has stopped. Then we would replace

1 it after investigation is done as to whether his
2 meter's actually registering usage or not.

3 COMMISSIONER COLEMAN: Thank you.

4 Thank you, Judge.

5 JUDGE CLARK: Thank you.

6 I've got a couple questions.

7 QUESTIONS BY JUDGE CLARK

8 **Q. Now, Mr. Lander had referenced in his**
9 **testimony and I believe that I had read in there**
10 **that this had been attributed at one point to some**
11 **toilets that were leaking and, yet, I would think**
12 **that a toilet would leak year round and not just**
13 **during the third quarter of the year?**

14 A. Correct.

15 **Q. What's your explanation as to why the**
16 **water spikes just in the third quarter? And I think**
17 **you've said it, but I kind of want to hear you say**
18 **it directly.**

19 A. Due to the fact that Mr. Lander has a
20 pool as well as an irrigation system, the billing
21 period that is entailed in that third quarter is
22 during the time when outdoor water use is occurring.
23 So, his usage, if he does have an outdoor irrigation
24 system and a pool, those are typically the highest
25 quarter for a customer of Missouri-American Water.

1 **Q. To the best of your personal knowledge,**
2 **do people generally deactivate their sprinkler**
3 **systems during the winter months?**

4 A. To my knowledge, yes.

5 **Q. And they shut off the water to them?**

6 A. They typically -- most customers will
7 have a irrigation company come out and winterize
8 those lines for them so that the water has drained
9 out of that system to prevent the pipes from
10 cracking during the winter.

11 **Q. Do you know where the water is stopped**
12 **to the system for the winter?**

13 A. That would be where his irrigation
14 control would be.

15 **Q. Does Missouri-American, when you see**
16 **water usage like this, do you check to see if**
17 **there's any sort of sprinkler leak or irrigation**
18 **leak?**

19 A. What we would typically do, if the
20 customer's bill is considerably higher than the
21 previous same time, our system is designed to create
22 an order to go out and check to see if there is a
23 possible leak. Due to Mr. Lander's history during
24 that quarter, it may or may not have sent an order.
25 Otherwise, we would receive a request from a

1 customer to come out and reread the meter and check
2 for leaks. Our employees will come to the property,
3 take the lid off of the meter pit and sometimes they
4 direct the customer to turn the water off inside the
5 home so they can check to see if there's possibly an
6 underground leak, a service line leak, and then in
7 some cases, like as Mr. Lander had said prior,
8 sometimes our employees will come inside and do an
9 inspection inside. It's not typical, but they
10 have -- sometimes they will do it.

11 **Q. And in Mr. Lander's case, which of those**
12 **were performed?**

13 A. To my knowledge, he stated that one of
14 our employees came out in 2016 to check for leaks
15 for you and advised you that you had a toilet leak.
16 To my knowledge, I don't believe we did any
17 inspections in 2017 without, again, querying our
18 system to check to see if we did come out.

19 **Q. And you said you believe that it was the**
20 **third quarter of 2017, that's the bill he's**
21 **disputing?**

22 A. To my knowledge, yes, based on
23 Mr. Lander's statements.

24 **Q. And you believe that because he received**
25 **adjustments for the third quarter in 2015 --**

1 **adjustments for the third quarter of 2015 and for**
2 **the third quarter of 2016?**

3 A. Why Mr. Lander is disputing this third
4 quarter bill, I would only assume --

5 **Q. No. What I'm asking is is that the**
6 **reason you believe that he's disputing --**

7 A. Oh, yes. Yes, sir.

8 **Q. -- the third quarter of --**

9 A. Well, not -- I believe he may be
10 disputing the third quarter bill of 2017 because
11 it's higher than any of his bills for the rest of
12 the year, not necessarily that he received leak
13 adjustments during those previous two years for the
14 same quarter, but I believe that he's disputing this
15 2017 bill because it's high.

16 **Q. And what was the -- do you know what the**
17 **dollar amount of the adjustment in January of 2016**
18 **was?**

19 A. Without having to check, because the way
20 these adjustments were processed, we canceled his
21 bill and adjust the consumption. So, it's not a
22 manual adjustment. I'd have to query our system
23 again to see what the dollar amount was because it's
24 not noted in here as to how much his adjustment was
25 for. We rebilled his bill for probably about, based

1 on the notes on here, close to \$400 in 2016.

2 Q. But you said the way that's done is you
3 take that, you subtract the quarter from the prior
4 year and credit half; is that correct?

5 A. Correct. So, previously --

6 Q. Well, hold on. You answered my question
7 there when you said correct.

8 A. Yeah.

9 Q. My follow-up question is: You've got
10 three years that are very high here. So, if you're
11 subtracting the previous year, sometimes like in
12 2016 to 2015, that's more, that's more usage you're
13 subtracting. What I'm saying is 2015, the third --
14 if you compare the third quarter of 2015 to the
15 third quarter of 2016 and you're subtracting the
16 previous year's usage, you're negative?

17 A. So, based on that, if he was provided a
18 leak adjustment during the same quarter of the
19 previous year, we would not use that year --

20 Q. What would you use?

21 A. -- as an adjustment.

22 So, based on the comments on here, using
23 average based on usage from 5/29/13 to 8/23/13 for
24 his adjustment on the 2016 summer quarter billing
25 period. So, we did not use his usage from 2015 to

1 calculate his average for his 2016 adjustment.

2 **Q. That answers that question. Thank you.**

3 JUDGE CLARK: Mr. Lander, do you have
4 any recross-examination questions you'd like to ask
5 based upon questions asked by the Commissioner or
6 myself?

7 MR. LANDER: Yes, if I can read my
8 writing.

9 No. I can't read my writing, so I guess
10 I don't.

11 JUDGE CLARK: Thank you, Mr. Lander.
12 Staff, any recross based upon Commission
13 questions?

14 MS. ASLIN: No questions.

15 JUDGE CLARK: Or my questions?

16 MS. ASLIN: No.

17 JUDGE CLARK: Missouri-American, any
18 redirect that you'd like?

19 MS. CARTER: Yes, thank you.

20 REDIRECT EXAMINATION

21 BY MS. CARTER

22 **Q. Ms. Vetter, what is the age of the meter**
23 **currently at Mr. Lander's property?**

24 A. Mr. Lander's meter is a little over a
25 year old. It was installed in October of 2016.

1 **Q. And what is the expected life of that**
2 **meter to be working properly?**

3 A. Based on the meter's size --

4 MR. LANDER: That's irrelevant.

5 Objection.

6 JUDGE CLARK: I'm going to overrule that
7 objection. I think it's relevant as to the amount
8 of water usage in 2017, which I believe may be the
9 subject of this complaint.

10 Go ahead and answer.

11 A. Based on the meter size, if it is a 5/8
12 inch meter, our change-out length of service cycle
13 would be 15 years.

14 **Q. (By Ms. Carter) Does that mean you'd**
15 **expect that meter to work for approximately 15**
16 **years?**

17 A. Yes.

18 MS. CARTER: That's all the questions I
19 have.

20 JUDGE CLARK: Thank you.

21 MR. LANDER: Recross?

22 JUDGE CLARK: Normally we don't, but
23 since you asked, please go ahead.

24

25

1 RECROSS-EXAMINATION

2 BY MR. LANDER

3 **Q. Is it possible that your meter**
4 **malfunctioned during the period that I'm complaining**
5 **about?**

6 A. Typically, in my experience --

7 **Q. Not typically. Is it possible?**

8 A. Is it possible the meter malfunctioned?
9 It is possible the meter malfunctioned; however, you
10 would typically see your meter continue to
11 malfunction because the meters do not have the
12 capability of fixing themselves.

13 **Q. When you use the word typical, you're**
14 **saying that most of the time? You're not saying**
15 **100 percent of the time?**

16 A. I can't say with 100 percent
17 certainty that --

18 **Q. In other words, it's possible that your**
19 **meter malfunctioned and overbilled me during the**
20 **quarter that I'm complaining about?**

21 A. Based on my experience, it's possible,
22 but it's not probable.

23 MR. LANDER: Thank you. No further
24 questions.

25 JUDGE CLARK: Staff, you may call your

1 witness.

2 MS. ASLIN: Staff calls Jim Busch.

3 JUDGE CLARK: Mr. Busch, would you raise
4 your right hand to be sworn.

5 (The witness was sworn in.)

6 MR. LANDER: Can I sit over there so I
7 can hear better?

8 JUDGE CLARK: Yes.

9 Mr. Busch, if you'll wait just a second.
10 Staff, if you'll hold on.

11 And, Mr. Lander, I'm going to ask you to
12 -- the table has fallen over once this morning.
13 Please, don't support it with the weight of a
14 pencil.

15 JAMES BUSCH,
16 having been called as a witness herein, having been
17 first duly sworn, testified under oath as follows:

18 DIRECT EXAMINATION

19 BY MS. ASLIN

20 Q. Would you, please, state and spell your
21 name for the court reporter.

22 A. My name is James Busch. Busch is
23 spelled B-U-S-C-H.

24 Q. And how are you employed?

25 A. I am the manager of the water and sewer

1 department at the Missouri Public Service
2 Commission.

3 Q. And did you review the staff report and
4 memorandum prepared by David Spratt in this case?

5 A. Yes, I did.

6 Q. And do you agree with his conclusions?

7 A. Yes, I do.

8 MS. ASLIN: I tender the witness for
9 cross.

10 JUDGE CLARK: Ms. Aslin, can you have
11 Mr. Busch speak a little slower, please.

12 MS. ASLIN: Yes.

13 THE WITNESS: I will.

14 JUDGE CLARK: And could you speak a
15 little slower.

16 MS. ASLIN: Yes.

17 JUDGE CLARK: Go ahead.

18 MS. ASLIN: I tender the witness for
19 cross.

20 JUDGE CLARK: Mr. Lander, do you have
21 any -- well, I guess here's my question at this
22 point. You indicated you had an exhibit.

23 MS. ASLIN: Yes. I would like to offer
24 Staff's report in this case. It's been prefiled as
25 Exhibit 100.

1 (Staff's Exhibit 100 was offered into
2 evidence.)

3 JUDGE CLARK: Mr. Lander, have you had
4 an opportunity to look at Staff's exhibit?

5 MR. LANDER: Yes, I have.

6 JUDGE CLARK: Do you have any objection
7 to Staff's exhibit, which we're going to call
8 Staff's Exhibit 100, being admitted onto the hearing
9 record for my consideration and the Commission's
10 consideration?

11 MR. LANDER: No objection.

12 JUDGE CLARK: Exhibit 100 will be
13 admitted onto the hearing record.

14 (Staff's Exhibit 100 was admitted into
15 evidence.)

16 JUDGE CLARK: And, Ms. Aslin, you've
17 tendered the witness; is that correct?

18 MS. ASLIN: That's correct.

19 JUDGE CLARK: Mr. Lander, do you have
20 any cross-examination that you would like to ask
21 this witness?

22 MR. LANDER: No. Thank you.

23 JUDGE CLARK: Missouri-American, do you
24 have any questions that you would like to ask this
25 witness?

1 MS. CARTER: I have no questions.

2 JUDGE CLARK: Any questions from the
3 Commission?

4 COMMISSIONER COLEMAN: No.

5 QUESTIONS BY JUDGE CLARK

6 **Q. I have one question for you, Mr. Busch,**
7 **because it's become a point of contention in this**
8 **hearing. What is the period of time that you**
9 **believe Mr. Lander's formal complaint covers?**

10 A. Based upon what I've heard today and
11 rereviewing the complaint that Mr. Lander's filed, I
12 believe that the period in dispute is the third
13 quarter of 2017.

14 **Q. Okay. So, we're all in agreement on**
15 **that now.**

16 JUDGE CLARK: That is the only question
17 I have.

18 Mr. Lander, do you have any
19 cross-examination based upon my question?

20 MR. LANDER: No, sir.

21 JUDGE CLARK: Missouri-American?

22 MS. CARTER: Just one question.

23 RECROSS-EXAMINATION

24 BY MS. CARTER

25 **Q. Mr. Busch, does Staff's conclusion**

1 **change any if the period in question is the third**
2 **quarter of 2017?**

3 A. It does not.

4 MS. CARTER: Thank you.

5 JUDGE CLARK: Sorry about that. This
6 has been a rather unusual hearing.

7 I believe that that covers all the
8 witnesses at this time.

9 So, are there any final procedural
10 matters that we need to take up at this point,
11 Mr. Lander? And I'm just going to --

12 MR. LANDER: No. I'm going to have a
13 chance to make a closing argument so that I...?

14 JUDGE CLARK: We do not generally do
15 closing arguments at the Commission. What we do is
16 we allow you to submit a brief, if you would like to
17 do so, which is just a short written argument.

18 MR. LANDER: No.

19 JUDGE CLARK: Any final procedural
20 matters from Missouri-American Water Company?

21 MS. CARTER: No. Thank you.

22 JUDGE CLARK: Staff?

23 MS. ASLIN: No.

24 JUDGE CLARK: Mr. Lander, I'm going to
25 ask you do you have a desire to do a brief?

1 MR. LANDER: No, sir.

2 JUDGE CLARK: Missouri-American, do you
3 have a desire to submit a brief in this case?

4 MS. CARTER: Judge, if you feel they
5 would be helpful, we would be happy to do a brief,
6 yes. I will leave that up to you, if you think that
7 would be helpful or if the Commission would find
8 that helpful.

9 JUDGE CLARK: Commissioner Coleman,
10 would the Commission like a brief?

11 MR. LANDER: Might I say if she submits
12 a brief, I would like an opportunity to respond to
13 it.

14 COMMISSIONER COLEMAN: I will --

15 JUDGE CLARK: Here's what I'm going to
16 say.

17 COMMISSIONER COLEMAN: -- leave that to
18 you to decide.

19 JUDGE CLARK: I would like a brief. I
20 would like any party that wishes to submit an
21 initial brief will submit it by -- and I would like
22 a brief from Staff as well -- will submit it by
23 April the 13th, Friday the 13th.

24 MR. LANDER: Friday, the 13th, okay.

25 JUDGE CLARK: Mr. Lander, if you or any

1 other party wishes to do a response brief, I'm going
2 to make that due the following Friday, April the
3 20th.

4 MR. LANDER: Okay.

5 JUDGE CLARK: And I will issue an order
6 tomorrow to that effect.

7 MR. LANDER: Can I reserve the right to
8 submit a brief as well?

9 JUDGE CLARK: Oh, any brief that you
10 wish to submit, submit it by April 13th. Do you
11 know how to submit something to our system?

12 MR. LANDER: I'll figure it out.

13 JUDGE CLARK: If you have any questions,
14 you can call the Staff of the Commission and they
15 will help you submit your brief. Okay?

16 MR. LANDER: Okay. Help me write it?

17 JUDGE CLARK: Are there any other
18 matters that we need to take up before we adjourn,
19 Mr. Lander?

20 MR. LANDER: No, sir.

21 JUDGE CLARK: Missouri-American Water?

22 MS. CARTER: No. Thank you.

23 JUDGE CLARK: The company -- I'm sorry.
24 Staff?

25 MS. ASLIN: No, Judge.

1 JUDGE CLARK: I'd like to thank you all
2 for your time and appearance at this early hour
3 today, and have a good day. We'll go off the record
4 now.

5 (The hearing was adjourned at
6 10:05 a.m.)

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CERTIFICATE OF REPORTER

I, Amanda N. Farrar, a Certified Court Reporter for the State of Missouri, do hereby certify that the witnesses whose testimony appears in the foregoing transcript were duly sworn; the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting by me; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



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