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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
  
Hearing  
  
April 19, 2006  
Jefferson City, Missouri  
Volume 4

In the Matter of Hickory Hills            )  
Water & Sewer Company's Request        ) Case No. WR-2006-0250  
for a Small Company Rate Increase        )

STEVEN C. REED, Presiding,  
REGULATORY LAW JUDGE.  
ROBERT M. CLAYTON,  
LINWARD "LIN" APPLING,  
COMMISSIONERS.

REPORTED BY:  
  
KELLENE K. FEDDERSEN, CSR, RPR, CCR  
MIDWEST LITIGATION SERVICES

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FOR: Office of the Public Counsel  
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FOR: Staff of the Missouri Public  
Service Commission.

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

2 JUDGE REED: This is the evidentiary  
3 hearing in the matter of Hickory Hills Water & Sewer  
4 Company's request for small company rate increase. This  
5 case is now titled -- is now numbered WR-2006-0250. It is  
6 a consolidated case which brought together SR-2006-0249  
7 and WR-2006-0250.

8 My name is Steve Reed. I'm the Regulatory  
9 Law Judge assigned to preside over this case and this  
10 hearing this morning. Let's begin this morning with  
11 entries of appearance for Hickory Hills Water & Sewer  
12 Company.

13 MR. McCUTCHEON: Kenneth O. McCutcheon,  
14 Jr., attorney for Hickory Hills Water & Sewer Company,  
15 Inc.

16 JUDGE REED: Thank you, Mr. McCutcheon.  
17 For the Staff of the Commission?

18 MR. BERLIN: Robert S. Berlin, Post Office  
19 Box 360, Jefferson City, Missouri 65102, appearing on  
20 behalf of the Staff of the Missouri Public Service  
21 Commission.

22 JUDGE REED: Thank you, Mr. Berlin. For  
23 the Office of the Public Counsel?

24 MR. MILLS: My name is Lewis Mills. My  
25 address is Post Office Box 2230, Jefferson City, Missouri

1 65102, appearing on behalf of the Public Counsel and the  
2 public. Thank you.

3 JUDGE REED: Thank you. Is there anybody  
4 here this morning from the Missouri Department of Natural  
5 Resources? You all may recall that they were made a party  
6 earlier in the case. All right. Thank you.

7 There's some preliminary matters that we  
8 want to take up this morning, and what we'll do is, as we  
9 approach nine o'clock, what we'll do is we're going to go  
10 back off the record again, I'm going to go upstairs and  
11 collect the Commissioners to come down and hear the  
12 evidence. So we're going to get through the preliminary  
13 matters here, and then we'll take a brief recess.

14 Are there any matters that you-all want to  
15 bring to my attention this morning before we begin the  
16 hearing?

17 MR. BERLIN: Your Honor, I have a question  
18 for you.

19 JUDGE REED: Yes.

20 MR. BERLIN: Will there be an opportunity  
21 for opening statements?

22 JUDGE REED: That's one of the issues that  
23 I certainly want to address, and I want to get your input  
24 on the length of those opening statements. I would  
25 suggest that we have those, but that, given the amount of

1 evidence that we have in this case, they don't need to be  
2 especially lengthy. Mr. Berlin, what do you propose in  
3 terms of a time for the opening statement?

4 MR. BERLIN: Somewhere around seven minutes  
5 perhaps.

6 JUDGE REED: All right. Mr. McCutcheon, do  
7 you have a preference in that regard?

8 MR. McCUTCHEON: Oh, I would prefer around  
9 ten minutes.

10 JUDGE REED: Mr. Lewis -- Mr. Mills?

11 MR. MILLS: I believe I'll be inside five  
12 minutes.

13 JUDGE REED: All right. Let's not go  
14 beyond ten minutes if at all possible.

15 In the Commission's Order establishing the  
16 procedural schedule in this case, the Commission had  
17 indicated that the testimony would need to be prefiled in  
18 accordance with Commission rule. The prefiled testimony  
19 that we have at present is that of Randy Clifford, the  
20 owner/operator of the company, Scott Clark of Staff, and  
21 also Ted Robertson of Office of Public Counsel.

22 The one thing that was not addressed, I  
23 think, in the parties' list of issues, and I'm not sure if  
24 I directed that it be addressed in earlier orders, but we  
25 need to talk about the order of cross-examination. So

1 what I had proposed is that -- is this: Is that when  
2 Mr. Clifford's testimony is presented, that cross would  
3 begin with the Staff, then Office of Public Counsel,  
4 there'll be questions from the Bench, meaning the  
5 Commissioners, then recross based on those questions, and  
6 we'll go through the same Staff, OPC, and then redirect  
7 testimony.

8                   With Mr. Clark, we would begin cross with  
9 Hickory Hills, and then Office of Public Counsel. And for  
10 Mr. Robertson, Hickory Hills would first cross and then  
11 the Staff of the Commission. Sound reasonable?

12                   MR. MILLS: Just a quick question. Will  
13 there be -- will you allow friendly cross?

14                   JUDGE REED: Well, we'll see what the  
15 questions are. I don't intend -- I don't intend at this  
16 hearing to allow anything in that's irrelevant or  
17 cumulative. So we'll see what the cross-exam is.

18                   MR. MILLS: Thank you.

19                   JUDGE REED: But in the event  
20 cross-examination is being made, if any party has an  
21 objection, please state that. We'll take it up at that  
22 time.

23                   One other thing that we might as well take  
24 up now while I'm thinking about it is, at the end of this  
25 case we can either do a brief closing statement or you-all

1 can file Briefs after the testimony is closed. Mr. Mills,  
2 do you have a preference on doing a closing statement or  
3 filing a Brief?

4 MR. MILLS: I'd prefer to do a Brief. It  
5 need not be lengthy, but I think it's -- I think it's  
6 helpful for the Commission, I think it's helpful for the  
7 parties to have an opportunity to look over the transcript  
8 and be able to cite to items in cross-examination in the  
9 Brief, something that you can't do quite as well in a  
10 closing statement.

11 JUDGE REED: All right. Mr. Berlin, what  
12 do you think?

13 MR. BERLIN: Your Honor, I would tend to go  
14 toward a closing argument as opposed to a Brief, merely  
15 for the purpose of trying to conserve litigation expense  
16 on behalf of Hickory Hills.

17 JUDGE REED: Mr. McCutcheon, what's your  
18 preference?

19 MR. McCUTCHEON: Our preference is closing  
20 argument, again to preserve fees for Hickory Hills. And I  
21 think the issues are fairly simple today as far as Briefs  
22 are probably not required. I think it's all the evidence  
23 presented and the Commissioners.

24 MR. MILLS: I'm certainly willing to go  
25 along with that.

1                   JUDGE REED: We'll decide that at the end  
2 of the case. I may see what the Commissioners have in  
3 mind as well.

4                   Okay. What I propose we do now, unless  
5 you-all having something else, is we'll go off the record  
6 and we're going to mark the exhibits, and then I'll see if  
7 I can get the Commissioners down here to get started.  
8 Anything else?

9                   MR. McCUTCHEON: I do have a question, your  
10 Honor.

11                  JUDGE REED: Yes, sir.

12                  MR. McCUTCHEON: From what I understand,  
13 the Order that's been entered in the case, that after  
14 Mr. Robertson's testimony, then Hickory Hills would have  
15 no opportunity to provide any surrebuttal to his  
16 testimony. I would ask leave to be able to recall Randy  
17 Clifford as a surrebuttal witness to his testimony.

18                  JUDGE REED: Are you referring solely to  
19 Mr. Clifford as a surrebuttal witness, is that what you  
20 have in mind?

21                  MR. McCUTCHEON: Yes, your Honor.

22                  JUDGE REED: We had -- as you know,  
23 Mr. McCutcheon, we had had some -- we had litigated the  
24 issue of Staff filing surrebuttal in this case, and at  
25 present the Commission's order is that there will not be

1 surrebuttal. If you had -- according to the Order setting  
2 the procedural schedule in this case, there was direct  
3 testimony and rebuttal. If you had in mind to file  
4 surrebuttal, you should have at an earlier date asked for  
5 the opportunity to do that.

6                   If we open this up to surrebuttal from  
7 Mr. Clifford, we may need to open it up to surrebuttal  
8 from the Staff as well. So at present, your request is  
9 denied, but as we finish the direct testimony and the  
10 rebuttal, if you want to bring that up again --

11                   MR. McCUTCHEON: At that point in time I'll  
12 renew my request, your Honor.

13                   JUDGE REED: -- we'll address it again.

14                   MR. McCUTCHEON: Circumstances of the case.

15                   JUDGE REED: Right. All right. Anything  
16 else?

17                   MR. MILLS: Just a brief response to that  
18 request. I'll note that the Staff requested surrebuttal  
19 testimony in a pleading and we responded to that, and  
20 certainly Mr. McCutcheon had the opportunity to get into  
21 that pleading game, and this is the first that I've heard  
22 of this request here this morning.

23                   I think if we wanted to fight that, it  
24 should have been fought over the last week instead of this  
25 morning.

1                   MR. McCUTCHEON: I'd also point out, there  
2 would be no surprise to Mr. Mills as he took a lengthy  
3 deposition of Mr. Clifford. It seems like some of the  
4 pleadings that was his complaint, there was some surprise  
5 or whatever. There would be completely no surprise, other  
6 than obviously in the pleadings there's been some perhaps  
7 miscommunication as far as on the part of some thought  
8 that we would have direct testimony by all instead of  
9 direct testimony, rebuttal testimony and that sort of  
10 thing.

11                   So I think in the interest of fairness,  
12 depending upon the situation that transpires this morning,  
13 that I'll request the Court to recall Mr. Clifford as a  
14 rebuttal witness.

15                   MR. MILLS: And we can certainly argue  
16 about it some more then.

17                   JUDGE REED: As I indicated, we'll address  
18 that again later in the trial, but for now that request is  
19 denied Mr. McCutcheon.

20                   MR. McCUTCHEON: Thank you, your Honor.

21                   JUDGE REED: Okay. Let's go off the  
22 record, then.

23                   (EXHIBIT NOS. 1 THROUGH 9 WERE MARKED FOR  
24 IDENTIFICATION BY THE REPORTER.)

25                   JUDGE REED: Okay. We're back on the

1 record. We're ready to begin now with the opening  
2 statements and the evidence in this case. Let's see.  
3 Mr. McCutcheon, do you want to begin with opening  
4 statement? You can step up here to the podium. We're web  
5 casting this morning. We're ready for you to begin. Go  
6 ahead.

7 MR. McCUTCHEON: If it please the Court, or  
8 Judge, I would suppose, this morning, I represent the  
9 Hickory Hills Water & Sewer Company, Inc., in regards to  
10 its request for annual increase in their rates for the  
11 water and sewer.

12 The owner/operator is Randy Clifford. The  
13 Hickory Hills Water & Sewer Company was established in  
14 1974. He's been in control as the operator, I think, for  
15 the last 16 years when he took over around 1990.

16 Hickory Hills Water & Sewer Company serves  
17 homeowners in Hickory Hills Subdivision outside  
18 California, Missouri in Moniteau County. They have  
19 49 water customers and 47 sewer customers. As the  
20 operator of this system, Randy Clifford brings unique  
21 skills as the operator which he has developed over the  
22 last 16 years.

23 He has a DS3 drinking water distribution  
24 certificate of competency from the DNR. He has those  
25 16 years of experience. He has more than 70 years (sic)

1 of college credits. Has work experience as a well  
2 driller, water well pump installer/repairman. His family  
3 was in it, and he's been in that, known that business  
4 since a small boy. He's got experience as a water and  
5 sewer system installer.

6 He has a Type C electrician license from  
7 Jefferson City, Missouri. He has attended seminars in  
8 computer repair, personal computer, software programs.  
9 He's a map maker and draftsman, in which he has developed  
10 maps to line out where all the lines are, the shutoff  
11 valves and the mains for the subdivision. He's also a  
12 welder and he also does masonry work.

13 His duties and responsibilities as operator  
14 of Hickory Hills Water & Sewer Company are many. He has  
15 to monitor the cellular phone for emergency calls and  
16 customer complaints 24 hours a day, seven days a week,  
17 holidays, vacations, weekends, all the time. He has to be  
18 able to respond to any of those emergency calls at a  
19 minute's notice.

20 He has to monitor for low water PSI, via  
21 low pressure switch connected to the auto dialer  
22 programmed to his cell phone 24 hours a day, 7 days a  
23 week. He has to test the finished water and log results  
24 for the chlorine content seven days a week, including  
25 holidays. He has to collect and log the well pump

1 electric usage and gallons of water pumped daily.

2                   He has to monitor the chlorine well level  
3 daily and replenish the chlorine solution as needed. He  
4 needs to monitor daily, clean and repair the chlorine feed  
5 pump and feed system as required. He has to purchase,  
6 transport and deliver chlorine to the well site. He has  
7 to collect, transport and deliver bacteria samples to the  
8 Department of Health Lab monthly.

9                   He has to collect and return other random  
10 samples as the Department of Natural Resources may  
11 require. He has to order other supplies for the company  
12 as needed over the Internet. He sometimes has to travel  
13 to the area towns and cities to purchase, transport and  
14 deliver supplies as needed for his system.

15                   He has to solicit services, hire and  
16 supervise contractors if any are needed. He has to draft,  
17 type and mail company correspondence as required. He has  
18 to deliver monthly billings to the California Post Office.  
19 He has to review, edit and distribute the consumer  
20 confidence annually. He has to draft, print and  
21 distribute boil orders and customer service related notice  
22 as required.

23                   He is this charge of the collection of all  
24 the bills. He has to draft and distribute late payment  
25 notices as required. If payment's not made, then he has

1 to make arrangements to disconnect services for nonpayment  
2 as required. He has to travel to business service stores  
3 and make copies as needed for whatever may be coming up.

4 He needs to -- has to monitor and update  
5 company maps and the valve records as needed using a  
6 computer drafting software. He maintains all the company  
7 records. He has to review the water testing reports and  
8 then determine if any action is needed, and then take the  
9 action as required.

10 If there's any leaks in the water system,  
11 he has to repair it. He has to replace the water meters.  
12 He has to perform a monthly well draw down test. He has  
13 to make sure the pressure tanks are charged with air so  
14 there'll be enough pressure in the system. He has to  
15 flush the water mains as required. He checks the sewer  
16 manhole overflows daily to see that there's not any  
17 obstructions.

18 He mows and maintains the lagoon grounds.  
19 He's got to keep the duckweed out of the lagoon so it  
20 doesn't cause violations with the DNR on the sewer part of  
21 it. He has to maintain and make mechanical repairs to the  
22 mowing equipment. He fabricates tools to assist in the  
23 duckweed control. He maintains the lagoon fence,  
24 maintains the manholes, inspects the manholes, cleans  
25 sewer lines, maintains and makes mechanical repairs of the

1 sewer rodding machine, which is a machine that he's  
2 purchased to go through the sewer lines to keep them clear  
3 of roots and any obstructions.

4                   He makes the sewer line repairs as  
5 required, responds to the customers' complaints. He has  
6 to repair and reseed the lawns after excavating for any  
7 repairs. He has to maintain the necessary contacts with  
8 DNR and the PSC. He meets with the engineers and local  
9 government officials and other company contacts as needed.

10                   He gathers and reviews data for rate cases.  
11 He assists company attorney in company matters. He has to  
12 represent the company at various government meetings. He  
13 has to answer -- respond to any of the Missouri One calls  
14 to locate, mark any underground lines as required for the  
15 water lines and the sewer lines in the district.

16                   He also completes projects on behalf of the  
17 company instead of contracting them out, such as replacing  
18 the well house roof. He's replaced all the water lines in  
19 the well house. He replaced pressure tanks. Replace the  
20 well house electrical circuit breaker panel. He's  
21 installed paneling in the well house. He's welded patches  
22 to repair holes in the well casing, welded coupling to  
23 well casing and installed vent pipe. Fabricated and  
24 erected hoisting tower to hoist the pump from the well.

25                   He's pulled and replaced the pump and made

1 pump repairs. He's manually excavated the water line to  
2 repair the leaking valve. Installed telephone in the well  
3 house. Installed a program to auto dial so it can  
4 automatic dial him if anything would go wrong, to call in  
5 for complaints, if any leaks. Designed and installed  
6 battery backup system for the auto dialer. Traveled to  
7 surplus auction to purchase sewer rodding machine.

8                   He's provided items to the company that's  
9 included in his wage package at no extra. He has office  
10 space, the filing space and record storage space in his  
11 home. He allows use of his personal computer by the  
12 company to access to Internet and e-mail. He has  
13 electricity for office lighting and machines, office  
14 telephone service.

15                   He provides the storage space for --  
16 storage space for the mower and sewer rodding machine. He  
17 provides storage space for the string trimmer, chainsaw  
18 and other hand tools, various plumbing and hand tools. He  
19 furnishes storage space for the garden tractor and cart to  
20 tow lawn mower and haul the spray equipment. He has a  
21 water tank to haul the spray water in.

22                   He also provides storage. He provides a  
23 farm tractor to tow the sewer rodding machine. He  
24 provides his own truck and trailer to haul equipment to  
25 the site. He has a welder, drill press, boat, grinders

1 and other shop tools, fencing tools, freezer space. He's  
2 actually personally guaranteed the loans to the company.

3                   So that he provides unique skills to this  
4 water and sewer company, which is a bit unusual from just  
5 an entry-level operator.

6                   At the conclusion of the case, as a result  
7 of these skills, all these services he provides, we would  
8 respectfully ask the Commissioners to allow the increase  
9 as requested by the Public Service Commission.

10                   MR. MILLS: Your Honor, I didn't object  
11 while Mr. McCutcheon was going through that list of items,  
12 but I will note that most of the things that he talked  
13 about are not in evidence in this case.

14                   It doesn't appear that during the course of  
15 the hearing this morning they will be made evidence in  
16 this case, and once the transcript is prepared, I will be  
17 filing a written motion to strike all of the references to  
18 duties, jobs, tasks and that sort of thing that  
19 Mr. McCutcheon referenced in his opening statement that  
20 are not present in the evidence in this case.

21                   JUDGE REED: We'll take that up with your  
22 written motion, Mr. Mills.

23                   MR. MILLS: Thank you.

24                   JUDGE REED: Mr. Berlin, your opening  
25 statement?

1                   MR. BERLIN: Good morning, your Honor. May  
2 it please the Commission?

3                   I'm going to begin this opening comment  
4 with an apology to the Commission, an apology that this  
5 case, what started as a small company rate increase case,  
6 requires informal rate procedures, has progressed to the  
7 level of a formal rate case proceeding.

8                   We are here in this formal proceeding as a  
9 result of the Public Counsel exercising his right to  
10 challenge the rate increase. I would like to state that  
11 this proceeding started back in July of 2005, when  
12 Mr. Clifford submitted an informal request for rate  
13 increase to the Staff under the small company rate  
14 increase procedure.

15                   The story is that he had submitted a  
16 request for a total of \$4,500 for a rate increase. The  
17 Staff then conducted its audit and examined the books and  
18 records of the Hickory Hills Water & Sewer Corporation,  
19 and determined that there was a total revenue requirement  
20 of some \$10,389.

21                   Now, based upon the Commission rule  
22 governing a small company rate increase procedure, Hickory  
23 Hills would not be entitled to a rate increase more than  
24 what it requested. The small company rate increase  
25 procedure is geared toward having that owner or operator

1 submit to the Commission, to the Commission Staff that  
2 amount that it needs to operate its company.

3           Staff's revenue requirement of some \$10,389  
4 is easily twice what Mr. Clifford has requested. In the  
5 \$10,389 revenue requirement, the Staff built in some total  
6 profit number of \$348. If today the Staff, the company is  
7 successful in obtaining this \$4,500 rate increase,  
8 Mr. Clifford has no chance of making any profit on this  
9 company, based upon the total revenue requirement to  
10 operate this company of some \$10,389.

11           Mr. Clifford comes before this formal  
12 proceeding, and I believe it's very important that he be  
13 provided the opportunity to tell his story, because this  
14 is a story that the Commission has not heard before. I  
15 know that this Commission and this Staff, to include me,  
16 have spent a great deal of time litigating issues related  
17 to small water and sewer companies. They tend to take a  
18 lot of our time, and many of those come as a result of bad  
19 operators, operators who are in it for self enrichment,  
20 operators that will try to employ members of their family  
21 at generous salaries, operators that may tend to bring in  
22 assets not related to the business and cloak them under  
23 the operation of a regulated entity.

24           This is not the case that we have here  
25 today. You have heard Mr. McCutcheon provide a rather

1 detailed list of the duties and responsibilities and  
2 services that are provided by Mr. Clifford in his  
3 operation. Mr. Clifford falls on the other end of the  
4 spectrum of the typical water and sewer company that this  
5 Commission has spent so much of its time involved in  
6 litigation, many of those companies somewhat to the south  
7 of us today.

8                   As I mentioned, this is not one of those  
9 situations. The Staff has conducted an examination of the  
10 books and records and finds that Mr. Clifford is indeed a  
11 responsible owner and operator. That he is before this  
12 Commission today representing Hickory Hills Water & Sewer  
13 Company, which is a Missouri corporation, is bringing a  
14 certain amount of rate litigation expense.

15                   Last night I received a fax from  
16 Mr. McCutcheon indicating that the litigation of this rate  
17 case is fast approaching \$3,600 and may likely exceed that  
18 number. Now, how is that handled? Typically, the Staff  
19 would note that rate litigation expense, possibly amortize  
20 it over a three to a four-year period, and that is an  
21 expense attributable to the company, and that is an  
22 expense that would be borne by the ratepayer of Hickory  
23 Hills Water & Sewer Company.

24                   I remind you, we are here to support a rate  
25 increase request of \$4,500 on a total revenue requirement

1 of \$10,389. And in furtherance of that, the issues,  
2 Mr. Clifford's wage rate, the total number of hours  
3 worked, the total number of business miles, and finally  
4 the 9 percent against the wages that he draws from the  
5 company for an employment benefit are the central issues  
6 before us today.

7                   And I would ask that this Commission  
8 provide Mr. Clifford every opportunity with respect to all  
9 due process to tell his story, because the ratepayers will  
10 eventually foot the bill for this litigation expense in a  
11 case going forward, and Staff's position is that  
12 Mr. Clifford is entitled to this rate increase.

13                   His operating this utility requires funds  
14 to do so, and we have to ensure that he has the funds to  
15 operate safely and adequately and to provide the customers  
16 service that he has been providing to keep this small  
17 company going.

18                   And I would remind the Commission, too,  
19 that while Mr. Clifford serves only 49 customers and is  
20 the president of a Missouri corporation, what we call an  
21 owner/operator, that he is entitled to all of the  
22 protection and the full protection of the law as are the  
23 major industrial utilities that appear before this  
24 Commission regularly. Because of his -- the size of his  
25 company, that it is small, it is an old system, it does

1 possess rather unique operating concerns and challenges.

2                   And I hope that Mr. Clifford is permitted  
3 to tell his story today so that the Commission can best  
4 make its judgments. That concludes my comments.

5                   JUDGE REED: Thank you, Mr. Berlin.  
6 Mr. Mills, for Office of the Public Counsel?

7                   MR. MILLS: Thank you. May it please the  
8 Commission?

9                   This case is about the owner/operator of a  
10 very small water and sewer company trying to increase his  
11 take-home pay. This case doesn't have any rate base  
12 issues. It doesn't have any rate of return issues. There  
13 aren't any questions about capital improvements. There  
14 are no issues about service quality. It's just about how  
15 much ratepayers should compensate the operator for his  
16 hours in running the system.

17                   Public Counsel will -- Public Counsel  
18 believes that the evidence will show that in large part  
19 because of the huge rate increase just given to this  
20 company in its last rate case, that the owner/operator is  
21 already overcompensated under the current rates. Staff's  
22 proposed compensation would result in rates that are far  
23 above just and reasonable.

24                   The parties proposed and agreed to and the  
25 Commission approved a list of four issues to be decided in

1 this case, four and only four: What hourly wage, how many  
2 hours, how many miles, retirement payments or not. Those  
3 are the four. That's all we're talking about here today.

4           In terms of the hourly wage, Staff  
5 originally proposed a wage of 22.50 per hour and is now  
6 proposing \$19 per hour. Public Counsel proposes a wage of  
7 \$13 per hour based on two lines of reasoning. First, the  
8 tasks that Mr. Clifford performs are either simple and  
9 quick or else menial labor, like mowing grass and cutting  
10 brush. It is not reasonable to require captive ratepayers  
11 to pay someone \$19 an hour to mow grass or perform the  
12 simple operations required to run the system. Second,  
13 \$13 an hour is in line with what other people doing  
14 similar work in this area make.

15           How many hours should the ratepayers cover?  
16 Mr. Clifford at the local public hearing and in more  
17 detail during his deposition frankly and honestly  
18 described his practice of recording a minimum of an hour  
19 in his time log even if he actually worked a much shorter  
20 time. Public Counsel's calculation of revenue requirement  
21 only allows Mr. Clifford to charge ratepayers for the  
22 hours he actually works for them, and I think that's fair.

23           How many miles? Mr. Clifford lives in  
24 Tipton and has a full-time job in Jefferson City, a  
25 well-paying job with good benefits, and we'll get into

1 that some more during the course of the hearing. Because  
2 he commutes every day from Tipton to Jefferson City, he  
3 drives within a few blocks of the Hickory Hills system  
4 every work day. In Public Counsel's calculation of  
5 revenue requirement, we did not allow mileage on regular  
6 workdays when Mr. Clifford drives right by the system  
7 anyway. We did allow mileage weekends, holidays and  
8 special trips.

9                   The last issue is whether the ratepayers  
10 should cover Mr. Clifford's retirement account.  
11 Mr. Clifford as operator of this system spends just a few  
12 hours each week working on it. That amounts to a  
13 part-time and not very much time at that job. Kay  
14 Clifford spends even fewer hours. People working just a  
15 few hours a week at job should not have their retirement  
16 funded by captive ratepayers.

17                   Public Counsel's aware that this is a small  
18 company, and we tried to make this proceeding smooth. We  
19 consciously limited the issues that we took to hearing.  
20 We tried to settle the case, and this morning we agreed to  
21 closing arguments rather than briefs. But this is a case  
22 that the Commission needs to hear.

23                   Mr. Berlin apologized for the Commission  
24 having to hear it. I think no apology is necessary. The  
25 Staff investigates many small company rate cases in a

1 year, and Public Counsel agrees with the vast majority of  
2 them, but this one is different.

3                   Public Counsel thinks that Staff's analysis  
4 is out of line in the four specific areas in which we  
5 raised issues in this case. We could not agree to the  
6 concept of charging customers for an hour of work when  
7 only 15 minutes was performed. We could not agree to an  
8 exorbitant salary for simple and menial tasks. We could  
9 not agree to customers paying for miles that the operator  
10 would have driven anyway. And we could not agree for  
11 retirement benefits for a part-time job with very few  
12 hours.

13                   In his opening Mr. Berlin also referred to  
14 Mr. Clifford as not being a bad operator. We don't  
15 disagree with that, but we don't award exorbitant salaries  
16 or inflated hours because the operator is a good guy.  
17 These are captive ratepayers. They have no choice but to  
18 pay these rates, and the Commission should not award  
19 salaries that these customers wind up paying based on  
20 whether the operator is a good or a bad operator. They  
21 should award a salary based on what the job entails and  
22 the number of hours it entails.

23                   Finally, Mr. Berlin talked about profit. I  
24 just note that profit is not an issue in this case.  
25 Salary is. There is no issue relating to return on plant,

1 which is what profit is. The only issue that has to do  
2 with compensation is salary and retirement.

3 Thank you, and that concludes my remarks.

4 JUDGE REED: Thank you, Mr. Mills. Okay.

5 The first witness today is -- Mr. McCutcheon, you'll  
6 have -- I assume you'll present Mr. Clifford.

7 MR. McCUTCHEON: Yes, your Honor. We'd  
8 call Randy Clifford. Please come forward and be sworn.

9 (Witness sworn.)

10 JUDGE REED: Thank you. Have a seat,  
11 please.

12 RANDY CLIFFORD testified as follows:

13 DIRECT EXAMINATION BY MR. McCUTCHEON:

14 Q. Are you Randy Clifford?

15 A. Yes.

16 Q. What's your business address?

17 A. P.O. Box 297, Tipton, Missouri 65081.

18 Q. And do you hold a position with Hickory  
19 Hills Water & Sewer Company, Inc.?

20 A. I am the president of the corporation.

21 Q. And how long have you been in that  
22 position?

23 A. Approximately 16 years.

24 Q. And did you prepare your direct testimony?

25 A. Yes, I did.

1 Q. And is that shown in Exhibit No. 1?

2 A. Yes.

3 Q. And in regard to your direct testimony, are  
4 there certain things you'd like to explain to the  
5 Commission this morning with respect to your duties and  
6 responsibilities as operator of the water and sewer  
7 system? I need a response, Mr. Clifford.

8 A. Yes.

9 Q. And then what are your duties and  
10 responsibilities as the operator with the water and sewer  
11 system at Hickory Hills?

12 A. As the operator of Hickory Hills Water &  
13 Sewer Company, I have a large number of responsibilities,  
14 responsibilities that I feel go far beyond that of an  
15 entry-level operator. I -- appearing here today is an  
16 example of something I wouldn't consider the  
17 responsibility of an entry-level operator.

18 MR. MILLS: Your Honor, if I may interrupt,  
19 I have an objection to this line of questioning. There  
20 has been prefiled direct testimony in this case. The  
21 purpose of introducing the witness this morning is to  
22 simply find out whether he adopts that prefiled direct  
23 testimony. It's not to give him an opportunity to bolster  
24 that prefiled direct testimony.

25 And I think going beyond saying, is this

1 your testimony, are you the guy, do you adopt your  
2 testimony is out of bounds from the Commission's  
3 procedural order in this case. So I object to this line  
4 of questioning.

5 JUDGE REED: Mr. McCutcheon?

6 MR. McCUTCHEON: Yes, your Honor. In  
7 response, I think that in the interest of fairness in this  
8 case, that Mr. Clifford be able to at least explain the  
9 water system, the details of what he does there for the  
10 Commission to understand exactly what he does in that  
11 position.

12 And since there's not any -- at least at  
13 this point in time there's not going to be any rebuttal  
14 testimony -- or surrebuttal testimony allowed, this is my  
15 only opportunity to present to you and the Commissioners  
16 all of the things that he does as the owner/operator of  
17 Hickory Hills Water & Sewer Company.

18 And so in the interest of fairness and  
19 justice in explaining all that he does, we'd ask that he  
20 be allowed to testify as to his duties and  
21 responsibilities for the water and sewer company.

22 MR. MILLS: Your Honor, if I may, I must  
23 disagree. His only opportunity was direct testimony,  
24 which is when this should have been done, not this  
25 morning.

1                   JUDGE REED: Mr. Berlin, do you have  
2 something to add?

3                   MR. BERLIN: Yes, your Honor. I think that  
4 in the interest of fairness, I think Mr. McCutcheon raises  
5 a good point. This was, as I mentioned in my opening  
6 remarks, started as an informal rate case under the small  
7 company rate increase procedure. Mr. Clifford is not a  
8 professional witness. He has not appeared before this  
9 Commission before in a hearing context. He has not been  
10 involved before in a procedural schedule.

11                   I think that Mr. McCutcheon's questions as  
12 to the duties of an owner/operator of Hickory Hills  
13 Water & Sewer Company are relevant.

14                   MR. MILLS: I don't disagree that they're  
15 relevant. I don't think that the fact that Mr. Clifford  
16 has not testified before is relevant. I think the fact  
17 that the Commission adopted a procedural schedule, which  
18 Public Counsel has adhered to and has since been having to  
19 fight the other parties trying to get additional testimony  
20 and evidence in the case.

21                   JUDGE REED: Mr. McCutcheon, Mr. -- you and  
22 Mr. Clifford had the opportunity to present this kind of  
23 information in the prefiled direct testimony that you  
24 filed with the Commission. I think that Mr. Mills'  
25 objection is well taken. I'm not going to let you bolster

1 the prefiled direct testimony. You will have an  
2 opportunity to redirect later in the case. So the  
3 objection --

4 MR. McCUTCHEON: I guess then my question,  
5 your Honor, is, are you not going to allow me to ask any  
6 more questions of this witness or go on a question by  
7 question basis? I understand from your ruling on this. I  
8 just want to make sure that I understand if I can go ahead  
9 and ask him some other questions.

10 JUDGE REED: Well, if there are changes in  
11 the prefiled direct testimony that need to be addressed,  
12 and I think, you know, at some point Mr. Clifford needs to  
13 adopt that testimony and you need to offer it into  
14 admission, but beyond that, I'm not going to allow you to  
15 bolster the direct testimony that was filed. So the  
16 objection by Mr. Mills is sustained.

17 BY MR. McCUTCHEON:

18 Q. For the Commission, can you just describe  
19 the water and sewer facility, its location, what it looks  
20 like?

21 MR. MILLS: Same objection.

22 JUDGE REED: The objection is sustained.

23 Mr. McCutcheon, you'll have to move on, please.

24 BY MR. McCUTCHEON:

25 Q. Mr. Clifford, do you have any changes in

1 regard to your direct testimony?

2 A. No, I don't.

3 Q. Have you incurred any attorney fees and  
4 expenses in this rate case?

5 A. Yes. We have an estimate of fees to be  
6 over --

7 MR. MILLS: I'm going to object to this  
8 question as going beyond the list of issues that the  
9 parties agreed to in this case. There is no issue with  
10 regard to rate case expense.

11 JUDGE REED: Mr. McCutcheon?

12 MR. McCUTCHEON: Yes. It's my  
13 understanding as far as on rate case that would be  
14 includable allowance in Mr. Clifford's -- in his Hickory  
15 Hills Water & Sewer Company in asking the Commission for  
16 that. So it should be an includable expense in this  
17 matter, which you don't know what it is until you arrive  
18 here today.

19 MR. MILLS: No parties addressed rate case  
20 expense in their testimony. The parties did not list rate  
21 case expense as an issue for the Commission to decide in  
22 this case.

23 JUDGE REED: Mr. McCutcheon, I'm going to  
24 have to sustain the objection that Mr. Mills has made. In  
25 terms of the issues that will be presented at this hearing

1 today, the issue of attorney's fees is not one of them.  
2 What I propose, and I think I saw an exhibit with regard  
3 to the attorney's fees that's in the list of exhibits, you  
4 may need to file a motion later in the case after the --  
5 after the evidentiary hearing is over with and cite some  
6 statutory authority for which the Commission could  
7 consider that issue, the issue of attorney's fees. But  
8 for today, that's not an issue that we're litigating. The  
9 objection is sustained.

10 THE WITNESS: Your Honor, I recalled that I  
11 did find one typographical error in my direct testimony.  
12 Could I address that?

13 BY MR. McCUTCHEON:

14 Q. Can you tell what typographical error you  
15 found in your direct testimony?

16 A. In the original application for rate  
17 increase, the company asked for a rate surcharge, debt  
18 reduction surcharge for a period of 24 months. In my  
19 direct testimony it was listed as 14 months.

20 MR. MILLS: Was that at page 3, line 22?

21 THE WITNESS: I don't have that in front of  
22 me.

23 BY MR. McCUTCHEON:

24 Q. Exhibit No. 1, if you want to look at that.

25 A. Yes, page 3, line 22. That is the only

1 correction I have to make.

2 Q. Then is Exhibit 1 your prepared direct  
3 testimony in this case?

4 A. Yes, it is.

5 Q. I'm going to hand you what's been marked  
6 Exhibit No. 2. Can you identify that?

7 A. Exhibit No. 2 is the statement for the  
8 company attorney, Mr. McCutcheon, for a total of \$3,625.

9 MR. McCUTCHEON: At this time, your Honor,  
10 I'd introduce into evidence the Exhibit No. 1, the direct  
11 testimony of Randy L. Clifford, and Exhibit No. 2.

12 JUDGE REED: Mr. Mills, any objection?

13 MR. MILLS: I have no objection to Exhibit  
14 No. 1. I object to Exhibit No. 2 on the same basis that I  
15 object to questions about rate case expense. The only  
16 relevance of the billing statement that is Exhibit 2 has  
17 to do with rate case expense, and it has nothing to do  
18 with any of the four issues identified for litigation this  
19 morning. So I object to it on the grounds of relevance.

20 JUDGE REED: Mr. McCutcheon, do you have a  
21 response?

22 MR. McCUTCHEON: I don't have any further  
23 response.

24 JUDGE REED: Okay. Exhibit 1 will be  
25 admitted into evidence.

1 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

2 JUDGE REED: Exhibit 2 I'm going to reject.  
3 Its admission is denied. Again, what I suggest is that --  
4 and the other parties can comment on this if they'd  
5 like -- is that an offer of proof be made with regard to  
6 that with a written motion after this evidentiary hearing  
7 is concluded. It's been marked. It's been identified.  
8 It has not been allowed into evidence. But it could be  
9 taken up in written form at a later time.

10 MR. MILLS: That's certainly satisfactory.  
11 Thank you.

12 JUDGE REED: All right. Mr. McCutcheon, go  
13 ahead.

14 MR. McCUTCHEON: I have no further  
15 questions at this time.

16 JUDGE REED: Cross by Staff of the  
17 Commission?

18 CROSS-EXAMINATION BY MR. BERLIN:

19 Q. Good morning, Mr. Clifford.

20 A. Good morning.

21 Q. Mr. Clifford, do you have before you a copy  
22 of your direct testimony?

23 A. No, I don't.

24 Q. Perhaps Mr. McCutcheon could get you a copy  
25 of it. Mr. Clifford, do you have page 1 open?

1           A.       Yes.

2           Q.       Mr. Clifford, on line 10 of page 1, you  
3 indicate that you are the owner/operator of Hickory Hills  
4 Water & Sewer Company. Can you tell me and clarify for me  
5 what an owner and operator is?

6           A.       In my situation, my wife and I own the  
7 stock in the company. I am president of the corporation.  
8 The company is incorporated, registered with the State of  
9 Missouri. I review and manage the company, review reports  
10 and what have you.

11                   As an operator, I perform all duties of the  
12 company of maintaining the system, making repairs and what  
13 have you. I review --

14                   MR. MILLS: Your Honor, I'm going to object  
15 to this. I think we're getting into the same -- just  
16 because the Staff is asking the questions as opposed to  
17 the company, the Staff and the company are very closely  
18 aligned in this case, and to allow the Staff to have  
19 Mr. Clifford bolster his direct testimony under the guise  
20 of cross-examination would be improper.

21                   MR. BERLIN: Your Honor, Mr. Mills doesn't  
22 state any valid objection there. This idea of bolstering  
23 testimony, I am merely seeking clarification of  
24 Mr. Clifford's direct testimony in which he states that he  
25 is the owner and operator of a company, and I believe that

1 my questions as to what an owner and operator is is  
2 probative and relevant to the issues that are being  
3 litigated in this case.

4 JUDGE REED: I'm going to allow the  
5 question and the answer right now, so the objection is  
6 overruled, but how far we go with this, we'll see.

7 BY MR. BERLIN:

8 Q. Mr. Clifford, I had asked you the question  
9 as to clarifying what an owner and operator is. You  
10 indicated to me that you are the president of a  
11 corporation and that you review reports. You indicated  
12 that there are reports related to this business. What  
13 reports are those?

14 A. The annual report to the Public Service  
15 Commission, monthly sewer discharge reports, water  
16 testing -- monthly bacteria water testing reports, yearly  
17 consumer confidence report, a variety of other reports  
18 from water tests such as lead content, radon gas,  
19 nitrates, inorganic chemicals, organic chemicals such as  
20 that that are required by the DNR periodically, tax  
21 reports to the IRS, company financial statements.

22 Q. Mr. Clifford, you indicated in your  
23 response that you maintain and make repairs. Now, you --  
24 you also indicate further down in your direct testimony  
25 that you have acquired certain skills in certain education

1 areas. In the area of the personal computer program  
2 software, what -- how does that apply to your company?

3 MR. MILLS: I'm going to object again.  
4 Your Honor, the reason the Commission traditionally  
5 doesn't allow friendly cross is because it allows parties  
6 that are closely aligned to bolster direct testimony at  
7 the -- during the course of the hearing that should have  
8 been offered previously.

9 If I were to, for example, have another  
10 customer group in this case, I could simply have them ask  
11 my witnesses all kinds of leading softball questions to  
12 allow my witnesses to add more to their direct testimony.  
13 As it turns out, I don't have any allies in this case, and  
14 so I can't do that, but it's not fair to the other parties  
15 to allow closely allied parties who are advancing the  
16 exact same positions on the issues to ask these softball  
17 questions to allow the witnesses to bolster direct  
18 testimony.

19 The purpose of cross-examination is to find  
20 out from adverse parties flaws in their case. It's not to  
21 allow allied parties to lob each other softballs.

22 JUDGE REED: Mr. Berlin, my question is,  
23 what's your point? It's in the direct testimony, and  
24 you're seeking to clarify it; is that correct?

25 MR. BERLIN: I think it's relevant, your

1 Honor, because Mr. Clifford possesses a unique set of  
2 skills, well beyond that of any kind of wastewater water  
3 treatment operator, and I believe that he's communicated  
4 that in his direct testimony, and I believe, based on what  
5 he has said in his previous answer, that -- and this  
6 direct testimony, that he is bringing to bear many  
7 different skills, skill sets and background of experience  
8 in the operation of this company.

9                   And I do have questions to ask relative to  
10 what he has put in his direct testimony, and I think that  
11 in the interest of fairness, that Mr. Clifford should have  
12 the opportunity to explain, based upon my questions of  
13 what he has put in his direct testimony, to explain to the  
14 Commission what it is he offers or has provided to this  
15 company to the -- that enures to the benefit of the  
16 ratepayers of Hickory Hills Water & Sewer Company.

17                   JUDGE REED: That should be in the direct  
18 testimony, Mr. Berlin. So in order to cross-examine to  
19 allow explanation, without really cross-examining is going  
20 too far. So the objection by Mr. Mills is sustained. If  
21 you have cross-examination questions, real clarification,  
22 you can go in that direction.

23 BY MR. BERLIN:

24                   Q. Mr. Clifford, go to page 2, please.  
25 Mr. Clifford, on line 3 through line 6, you indicate that

1 you have engine repair, electrical wiring, welding, small  
2 engine repair, industrial arts skills. You indicate that  
3 you have information from those classes. You indicate you  
4 have information from your past work experience. And  
5 earlier you may recall in my question as to what an  
6 owner/operator is, you indicated that you make repairs to  
7 the water and sewer system. What repairs do you make to  
8 this system?

9 MR. MILLS: Same objection. If there are  
10 issues having to do with what Mr. Clifford does with the  
11 system, it should have been in his direct testimony. Any  
12 question from the Staff, who is taking the same position  
13 as the company, is objectionable on the same basis that it  
14 would be from the company itself.

15 This is simply allowing the witness an  
16 opportunity to bolster his direct testimony. These are  
17 the exact kind of things that should have been asked and  
18 answered in direct testimony, and they should not be  
19 coming out on cross-examination.

20 MR. BERLIN: May I respond, your Honor?

21 JUDGE REED: Please.

22 MR. BERLIN: Your Honor, as I indicated  
23 earlier, what we have before us is a small company rate  
24 increase in which it starts out as an informal, and the  
25 spirit of the Commission rule is that this is an informal

1 rate increase procedure. This is not a full-blown major  
2 industrial investor-owned company rate procedure.

3 I believe that Mr. Clifford, who is not a  
4 professional witness, who has not hired the regulatory law  
5 firms down the street that appear here regularly,  
6 Mr. Clifford has not appeared before the Commission in any  
7 context before this. He is not a professional witness,  
8 and so as such, in the interest of fairness to  
9 Mr. Clifford and the Hickory Hills Water & Sewer Company,  
10 and the need to explain what he says in his direct  
11 testimony, I believe that there is a clear fairness issue  
12 involved here and that he should be allowed the  
13 opportunity to tell this Commission those repairs that he  
14 makes to the water and sewer systems.

15 I think it's relevant to the issues. It's  
16 certainly relevant to the wage rate and the number of  
17 hours worked, and I believe this Commission should know  
18 that information.

19 MR. MILLS: May I respond?

20 JUDGE REED: Go ahead.

21 MR. MILLS: In the interest of fairness to  
22 the customers, it does not matter how many times  
23 Mr. Clifford has testified. It doesn't matter whether  
24 Mr. Clifford hired this law firm or that law firm. This  
25 is improper direct testimony and it should not be allowed.

1 JUDGE REED: I'll tell you what we're going  
2 to do.

3 MR. BERLIN: May I just have one more  
4 response?

5 JUDGE REED: Mr. Berlin, go ahead.

6 MR. BERLIN: In going through past rate  
7 cases, prohibition to what Mr. Mills refers to as friendly  
8 cross-examination has always been set forth in a  
9 Commission order. There is no Commission order in this  
10 case regarding friendly cross-examination as termed by  
11 Mr. Mills.

12 JUDGE REED: All right. Gentlemen --  
13 ladies and gentlemen, we're going to take a break for  
14 about five minutes. So we're going to go off the record.  
15 I'm going to stop the screening. I'd like to see counsel  
16 for a minute before you leave this room. All right.  
17 Thanks.

18 (A BREAK WAS TAKEN.)

19 JUDGE REED: Mr. Berlin, you were at the  
20 podium.

21 BY MR. BERLIN:

22 Q. Mr. Clifford, before -- you may recall,  
23 before our recess I had a line of questions regarding your  
24 direct testimony on page 2 around lines 3 through 6, and I  
25 believe that my last question had to do with your direct

1 testimony as to your making repairs of the water and sewer  
2 systems.

3                   To that end I'm going to ask you, the  
4 repairs that you make to the water and sewer system, do I  
5 understand that a repair would be to use an auger tool to  
6 clean out the sewer system?

7           A.       That would be considered repair, routine  
8 maintenance.

9           Q.       Do I understand that a repair might be to  
10 rebuild or dismantle, rebuild a pump?

11           MR. MILLS: Your Honor, I'm going to object  
12 here. I think we're --

13           JUDGE REED: Mr. Mills, give me a legal  
14 basis for your objection.

15           MR. MILLS: My objection is that this is  
16 cumulative, redundant and supplemental direct testimony in  
17 contravention of the established procedural schedule in  
18 this case.

19           JUDGE REED: It's overruled as to this  
20 question. Go ahead, Mr. Berlin.

21           MR. BERLIN: Could I ask the court reporter  
22 to repeat the last question?

23           THE REPORTER: "Question: Do I understand  
24 that a repair might be to rebuild or dismantle, rebuild a  
25 pump?"

1                   THE WITNESS: To rebuild the chemical pump  
2 would be in the normal duties of the operator, yes.

3 BY MR. BERLIN:

4                   Q.       Is a repair that you make, would that  
5 include taking out or repairing the circuit breakers?

6                   MR. MILLS: Same objection.

7                   JUDGE REED: Overruled. It's a yes or no  
8 question.

9                   THE WITNESS: Yes.

10                  MR. MILLS: If I may, just so I don't  
11 burden the record, if Mr. Berlin goes through a list of,  
12 say, a dozen or more repairs and says, is this a repair  
13 you might do, can I have this lodged as a continuing  
14 objection?

15                  JUDGE REED: Mr. Berlin, do you accept  
16 that?

17                  MR. MILLS: I'd be happy to object to each  
18 one, but if it's going to get objected to and overruled,  
19 it seems unnecessary.

20                  MR. BERLIN: If Mr. Mills feels so  
21 compelled to make that as a continuing objection, I will  
22 state this: That the repairs that Mr. Clifford does to  
23 this system --

24                  JUDGE REED: It's a yes or no question. Do  
25 you accept the continuing objection to the line of

1 questions?

2 MR. BERLIN: For the purposes of  
3 efficiency, yes.

4 JUDGE REED: Thank you, Mr. Berlin.  
5 Continue.

6 BY MR. BERLIN:

7 Q. All right. Mr. Clifford, in your direct  
8 testimony again, you talk about making repairs to the  
9 water and the sewer system, and my line of questions are  
10 intended to understand what those specific repairs are  
11 that you as a water and sewer operator are doing to the  
12 system.

13 Do you conduct welding operations to repair  
14 equipment in this company?

15 A. Yes.

16 Q. Do you conduct metal fabrication to repair  
17 items related to the company?

18 A. Yes.

19 Q. Do you conduct masonry work to repair items  
20 such as manholes or manhole covers with regard to your  
21 company?

22 A. Yes.

23 Q. Do you conduct computer-aided design  
24 drafting to map the lines of your company?

25 A. Yes.

1 Q. And do you conduct other electrical repair  
2 such as the wiring of telephones and alarm systems?

3 A. Yes.

4 Q. Mr. Clifford, what is your level of  
5 classification with respect to the operation of this  
6 system?

7 A. I hold a DS3 water systems operator  
8 certificate.

9 Q. And is that what the Department of Natural  
10 Resources requires you to hold?

11 A. The Department of Natural Resources  
12 requires this company to have an operator with a DS1  
13 classification.

14 Q. Based on your responses to my last line of  
15 questions as to the extent and to the type of the repairs  
16 that you conduct on this water and sewer system, is it  
17 required of a DS1 to make those kind of repairs?

18 A. I do not believe so, no.

19 MR. BERLIN: I have no further questions,  
20 your Honor.

21 JUDGE REED: Thank you, Mr. Berlin. Office  
22 of the Public Counsel, cross-examination.

23 MR. MILLS: Thank you.

24 CROSS-EXAMINATION BY MR. MILLS:

25 Q. Good morning, Mr. Clifford.

1 A. Good morning.

2 Q. Let me start with a very general  
3 description of your system and you tell me if that's  
4 accurate from a high-level description. You have a single  
5 well and a single pump?

6 A. Would you distinguish between our system  
7 and high-level system, what you mean there?

8 Q. I'm sorry. A high-level view of your  
9 system, just a broad picture look, not a detailed look.

10 A. Okay.

11 Q. You have a single well which has a single  
12 well pump; is that correct?

13 A. Yes.

14 Q. You take water from that well, you add  
15 chlorine to it?

16 A. Yes.

17 Q. Then you distribute that under pressure to  
18 customers' houses?

19 A. Yes.

20 Q. Is that essentially the start to finish the  
21 path the water takes?

22 A. Yes.

23 Q. Now, in your direct testimony at pages 2 to  
24 3, you talk about some costs that you've incurred. Are  
25 you familiar with the list of issues in this case?

1 A. Yes.

2 Q. You understand that Public Counsel isn't  
3 contesting any of the costs that you talk about there; is  
4 that correct?

5 A. Yes.

6 Q. Okay. Now, you do chlorine testing  
7 regularly; is that correct?

8 A. Yes.

9 Q. On your daily chlorine testing, how often  
10 do you mess that up and have to start over?

11 A. During the test year, several times.

12 Q. Several being two, three, five?

13 A. Oh, probably 30 to 40.

14 Q. How do you know when you've done the test  
15 badly and you have to start over?

16 A. When the total chlorine number is less than  
17 the free chlorine level.

18 Q. And then it's simply a matter of starting  
19 from scratch and redoing the test?

20 A. Yes.

21 Q. Now, the test, essentially you put a vial  
22 of water into a device and the device reads out a number?

23 A. I put a vial of water into the device,  
24 press a button to zero the device out, remove the vial,  
25 add a reagent to the water, stir or shake, depending on

1 which tester I'm using. Then I have a -- there's a  
2 predetermined amount of time that the reaction takes. I  
3 put the vial back in the tester, press a button and read  
4 the results off.

5 JUDGE REED: Mr. Mills, before you  
6 continue, let me interrupt. Mr. Clifford, is the  
7 microphone on? Is the green light on there?

8 THE WITNESS: I don't see a green light.

9 JUDGE REED: Could you get a little closer  
10 to the microphone so we can hear you? Thank you.

11 BY MR. MILLS:

12 Q. Mr. Clifford, when did you acquire the  
13 Hickory Hills water and sewer system?

14 A. Approximately 1990.

15 Q. And as we talked about in your deposition,  
16 you never had a Commission case that approved that  
17 acquisition; is that correct?

18 A. Not that I recall.

19 Q. You would recall something like that,  
20 wouldn't you?

21 A. Well, I would think, yes.

22 Q. Now, in terms of the maps that you've  
23 created of your system that show the shutoff valves, have  
24 you twice been cited by DNR for having inadequate mapping  
25 of your system?

1           A.       The inspection in December 24th of 2003 was  
2 the first formal inspection that I can recall when the  
3 inspector asked to see those maps. They didn't indicate  
4 that they would be asking for that information, and we met  
5 at the well house and the maps were stored at the office  
6 in Tipton. So they weren't available, and they wrote it  
7 up as they were not available. We did have some maps  
8 available.

9           Q.       And in June 2005, did the DNR not again  
10 mention that the maps were not sufficient?

11          A.       They -- the reason that was in was because  
12 there are valves that --

13          Q.       Mr. Clifford, that's a yes or no question.  
14 Did they mention that the maps were insufficient?

15          A.       It was mentioned in the audit, yes.

16          Q.       Now, when we took a -- when I just went  
17 through the high-level look at your system, one of the  
18 tasks that you do is add chlorine to the water from your  
19 well pump; is that correct?

20          A.       I think maybe that question should be  
21 rephrased to be accurate.

22          Q.       Okay. Well, let's just strike the question  
23 and I'll move on from here.

24                    To get chlorine into the water that's  
25 distributed to customers' houses, do you mix plain old

1 household bleach with water in a Rubbermaid trash can?

2 A. Yes.

3 Q. And that's how chlorine is added to your  
4 system, household bleach with water in a trash can?

5 A. The solution is stored in a storage vessel,  
6 which in our case happens to be a trash can. There's a  
7 chemical feed pump, which is positive displacement pump,  
8 which runs concurrent with the well pump to meter the  
9 chlorine into the system.

10 Q. We talked about this in -- at the local  
11 public hearing as well as your deposition. Is it your  
12 practice when you do your time logs to record a minimum of  
13 an hour regardless of whether you have spent 15 minutes,  
14 20 minutes or an hour?

15 A. Yes, it is.

16 Q. And is it your practice on your mileage  
17 logs to record miles on days in which you are driving from  
18 Tipton to Jefferson City for your regular full-time job?

19 A. Yes.

20 Q. Now, in terms of what you should be -- what  
21 you should earn as the owner/operator of the system, do  
22 you distinguish between the amount you ought to be getting  
23 back as a return on your investment as opposed to the  
24 amount you should be getting back as a salary?

25 A. Yes.

1 Q. And what do you believe that your return on  
2 investment should be?

3 A. As I stated in the public hearing, that we  
4 made a \$25,000 investment, and we should have some return  
5 on that investment.

6 Q. What do you mean by some return?

7 A. I think the return on that investment  
8 should be comparable to return on other investments that I  
9 have.

10 Q. Regardless of how much is actually in rate  
11 base?

12 A. Yes.

13 Q. Now, in terms of your expenses, under the  
14 current rates, if you didn't pay yourself as much as you  
15 think you should get, you would still be able to pay all  
16 the other operating expenses of the company; is that not  
17 correct?

18 MR. McCUTCHEON: I'm going to object as to  
19 the form of the question. This is a compound question. I  
20 think it's got two questions in it, and so I think the  
21 form of the question is improper.

22 JUDGE REED: Did you understand the  
23 question, Mr. Clifford?

24 THE WITNESS: Not exactly.

25 JUDGE REED: Rephrase, please, Mr. Mills.

1 BY MR. MILLS:

2 Q. Okay. Take this as a hypothetical. Assume  
3 that your current rates stay the same and you're not  
4 awarded a rate increase in this case. Under those rates,  
5 are you currently able to pay all other operating expenses  
6 except for a sufficient salary for yourself?

7 MR. McCUTCHEON: I'm going to object just  
8 as to form of the question, assuming facts not in  
9 evidence.

10 JUDGE REED: All right. Overruled.

11 BY MR. MILLS:

12 Q. You can answer the question. The objection  
13 was overruled.

14 A. Are you asking -- the rates are not  
15 sufficient to compensate an operator, to maintain the  
16 system and pay all bills.

17 Q. That wasn't the question I asked. The  
18 question I asked is, if you discount the amount paid to  
19 the operator as insufficient or not sufficient, do your  
20 current rates cover all your other operating expenses?

21 A. The rates will cover electricity, chemicals  
22 such as that.

23 Q. Is there anything they don't cover?

24 A. The current rates may not be enough to  
25 cover the liability insurance and certainly will not be

1 enough to cover the cost of this rate case.

2 Q. Okay. That's a different answer than what  
3 you gave in your deposition. Are you aware of that?

4 A. Yes.

5 Q. In your deposition you testified  
6 unequivocally that, yes, the current rates are enough to  
7 pay all other operating expenses of the company?

8 MR. McCUTCHEON: Again, I'm going to object  
9 to the form of the question, which I understand  
10 depositions -- form of the question is compound question  
11 and therefore improper.

12 JUDGE REED: Overruled.

13 THE WITNESS: At the deposition, I did not  
14 have the information of what this rate case would cost to  
15 process.

16 MR. MILLS: Well, I'm going to object to  
17 the response referring to the rate case expense as being  
18 not relevant to the issue in this case and ask that it be  
19 stricken.

20 JUDGE REED: I'm not going to strike,  
21 Mr. Mills.

22 MR. MILLS: I have nothing further for this  
23 witness.

24 JUDGE REED: Thank you. We now go to  
25 questions from the Bench. Commissioner Clayton?

1 COMMISSIONER CLAYTON: No questions.

2 JUDGE REED: No questions. All right.

3 Thank you. Mr. McCutcheon, you now have an opportunity to  
4 redirect --

5 MR. McCUTCHEON: Thank you, your Honor.

6 JUDGE REED: -- based upon those questions  
7 brought out on cross-examine.

8 MR. McCUTCHEON: I'll do my best, your  
9 Honor, to limit to that.

10 REDIRECT EXAMINATION BY MR. McCUTCHEON:

11 Q. Mr. Clifford, you were asked as far as to  
12 give a general description of the system. I'm going to  
13 ask, can you just give a general description of the water  
14 system for the Commissioner and the Judge?

15 A. The water system was installed sometime  
16 prior to the company being certificated. I know the homes  
17 were there when I was in high school. I graduated from  
18 high school in 1974, and there had to be a water system  
19 this serving the residents then. So as to the age of the  
20 water system, the mains and meter settings and what have  
21 you are that old.

22 The well is situated in a very poor  
23 location between two homes, away from the street with no  
24 road for access to the well house. Power lines were  
25 constructed over the top of the well so that it makes it

1 difficult to get service equipment in place to service the  
2 well pump and difficult to get equipment back and forth to  
3 the well house as needed.

4                   The mains are all plastic pipe, which is,  
5 as I understand it, a benefit to the company. We have a  
6 relatively low amount of water main break and service  
7 related issues there. The well does have hydrogen sulfite  
8 in the water, which is why as I understand it the chlorine  
9 was added initially was to control taste and odor issues,  
10 and the Department of Natural Resources has now ruled that  
11 because we do add chlorine for that purpose, the chlorine  
12 level must be monitored daily.

13                   In previous rate case, that chlorine wasn't  
14 being monitored daily, and in this case it is, and it's  
15 the main reason for the request of an increase on the  
16 water side.

17           Q.       How many wells are there in the water  
18 system?

19           A.       There's one well.

20           Q.       And how does it service the customers'  
21 houses? Where does the water go from the well?

22           A.       From the well, it goes through a series of  
23 hydrogeomatic water storage tanks. There's nine tanks,  
24 approximately 100 gallons each. From the tanks through  
25 the pipe, pipe goes through the floor into the round and

1 is routed around along the streets and between the homes  
2 in the subdivisions to deliver the water to the customers.

3 Q. Is there any building that houses the water  
4 system?

5 A. I didn't understand your question.

6 Q. Is there any building that houses the water  
7 system?

8 A. There is a small wood frame structure which  
9 houses the pressure tanks and covers the well head.

10 Q. How big is that building?

11 A. Approximately 12x20 feet.

12 Q. Is there any office in that building?

13 A. No.

14 Q. As far as on the sewer system, can you kind  
15 of give a general description of that?

16 A. The sewer system is a single cell lagoon  
17 which was constructed in a creek bottom area with the one  
18 berm of the lagoon directly next to the creek channel  
19 itself. The lagoon system has very little property  
20 surrounding the lagoon system, and the owners --  
21 neighboring owners have a good bit of brush and what have  
22 you on their properties which restricts the amount of air  
23 flow across the lagoon, which affects the way it operates.

24 The majority of the sewer mains are  
25 vitreous clay pipe. The manholes are the concrete block

1 construction design with mortar joints. There is a short  
2 section of PVC sewer main to some of the newer homes in  
3 the area.

4 Q. Is there any building that houses the sewer  
5 component of the system?

6 A. No.

7 Q. You were asked in regards to chlorine  
8 testing. Is that for the water system?

9 A. Yes, for the water system.

10 Q. How do you perform that chlorine testing?

11 A. I use a 32-ounce cold drink cup. I use it  
12 to -- I draw two or three cups full of water from the test  
13 sample tap in the well house to flush the line, flush the  
14 cup. From that cup then I fill two 10-milliliter test  
15 sample vials. I put a vial in the electronic tester to  
16 zero the tester out. Remove the vial, add a reagent which  
17 colors the water. After set amount of test time, I put  
18 the first vial into the tester and read the test level.

19 I add a reagent to the second vial, a  
20 different reagent for total chlorine. I wait a  
21 predetermined amount of time for that test to incubate,  
22 place it in the tester and push a button and read the  
23 result. Log those results on a paper that I maintain in  
24 the well house monthly.

25 Q. How often do you do the chlorine test on

1 the water?

2 A. I do that on a daily basis.

3 Q. Are you able to perform that test every  
4 day?

5 A. If I'm not there for a day, I contract that  
6 service to be done by a local contractor.

7 Q. Are there some days you've not been there  
8 to do that?

9 A. I've been there every day or had a  
10 contractor be there every day since the requirement was  
11 initiated.

12 Q. When was that requirement?

13 A. We started the chlorine testing in early  
14 January of '04, shortly after the inspection of  
15 December 24, 2003.

16 Q. When you're not able to do the chlorine  
17 testing, who does the chlorine testing?

18 A. Aqua Resources of Jefferson City, Missouri.

19 Q. What do they charge for performing the  
20 testing?

21 A. The last invoice we received for services  
22 in late September, early October of '05 for weekday tests  
23 was \$39.50, for the weekend test rate was I believe  
24 60-some dollars. The weekend test rate was \$118.50 for  
25 two days, \$59.25.

1           Q.       Do you have to perform the test on the  
2 weekend, holidays, all those dates?

3           A.       Yes.

4           Q.       You were asked as far as some maps for the  
5 sewer and water system. Were there any maps when you took  
6 over?

7           A.       We were furnished with plat maps of the  
8 system of paper size, 8 1/2 x 11, with water and sewer  
9 lines hand drawn, and in some cases those lines were not  
10 located accurately.

11          Q.       Have you done to correct those maps or make  
12 some better maps for the system?

13          A.       I have used AutoCAD software, registered  
14 trademark AutoCAD software on my personal computer to  
15 redraw the maps using measurements that we have taken  
16 during service work to accurately locate the water and  
17 sewer mains.

18          Q.       Where do you keep the maps?

19          A.       The maps are -- the maps are electronically  
20 stored on my computer and on two flash disks, which the  
21 company alternates on a monthly basis to store records,  
22 one onsite, one offsite.

23          Q.       Where is the computer that these maps are  
24 in?

25          A.       In my home office.

1           Q.       Is there any computer or office at the well  
2 building?

3           A.       No.

4           Q.       I think you were asked at some point in  
5 time, 2005, the maps were not sufficient. Can you tell  
6 the Commissioners and the Judge why the maps were not  
7 sufficient in 2005?

8           A.       The original maps have valves marked on  
9 them that we have not located. We cannot locate any riser  
10 from those valves to which you would actuate the valve.  
11 So I believe the inspection reply says that we will  
12 continue to update the maps as those valves are found.

13          Q.       And have you attempted to locate those  
14 valves on a continuing basis?

15          A.       Yes.

16          Q.       You were asked about the chlorine into the  
17 water, your mix. Can you just describe how the chlorine  
18 and water is mixed for the system?

19          A.       I pour a container of household bleach,  
20 which is 60 percent sodium hypochlorite, into the well,  
21 and then I measure -- using the same container, I measure  
22 nine parts of water to one part of chlorine bleach.

23          Q.       How often is that mixture used by the  
24 system, or I guess my -- I'd like to strike that.

25                   How often do you have to mix the bleach and

1 water?

2 A. It varies depending on water usage from, in  
3 a busy time, maybe every three to four days to every five  
4 to six days.

5 Q. How long does it take you to make that mix?

6 A. That varies also. I time mixing my  
7 chlorine in a period right after the pump has cycled so  
8 that the pump doesn't cycle or operate while -- the well  
9 pump doesn't operate while I'm in the mixing procedure and  
10 get an inaccurate mix into the system. So I may have to  
11 wait five to ten minutes for the pump to cycle, and then  
12 it would take an additional seven to eight minutes to mix  
13 the chlorine.

14 Q. You were asked as far as a time and mileage  
15 log. I guess the question is, do you maintain a time and  
16 mileage log?

17 A. Yes. I maintain a time and mileage log on  
18 a daily basis at the well house, along with the chlorine  
19 level readings and electric meter reading and master water  
20 level readings.

21 Q. How detailed do you keep that log?

22 A. It's somewhat general in detail. I mark  
23 down water test and what have you.

24 Q. I guess my question, what do you keep in  
25 that log?

1           A.       That I mixed the chlorine, what the meter  
2 readings were, the chlorine levels were, and then I make  
3 additional notes as far as repairs or services at the  
4 lagoon, what have you.

5           Q.       And you were asked as far as on the time  
6 log you have a practice of entering one hour?

7           A.       Yes.

8           Q.       Why do you enter one hour?

9           A.       I feel in -- this is a service industry. I  
10 provide a service to these customers. In most all service  
11 industries today, when you go to have your car repaired or  
12 your lawn mower repaired or what have you, you pay a  
13 minimum charge. If you call a plumber out to fix a leak,  
14 you pay a minimum charge. We all pay those minimum  
15 charges. I feel this is appropriate in this area to cover  
16 the things that don't get logged, checking of the mail,  
17 daily discussions about the company, such as that.

18          Q.       In other words, there's a lot of things  
19 that you do for the water and sewer system that actually  
20 doesn't get in your log?

21          A.       There are several things, minor, take just  
22 a few minutes a day or maybe different times of day take a  
23 few minutes, that it would take longer in some instances  
24 to go get a log and write down than what it actually took  
25 to do the task.

1 Q. You also keep a mileage log?

2 A. Yes.

3 Q. And in the mileage log, what distance do  
4 you use?

5 A. For a round trip from my home to the water  
6 system, I charge 22 miles.

7 Q. And as far as that would be on vacation  
8 days, holidays, weekends?

9 A. I do not record mileage on days that I did  
10 not visit the system.

11 Q. Why do you feel that it's appropriate to  
12 enter the mileage from Tipton to the system on days that  
13 you go to Jefferson City?

14 A. I carry with me tools and outerwear to be  
15 ready to respond to the system at any time. I -- if I was  
16 not stopping at the system on my way to and from Jefferson  
17 City, I could enter in ride share agreements or carpool  
18 with other persons living in Tipton, working in Jefferson  
19 City. And I have researched some IRS mileage regulations,  
20 and I interpret them to sustain this practice.

21 Q. Directing back to on your time log on each  
22 day, what kind of entries do you make on that?

23 A. I enter the time that I was at the system,  
24 and if I've done more service work than the routine  
25 chlorine test, I enter the hours that -- and make a note

1 of what I did on those days.

2 Q. You were asked as far as on -- as the  
3 owner/operator, you have an investment of \$25,000, and you  
4 indicated that you'd be entitled to some return?

5 A. Yes.

6 Q. Do you have a percentage of return that you  
7 think would be appropriate for you as the owner/operator?

8 A. As I stated, I have other investments such  
9 as moneys in a 401K plan with my employment. The minimum  
10 return on -- or the return on the most conservative  
11 investment in that plan is 6 percent, I believe, over the  
12 life of the plan.

13 Q. So would it be correct that you would think  
14 that you should have at least a 6 percent return on your  
15 investment?

16 A. Yes.

17 Q. Then you were also asked about the expenses  
18 that the system incurs. As far as -- and that was without  
19 your labor. Is it my understanding that if you worked for  
20 free for the company, it can still make its expenses,  
21 other than for the rate case expense and the insurance?

22 A. Yes.

23 Q. Are you willing to work for free for the  
24 company?

25 A. No.

1 MR. McCUTCHEON: That's all the questions I  
2 have.

3 JUDGE REED: Thank you, Mr. Clifford. That  
4 will be all.

5 THE WITNESS: Thank you.

6 JUDGE REED: Staff's witness.

7 MR. BERLIN: Yes, your Honor. The Staff  
8 will call Scott Clark.

9 (Witness sworn.)

10 JUDGE REED: Thank you.

11 SCOTT D. CLARK testified as follows:

12 DIRECT EXAMINATION BY MR. BERLIN:

13 Q. Good morning, Mr. Clark. For the record,  
14 would you please state your full name.

15 A. Scott D. Clark.

16 Q. And, Mr. Clark, how are you employed?

17 A. I'm a Regulatory Auditor II with the  
18 Missouri Public Service Commission, Staff of the Missouri  
19 Public Service Commission.

20 Q. I would suggest you push the green button  
21 there.

22 A. Okay.

23 JUDGE REED: Is there a green button on  
24 that mic?

25 MR. BERLIN: I think there's a green

1 button. There might not be.

2 JUDGE REED: You just have to get a little  
3 closer if you would.

4 THE WITNESS: I apologize. I'm a  
5 Regulatory Auditor II for the Missouri Public Service  
6 Commission. I represent Staff.

7 BY MR. BERLIN:

8 Q. How long have you been employed by the  
9 Public Service Commission Staff?

10 A. Approximately a year and a half.

11 Q. Mr. Clark, did you cause to be prepared in  
12 this case direct testimony in a question and answer  
13 format, direct testimony that would also include  
14 accounting schedules?

15 A. Yes, I did.

16 Q. And, Mr. Clark, if I were to ask you the  
17 same questions contained in your direct testimony today,  
18 would your answers be the same based upon your best  
19 information and belief?

20 A. Yes, they would.

21 Q. And so the answers that you provided are  
22 true and correct based upon your information and belief?

23 A. Yes.

24 Q. Mr. Clark, I believe that -- do you have  
25 a -- any corrections that you wish to make to your direct

1 testimony at this time?

2 A. Yes, I do.

3 Q. And what are they?

4 A. In addition to the errata sheet that was  
5 filed at the beginning of the hearing, I have changes on  
6 page 7 of my direct testimony. On page 7, line 5, I wish  
7 to strike the word Commission and insert the Greene County  
8 Circuit Court judge. And also on page 7, line 6, I would  
9 like to strike SC-93-576 and insert SC-93-276. And that's  
10 all.

11 Q. Mr. Clark, do you have any other changes  
12 you would like to make to your direct testimony?

13 A. No.

14 MR. BERLIN: Your Honor, I would move to  
15 admit Mr. Clark's direct testimony. I believe they are  
16 Exhibit No. 3, 4 and 5. Exhibit No. 3 is direct  
17 testimony, Exhibit No. 4 is the supporting schedules to  
18 the direct testimony, and Exhibit No. 5 is the errata  
19 sheet that Mr. Clark referred to.

20 JUDGE REED: Any objection?

21 MR. MILLS: No objection.

22 MR. McCUTCHEON: No objection.

23 JUDGE REED: So admitted.

24 (EXHIBIT NOS. 3, 4 AND 5 WERE RECEIVED INTO  
25 EVIDENCE.)

1                   MR. BERLIN: Staff tenders the witness for  
2 cross-examination.

3                   JUDGE REED: Thank you, Mr. Berlin.  
4 Cross-examination Hickory Hills. Mr. McCutcheon?

5                   MR. McCUTCHEON: Thank you, your Honor.

6 CROSS-EXAMINATION BY MR. McCUTCHEON:

7                   Q. Mr. Clark, have you visited the water and  
8 sewer facilities at Hickory Hills?

9                   A. Yes, I have.

10                  Q. And when was that?

11                  A. I initially visited the office of the  
12 Hickory Hills system during my initial audit, and just  
13 recently I visited the Hickory Hills system, and I believe  
14 it was April the 13th of 2006.

15                  Q. And you've been at the hearing this morning  
16 and heard Mr. Clifford testify; is that correct?

17                  A. Yes, I have.

18                  Q. And as for his description of the system,  
19 is -- if I asked you that, would your testimony be  
20 basically the same as his?

21                  A. Yes, I believe so.

22                  Q. Did you observe any differences in how he  
23 testified the description of the -- of Hickory Hills  
24 Water & Sewer system?

25                  A. No.

1           Q.       Where is the company office of Hickory  
2 Hills sewer system?

3           A.       The company office is located at the home  
4 of Mr. Randy Clifford, in the city of Tipton, Missouri.

5           Q.       Do you know, is that approximately 11 miles  
6 from where the sewer and water facility is located?

7           A.       Yes, it is.

8           Q.       Did you observe in Randy and Kay Clifford's  
9 home a specific area designated for office space for the  
10 Hickory Hills Water & Sewer Company, Inc.?

11          A.       Yes, I did.

12          Q.       And where was that located?

13          A.       Excuse me. In which part --

14          Q.       What part of the house was that office?

15          A.       I would -- I would say it was towards --  
16 towards the mid part of the house. I entered through  
17 their main living room and went into a separate -- a  
18 separate area that was designated as your office.

19          Q.       Does Randy Clifford furnish a computer and  
20 printer for Hickory Hills Water & Sewer Company?

21          A.       Yes, he does.

22          Q.       Did Randy Clifford demonstrate the use of  
23 the company's electronic recordkeeping system on that  
24 computer for you?

25          A.       Yes, he did.

1 Q. And what kind of system was it?

2 A. He demonstrated an electronic system  
3 showing their billing system, their billing process. He  
4 showed how he inserted his log monthly from what he keeps  
5 on his daily records at the system. He showed us the  
6 AutoCAD system and the map that he had drawn of the  
7 system, representing his work and locating lines and  
8 changing the original plat map.

9 Q. At the location of the water and sewer  
10 system, was there any shop or storage facilities that you  
11 observed at the system itself?

12 A. No, I did not observe any at the system.

13 Q. At the company office in Randy Clifford's  
14 house, is there a shop or storage facilities for the  
15 equipment of the company?

16 A. Yes, there are.

17 Q. And where is that?

18 A. I noticed that there were two different  
19 locations at the place of business or Randy's house, one  
20 being that of an oversized, looked like two-car garage  
21 that contained many shop tools, welders, torches, chop  
22 saws, things of that nature. This area also contained  
23 things that were designated as only the water and sewer  
24 system's. For instance, I seen a sewer machine, rodding  
25 machine to clean the sewer, sewer lines out. I seen a

1 sprayer that was designated as Hickory Hills, and again,  
2 just various tools, various miscellaneous items that were  
3 in his shop.

4                   Also down the street from his home was  
5 another, I would consider it utility-type shed. In that  
6 was stored certain -- I seen a lawn mower and a small  
7 trailer that he used to mow the system with. I seen  
8 various -- various parts in that that consisted of a  
9 derrick that he had previously built for the system at  
10 that shed. That's about what I can recollect.

11               Q.       At the water and sewer facilities, how  
12 large was the building where the well --

13               A.       I would say that the well house without --  
14 without pulling tape and measuring it, I would say it's  
15 approximately an 8x12. I'd say it's close to that. The  
16 area inside, when we went inside to observe what he does  
17 on a daily basis, we seen that it was primarily full, the  
18 pressure tanks. There wasn't -- didn't seem to be any  
19 unused space in there.

20               Q.       It was full of a pump and well and  
21 equipment, that sort of thing?

22               A.       Exactly, yes.

23               Q.       Did you see where he stored the chlorine  
24 water mix for the system?

25               A.       I did.

1 Q. And were there, what, nine pressure tanks  
2 there?

3 A. I believe so, yes.

4 Q. And the request for Randy Clifford as far  
5 as for Hickory Hills Water & Sewer District, his request  
6 for the labor was a wage rate of \$22; is that correct?

7 A. Excuse me. Can you repeat the question?

8 Q. Sure. I'll try and rephrase that. In the  
9 application of Hickory Hills Water & Sewer Company for a  
10 crate increase, the wage rate for Randy Clifford was \$22;  
11 is that correct?

12 A. I don't believe in the initial request that  
13 it was broken out as a wage rate that he specifically  
14 requested. It was in a total dollar amount for the  
15 revenue requirement.

16 Q. You arrived at a wage rate of \$19 for the  
17 operator, Randy Clifford; is that correct?

18 A. Yes.

19 Q. How did you arrive at that wage rate of  
20 \$19 for Randy Clifford?

21 A. I arrived at that rate --

22 MR. MILLS: Your Honor, before we go on, I  
23 want to object to this question on the same basis that I  
24 objected earlier. This is a leading direct examination  
25 kind of question. This is exactly the kind of stuff that

1 is in Mr. Clark's direct testimony. This is simply an  
2 effort by an allied party to allow one party to bolster  
3 its direct testimony.

4 JUDGE REED: The objection is overruled.  
5 Mr. Clark, you can answer the question.

6 THE WITNESS: Can you please repeat the  
7 question?

8 BY MR. McCUTCHEON:

9 Q. My question was, how did you arrive at your  
10 wage rate of \$19 for the operator, Randy Clifford?

11 A. I arrived at that wage rate through a  
12 couple of different means. There was continuous  
13 discussion between -- by the members of Staff, the water  
14 and sewer department, regarding what he brings to the  
15 system. Again, we tried to look at what he brings to the  
16 system in totality, in total, and not just his specific  
17 day-to-day routine operating skills.

18 Again, in evaluating what he did, what he  
19 does, there's a ton of distinguishing skill sets that I  
20 believe sets Mr. Clifford apart from what a typical  
21 operator of a small system like this would do.  
22 Mr. Clifford, he possesses several different electrical  
23 skills. He had commented that he's replaced electrical  
24 circuit breaker boxes as well as various switches in the  
25 well house. He has also had vast experience with electric

1 pump repair from prior -- prior jobs that he had before.  
2 He had stated that he is a Type C certified maintenance  
3 electrician in the city of Jeff City at his second job, or  
4 his other job that he has.

5                   The skill sets such as welding, I observed  
6 earlier that he did have a welder in his garage. And in  
7 discussions with him, he had stated that he has used his  
8 personal welder on numerous occasions to fabricate, fix  
9 various things on the system. One of the examples that he  
10 gave to us was that of a -- he had constructed a hoist to  
11 pull the pump himself and replace it. I believe he said  
12 it was in the neighborhood of a 25 to 30-foot hoist.

13                   I seen in the shop various well pump  
14 brackets type clamps that he'd used while pulling the pump  
15 that he'd fabricated. Just there were various things that  
16 I seen that he had use his welding skills on the job for.  
17 One more thing, I noticed a trailer, his personal trailer  
18 he used, he had fabricated an end gate for it using his  
19 welding skills to haul the mowing equipment back and forth  
20 to the system.

21                   Q.       Is it true that the skill of Randy Clifford  
22 sets him apart from entry-level operators of water and  
23 sewer systems?

24                   A.       I believe so, yes.

25                   Q.       In setting your wage rate, did you also

1 receive information from the City of Tipton, Missouri?

2 A. Yes, I did.

3 Q. And --

4 MR. MILLS: Same objection. This is stuff  
5 that's in Mr. Clark's direct testimony, and this is simply  
6 offering Mr. Clark an opportunity to bolster his direct  
7 testimony.

8 JUDGE REED: It is in the direct testimony,  
9 is it not, Mr. McCutcheon?

10 MR. McCUTCHEON: Yes, your Honor, it is.

11 JUDGE REED: You didn't get to the -- you  
12 didn't get to finish your question. Why don't you finish  
13 that and then we'll talk about this.

14 MR. McCUTCHEON: Thank you, your Honor.

15 The question I was going to ask as far as  
16 if he received information from the City of Tipton in  
17 arriving at his hourly rate in this case, and I think that  
18 was when, if I'm not mistaken, was the objection. So I  
19 was asking the preliminary question if he received  
20 information from the City of Tipton.

21 JUDGE REED: The answer is yes or no.

22 THE WITNESS: Yes.

23 BY MR. McCUTCHEON:

24 Q. And was that hourly rate you received from  
25 the City of Tipton \$18.62, excluding benefits?



1 question?

2 BY MR. McCUTCHEON:

3 Q. I think my initial question was a  
4 preliminary question was, whether or not you received  
5 information from the City of Tipton reflecting an hourly  
6 rate in determining your wage rate for Randy Clifford?

7 A. Yes, I did.

8 Q. And was that hourly rate \$18.62, excluding  
9 benefits?

10 A. Yes, it was.

11 Q. And with the inclusion of benefits to that  
12 rate -- to that would be an additional 30.41 (sic), making  
13 a total hourly wage of \$32.02?

14 A. Yes.

15 Q. And how far is the city of Tipton from the  
16 facility of Hickory Hills?

17 A. It's approximately 11 miles.

18 Q. So it's in the -- it is in the geographical  
19 area of labor and what's being paid; is that correct?

20 A. Yes.

21 Q. How big is the city of Tipton?

22 A. I believe it has a population of a little  
23 over 2,000.

24 Q. While performing -- while you did your  
25 audit in this case, did you review the work papers from

1 the company's previous rate cases, I believe QS-2004-009  
2 and QW-2004-008?

3 A. Yes. I don't recall the specific case  
4 numbers, but from the previous rate case, I did review  
5 those work papers.

6 Q. Was there any wage rate for Randy Clifford  
7 in those previous rate cases?

8 A. Yes, there was.

9 Q. What was that wage rate?

10 A. It was approximately 22.50 per hour, is  
11 what Staff's recommendation was.

12 Q. Is it true the company's operating costs  
13 have not decreased since the last rate case?

14 A. I believe that to be correct.

15 Q. In your audit, did you make any allowance  
16 for rate case expense, such as attorney fees and expenses  
17 for Hickory Hills?

18 MR. MILLS: I object. This goes beyond the  
19 scope of the list of issues in this case. We have no  
20 issue that has to do with rate case expense.

21 JUDGE REED: Sustained.

22 BY MR. McCUTCHEON:

23 Q. Are the attorney fees and expenses of  
24 Hickory Hills in this case rate case expenses that should  
25 be allowed to Hickory Hills?

1 MR. MILLS: Same objection.

2 JUDGE REED: Sustained.

3 MR. McCUTCHEON: That's all the questions I  
4 have, your Honor.

5 JUDGE REED: Thank you, Mr. McCutcheon.  
6 Office of Public Counsel next.

7 MR. MILLS: Yes. Your Honor, I may have  
8 some -- I'm not sure how long my questioning will take.  
9 Are we going to be taking a recess?

10 JUDGE REED: Do you want to take five  
11 minutes? If you need a recess, we'll take a recess.

12 MR. MILLS: I'd like five minutes, if we  
13 could.

14 JUDGE REED: All right. Five minutes.

15 (A BREAK WAS TAKEN.)

16 JUDGE REED: Mr. Mills?

17 MR. MILLS: Yes.

18 CROSS-EXAMINATION BY MR. MILLS:

19 Q. Good morning, Mr. Clark.

20 A. Good morning.

21 Q. In the direct testimony you filed in this  
22 case, you determined that Hickory Hills needs \$4,417  
23 increase for water and \$5,912 increase for sewer; is that  
24 correct?

25 A. That's correct.

1 Q. At the time of the local public hearing a  
2 few months ago, what was your determination on those  
3 amounts?

4 A. My determination in our initial Staff  
5 recommendation was different than those numbers. In the  
6 initial filing, I had a revenue requirement for the water  
7 side of 2,760, for the sewer side 10,799.

8 Q. What is the number referenced at line 14 on  
9 page 3 of your testimony?

10 A. Those are the numbers that I was referring  
11 to. They're slightly different it looks like due to  
12 rounding. Let me take another look. You say page 3,  
13 line 14?

14 Q. Page 3, line 14 is the number I was looking  
15 for, but you gave me a number in your testimony just now  
16 of 2,760.

17 A. The schedules I have with me from the  
18 filing, they are slightly different from that number. I'm  
19 not sure where that -- I believe it's \$20 difference on  
20 the water.

21 Q. It's about \$500 different on the water,  
22 isn't it, 2,760 or 2,284?

23 A. I'm sorry. I see now. I believe revenue  
24 require -- the revenue requirements I do have with me  
25 here, I must have brought the wrong -- or the ones that

1 are slightly different. We made a couple changes, and I  
2 don't see that they show up here. In the Staff filing  
3 with my testimony, I don't have that with me here.

4 Q. Okay.

5 A. And that's what that number reflects.

6 Q. So is it correct that you initially filed a  
7 revenue requirement of 2,284 for the water system?

8 A. Yes, I believe so.

9 Q. Okay. And now you're recommending an  
10 increase of 4,417?

11 A. Yes, that's correct.

12 Q. What percentage difference is that?

13 A. I don't have that number offhand.

14 Q. What happened to change that number from  
15 2,284 to 4,417?

16 A. There were a couple of different items that  
17 I changed from the initial filing to when we filed direct  
18 that resulted in this, one being that of the wage rate we  
19 allowed Randy.

20 In our initial filing, I believe it was  
21 22.50, and when I filed my direct testimony, upon further  
22 discussion, review between other Staff members, the water  
23 and sewer department, and with reference to meetings that  
24 we had with the Office of the Public Counsel, we  
25 determined that a wage rate of \$19 per hour was probably

1 more appropriate.

2 Q. Okay. That's one item, and that would tend  
3 to drive it in the opposite direction of the way it went.  
4 What else changed?

5 A. Another item that changed was our  
6 allocation of his salaries and wages, and that we changed  
7 in our initial filing from 50 percent to water and  
8 50 percent to sewer to 75 percent water, 25 percent sewer.  
9 And again, this determination was based upon further  
10 discussion within other members of Staff, the water and  
11 sewer department, and upon reviewing Mr. Robertson's  
12 presentation at a conference or at a meeting that we held  
13 where he represented his work, and we believe that that  
14 was a more accurate depiction.

15 Q. That Mr. Robertson's allocation of 75/25  
16 was more accurate than Staff's 50/50, is that what you're  
17 saying?

18 A. Than our initial filing of 50/50?

19 Q. Right.

20 A. Yes.

21 Q. Okay. So essentially after you initially  
22 filed the 2,284 and 10,772, you took a closer look at  
23 those numbers and came up with different numbers; is that  
24 correct?

25 A. Yeah. I would say upon further review,

1 that that is correct.

2 Q. And why did that further review take place?

3 A. Again, after OPC challenged the case, we  
4 had further meetings. We further reviewed the process  
5 that I took, and basically I guess that's -- that's where  
6 we came to the understanding that these adjustments were  
7 more accurate.

8 Q. So because OPC challenged the original  
9 numbers, you came up with numbers that are in the order of  
10 magnitude of 80 percent different from your initial  
11 numbers; is that correct?

12 A. I would say that's not entirely it. In  
13 part, that might have been what started the further review  
14 for the process. As a result of further review with other  
15 Staff members and other members of the water and sewer  
16 department as well as OPC is where we made our changes.

17 Q. If OPC had been willing to go along with  
18 your initial recommendations, would the further look have  
19 taken place?

20 A. Perhaps not.

21 Q. Are there any other employees of Hickory  
22 Hills other than Mr. and Mrs. Clifford?

23 A. There are or there were a couple, I believe  
24 three, that were employed during the test year as a  
25 minimal amount. I can look real quick for you and tell

1 you how much that amounted to during the test year.

2                   There were three different people, Scott  
3 Clifford, Jared Milligan and Matthew Clifford, during the  
4 test year that were compensated -- Scott was compensated  
5 \$70, Jared Milligan \$50, and Matthew Clifford \$180 for the  
6 total year those three numbers.

7           Q.       So during the test year they were employees  
8 of the company?

9           A.       I would say that they performed some  
10 duties, but as far as employees ongoing, I'd have to say  
11 yes, they were employed by the company because they  
12 received a wage during the test year.

13          Q.       The reason I'm asking is because on page 5,  
14 line 12, you refer to Randy and Kay Clifford as the  
15 primary employees. So you're referring to these other  
16 three as non-primary employees, I suppose; is that  
17 correct?

18          A.       Yeah, I would say that.

19          Q.       There aren't any other employees that  
20 you're aware of?

21          A.       Not that I'm aware of.

22          Q.       You testified earlier that you've just  
23 recently visited the system in California, Missouri; is  
24 that correct?

25          A.       That is correct.

1 Q. Is California, Missouri an urban area?

2 A. Can you define urban as far as -- it's a  
3 municipality, it's a city, city of California, is that  
4 your question?

5 Q. My question is, do you consider it to be an  
6 urban area?

7 A. I'm not quite sure the exact definition of  
8 urban. I don't know if that's certain population. I  
9 would consider it to be a municipality, a city.

10 Q. Okay. Let me ask you to define urban in  
11 the context that you use it on page 7, line 3 of your  
12 testimony where you're talking about urban wage earners  
13 and clerical workers.

14 A. As I stated, I would define urban there --  
15 I'm sorry. I don't have a definition of urban.

16 Q. Okay. Do you have a definition of clerical  
17 workers?

18 A. I'd say a clerical worker would be one that  
19 performs duties such as various billing, computer-type  
20 skills, clerical. Again, an exact definition I'm not  
21 sure, clerical.

22 Q. Do you consider the work that Mr. Clifford  
23 does for the system primarily clerical?

24 A. No.

25 Q. Let me ask you about a correction you just

1 made at the beginning of your testimony to your prefiled  
2 testimony. Page 7, line 5, you originally referred to the  
3 hourly salary allowed by the Commission, and I assume by  
4 that you meant the Public Service Commission when you  
5 filed it?

6 A. Yes, I did.

7 Q. You changed that to say the hourly salary  
8 allowed by the Greene County Circuit Court judge. Is that  
9 how you changed your testimony?

10 A. Yes, I did.

11 Q. How was a Greene County Circuit Court judge  
12 setting an operator's salary in complaint Case SC-93-276?

13 A. It was my understanding that this Bill Gold  
14 Investment case, as part of a receivership action that had  
15 went through the Commission at that time, it also was in  
16 the Circuit Court of Greene County, and that is where the  
17 wage rate was set. And again, this is upon discussions  
18 with the water and sewer department and what they recall  
19 and the information that I received and that I reviewed.

20 Q. What information did you review that showed  
21 you that the Greene County Circuit Court judge set a  
22 salary of \$15 per hour?

23 A. That was information that I had received in  
24 discussion with Mr. Dale Johansen of the water and sewer  
25 department.

1 Q. Did you look at any documents from the  
2 Greene County Circuit Court?

3 A. No.

4 Q. Did you look at any documents from the  
5 Commission Case SC-93-276?

6 A. I was able to locate some of those  
7 documents in the data area of the Commission's building,  
8 and that that I reviewed, I reviewed some testimony of the  
9 case, I reviewed some various orders, but to actually see  
10 the \$15 in those, I did not.

11 Q. Okay. So you weren't directly involved in  
12 the 1993 case either at the Commission or in the Greene  
13 County Circuit Court; is that correct?

14 A. Excuse me. Was I directly involved?

15 Q. Right.

16 A. No, I was not.

17 Q. Was that a water and sewer system or just a  
18 sewer system?

19 A. I believe that was just a sewer system.

20 Q. Okay. Do you know what kind of a sewer  
21 system it was?

22 A. Yes, I do. It supplied approximately 110  
23 customers. It was a small sewer mechanical plant, and the  
24 information I received was that this operator's  
25 responsibilities included the day-to-day normal operations

1 of checking the sewage treatment plant. He responded to  
2 various service needs. Also, I learned that included in  
3 his duties was not -- meant to say, the water and sewer  
4 department staff, they were still involved with the  
5 system. They were brought on board to trouble shoot  
6 certain items that would go beyond this operator's skill  
7 level. So basically he was involved in the day-to-day  
8 operations of the system.

9 Q. And what trouble shooting role did the --  
10 when you said Staff, you refer to the Staff of the Public  
11 Service Commission?

12 A. I refer to the water and sewer department  
13 Staff.

14 Q. And what trouble shooting did they do?

15 A. In particulars, I don't know the  
16 particulars. I just know if there was troubles that came  
17 up that this operator couldn't handle, they would refer to  
18 the public water and sewer department.

19 Q. You said that the system in that case  
20 served 110 customers; is that correct?

21 A. That's correct.

22 Q. More than double the size of the Hickory  
23 Hills system?

24 A. Only sewer customers?

25 Q. Yes.

1 A. Yes.

2 Q. And it's a mechanical system; is that  
3 correct?

4 A. Yes. It was my understanding that it was a  
5 small mechanical plant, a sewer plant, mechanical.

6 Q. And what type of a system does the Hickory  
7 Hills sewer system has?

8 A. Hickory Hills system has a single cell  
9 lagoon.

10 Q. Mechanical plant is more complicated than a  
11 lagoon, is it not?

12 A. I would say so.

13 Q. Now, the operator in the Bill Gold system  
14 was Bill Gold himself; is that correct?

15 A. I believe so.

16 Q. What -- what sewer operator's license did  
17 Bill Gold have from the DNR at that time?

18 A. I'm sorry. I don't know that.

19 Q. Do you know whether he still operates that  
20 system?

21 A. No, I do not.

22 Q. Do you know what kind of testing was done  
23 on that system?

24 A. No, I do not.

25 Q. Do you know whether Bill Gold performed

1 that testing himself or whether it was hired out to an  
2 outside firm?

3 A. I do not.

4 Q. Now, let's talk a little bit about the  
5 information from the City of Tipton which has been allowed  
6 into this case over my objection. What is the person's  
7 title who receives this hourly rate of 18.62, excluding  
8 benefits?

9 A. I believe this individual's title is -- let  
10 me first start by saying that he's operated the water  
11 system, the sewer system, and he also is in charge of the  
12 street department in the city of Tipton.

13 Q. Okay.

14 A. I believe his title is water and sewer  
15 operator.

16 Q. Okay. When you say he's in charge of the  
17 street system as well, what does that entail?

18 A. I'm not quite sure his duties on the street  
19 system.

20 Q. Okay. So do you know the exact title? Did  
21 you say the title?

22 A. I'm not sure the exact title.

23 Q. Do you know how many people work for him?

24 A. Work for him or the city?

25 Q. Work for him directly. How many people

1 does he supervise?

2 A. I believe that, in recalling my  
3 conversation with him, that he supervises two jail inmates  
4 from the city of Tipton, and I believe there are three or  
5 four other employees that work below him.

6 Q. So he supervises three or four free people  
7 and two inmates; is that correct?

8 A. I believe that's correct.

9 Q. And how many of these people work on the  
10 streets and how many of them work on the water and sewer  
11 system?

12 A. I'm not sure.

13 Q. And what -- speaking of the operator, not  
14 the person -- not the people what work for him, what does  
15 he do? What are his day-to-day job duties?

16 A. I believe he is in charge and responsible  
17 for overseeing the system, the water and sewer system.  
18 He -- he's involved with, like I said, the day-to-day  
19 operations. He evaluates when something goes wrong. He  
20 takes action to fix it or to supervise employees. He  
21 holds a DS3 level water certification, and I believe -- I  
22 believe he also holds a Class A, I believe, certification.

23 Q. Class A water certification?

24 A. I believe so.

25 Q. Do you know, does he mow grass?

1 A. I'm not quite sure.

2 Q. Does he cut brush?

3 A. I'm not sure.

4 Q. Does he mix household bleach in a trash  
5 can?

6 A. I'm not sure.

7 Q. How many people are served by the sewer and  
8 water system that he operates?

9 A. I believe, again recalling from my  
10 conversation with him, that it is approximately the 2,000,  
11 1,800 to 2,000 level of the city of Tipton. Specific  
12 numbers, I can't say.

13 Q. What type of a -- is that a water treatment  
14 system or a water distribution system?

15 A. I believe it's a water treatment system.

16 Q. And the Hickory Hills system is a water  
17 distribution system; is that correct?

18 A. I believe he -- the exact classification of  
19 that system I believe is considered a distribution system.  
20 However, he does -- at the water plant, he does treat the  
21 water when need be. So I would say I'm not quite sure of  
22 the exact definition of a treatment plant distribution,  
23 because he does distribute water, but he also treats water  
24 at the well house.

25 Q. Are you familiar with the Department of

1 Natural Resources designation as treatment systems and  
2 distribution systems and the differentiation that they  
3 draw?

4 A. I have seen those. The specifics, I can't  
5 recall the specifics, no.

6 Q. Okay. Do you know whether the city of  
7 Tipton is a treatment system and the city -- and the  
8 Hickory Hills system is a distribution system, which are  
9 different sorts of animals according to DNR?

10 A. Again, I'm not -- I'm not familiar with the  
11 Hickory Hills system, because they do treat their water as  
12 a treatment, that it is considered a distribution system  
13 only.

14 Q. If there was evidence in this case that it  
15 is a distribution system, would you recognize that that is  
16 a different type of system, not simply a different size,  
17 but a different type of system from a water treatment  
18 system according to DNR's regulations?

19 A. Yes.

20 Q. Do you know how the sewage treatment system  
21 is set up at Tipton?

22 A. I believe that he explained to me that it  
23 was a type of dual-oxidation-type system. It -- again,  
24 the exact details of it, of that system, I'm not sure.

25 Q. Okay. What is a dual oxidation system?

1           A.       Again, I'm not quite sure on the exact  
2 specifics of that.

3           Q.       Is it something different than a lagoon?

4           A.       I would say so.

5           Q.       Is it more complex than a lagoon?

6           A.       I can't say that without seeing it. I've  
7 not seen it.

8           Q.       Okay. Is a lagoon a very complicated  
9 system?

10          A.       The complexities on how the lagoon actually  
11 works and how you maintain a lagoon, I'm -- again, I'm  
12 not -- as far as engineering, how everything goes together  
13 and how it all works, I can't say how complex it is.  
14 Appearance of it seems to be simple because of the  
15 facility.

16          Q.       Have you ever had a part-time job yourself?

17          A.       The jobs I had previous to this were -- no,  
18 I have never had a part-time job. It was a family farm,  
19 working on the farm.

20          Q.       Okay. Now, on your direct testimony at  
21 page 7 and then carrying over to page 8, you say, as a  
22 normal business practice, most companies provide benefits  
23 which include some sort of retirement benefit to its  
24 employees.

25                    Can you -- when you're talking about most

1 companies, can you list for me some companies that you're  
2 aware of that provide retirement benefit to part-time  
3 employees?

4 A. I believe in discussion with the other  
5 members of Staff, that on occasion that there has been  
6 members from the Public Service Commission on part-time  
7 that received partial benefits.

8 Q. So it's your testimony that part-time State  
9 employees get retirement benefits?

10 A. As a normal basis, I'm not sure. Again, in  
11 discussion, I've heard that it has happened.

12 Q. Okay. So that's maybe one. Can you list  
13 some other companies for me?

14 A. Offhand, I can't.

15 Q. Okay. You examined Mr. Clifford's hours  
16 log, did you not?

17 A. Yes, I did.

18 Q. Were you aware that on some occasions at  
19 least that Mr. Clifford logged an hour of work time when  
20 he didn't actually work an hour?

21 A. During my initial audit, whenever I first  
22 reviewed the information, I -- upon reviewing it, I seen  
23 no -- no reason to challenge the validity of the log.  
24 Afterwards, I know coming into the meetings we had and  
25 through your deposition that he did charge, and that's

1 when I became aware that, yeah, he did -- he did state  
2 that he started charging.

3 Q. So there's nothing in the log itself that  
4 would indicate to a auditor such as yourself that it's not  
5 accurate?

6 A. That it's not accurate to the minute or  
7 that it's not accurate -- I'm --

8 Q. Well, not accurate to the extent that if  
9 Mr. Clifford spent 15 minutes at the cistern, he wrote  
10 down an hour. I would say that's more than not accurate  
11 to the minute. Would you not agree with that?

12 A. I would say that upon reviewing, I seen  
13 that there were several hours. I know here at the  
14 Commission that there is -- as far as recording time and  
15 leave, there's a few minutes -- I'm not quite sure if it's  
16 5 to 15 minutes. They measure by the quarter hour. Upon  
17 reviewing that, I seen that if it did take him, you know,  
18 57 minutes, instead of recording that, he would record an  
19 hour.

20 Q. You're an auditor, correct?

21 A. That's correct.

22 Q. As an auditor, would you expect a business  
23 to keep its records so that 15 minutes equals an hour?

24 A. No, I would not.

25 Q. Okay. So as an auditor, if you saw a log

1 that had no indication that 15 minutes would be rounded up  
2 to an hour, you would not know that that log was  
3 inaccurate; is that correct?

4 A. Please restate that.

5 Q. As an auditor, would you expect that an  
6 hour written in a log equaled something an hour or very  
7 close thereto?

8 A. Yes.

9 Q. You would not expect that in a log that  
10 15 minutes would be recorded as an hour?

11 A. That's correct.

12 Q. Or would you?

13 A. No. That's correct.

14 Q. Okay. And there was nothing in the log  
15 itself to indicate that that practice had taken place?

16 A. I believe no.

17 Q. Okay. Now, you said sometime during the  
18 course of this case you became aware that Mr. Clifford had  
19 the practice of writing an hour in his log even when he  
20 didn't spend an hour; is that correct?

21 A. That's correct.

22 Q. Did you make any adjustment to the revenue  
23 requirement that you're recommending in this case for that  
24 fact?

25 A. No.

1           Q.       Then is it fair to say that it's Staff's  
2 position that it is okay for ratepayers to pay for an  
3 hour's worth of labor if an hour's worth of labor did not  
4 take place?

5           A.       I'd say the reason that I -- upon review  
6 that I did find out that there was an hour when perhaps he  
7 did not have exactly an hour or up to an hour. Also upon  
8 review, in discussions through our meetings and that, we  
9 found out that there was time logged that he didn't log.  
10 For example, his trip to the mail every morning to get  
11 business mail and the return home, there was several items  
12 on a daily basis like that, as well as answering customer  
13 calls, and that that he didn't include in his log that  
14 should have been. And that's one of the reasons why he  
15 kept that actual log.

16          Q.       So my question was, is it Staff's position  
17 that it's fair to have ratepayers pay for an hour's worth  
18 of labor when an hour's worth of labor did not take place?  
19 Is your answer yes or no?

20          A.       I don't know if I can answer that, because  
21 an hour's worth of work that he didn't record possibly did  
22 take place.

23          Q.       You reviewed the papers from the last rate  
24 case; is that correct?

25          A.       That's correct.

1           Q.       Wasn't one of the big issues in the last  
2 rate case the lack of a log -- of a time log, I should  
3 say?

4           A.       I believe that it was -- it was referenced  
5 that he should be going forward keeping track of a time  
6 log in past cases.

7           Q.       So despite the fact that the issue arose in  
8 the last case and that Mr. Clifford should have been aware  
9 that he was responsible for keeping an accurate log, you  
10 decided it was okay to charge an hour for 15 minutes worth  
11 of labor because there may be some unrecorded time; is  
12 that correct?

13          A.       Upon review, I would say that I agreed with  
14 his log because the time that wasn't -- wasn't recorded.

15          Q.       And how much time wasn't recorded?

16          A.       Again, in discussions, he stated that on a  
17 daily basis making the trip to the mail, making the trip  
18 home, oh, also talking with customers when needed, the  
19 exact, exact amount of time, I don't know. I just know  
20 there was additional time that wasn't logged.

21          Q.       Isn't there a fair amount of time in the  
22 log recorded for talking to customers, both for  
23 Mr. Clifford and Mrs. Clifford?

24          A.       I believe there is some, but in discussions  
25 with Randy there were several times that he didn't log

1 every time he got a, you know, 10, 15 -- 5, 10-minute  
2 call.

3 Q. How many times did that happen?

4 A. During the test year, I don't have that.  
5 I'm not sure.

6 MR. MILLS: Can I have just one second,  
7 your Honor?

8 BY MR. MILLS:

9 Q. You said you reviewed Mr. Clifford's  
10 original time logs; is that correct?

11 A. That's correct.

12 Q. Do you have a copy of those with you on the  
13 stand?

14 A. One second. Let me take a look. Yes, I  
15 do.

16 Q. Do you also have your work papers in which  
17 you reproduce his miles and hours?

18 A. Yes, I believe so.

19 Q. If I can get you to go, for example, to  
20 December of 2004, your work paper and Mr. Clifford's log  
21 show that he worked an hour; is that correct?

22 A. On which date?

23 Q. I'm sorry. On December 1st.

24 A. Yes.

25 Q. Okay. December 2nd, your work paper shows

1 an hour?

2 A. Yes.

3 Q. Mr. Clifford's log shows four hours?

4 A. On December 2nd?

5 Q. Uh-huh.

6 A. No. One second. I believe between the 2nd

7 and the 3rd, my work papers are switched from one -- on

8 December 2nd in the actual log, I do show Randy worked

9 four hours. I show that four hours on December 3rd in my

10 work papers, and I show on December 2nd the one hour, so

11 they're --

12 Q. Okay. Let's look at December -- okay. Did

13 you mechanically -- I mean, did you type in all these

14 numbers into your own work paper or did you have -- did

15 you do some sort of a data dump you'd gotten

16 electronically?

17 A. I actually keyed these in my Excel

18 spreadsheet.

19 Q. Okay. Are you aware of any other errors?

20 A. Errors?

21 Q. Besides that one we just looked at.

22 A. Offhand, no, I'm not.

23 Q. Let's go back to those logs again and say,

24 for example, look at -- we looked at December. Let's go

25 to the other end of the year and look at January. If you

1 look at your log for January 4th, 2004, you've got an hour  
2 and a half; is that correct?

3 A. That's what's in there, yes.

4 Q. What does Mr. Clifford have for  
5 January 4th?

6 A. I see that he has none logged.

7 Q. And you may have answered this, and I'm not  
8 sure --

9 A. Excuse me. May I also say on that, on the  
10 4th, he has a -- Randy has nothing. On the 4th I have an  
11 hour and a half, with the line above it -- I'm sorry.  
12 Vice versa. I can see that the actual hours are in there.  
13 For instance, this one, the day that it shows one and a  
14 half hours on the 4th, he shows zero on the 4th, but on  
15 the next day he shows one and a half. So it's logged.  
16 It's on the wrong day.

17 Q. So as far as you know, you've got the right  
18 hours, just the wrong days?

19 A. Looking at this, that's -- I believe so.

20 Q. Okay. City of Tipton that you used in your  
21 system, do you know the population of the city of Tipton?

22 A. Again, I believe it's -- I believe it's  
23 around 2,000.

24 Q. And what is the basis of your belief?

25 A. I've been through Tipton. In discussions

1 with the water and sewer department, we decided it was  
2 close to 2,000. It was around that level. Actual exact  
3 number, I'm not sure.

4 Q. Could it be 3,000 or more? Is that  
5 possible?

6 A. I would say not probable.

7 Q. Because you've driven through and you've  
8 talked to Staff members?

9 A. Yes.

10 Q. And that's formed your basis for your  
11 understanding of the size of the town?

12 A. And again, I don't have -- what I recall  
13 discussing with the city clerk and the operator, I know  
14 that question came up, and I believe I recall around  
15 2,000.

16 MR. MILLS: Okay. I have no further  
17 questions.

18 JUDGE REED: Thank you, Mr. Mills. We'll  
19 have questions from the Bench now, if the Commissioners  
20 have any questions. Commissioner Clayton?

21 COMMISSIONER CLAYTON: No questions.

22 JUDGE REED: Commissioner Appling, do you  
23 have any questions for the witness?

24 COMMISSIONER APPLING: No questions.

25 JUDGE REED: Thank you. Mr. Berlin,

1 redirect?

2 REDIRECT EXAMINATION BY MR. BERLIN:

3 Q. Mr. Clark, I believe Mr. Mills asked you  
4 some questions about three employees that were on your  
5 records. I believe he asked you about whether they are  
6 primary or what kind of employees they are. Those three  
7 employees that you cited in your answer to Mr. Mills, what  
8 type of work did they perform?

9 A. I recall that it was just miscellaneous  
10 work that Mr. Clifford needed at the time. The exact  
11 duties, I'm not quite sure.

12 Q. For how many days were these employees  
13 engaged?

14 A. I believe just a couple of days. The exact  
15 amount of time that they spent, I'm not sure of that.

16 Q. Would it be -- would it be correct to say  
17 that they were contract employees of Mr. Clifford?

18 A. I assume that. I assume you could say  
19 that, yes.

20 Q. In your review of the records, you didn't  
21 see these individuals show up on any other record, did  
22 you? You talked about a matter of a couple of days to do  
23 miscellaneous tasks for Mr. Clifford. Did they show up  
24 anywhere else?

25 A. No. I didn't see them anywhere else, no.

1 Q. Mr. Mills asked you about your analysis  
2 over the water treatment operator for the City of Tipton.  
3 Do you recall those questions?

4 A. Yes.

5 Q. To the best of your knowledge, does this  
6 City of Tipton wastewater position, does it require that  
7 the operator appear before the Public Service Commission?

8 A. To my recollection, no.

9 Q. Does this position for the City of Tipton  
10 require its operator to submit registrations before the  
11 Missouri Secretary of State?

12 A. I don't recall that either, no.

13 Q. Does this position as a plant operator for  
14 the City of Tipton require its operator to perform AutoCAD  
15 design, computer-aided drafting?

16 A. I'm not aware of any.

17 Q. Does the City of Tipton water plant  
18 operator require the operator to repair and rebuild pumps?

19 A. I'm not aware of that either.

20 Q. Does the City of Tipton water plant  
21 operator in his job description, is he required to perform  
22 carpentry and masonry skills?

23 A. I'm not aware of any.

24 Q. Is the City of Tipton water plant operator  
25 in his position required to disengage circuit breakers and

1 to reinstall them?

2 A. Again, I'm not aware of that.

3 Q. So I presume you're saying there is a  
4 difference between perhaps the City of Tipton operator and  
5 those duties that I just cited?

6 MR. MILLS: I object to the form of the  
7 question. I believe the testimony was that he was not  
8 aware whether the City of Tipton operator does any of  
9 those things. He repeatedly said, I'm not aware of that.  
10 He didn't say there is a difference. He said he wasn't  
11 aware of what the operator did. So I object to the form  
12 of the question.

13 MR. BERLIN: I'll move on.

14 JUDGE REED: Very good.

15 BY MR. BERLIN:

16 Q. Mr. Clark, Mr. Mills had asked you some  
17 questions about the log book. Did you sit down and review  
18 the records and books of this company with Mr. Clifford?

19 A. During my initial visit to the Hickory  
20 Hills Water & Sewer system, I was -- I was with Kay  
21 Clifford at the system. She was the one that I sat with  
22 in the initial audit to provide all of the information  
23 that I needed.

24 Q. Earlier you indicated that Mr. Clifford is  
25 performing some activities that are not logged. So I'm

1 clear, those activities, did that include the pick up,  
2 retrieval, sorting of mail?

3 A. I believe it did. He did perform those  
4 duties without logging his time. Again, I learned this in  
5 discussion with Mr. Clifford.

6 Q. And is that a daily duty?

7 A. On the days that the Post Office is open,  
8 yes.

9 Q. You indicated -- is there time that he  
10 spends returning phone calls that is logged or does he log  
11 that activity?

12 A. It is my understanding that there are  
13 several times that he does not log activities when he's on  
14 the phone for various reasons, customer call-ins and  
15 contacting different organizations, different places to  
16 purchase stuff, that he doesn't actually log those hours.

17 Q. When he plans his daily activities, does he  
18 log that time?

19 A. No. In discussion with Randy, he has  
20 stated that there's a lot of times that he spends thinking  
21 about the system, thinking -- as you say planning his  
22 activities for when he does arrive at the system, that he  
23 does not log.

24 Q. When he leaves his home office to go to the  
25 water plant facility and the lagoon, has he been logging

1 that travel time?

2 A. From the well house to the lagoon? I'm  
3 sorry. Please restate the question.

4 Q. When he departs his home office --

5 A. Okay.

6 Q. -- does he log the travel time that it  
7 takes for him to move from his home office to the water  
8 plant facility?

9 A. Yes, he does.

10 Q. I believe that Mr. Mills had a question for  
11 you on your work paper regarding an entry on December 4th.  
12 Was that a -- was that a transpositional error that you  
13 had corrected? You talked about -- if you could, explain  
14 that particular entry, please.

15 A. Yes. I believe Mr. Mills' question was of  
16 December 4th where I have an hour logged in the original  
17 work papers.

18 Q. Okay. You earlier mentioned or responded  
19 to a question from Mr. Mills pertaining to entries made on  
20 December 2nd and 3rd.

21 A. Excuse me. Yes. On December 2nd and  
22 December 3rd, the difference in the log and what I have in  
23 my work papers is a transparency (sic). I have one hour  
24 on one day and four on the next, where the log is four on  
25 one day and one on the next. So it's just transposed.

1 It's just --

2 Q. It's a transpositional error?

3 A. Correct.

4 Q. Now, Mr. Clark, would it be Staff's  
5 position that the customers should pay for any more hours  
6 than Mr. Clifford had actually worked?

7 A. No.

8 Q. In fact, Staff's position is that  
9 Mr. Clifford spends a minimum of one hour in performing  
10 his duties operating the Hickory Hills system each day;  
11 isn't that right?

12 MR. MILLS: I object to the question. It  
13 assumes facts not in evidence.

14 MR. BERLIN: Your Honor, I think it does.  
15 I think we just established that there are activities that  
16 Mr. Clifford has engaged in that go unlogged that are  
17 clearly business related and related to the running of  
18 this company.

19 JUDGE REED: On that basis, the objection  
20 is overruled.

21 THE WITNESS: I would -- the answer to that  
22 question would be yes.

23 BY MR. BERLIN:

24 Q. All right. And in summary, these  
25 activities would include customer issues, mail pickup,

1 sorting and processing, returning phone calls regarding  
2 regulatory DNR activities, purchasing, as well as any  
3 daily requirement to test the water system; would that be  
4 right?

5 A. Yes.

6 MR. BERLIN: No further questions, your  
7 Honor.

8 JUDGE REED: All right. Thank you.

9 Mr. Clark, that's it for you. Thank you.

10 It's about 12:10. Let's return at 1:15.

11 The next witness will be Mr. Robertson.

12 (A BREAK WAS TAKEN.)

13 JUDGE REED: Let's get started. It's about  
14 1:20. Okay. Mr. Robertson, please raise your right hand.

15 (Witness sworn.)

16 JUDGE REED: Be seated.

17 TED ROBERTSON testified as follows:

18 DIRECT EXAMINATION BY MR. MILLS:

19 Q. Could you state your name for the record,  
20 please.

21 A. Ted Robertson.

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

24 A. By the Office of the -- Missouri Office of  
25 the Public Counsel. I'm a utility accountant, regulatory

1 utility accountant for the OPC.

2 Q. Are you the same Ted Robertson that has  
3 written and caused to be prefiled rebuttal testimony in  
4 this case?

5 A. I am.

6 Q. And are you aware that that testimony has  
7 been marked for identification purposes as Exhibit 9?

8 A. Yes.

9 Q. If I were to ask you the same questions  
10 contained in Exhibit 9 here today, would your answers be  
11 the same?

12 A. They would.

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

15 A. They are.

16 Q. Do you have any additions or corrections to  
17 make to that testimony?

18 A. I do not.

19 MR. MILLS: I have no further questions and  
20 I tender the witness for cross-examination.

21 JUDGE REED: Let's see. Mr. McCutcheon --

22 MR. McCUTCHEON: Thank you, your Honor.

23 JUDGE REED: -- cross-exam for Hickory  
24 Hills?

25 CROSS-EXAMINATION BY MR. McCUTCHEON:

1 Q. Mr. Robertson, do you have any experience  
2 operating a water or sewer system?

3 A. In the actual operation?

4 Q. Yes, sir.

5 A. No, sir.

6 Q. And you don't hold any license for either  
7 water or sewer operation?

8 A. An operator certificate?

9 Q. Yes, sir.

10 A. No, sir.

11 Q. And your occupation is as an accountant;  
12 would that be true?

13 A. That is correct.

14 Q. And you've worked for the Office of Public  
15 Counsel since your graduation from college?

16 A. No. Since May of 1990.

17 Q. Okay. So that is 16 years?

18 A. Almost.

19 Q. And you've testified in numerous cases on  
20 behalf of the Office of Public Counsel?

21 A. I have.

22 Q. Have you inspected the water and sewer  
23 system at Hickory Hills?

24 A. I have not.

25 Q. Inspected the office of Hickory Hills at

1 the Randy Clifford home?

2 A. Are you talking about his business office?

3 Q. Right, office.

4 A. I have not.

5 Q. Have you inspected any of the equipment of  
6 Hickory Hills and where it's stored?

7 A. No.

8 Q. Would Hickory Hills Water & Sewer Company  
9 be entitled to rate increase expenses for attorney fees  
10 and expenses today?

11 MR. MILLS: I object to the relevance of  
12 the question. Attorney's fees and rate case expense is  
13 not an issue in this case.

14 JUDGE REED: Mr. McCutcheon, do you have a  
15 response?

16 MR. McCUTCHEON: I have no response other  
17 than my previous response, as far as there wasn't any way  
18 of getting into it until I knew today what it was.

19 JUDGE REED: All right. The objection is  
20 sustained.

21 BY MR. McCUTCHEON:

22 Q. And is it true that the City of Tipton pays  
23 \$18.62, excluding benefits, for its water and sewer  
24 operator?

25 A. I have no knowledge of that, whether it's

1 true or not.

2 Q. Do you know whether or not the City of  
3 Tipton also pays its water and sewer operator additional  
4 benefits of \$13.41, so the total hourly wage is \$32.02 for  
5 the water and sewer operator at Tipton?

6 A. I have no knowledge whether that's a true  
7 and accurate statement.

8 Q. Do you know how far away Tipton, Missouri  
9 is from the Hickory Hills Water & Sewer facility?

10 A. I do.

11 Q. How far would that be?

12 A. From the Hickory Hills?

13 Q. Yes.

14 A. How far the city is?

15 Q. The City of Tipton.

16 A. Approximately 11 or 12 miles.

17 Q. So pretty close in geographical area?

18 A. Yes.

19 Q. And you arrived at a \$13 hourly  
20 compensation in your direct testimony by using the two  
21 lowest advertised bids of \$10 and 10.40 an hour; is that  
22 correct?

23 A. No, that's not correct.

24 Q. Then as far as in your direct testimony,  
25 you indicated the Jefferson City paper advertised between

1 \$11.82 and \$16.05 based on experience?

2 A. Could you reference me to the exact comment  
3 you're talking about?

4 Q. I'll withdraw the question and ask a  
5 different one. As far as in previous rate cases, has the  
6 hourly rage wage for Randy Clifford been \$22.50?

7 A. In the rate case prior to this one?

8 Q. Yes, sir.

9 A. Staff put together its work papers, and  
10 accounting schedules contained within that determination  
11 of that rate increase, they agreed to an hourly rate of  
12 22.50 for the services provided by Mr. Clifford, 22.50 per  
13 hour in the last rate case.

14 Q. At page 18 of your direct testimony, at  
15 lines 22 and then on page 19, 1 to 2, then, you indicated  
16 there is an advertising opening for a wastewater treatment  
17 plant operator at a wage between \$11.82 and \$16.05 based  
18 on experience and position; is that correct?

19 A. The very first employment advertisement I  
20 list there on the bottom of page 18, I believe, is the one  
21 you're referencing, and that's correct, for a Class D.

22 Q. Do you know whether or not anyone was hired  
23 at those wages?

24 A. I do not.

25 Q. Then on page 19, line 4 on No. 2, you

1 indicated the City of Lebanon advertised a wastewater  
2 treatment operator with a Class C certificate between \$10  
3 and \$15 per hour based on experience?

4 A. That's correct.

5 Q. Do you know whether anyone was hired at  
6 those rates?

7 A. I do not.

8 Q. Then on No. 3, again I'm on page 19,  
9 line 10, you show the City of Republic, Missouri  
10 advertised on its website a wastewater operator, one with  
11 a Class D certificate of 10.40 per hour?

12 A. That's correct.

13 Q. Do you know whether they were able to hire  
14 anybody at that rate?

15 A. I do not know.

16 Q. Then that same page 19 beginning at  
17 line 15, No. 4, apparently Jefferson City News Tribune,  
18 there was an opening for a wastewater plant operator at a  
19 wage of \$15.33 based upon education and experience; is  
20 that correct?

21 A. For a Class A operator, that's correct.

22 Q. Do you know whether anyone was hired for  
23 that position at that salary?

24 A. I do not know.

25 Q. Then No. 5, on page 19 at line 23, you

1 indicated that there's some statistics in the City of  
2 Springfield, Missouri, waste and liquid waste treatment  
3 plant system operators earned a mean hourly wage of \$15.65  
4 per hour; is that correct?

5 A. That's what I have listed, that's correct.

6 Q. Then on page 19, lines 28 to 31, you  
7 indicate that the US Department of Labor, Bureau of  
8 Labor's statistics website, hourly mean wage by industry  
9 for all water, sewage and other plant system operators at  
10 \$16.44 per hour?

11 A. That's correct.

12 Q. That's correct?

13 A. Yes, sir.

14 Q. Are all these positions entry-level  
15 positions into the wastewater and water system?

16 A. No.

17 Q. They're not entry-level positions?

18 A. Not all of them, no.

19 Q. You're saying they would be people with  
20 experience coming into that, hired at those wages?

21 A. I would think so, yes.

22 Q. Then is it my understanding that what you  
23 used to base your rate at \$13 an hour were the advertised  
24 range of \$10, which would be City of Lebanon, and \$10.40,  
25 which would be the City of Republic?

1           A.       No.

2           Q.       Then let me ask you, how did you arrive at  
3 your \$13 an hour compensation?

4           A.       If you look at on page 19 for the City of  
5 Lebanon, No. 2, which is line 4, the range there is  
6 between \$10 and \$15 per hour based on experience. And  
7 then if you look at the one above that for the City of  
8 Columbia, starting on 18, going over to page 19, the range  
9 there is 11.82 to 16.05. I took that high of 16.05 for  
10 the City of Columbia and averaged it with the low of the  
11 City of Lebanon, which was 10. What that was, that was a  
12 range for all those smaller communities, the \$10 being the  
13 lowest for those communities, the 16.05 being the higher.

14                       And from that, I ended up with the average,  
15 and that's shown on page 24 of my testimony and -- on  
16 line 5. You take the \$10 plus the \$16.05 divided by two,  
17 that gives me the approximate \$13 per hour. And what that  
18 represents is the middle of those ranges. It's not for  
19 low range for the beginning operator or the high range  
20 that they listed for people with experience. It's just an  
21 average of those two amounts.

22           Q.       Are you aware of any water and sewer system  
23 operators with the experience of Randy Clifford being paid  
24 \$13 an hour?

25           A.       I am aware -- and one of the Data Requests

1 I sent Staff was Data Request No. 10, and I asked the  
2 Staff to respond to a list of utility companies operating  
3 within this state, small utilities, and what the  
4 owners/operators of those utilities were receiving.  
5 Staff's responses to those -- to several of those, to that  
6 Data Request referring to several of those utilities  
7 indicate that the cost incurred or being provided to those  
8 operators is in that range of \$13 or less, a few higher, a  
9 few lower.

10 Q. Would you agree the experience that Randy  
11 Clifford has from the last 16 years operating this system  
12 and all the special skills that he brings to the Hickory  
13 Hills Water & Sewer system, that he should be compensated  
14 more than \$13 an hour?

15 A. No, I would not. I would agree, as I put  
16 in my testimony, that that \$13 per hour that we recommend  
17 takes into account that he spent the time, 16 years  
18 operating the system, and therefore, were it not for that,  
19 I would have probably recommended a lower amount. But  
20 because he has the experience, we recommended that that  
21 amount be raised from the \$10 low range up to the \$13.

22 Q. Would it make any difference in setting his  
23 compensation that he's on call for 24 hours a day to  
24 respond to emergencies?

25 A. It is a small system. He is the

1 owner/operator. That's part of his responsibility, just  
2 as it is with any utility owner/operator within the state.

3 Q. As well as soliciting services and hiring,  
4 supervising the collection of billing and all those things  
5 that you -- say that's included all his responsibilities  
6 for \$13 an hour?

7 A. He is the manager of this small utility,  
8 yes.

9 Q. As well as maintaining and repairing the  
10 system itself, then, he's only entitled to \$13 an hour for  
11 doing all those things as manager of an -- operator of a  
12 small utility company?

13 A. The work he performs is common for that  
14 position, that type of job for other utilities within the  
15 state for other utilities. You take the \$13 and annualize  
16 that on an annual basis, that's \$27,000. That's pretty  
17 good salary for a small utility company of 47,  
18 49 customers, in our opinion.

19 Q. That's your opinion, that's a good salary  
20 for a small water and sewer company?

21 A. Owner/operator, that's correct.

22 Q. Does Randy Clifford have a great deal more  
23 responsibility and duties than the positions that we  
24 talked about that were advertised in the paper, those five  
25 positions?

1           A.       I don't believe he does.

2           Q.       Do you know whether those positions, the  
3 five that we've talked about that were advertised in the  
4 paper, do they actually have to leave the sewer and water  
5 facility and go to the various houses to check the water,  
6 to make sure the lines aren't leaking, to do all those  
7 things?

8           A.       Would you like me to read the descriptions?  
9 I have some of the descriptions for each of those  
10 advertisements, and the qualifications, the experience,  
11 the job expectations --

12          Q.       Well, I think --

13          A.       -- match.

14          Q.       I didn't ask you to read me any  
15 descriptions. I just asked you that question.

16          A.       The answer is they do require those duties  
17 to be performed, yes.

18          Q.       Have you ever accompanied Randy Clifford  
19 while he's performing his duties as operator of the  
20 Water & Sewer system?

21          A.       No.

22          Q.       You have no personal knowledge of the  
23 actual time that he spends operating the Hickory Hills  
24 water and sewer system?

25          A.       I do have personal knowledge. I sat in on

1 the deposition of Mr. Clifford and he explained in detail  
2 what his activities were. So based on what he told us, I  
3 have that knowledge.

4 Q. Your personal knowledge is based upon his  
5 deposition?

6 A. That is correct.

7 Q. Have you -- other than the deposition, have  
8 you personally met with Randy Clifford to go over his log  
9 of time and his mileage in which he explains how much time  
10 and how many miles on a daily basis?

11 A. Are you asking if I've had a personal  
12 meeting with him?

13 Q. Yes.

14 A. To go over the logs individually?

15 Q. Correct.

16 A. No.

17 Q. But your knowledge is based upon the log  
18 and then what you heard at his deposition?

19 A. And responses to Data Requests, talking  
20 with Staff, talking with Mr. Clifford in various meetings  
21 we've had. Maybe I should ask my knowledge of what?

22 Q. I'm sorry?

23 A. My -- I'm a little confused about what  
24 you're asking my knowledge of.

25 Q. I think the question I was asking, as far

1 as your knowledge of the activities of Randy Clifford --

2 A. Okay.

3 Q. -- and what he did in that was based upon  
4 the deposition and the log?

5 A. And my answer stands. Responses to Data  
6 Requests, meetings with the company.

7 Q. In addition to the responses to Data  
8 Requests then?

9 A. Yes.

10 Q. Have you ever asked any of the responses to  
11 Data Request as far as determined as how many holidays  
12 Mr. Clifford has during the year?

13 A. How many holidays?

14 Q. Holidays that he has during the year from  
15 his regular job.

16 A. How many days off his full-time?

17 Q. Right, how many hours of vacation and all  
18 those things?

19 A. I have not.

20 Q. Because at least on those days, on the  
21 weekends and the holidays and when he's on vacation, he  
22 does not go to work in Jeff City, but he has to make a  
23 trip from Tipton to the system near California, Missouri  
24 at Hickory Hills; is that correct?

25 A. In my work papers attached to my direct

1 testimony, I have a spreadsheet shows where we included  
2 mileage and time for those days when he's -- for the  
3 weekends, for the holidays, for when he's not at his  
4 regular job. We've allowed those miles in our analysis.

5 Q. So it's your testimony you did allow for  
6 vacation days on your mileage log when Randy Clifford  
7 would not be traveling to Jefferson City?

8 A. Actually, as far as vacation days are  
9 concerned, we allowed mileage for those days. We just --  
10 I just assumed he didn't take vacation. I allowed in for  
11 weekends, I allowed in for representation of holidays as  
12 you've identified from his full-time job. I've allowed in  
13 mileage for amounts where it appeared that he took special  
14 trips to pick up supplies or to do other work related to  
15 the utilities.

16 The only hours or only miles we've actually  
17 disallowed or recommended be disallowed were during the  
18 normal weekdays of Monday through Friday for when he's  
19 driving back and forth right by the system to his job in  
20 Jefferson City and to his home in Tipton. So, yes, I have  
21 allowed representation of weekends, holidays, vacation.

22 Q. You have allowed for vacation?

23 A. In our recommendation, there is an amount  
24 in there for that, yes.

25 Q. Directing your attention to Schedule TJR-2

1 that's attached to your direct testimony, I think it's  
2 pages --

3 A. I have it.

4 Q. Actually 1 through 12, is it not?

5 A. That's correct.

6 Q. Would it -- and I can go over it on a  
7 day-by-day basis, but there are a number of days, and what  
8 my addition was, approximately 65 days on which you would  
9 have disallowed, at least from the beginning where he was  
10 putting down .75 and you disallowed .25 hours of it. And  
11 then there were other entries where you had -- he had an  
12 hour and you disallowed down to half an hour or took time  
13 off of that.

14 On those entries, on those 65 days, he had  
15 on his comments things, I'm going to say, indicated he did  
16 more than just check the system, but you disallowed -- all  
17 you're allowing for for those approximately 65 days is  
18 just the time to check the system, which I understand that  
19 to be half an hour?

20 A. That's not correct. On most of those  
21 entries, if not the majority of them, the description he  
22 has is chlorine test and check system. From his  
23 deposition, he identified that he could do the chlorine  
24 test in approximately 15 minutes on a good day. He did  
25 indicate he couldn't do that every day, but on a good day

1 he did it in 15 minutes. To look at the system flow we  
2 surmised it would take but a few minutes to do that also.  
3 So to be what we considered a reasonable amount, we  
4 doubled that 15 minutes to one-half hour of time on those  
5 days where he put down a minimum of one hour or .75 hour  
6 without further description of doing other work  
7 activities. We figured here's where he padded his time.

8 Q. You're assuming he was padding his time and  
9 didn't check any further with him as far as whether he  
10 actually spent that time there?

11 A. Well, the time log is his responsibility to  
12 keep in detail so as to identify what he actually does,  
13 what activities he performs for the utility. The time log  
14 is -- what he put down is the chlorine test and check  
15 system. If that's what he's written down, I assume that's  
16 what he did. He stated that's what he did.

17 He's also identified that he can do that in  
18 15 minutes or so, and that he pads his time to an hour  
19 whether he uses an hour's worth of time or not.  
20 Therefore, we thought it would be reasonable to take it to  
21 a half hour to allow him plenty of time to do the work  
22 he's identified.

23 Q. So as I understand what your position is,  
24 that he's padding his time on all the days he's working  
25 there?

1           A.       No, not all the days. Just the days I made  
2 adjustments for.

3           Q.       I'm going to ask you as far as on page 1 of  
4 the Schedule TJR-2, there's two January -- No. 1 and No. 2  
5 on those two days, he doesn't show that he worked anything  
6 but you added in -- you gave him a half hour?

7           A.       Yes.

8           Q.       Then going down to day 13, he's got -- he  
9 did his chlorine test and he checked the system bacterial  
10 sample at test point, indicated what he'd done, and he  
11 logged three-quarters of an hour, but currently you've  
12 adjusted back to .25, adjust to minimum test check; is  
13 that how I understand you did it?

14          A.       That's correct.

15          Q.       Then on page 2, I'm going to refer you to  
16 day 35, which is a Wednesday, which he put down he worked  
17 an hour, and he put the bank there and he showed 1.75 on  
18 the log, and then you adjusted it .25 to adjust minimum  
19 test and check; is that correct?

20          A.       I adjusted .25. He had 1.75, and then he  
21 had a further description of the bank. Because he didn't  
22 split it up between the chlorine system check and the time  
23 it took him to go to the bank, in those instances where  
24 his description was more fully explained, I -- I only  
25 adjusted for the chlorine system check time. I assume

1 that the bank was the remainder. Because he didn't break  
2 it down in enough detail to identify what the time was to  
3 separate the two activities, I gave it to him. I allowed  
4 it to be. I didn't make adjustment for it.

5 Q. You did not make an adjustment for it?

6 A. For the bank portion.

7 Q. The other portion you did?

8 A. I did.

9 Q. Then on day 41, he indicated as far as  
10 description of chlorine test, he checked the system --  
11 chlorine test and checked the system both, adjusted the  
12 feed pump and showed .75 hour, and again, you adjusted --  
13 you took off .25 back to half an hour; is that correct?

14 A. I did.

15 Q. That was a fairly detailed description of  
16 what he did that day, was it not?

17 A. Yes. In his deposition he explained the  
18 process of testing and adjusting the feed pump, and in his  
19 deposition he indicated it only took a few minutes to do  
20 that. So we figured that the 30 minutes would be plenty  
21 of time to encompass the also adjusting of the feed pump,  
22 the chlorine feed pump from the mixer, the can he mixes  
23 his chlorine in.

24 Q. In his deposition, didn't he indicate under  
25 questioning by Mr. Mills that on the -- the quickest time

1 that he can get -- he could get out of there, if  
2 everything went smooth, if nothing else, the quickest time  
3 was a quarter of an hour; is that correct?

4 A. He did say that that would be a good day  
5 for him.

6 Q. But if you do other things, it took  
7 additional time?

8 A. He did indicate that, yes. That's why we  
9 doubled the 15 minutes to 30 minutes to allocate for that  
10 additional time in those instances where that would  
11 happen, such as having to adjust the feed pump.

12 Q. But your whole theory as far as adjusting  
13 back to half an hour is based upon the question that on  
14 the easiest day when he had the least amount of time  
15 there, it was a quarter of an hour, and so for his benefit  
16 you say, well, he's entitled to a half an hour because we  
17 don't think he probably can get all that done all the  
18 time. But when he has extra stuff to do as far as mixing  
19 the chlorine and checking the system and whatever, you  
20 don't actually give him the actual amount of time he shows  
21 on his log, you're reducing it each time back to half an  
22 hour?

23 A. That's what we do, that's correct.

24 Q. So I don't need to go through all the rest  
25 of these days as far as, for instance, then he was

1 getting -- he was showing that he's mixing the chlorine,  
2 he ran the compressor, adjusting chemical pump, mixed  
3 chlorine, as well as running those tests, he's showing an  
4 hour, hour and a half. And on each of those you're taking  
5 off a half an hour or, for instance, on the bacterial  
6 sample on day 137, he spent an hour and a half, so you  
7 kicked that back, took actually an hour off and just allow  
8 him what you think all he should be doing there is half an  
9 hour?

10 A. We tried to be consistent in all the  
11 adjustments that we made. For example, as I stated, if he  
12 did something, the larger description of his activities  
13 there unrelated to just the chlorine or system checking or  
14 adjusting the feed pump, we tried to allow those hours. I  
15 didn't make adjustment for them.

16 But if it was just related to the items he  
17 discussed in his deposition where he could do it in 15  
18 minutes on a good day, we doubled that to a half hour. We  
19 tried to allow him more time than what he said he could do  
20 that in by 100 percent.

21 Q. I'm going to ask you on page 5, entry 17,  
22 he's got he did his normal test, he checked the system,  
23 did the bacterial sample, and he showed that he spent an  
24 hour and a half there, and you disallowed an hour because  
25 there was no support above the minimum test check; is that

1 correct?

2 A. I'm sorry. Which line? Which line are you  
3 on? Which day, which number?

4 Q. It's day 137.

5 A. And you're saying --

6 Q. On page 5 of the 12.

7 A. Right. And he had an hour and a half, and  
8 I disallowed one half hour -- or one hour to take it back  
9 to a half hour. That's correct. Same as the question  
10 before that you asked me about.

11 Q. And then on that same page, day 146, he  
12 spent three hours at the lagoon, and you took off half an  
13 hour because his admission to logging at least one hour  
14 minimum; is that correct?

15 A. Well, in this description, he did a little  
16 better description. He identified that he spent three  
17 hours at the lagoon, which I surmise means he's claiming  
18 an hour to do the chlorine check -- or the chlorine test  
19 and the system check. Well, we've already indicated that  
20 he can do that in approximately 15 minutes on a good day,  
21 so we allowed him a half an hour for that. Therefore, you  
22 had the adjustment to take it back from one hour -- his  
23 one hour minimum that he liked to put in, back to a half  
24 hour.

25 As I said, we tried to be consistent in all

1 these entries in the way that we did it, or the way that I  
2 did it.

3 Q. And on day 141, he did his normal check,  
4 checked the system, he mixed the chlorine, met with John  
5 Gibson, collected the peak water systems and he had an  
6 hour of time there, and then you disallowed half an hour,  
7 saying Mr. Clifford's admission to logging at least one  
8 hour minimum.

9 A. That's correct, that's what I did.

10 Q. Then on day 148, he has again, check the  
11 system and the lagoon for 45 minutes, repair leak at the  
12 well house for an hour and an half, and then you  
13 disallowed a quarter of an hour to adjust the minimum test  
14 check?

15 A. And in that one he had an hour and a half  
16 logged and says he spent 45 minutes at the lagoon. His  
17 description was more detailed about his activities. We  
18 allowed his time at the lagoon, and we adjusted the  
19 chlorine test and the system flow back to a half hour.

20 Q. Then on day 158, on page 5 of 12, he did  
21 samples and spent two hours there, and then you disallowed  
22 an hour and a half because no support about the minimum  
23 test check?

24 A. That's correct.

25 Q. Then on day 165, he gathered -- spent

1 another two and a half hours gathering samples and  
2 whatever else he did there, and then you disallowed two  
3 hours because no support of other minimum test check?

4 A. That's correct. In several cases his  
5 description of his activities was minimal.

6 Q. In other words, his description of the  
7 activities performed that day weren't sufficient enough  
8 for you to believe that he actually spent that number of  
9 hours there, so you adjusted it back by whatever you  
10 thought was appropriate?

11 A. Well, we know on a daily basis he has to do  
12 the chlorine test and the system check. That's a given.  
13 He has to do that now. He does do it.

14 Q. Right.

15 A. Therefore, we tried to provide for him time  
16 to do those activities. If he didn't give a description  
17 that was sufficient -- we believed to be sufficient to  
18 identify what all the activities were that he did, I made  
19 the adjustment back to a half hour, yes.

20 Q. So it would be correct you disallowed quite  
21 a few hours as far as what he was showing on his log that  
22 he spent there because of the, what you say, admission to  
23 the logging at least one hour minimum?

24 I believe the total hour adjustment that I  
25 proposed from what he had logged is about 119 hours. So

1 whatever he had logged I proposed to reduce by about 119  
2 hours effectively.

3 Q. So all the rest you reduced by 119 hours?

4 A. Approximately. That's on -- that's in my  
5 testimony also, the exact number.

6 Q. So it's your testimony here today, as I  
7 understand it, that as far as an owner/operator with all  
8 the skills he brings to the table as the operator of a  
9 small water and sewer system, is that he should only be  
10 compensated for \$13 an hour and the very minimum hours  
11 that you've calculated?

12 A. Could you rephrase that, please?

13 Q. I think --

14 A. I'm not sure what you're asking.

15 Q. I think my question is, as far as -- based  
16 upon your testimony here today, as far as the operator of  
17 a small water and sewer system, with all the skills that  
18 Mr. Clifford brings to that system that you've heard at  
19 his deposition as well as you've been here all day, his  
20 testimony, is \$13 an hour at the hours that you calculate  
21 in your direct testimony, disallowing I think what you  
22 said 119 hours from that, from what he actually logged in  
23 because you weren't -- didn't feel his position was  
24 justifying that number of hours he spent?

25 A. What we've done is we've looked at the cost

1 structure of this utility, and based on the facts  
2 associated with this utility, Mr. Clifford's training,  
3 services provided and his time spent, given that he's  
4 admitted he pads this time log, we've made adjustment for  
5 what we believe was an amount related to that padding. I  
6 then went out and looked at what I thought would be market  
7 rates for somebody who provides the kind of services he  
8 does.

9                   Based on that analysis of what we found out  
10 in the market, I believe the \$13 per hour that we've  
11 recommended to be allowed for Mr. Clifford's services is  
12 very reasonable. So yes, that's what I recommend in my  
13 testimony.

14               Q.       Do you -- as far as the other services that  
15 Mr. Clifford provides to the company, as far as providing  
16 an office in his home to store the records, a computer to  
17 do the billing, storage for property of the Hickory Hills  
18 Water Company, is that also included in your \$13 an hour  
19 or should he be entitled to an additional amount for all  
20 those things he does?

21               A.       You may be a little bit confused here. As  
22 far as I know, the only issues in this hearing right now  
23 are his salary, the hours related to the per hour rate,  
24 the actual hours he worked, mileage, and that portion of  
25 the mileage being the number of miles, and the retirement.

1 All other costs related to this utility, there are no  
2 other issues. We pretty much came to agreement, all the  
3 parties have. So if you're talking about office costs,  
4 supply costs, office-type supply costs, I don't believe  
5 any of those costs are in dispute.

6 Q. You're certainly right. I am confused how  
7 you can expect a person with all of his skills, all of the  
8 things he does, 16 years of experience, he provides all  
9 these services to the company as far as storing the  
10 records, the billing --

11 MR. MILLS: Your Honor, I object. This is  
12 speechifying. This is not cross-examination. He's  
13 testifying.

14 JUDGE REED: Overruled.

15 BY MR. McCUTCHEON:

16 Q. -- how he can do all those things for \$13  
17 an hour?

18 A. That is a very fair rate based on what  
19 market, employment advertisements for people doing similar  
20 work with higher certification than what he does.

21 MR. McCUTCHEON: I don't have any other  
22 questions.

23 JUDGE REED: Cross-examination by Staff,  
24 Mr. Berlin?

25 CROSS-EXAMINATION BY MR. BERLIN:

1           Q.       Mr. Robertson, in your position with the  
2 Public Counsel's Office, are you responsible for  
3 performing audits and examinations of company books and  
4 records?

5           A.       Yes.

6           Q.       And in this case, did you ever meet with  
7 Mr. Clifford at his principal office to examine books and  
8 records of the company?

9           A.       I did not meet with Mr. Clifford at his  
10 office, but I did examine the books and records of the  
11 company.

12                   JUDGE REED: Excuse me a second.  
13 Mr. Robertson, make sure you're near the mic. I'm afraid  
14 we may not be picking you up.

15 BY MR. BERLIN:

16           Q.       So you have never visited Hickory Hills  
17 Water & Sewer Company; is that correct?

18           A.       That's correct.

19           Q.       Do you have a copy of your rebuttal  
20 testimony?

21           A.       I do.

22           Q.       On page 15, line 13 to 14, you state, if  
23 these entries related to testing and system checking --  
24 let me state again. If these entries were solely related  
25 to testing and system checking activities, I reduced the

1 time spent to one half hour per day. Otherwise, I  
2 accepted the log entries as written. Is that a correct  
3 statement?

4 A. That is correct.

5 Q. And the entries had to be related to  
6 testing and system checking. So I notice in your schedule  
7 there's many entries where it says chlorine testing and  
8 system checking, and that pretty much covers the scope of  
9 your examination of Mr. Clifford's activities, correct?

10 A. Those entries in the log are his  
11 identification. From his deposition, we think the scope's  
12 just a little bit bigger. Chlorine testing, there are  
13 activities involved in chlorine testing and system  
14 checking.

15 Q. Well, with regard to your Schedule TJR-2,  
16 do you have that before you?

17 A. I do.

18 MR. BERLIN: I have premarked that as  
19 Exhibit No., I believe it's No. -- let me double check --  
20 No. 7, and I know it's also incorporated in Exhibit No. 9,  
21 Mr. Robertson's rebuttal testimony. I have copies.

22 May I approach?

23 JUDGE REED: Yes.

24 MR. MILLS: May I inquire briefly? Is this  
25 simply a reproduction of the schedule that's already

1 attached to Mr. Robertson's prefiled testimony?

2 MR. BERLIN: That's correct.

3 MR. MILLS: Okay. Thank you.

4 BY MR. BERLIN:

5 Q. Mr. Robertson, what is the source of your  
6 Schedule TJR-2?

7 A. The 2004 -- the Hickory Hills utility 2004  
8 time log, time and hour log.

9 Q. And how did you receive that log?

10 A. Via Data Request response, and Staff  
11 brought me a copy of it.

12 Q. When you examined this log, did you include  
13 any time for activities undertaken by Mr. Clifford such as  
14 reviewing, picking up mail, sorting mail, returning phone  
15 calls to government agencies, to customers, to suppliers?  
16 Did you include any time spent in his discussion of the  
17 business activities of the day with Kay Clifford? Did you  
18 include any time at all for those activities?

19 A. If it's in the time log, yes. And the time  
20 log is supposed to be a representation of the time he  
21 spends on the activities of the utility business.

22 Q. Now, to summarize, I presume it would be  
23 safe to say that where the entries reflect chlorine test,  
24 check system, that you only permitted a half an hour?

25 A. I permitted one half hour, that's correct.

1 Q. And in response to a question from  
2 Mr. McCutcheon, I believe you stated that it was based  
3 upon your understanding of a response by Mr. Clifford that  
4 the very, very fastest that he can perform a chlorine test  
5 and system check is 15 minutes?

6 A. That's correct.

7 Q. Okay. Well, if I look at day 13, I'm  
8 looking at an entry here that says chlorine test, system  
9 check. Do you see that?

10 A. I do.

11 Q. And for all other purposes of inquiry as I  
12 go through this, I'm going to refer to the day number on  
13 the left-hand margin. In the comment section is written,  
14 bacteria sample at test point 1. Do you know where test  
15 point 1 is?

16 A. I know that he has approximately five test  
17 points. The actual location, no.

18 Q. But you made an adjustment back to the  
19 standard half hour that you apply for chlorine test and  
20 system check, correct?

21 A. I made an adjustment to one half hour time,  
22 yes.

23 Q. So the bacteria sample test that  
24 Mr. Clifford conducts did not rise to the level of a work  
25 activity for the purpose of recording it or accounting for

1 it in this as for his time; is that correct?

2 A. No. I think I did.

3 Q. How so?

4 A. I think I did. I think that if he said if  
5 he can do the chlorine test and the system check in  
6 approximately 15 minutes and we doubled that, that  
7 provided 100 percent more time for him to do other  
8 activities, and I think bacteria sample test that he does,  
9 and I believe he does it once a month or so, is accounted  
10 for in that additional 15 minutes per day.

11 Q. So now you believe that chlorine test,  
12 system check, activities related to that now also include  
13 the system bacteria sample checks that he enters into the  
14 comment section of his log; is that right?

15 A. My position has not changed. I told you  
16 just because he has chlorine test, system check as a  
17 description, we believe that encompasses a little bit as  
18 far as activities are concerned, and we believe the  
19 bacteria sampling that he does on an occasional basis is a  
20 part of that process. It's part of the system check.

21 Q. And so on days like No. 13 and 137 where he  
22 includes bacteria sample tests that are conducted, you  
23 merely rolled that into the time of his standard system  
24 check, correct? In other words, you allowed only that  
25 half hour standard?

1           A.       We allowed the half hour or recommending an  
2 allowance or disallowance to the one half hour standard  
3 for those days where his description is so limited that  
4 the activities he described for us in the deposition  
5 relate to the chlorine test and the system check. In many  
6 instances within the log he puts in a more detailed  
7 description of his activities, how much time he spent on  
8 the water system versus the sewer system, and those days  
9 where the description is sufficient, we made no  
10 disallowance.

11                       In the days where he didn't put in more  
12 detailed descriptions, based on his admission that he pads  
13 the time log for a one hour minimum no matter whether he  
14 works one hour or not, and he's identified that he can do  
15 the system checking and the chlorine testing in 15  
16 minutes, we reduced that -- proposed to reduce that to a  
17 half hour, to double that amount to give him a little bit  
18 of a leeway for additional activities and time.

19           Q.       If I look at day 13, and Mr. McCutcheon  
20 touched on this, but I'm trying to understand your  
21 rationale here. The description of the activities as work  
22 one hour and bank, and he -- he went and made an entry --

23           A.       I'm sorry. Which one are you on?

24           Q.       I'm on day 35. I'm sorry. Day 35. And he  
25 made the bank entry?

1 A. Yes.

2 Q. And that day Mr. Clifford did not record  
3 his minimum one half hour. He recorded 1.75 hours,  
4 correct?

5 A. That's correct.

6 Q. But you made an adjustment back of .25  
7 hours?

8 A. That's correct.

9 Q. You don't accept that he went to the bank?

10 A. I did accept it. Not only do I accept it,  
11 I make no disallowance for it. If you look further up in  
12 the days above it, you will see there's a trend where he's  
13 recording .75 hours for his chlorine testing and system  
14 checking. It is my belief here that he put 1.75 hours on  
15 this particular day, the .75 to represent the chlorine  
16 testing and system checking and one hour for the bank.

17 I made no disallowance or make no  
18 recommendation of a disallowance for the bank, but for the  
19 system checking and the chlorine checking I reduce back to  
20 one half hour. The reason we made no adjustment for the  
21 bank is because I have no information, as an example from  
22 his deposition, a Data Request response or anything else  
23 that one hour was not what he took to go to the bank. I  
24 have no way of saying he didn't do it, that it took less  
25 than an hour for the banking, I guess I should say.

1 Q. So Mr. -- in your opinion, Mr. Clifford's  
2 book entry is just insufficient?

3 A. No.

4 Q. For him to claim the 1.75 hours?

5 A. That's what he claimed.

6 Q. Yes. He went and he claimed 1.75 hours?

7 A. Okay.

8 Q. But that entry by itself is not sufficient?

9 A. That entry by itself to me indicates that  
10 for the chlorine testing and the system checking, he had  
11 exceeded the time he could do it in the half hour by at  
12 least a quarter hour, so therefore, we made an adjustment  
13 for one-quarter hour.

14 Q. Now, if we go to day number -- for example,  
15 day 48, he makes an entry, chlorine test, check system,  
16 mixed chlorine. Again, you make an adjustment back to the  
17 half hour?

18 A. Yes.

19 Q. Now, is it your view that it takes no time  
20 to mix chlorine?

21 A. No, that's not my view. That's why we made  
22 an addition or made a disallowance only to a half hour.  
23 If he can do all the normal system checking and the  
24 chlorine testing in 15 minutes, and you double that to a  
25 half hour, we see no reason he can't do the mixed chlorine

1 in that time also.

2 Q. So he's doing -- but this is the 15 minutes  
3 where he's sprinting. This is his personal best. This is  
4 the fastest he can do a chlorine test and the system  
5 check. So every day is a personal best. He's setting the  
6 record. So now if I understand what you tell me, you're  
7 going to take another 15 minutes and then you're going to  
8 say, well, you know, he did his personal best, 15 minutes.  
9 In that other 15 minutes, that's when he mixes chlorine,  
10 correct?

11 A. He didn't indicate to us that he was  
12 sprinting.

13 Q. Well, apparently he indicated to you, using  
14 your words, that that's the -- if he does it the fastest?

15 A. I believe that's his words.

16 Q. Well, I believe it appears to me that  
17 you're using his standard as being the fastest when you do  
18 it fast.

19 A. The standard I'm giving or proposing is a  
20 half hour, which is a double of the amount of time that he  
21 says that he can do that in on a good day, whatever a good  
22 day represents.

23 Q. Were you here during the cross-examination  
24 of Mr. Clifford?

25 A. I was.

1           Q.       Do you recall a question from  
2 Mr. McCutcheon in which he asked Mr. Clifford about how  
3 much time it takes to mix chlorine?

4           A.       I do not.

5           Q.       Well, I'll refresh your memory. I believe  
6 Mr. Clifford responded that it took five to ten minutes  
7 for the setup and between seven and eight minutes to  
8 conduct the test. So if you add the minimums and the  
9 maximums, there's a chlorine mix time test of 12 to  
10 18 minutes. Now, 12 being the best, 18 maybe being not a  
11 good day, did you -- do you recall hearing that testimony  
12 provided by Mr. Clifford?

13                   MR. MILLS: I object to the form of the  
14 question. I think Mr. Berlin has gotten confused the  
15 concept testing for chlorine and mixing chlorine, and I  
16 think the form of the question assumes facts not in  
17 evidence.

18                   MR. BERLIN: No. I'm talking about what it  
19 takes to mix chlorine. This is a very critical task  
20 associated with this water plant facility. Mr. -- we can  
21 go back to the record.

22                   JUDGE REED: Let's not go back to the  
23 record. The objection is overruled. Continue,  
24 Mr. Berlin.

25 BY MR. BERLIN:

1           Q.       All right. Well, I'm looking at the days  
2 that Mr. Clifford recorded that -- he says that he mixed  
3 chlorine. Now, we can go through all the days and I might  
4 can spare the Court this process, but would 24 days where  
5 you did not allow any time for mixing chlorine, would that  
6 sound about right?

7           A.       I don't think I disallowed any days that he  
8 mixed chlorine.

9           Q.       Well, let's go and take a look. On day  
10 No. 48, he indicated an entry in the comment section of  
11 his log when he mixed chlorine and you adjusted it back.  
12 On day No. 55, he also indicated in his comment section  
13 that he mixed chlorine and you adjusted it back to the  
14 minimum. Am I correct on those two dates?

15          A.       What you're correct on is reading the  
16 dates. What your question was, that I disallowed him  
17 mixing chlorine. I didn't disallow him the activity or  
18 the time for mixing chlorine.

19          Q.       All right. So your rationale is that that  
20 time for mixing chlorine on days where he indicates  
21 chlorine test and system check, that he's going to fit  
22 that mixing chlorine into that half hour?

23          A.       Based on his deposition, the time it takes  
24 even to pour household bleach into a 30-gallon trash  
25 bucket on a ratio of one to nine or so is only a few

1 minutes.

2 Q. Well, I refer back to Mr. Clifford's  
3 response to Mr. McCutcheon's question as to the amount of  
4 time it takes him to mix chlorine, and I'll let the record  
5 stand because I know it's in the record. But your  
6 rationale, on all of the -- on these days where he inserts  
7 a comment, mix chlorine, and look at day 55, chlorine  
8 test, check system, mix chlorine. That falls within your  
9 idea of a half hour minimum?

10 A. It does, yes.

11 Q. So he's working pretty fast. Now, my  
12 question is, there are some entries that I've noticed  
13 where he cites in the comment section where he adjusts the  
14 feed pump or it may be referred to as a chemical pump.  
15 For example, day 41, he listed a chlorine test, a check  
16 system, and in the comment section he wrote, adjusted feed  
17 pump, and you've cut him back, correct?

18 A. We recommended disallowance back to the  
19 half hour, yes.

20 Q. And you recommended that because it's your  
21 belief that adjusting a chemical feed pump falls within  
22 that half hour of all those activities that he conducts  
23 while he is at that well house?

24 A. Of the activities involved in the chlorine  
25 testing and system checking, yes.

1           Q.       Now, there's some days where he indicated  
2 that -- like, for example, day 342 and day 343. If you  
3 notice, on day 342, on day 342, he writes water test,  
4 slash, charge tanks, and then he lists a comment with  
5 regard to rain in gauge. Now, on that day you adjusted  
6 back to the half hour?

7           A.       I did.

8           Q.       Is it your view that the day that he  
9 charges the tanks, that that is some activity that he is  
10 able to perform within your half hour standard?

11          A.       That's correct.

12          Q.       How long does it take to charge tanks?

13          A.       Don't have exact time.

14          Q.       On days -- I'll refer you to days 107, 108,  
15 109, 111, 112, 113. Are you there?

16          A.       Say the days again.

17          Q.       The days are 107, 108, 109, 111, 112 and  
18 113. It's page 4 of 12 of your schedule.

19          A.       Okay. My eyesight's not what it used to  
20 be.

21          Q.       Nor is mine.

22          A.       Okay.

23          Q.       All right. And of those days, he lists  
24 chlorine tests, check system, and on those days, he lists  
25 and logs more hours than his standard hour, one hour

1 entry?

2 A. Uh-huh.

3 Q. For example, I think you'll agree that on  
4 day 107 he lists 2.5 hours, and you've reduced it by two  
5 hours, correct?

6 A. That is correct.

7 Q. And you noted no support above the minimum  
8 test check?

9 A. That's correct.

10 Q. You did -- you took a similar action on  
11 day 108 in which he had logged three hours, and you  
12 adjusted it down two and a half hours, again noting no  
13 support above minimum test check, correct?

14 A. That's correct.

15 Q. And you did that for day 109 and 111 and  
16 112 and 113, correct, in which you noted no support above  
17 minimum test check?

18 A. That's correct.

19 Q. And that's a sampling, isn't it, of your  
20 entries throughout this schedule, is it not, where you  
21 would note no support above minimum test check, like these  
22 six particular entries?

23 A. Okay.

24 Q. You indicate no support above minimum test  
25 check?

1           A.       The log is -- time and hour log is  
2 Mr. Clifford's opportunity to describe his activities he  
3 performs at the utility. His description was limited to  
4 chlorine test, check system. We've already identified  
5 through his deposition that he could do that in  
6 15 minutes. We doubled it to a half hour to allow him  
7 plenty of time to do those activities.

8           Q.       Yes. I understand that, and I understand  
9 what you've allowed him, the half hour for the chlorine  
10 test, check system and on those days he logged more work  
11 hours than he did his standard one hour?

12          A.       That's correct.

13          Q.       And he did so on some other days as well,  
14 and he did that on, for example, day 153, 158.

15          A.       There are a limited number of days where he  
16 did that, that's correct.

17          Q.       All right. There are days where he did do  
18 that, correct?

19          A.       Yes.

20          Q.       And would it surprise you there's like  
21 15 days where that was done?

22          A.       I haven't counted them.

23          Q.       All right. Well, there's a number of days,  
24 correct?

25          A.       There are limited number of days, yes.

1 Q. And we can all go through there and count  
2 them if we wanted to.

3 A. You just let me know.

4 Q. All right. Now, you made a comment, no  
5 support. When you noted no support, did you take any  
6 action to contact Mr. Clifford or to contact Staff to  
7 question the support?

8 A. This is the support. His log is the  
9 document wherein he identifies the time he spent on the  
10 activities at the utility. This is his support. What  
11 additional support is there?

12 Q. Is this not your work paper where you have  
13 noted the adjustments?

14 A. This is my work paper taken directly from  
15 his 2004 time and hour log.

16 Q. And are those not your reasons for  
17 disallowance?

18 A. That's correct.

19 Q. Those are your reasons for disallowance?

20 A. They are mine.

21 Q. So when you prepared this, you prepared  
22 this in order to determine what you would allow and what  
23 you would not allow, correct?

24 A. When we -- we didn't go at it with that  
25 attitude of what we would allow and what we did not allow.

1 We went at it with the attitude of trying to understand  
2 what he recorded, what the descriptions were, how thorough  
3 the descriptions were, how he represented his time in his  
4 deposition and other documentation that we did receive.  
5 And from there we made what we believe to be a rational  
6 adjustment for proposed disallowance of time.

7 Q. And you've noted your reasons that there  
8 was no support in this paper?

9 A. I gave some brief reasons why I thought the  
10 disallowance should be -- should be in there.

11 Q. Now, Mr. Robertson, you're an auditor and  
12 you have audited many major utilities, have you not?

13 A. I have worked on a number of major  
14 utilities in this state, yes.

15 Q. Is it your practice when you conduct an  
16 audit and you go through a document that becomes your work  
17 paper from which -- that serves as a basis for your  
18 recommendation where you find no support that you don't  
19 call anybody, you don't bring it to the attention of  
20 anyone, or do you just make it and go with the  
21 recommendation?

22 A. If that is the support that was provided to  
23 me, I base my work paper on that support. This was the  
24 2004 time log. That was the support provided to me.

25 Q. You didn't --

1           A.       Now, are you asking me if I go talk to an  
2 individual about each and every item? No.

3           Q.       No. I'm not asking about each item, but  
4 where you're talking about taking hours away from a log  
5 that he has created and you do so on your work paper as an  
6 auditor, didn't it occur to you to call him or to call  
7 Staff as to the support for those hours that he had placed  
8 in his log?

9           A.       This is the support. There is no  
10 additional support.

11          Q.       Well, you --

12          A.       This is the support for his time.

13          Q.       Yes, he has created a daily log over a  
14 period of 365 days, and yet you -- you have taken the  
15 hours away from his log, from his log that he has kept  
16 over those days?

17          A.       Point being I took the documents provided  
18 to me, put together a work paper, made a recommendation of  
19 the disallowance. If the company disagrees with that or  
20 Staff disagrees with that, they can present evidence about  
21 why that entry or that proposed disallowance is not  
22 reasonable. I've seen no testimony or evidence showing  
23 that.

24          Q.       Well, that's an interesting comment,  
25 because the company and the Staff had no opportunity to

1 question these entries. This is your rebuttal testimony,  
2 correct?

3 A. That's not correct. They had ample  
4 opportunity. We had a meeting prior to the filing of  
5 direct testimony, and I gave them copies of this  
6 information, and we had a sit down with the company and  
7 Staff and talked about these proposed disallowance entries  
8 prior to filing the testimony.

9 Q. So now are you telling me that when you  
10 made these proposed disallowances, that you did contact  
11 the Staff and the company?

12 A. I'm telling you we had a meeting to discuss  
13 early on, prior to the filing of testimony, the Public  
14 Counsel's position in the rate case, and as part of that  
15 discussion, I presented them with work papers showing them  
16 that we proposed to make disallowances to the hours.

17 Q. But you didn't seek further explanation?

18 A. If -- they had ample opportunity to  
19 challenge those disallowances.

20 Q. All right. Let's move on to another area  
21 here. Mr. Robertson, I'm looking at page 18 of your  
22 rebuttal testimony, and in response to a question that was  
23 asked by Mr. McCutcheon -- I should say a follow-up  
24 question, I believe that you -- you indicated that an  
25 annualized wage rate of \$27,000 would be appropriate for

1 Mr. Clifford's wages?

2 A. That's not what I said. I said that the  
3 \$13 per hour that we're recommending on an annualized  
4 basis, which would be 2,080 a year hours, would represent  
5 approximately \$27,000 per year.

6 Q. All right. And you address -- and then you  
7 take -- on page 18, you looked at a full year annual basis  
8 of 39 to 47,000. Where did those numbers come from?

9 A. When Staff filed their disposition  
10 agreement back in December, their original accounting  
11 schedules, the work papers supporting schedules included  
12 an hourly rate for Mr. Clifford of \$22.50. If you  
13 annualized that on a yearly basis of 2,080 hours, that  
14 would give you approximately \$46,800 a year salary.

15 And the same thing for what they moved to  
16 now. When they filed direct testimony, they changed their  
17 work papers from including the \$22.50 per hour rate to a  
18 \$19 per hour rate for his hourly wage. Taking that 19  
19 times 2,080 hours in annual number of hours, that would  
20 give you the approximately \$39,520. So that's your range  
21 of 39,000 to 47,000, the \$19 hourly rate and the \$22.50  
22 hourly rate that Staff proposed as a reasonable and/or  
23 current.

24 Q. You're not proposing that we annualize the  
25 wage and put it into rates, are you?

1           A.       No. This is just a representation of what  
2 those hourly rates would represent on an annual basis.

3           Q.       Round numbers, how much money is involved  
4 in wages in this case?

5           A.       I can give you the exact numbers.  
6 Including the mileage --

7           Q.       No, just wages.

8           A.       The wage-related costs the Staff is  
9 recommending in their direct testimony, not including the  
10 mileage costs, is approximately \$14,969. The wage-related  
11 costs not including the mileage that Public Counsel is  
12 recommending is approximately \$7,546.

13          Q.       Now, what you're attempting to do is to  
14 compare jobs that are full-time employment, correct, to --  
15 you're trying to take a full-time wastewater operator  
16 position and compare it to an owner/operator of a small  
17 water and sewer company, correct?

18          A.       No, I wasn't trying to compare. What I was  
19 trying to do was find information how the -- on what the  
20 market in this current area is paying for the services of  
21 water, wastewater utility operators. My investigation  
22 yielded several employment advertisements for operators  
23 with higher certification levels than Mr. Clifford, and  
24 they provided hourly wage rate ranges for each of those  
25 jobs. I then took those hourly wage rate ranges and made

1 a recommendation for Mr. Clifford.

2 Q. And I believe in your responses to  
3 Mr. McCutcheon's questions you pretty well fixed on two,  
4 the City of Lebanon and the City of Columbia, correct?

5 A. No.

6 Q. Well, you talked about a low end and you  
7 talked about a high end?

8 A. Of the utilities I looked at, excluding --  
9 well, let me go there first. Of all the utilities I  
10 looked at for the individual cities, I looked at the  
11 ranges. I took the ranges at the high end of all those  
12 cities, not just Columbia and Lebanon, but I looked at the  
13 ranges in the other two I found also. I took the high end  
14 of all those ranges and then the low end of all those  
15 ranges. I encompassed the range of all the utilities --  
16 all the cities, not just the two.

17 Q. So the high end was --

18 A. The high end was 16.05.

19 Q. And that was Columbia?

20 A. That happened to be with the City of  
21 Columbia.

22 Q. And then the low end was?

23 A. \$10. And that just happened to be with the  
24 City of Lebanon.

25 Q. All right.

1           A.       Now, I looked at the other cities also, and  
2 their ranges are within that range.

3           Q.       All right.

4           A.       Okay.

5           Q.       Now, in these -- in these particular  
6 wastewater treatment operator positions, and let's just  
7 say for City of Lebanon, City of Columbia, are those  
8 wastewater operators required to appear before the Public  
9 Service Commission?

10          A.       Municipalities, no.

11          Q.       Are those wastewater operators required to  
12 submit reports to the Public Service Commission in the  
13 form of statements of revenue and annual reports?

14          A.       To the Public Service Commission, not to my  
15 knowledge. To their governing bodies, probably.

16          Q.       So you believe that the wastewater operator  
17 for the City of Lebanon will do a statement of revenue and  
18 an annual report for the City of Lebanon?

19          A.       I have no doubt that they would produce  
20 them when they're producing the budgets, yes. Most cities  
21 do.

22          Q.       Interesting. You believe, then, that the  
23 wastewater operator for the City of Columbia, then, would  
24 also provide a statement of revenue for that operation and  
25 an annual report for that operation to the City of

1 Columbia or actually something like that, so you believe  
2 that's in that position?

3 A. I think the people that work at those  
4 positions would be involved in the creation of those  
5 budgets, which are essentially a statement of revenues and  
6 expenses, yes, and perhaps other reports to DNR also.

7 Q. Now, do you believe that those wastewater  
8 operators are trained in computer-aided design drafting  
9 and AutoCAD programs?

10 A. I believe that some of those descriptions  
11 for those positions, they were -- had experience in  
12 computers, yes.

13 Q. No, but that wasn't my question. My  
14 question was, do those job positions require experience,  
15 knowledge -- working knowledge with computer-aided design  
16 drafting, specifically the AutoCAD program?

17 A. I can't tell you that for sure. Computers,  
18 yes. The specific program, I don't know.

19 Q. Well, computers could be simple word  
20 processing, correct, and e-mail, right?

21 A. Could be.

22 Q. Okay. Do those positions for City of  
23 Lebanon, City of Columbia, do you know if they required  
24 welding expertise?

25 A. I had the descriptions. Would you like me

1 to read it to you, what they require?

2 Q. You can go ahead and look at them, but I'd  
3 like you to answer my question. Do they require welding  
4 expertise?

5 A. Just one moment.

6 Q. Okay.

7 A. They have to have the ability to use hand  
8 and power tools, if that's welding perhaps.

9 Q. All right. Well, I think you've answered  
10 my question. Now, you would agree that welding or metal  
11 fabrication is a skill, correct?

12 A. I have no knowledge in that area.

13 Q. Well, to get someone to come to your  
14 facility to perform welding and metal fabrication, if you  
15 didn't have those skills, you would likely go out and  
16 contract for it, correct?

17 A. That's probably true.

18 Q. And you would agree that there would be  
19 some cost to doing that, correct?

20 A. I'm a little confused. Is this in my  
21 testimony?

22 Q. Well, you're using a baseline position of  
23 the City of Columbia and the City of Lebanon, and you're  
24 using some others in which you're comparing a wastewater  
25 treatment plant operator, and I'd just like to know what

1 kind of duties that these individuals have.

2 JUDGE REED: Let's get back to the  
3 question, please, a question inviting a response and it  
4 was a yes or no.

5 THE WITNESS: And the question again,  
6 please?

7 MR. BERLIN: Court reporter, if you could  
8 please read it?

9 (THE REQUESTED TESTIMONY WAS READ BY THE  
10 REPORTER.)

11 THE WITNESS: I assume so.

12 BY MR. BERLIN:

13 Q. Mr. Robertson, carrying this a little bit  
14 further, do these positions for City of Lebanon, City of  
15 Columbia require that the individual be trained and  
16 qualified in pump repair and pump rebuilding?

17 A. The qualifications didn't list that  
18 specifically.

19 Q. Do you know if the qualifications of the  
20 wastewater treatment operator for these two cities,  
21 Columbia and Lebanon, required that their operator perform  
22 electrical work?

23 A. I believe that it did. They did state that  
24 they should be able to perform maintenance-type work, yes.

25 Q. Do these particular positions, to the best

1 of your knowledge, require that the wastewater treatment  
2 operator generate and review and submit financial  
3 statements?

4 A. The municipalities are not privately owned  
5 public utilities.

6 Q. So your answer is no?

7 A. My answer is what it was a while ago, that  
8 I'm sure they would be involved in any budgeting process  
9 with the municipalities. Those are financial statements,  
10 but I'm not sure if they are the kind of financial  
11 statements you're talking about.

12 Q. Is the generation and preparation of  
13 financial statements considered to be a management  
14 function?

15 A. I would think so, yes. With help from the  
16 employees, yes.

17 Q. But these aren't the manager positions, are  
18 they?

19 A. Actually, they're not listed as manager  
20 positions, no.

21 Q. So you'd agree that there's quite a bit of  
22 difference here between these positions and the type of  
23 duties that I have described for you today, correct?

24 A. I would agree that for the duties you  
25 described, there's some differences, yes.

1           Q.       And these particular positions, do you know  
2 if they're on call 24 hours a day, 7 days a week?

3           A.       Not specifically, no.

4           MR. BERLIN:  If I may have a minute,  
5 please.

6 BY MR. BERLIN:

7           Q.       Okay.  I'd like to move on to a different  
8 part of your testimony, and that would be on page 30, I  
9 refer you to.  And specifically I'm looking at line 14,  
10 15 and 16, in which you state that it also includes  
11 22 miles for every weekend day and a representative number  
12 of holidays wherein it could be expected that Mr. Clifford  
13 would indeed be required to use his time and vehicle to  
14 travel to the utility.

15                   And do I understand that that 22 miles is  
16 from his principal place of business, his home office, to  
17 the water plant facility and back?

18           A.       That's correct.

19           Q.       And when he makes that trip from his home  
20 office to the water plant facility, as you say, he is  
21 using his time and he's using his vehicle to travel to the  
22 utility.  Now, what I don't understand is that you have --  
23 you have decided that he's not apparently using his time  
24 or vehicle when he travels to the utility when he performs  
25 his water plant and system duties on days when he makes a

1 detour from that plant and goes to Jefferson City; is that  
2 correct?

3 A. I didn't understand the question.

4 Q. Well, if he happens to end up as his final  
5 destination in Jefferson City, you have disallowed the  
6 mileage, correct?

7 A. On what days?

8 Q. Those are the days where he would go to  
9 Jefferson City, presumably to a full-time employment  
10 position located in Jefferson City.

11 A. You're referring to Monday through Friday?

12 Q. It could be. Typically, Monday through  
13 Friday. But I'm interested in the days that and your  
14 rationale for denying him the mileage on the days that he  
15 goes to Jefferson City ultimately after he has completed  
16 his duties at the water plant facility.

17 A. I guess I still don't understand what your  
18 question is.

19 Q. If it's a Monday morning and Mr. -- let's  
20 break this down.

21 A. Okay.

22 Q. On a Monday morning, and Mr. Clifford  
23 departs his home office and he makes a stop at the water  
24 plant facility and he conducts the activities that we  
25 discussed earlier. And then after he's completed those

1 activities, he goes to Jefferson City, and then he returns  
2 home, to the home office. Those -- that day, Monday, he  
3 has a reason to go to Jefferson City ultimately, correct?

4 A. I assume you're referencing he's going to  
5 his employment in Jeff City?

6 Q. Yes.

7 A. Yes.

8 Q. Well, on those days, those are the days  
9 that you denied him the mileage expense from his home  
10 office to the water plant facility and return back,  
11 correct?

12 A. On Monday through Friday, we recommended a  
13 disallowance on any mileage on those days throughout the  
14 year, yes.

15 Q. And you did so because he has a job in  
16 Jefferson City, a full-time job in Jefferson City. Is  
17 that your rationale?

18 A. He's traveling to Jefferson City and from  
19 Jeff City back to Tipton on those days, yes.

20 Q. But on a Saturday, let's say it's a  
21 Saturday he's not going to Jefferson City, to a full-time  
22 employment position on a Saturday, when he departed his  
23 home office and he goes to the water plant facility and  
24 performs his duties and then he returns back to the home  
25 office, you have allowed him those miles; is that correct?

1           A.       That is correct.

2           Q.       Okay.  So --

3           A.       At a minimum we've allowed 22 miles on  
4 those days at a minimum.  Other days, when his time log  
5 indicated that he did other trips for whatever reason, we  
6 did not propose a disallowance there.

7           Q.       But it is your view, though, that on the  
8 days that he goes to a full-time employment position in  
9 Jefferson City, that his trip from his home office to the  
10 water plant, that has no bearing on the Hickory Hills  
11 Water & Sewer Company business, so you have disallowed  
12 that mileage, right?

13          A.       If he's traveling from Tipton to Jeff City  
14 or back, we've disallowed it, yes.  During those days he's  
15 logged 22 miles.  That was his log.  That's what he put  
16 in.  That was his time he put in the log, so that was when  
17 we proposed to disallow.

18          Q.       But those are days that he actually stopped  
19 at the water plant facility and conducted his system  
20 duties, correct?

21          A.       It's my understanding he has to stop every  
22 day.

23          Q.       He does.

24          A.       It has to be attended to every day.  It's  
25 not just occasionally.  It's every day.

1           Q.       So when he leaves his home office and he  
2 goes to the water plant facility, you deny him the mileage  
3 on days where he makes a detour from that water plant and  
4 goes down to Jefferson City, correct?

5           A.       A detour from that water plant and goes to  
6 Jeff City. But he's on his way to Jeff City already.

7           Q.       I'll re-- so you --

8           JUDGE REED: Hold on a second. We've gone  
9 over this at least three times now. I think the record is  
10 clear how and when these trips are made.

11 BY MR. BERLIN:

12           Q.       Mr. Robertson, I'm having a hard time  
13 understanding why the fortuitous event of going to  
14 Jefferson City for a full-time job ever enters into or  
15 even diminishes the business purpose that he has leaving  
16 his principal place of business for Hickory Hills, which  
17 is the first order of business of the day, in which he  
18 travels from his home office and stops at the water plant  
19 facility and/or the lagoon and conducts his business for  
20 the company, and how you are denying him those miles?

21           A.       I guess the best way to explain it or  
22 describe it is --

23           JUDGE REED: Mr. Robertson -- I'm sorry.  
24 Mr. Robertson, make sure you speak into the microphone for  
25 us, please.

1                   THE WITNESS: I guess the best way that I  
2 explain it is what I have in my testimony. He's on his  
3 way to Jefferson City. He's employed in Jeff City full  
4 time. So Monday through Friday excluding, I guess,  
5 probably some sick days or something like that, he's going  
6 to work there. He's already going by the water system.  
7 It's right on the highway just outside California on the  
8 way to Jefferson City.

9                   To allow any mileage in just because he  
10 stops off at the water system when he's already going by  
11 it we think would be subsidization of his mileage cost to  
12 his full-time job in Jeff City.

13 BY MR. BERLIN:

14                 Q.       But you're allocating all of that  
15 business-related travel from his home office to his water  
16 facility, you're allocating all of that cost, that  
17 business travel cost onto his personal job?

18                 A.       He's going that way already.

19                 Q.       Right. It's fortuitous. What would happen  
20 if Mr. Clifford's full-time job moved over to Sedalia.  
21 Does that change your rationale?

22                 A.       Then if -- since it wouldn't be quite on  
23 the way, he could come in for a rate case and we would  
24 analyze that. But that's not the current case. The  
25 current case, he's already going by there.

1           Q.       Right.  And I'm only trying to get to the  
2 basis that you used to deny him the business travel  
3 mileage from his home office of Hickory Hills to his water  
4 plant facility because, as you said, every day he is  
5 conducting water plant testing and system checking  
6 activities of some type.

7           A.       Your question to me is nonsequiter, just  
8 simply because he's already going that way.  If you  
9 allowed him mileage related to the utility, that means the  
10 cost associated with him driving from Tipton to California  
11 is not part of his mileage cost of going to his job in  
12 Jeff City.  So to me, he's already going that way, so he  
13 just stops off at the water utility right beside the road,  
14 do what you do and go on.

15          Q.       Okay.  So -- all right.  I think what --  
16 where we are is that we -- would we agree that because  
17 he's going to Jeff City that day, you're denying him the  
18 mileage of any travel from his home office to the water  
19 plant facility where he does his water plant facility  
20 duties?

21          A.       My recommendation is that on days Monday  
22 through Friday when it can normally be expected that he's  
23 going to his full-time job in Jefferson City and then  
24 returning from Jeff City to Tipton at the end of that  
25 time, that mileage, there's no need to include any of the

1 cost associated with it on the utility.

2 Q. No cost whatsoever?

3 A. No. He's already -- he's already traveling  
4 that path. To do otherwise would subsidize his mileage  
5 costs to his non-regulated job.

6 Q. But those business travel expenses from his  
7 home office where he's sorting the mail and reviewing the  
8 day's activities and putting together in his mind what he  
9 has to do at that water plant and his first business and  
10 business purpose is to get to that water plant, that that  
11 is negated by his ultimate destination trip to Jeff City  
12 because that's where his full-time job is?

13 MR. MILLS: I object both to the form of  
14 the question and that it assumes that he is sorting mail  
15 before he leaves for his day job, and on the fact that it  
16 has been asked and answered about a billion times already.  
17 So I have two objections.

18 JUDGE REED: Sustained.

19 BY MR. BERLIN:

20 Q. Let me move on to another area. In the  
21 area of retirement benefit, is it your position that a  
22 small water and sewer company should have no benefits  
23 attached; in other words, that they should be paid only an  
24 hourly wage?

25 A. The position we've taken here is simply

1 this: The time that he spends at this system actually can  
2 be represented as nothing more than a part-time job.

3 Okay? Most part-time jobs do not pay retirement benefits.

4                   Having said that, what we're looking at,  
5 what we've proposed is a total annualized salary. If you  
6 wanted to call that retirement benefits, go out and get  
7 the mail benefits, I really don't care what you tag it as.  
8 We recommended a total salary for Mr. Clifford. To slice  
9 and dice it, you can do it any way you want to. I think  
10 the retirement issue is not really an issue at all. It's  
11 just part of the total salary.

12               Q.       Would you include a medical benefit or a --  
13 some kind of a vacation benefit?

14               A.       I would not. This position, the job he  
15 does for this utility is nothing more than a part-time  
16 job. I know of no part-time jobs where you receive  
17 retirement benefits, medical benefits and other type  
18 employee benefits. To my knowledge, the part-time jobs I  
19 worked coming up, I never had any. The people I know that  
20 worked part-time jobs didn't have any. So it's not  
21 prevalent in the industry as far as I know, so our  
22 recommendation is no.

23               Q.       Is it prevalent in state government?

24               A.       To my knowledge, I know of no one, no. I  
25 don't know.

1           Q.       So you don't know that a state employee who  
2 comes back to work on a part-time basis, whether or not  
3 that employee receives any kind of benefit?

4           A.       I have no knowledge. I can tell you in the  
5 public utilities in the state, the ones I looked at over  
6 the years, I haven't seen any, and I've been working for  
7 this office for over 15 years. And in private industry  
8 that I know of, I haven't seen any. I think it's very  
9 uncommon.

10                    But having said that, it's not the  
11 retirement issue itself. It's simply that we're  
12 recommending a total salary. I think the retirement issue  
13 as it's represented, it's just a part of the total salary.  
14 That's my belief.

15           Q.       Is it at 9 percent of the wages paid?

16           A.       I believe Staff has applied 9 percent to  
17 the wages paid as a representation of additional monies to  
18 the salary.

19                    MR. BERLIN: Just a minute, your Honor.  
20 Thank you, Mr. Robertson. That concludes my questions.

21                    JUDGE REED: All right. Thank you.  
22 Commissioner Appling, do you have any questions?

23 QUESTIONS BY COMMISSIONER APPLING:

24           Q.       Ted, how you doing?

25           A.       I'm doing fine, sir. You?

1           Q.       Doing pretty good. On water and sewage  
2 systems this side of Mr. Clifford's, what number have you  
3 audited in the past, approximately? You don't have to  
4 give me a definite number, 10, 15, 100, 3,000?

5           A.       I don't think it's 3,000. I think 100 over  
6 15 years probably would not be too far extreme.

7           Q.       Okay. What do you use? Is there something  
8 out there that gives you a standard for a water company  
9 that has 50 customers, 25 customers, 100 customers that  
10 tell you how many hours it takes to do what Mr. Clifford  
11 has done and what I've heard you talk about? Is there a  
12 set of standards or do you just make up the standards  
13 yourself when you go out there?

14          A.       I don't make it up. I'm not trying to make  
15 up anything. As far as the hours that we've looked at,  
16 we've looked at his time and hour hog. That's his actual  
17 representation. That's his representation of the time he  
18 spent. And then --

19          Q.       But you have adjusted his hours, though?

20          A.       I did make an adjustment of those hours  
21 based on --

22          Q.       Where do you get the standards to adjust  
23 that?

24          A.       The standard came directly from him, where  
25 he said he could do the time in 15 minutes.

1           Q.       Well, but you -- but you are auditing him,  
2 correct?

3           A.       That's correct.

4           Q.       And you tell me you don't have a set of  
5 standards that you can superimpose over this and say, this  
6 is how many hours you should be given credit for doing it?  
7 There's nothing in the system that tells -- what I'm  
8 trying to get at, you mean to tell me we don't have  
9 anything written in our rules or anything else that tells  
10 us what the standards should be in order to operate a  
11 plant of his size?

12          A.       If you're talking specifically only in  
13 hours, I guess.

14          Q.       If I was going to drive in tomorrow and mix  
15 the chemicals that are necessary to purify the water and  
16 all that, and if I went to my plant as an operator, I  
17 probably would take the time to check to see if there's  
18 any leaks and all that. I rent houses, and I never ever  
19 go to one of them that I don't walk around the house and  
20 check to see if anything, any damage has been done on it.

21                   My simple question is, is there a set of  
22 standards out there or are we, the Staff or the OPC, just  
23 making up your numbers as you walk down the road?

24          A.       First off, we're not making numbers up. I  
25 would like to clarify that. Second, we're looking at each

1 individual company. Each individual is a different  
2 animal, different. You've got this company, you've got  
3 47, 49 customers. The next company may have 112  
4 customers. To set a standard that would apply to all  
5 these utilities, particularly small ones, I think would be  
6 just darn near impossible.

7                   You have to look specifically at the  
8 company, and then when you look at that company, based on  
9 what the representation of the operators are, you look at  
10 what they think the time they say they spent on it, then  
11 you try to make a rational decision if that seems right.

12                   And that's what we try to do, taking into  
13 account for this company he's admitted already that he  
14 pads those hours. So we had to take that into account to  
15 try to come up with a rational hours of the time and  
16 activity spent doing it. To answer your question, more  
17 details regarding the standards, I don't know how you  
18 could do that when you have so many different companies.

19           Q.       Well, if you have a water company that  
20 services 50 people or it services 100 people, it would  
21 stand to reason to me that that's not too difficult to  
22 write standards for that, you know what I mean? And then  
23 you estimate whatever case, if there's 60 versus 75. I  
24 don't know. I'm just asking is there a set of standards.  
25 If the answer is no, then that's fine and I can accept

1 that. I'm not trying to beat you over the head about  
2 anything.

3                   But I'm just saying, it just seems to me  
4 that Mr. Clifford can't run the plant on a shoestring, nor  
5 do I want him to take advantage of the customers. I was  
6 at Hickory Hill when they had the hearing out there, and I  
7 heard exactly what everybody had to say. But it just --  
8 I'm just asking the question.

9                   A.       First off, let me respond to that to some  
10 degree. As far as this rate case is concerned, just the  
11 other issues with that system off to the side because  
12 they're not part of this rate case, all the expenses that  
13 we've included into this current rate case, excluding the  
14 salary expenses and mileage expenses, everybody has pretty  
15 much agreed on.

16                   You say operating on a shoestring. We've  
17 come to agreement that those costs should at least cover  
18 those expenses. There's been no testimony that they  
19 won't. Everybody's pretty much agreed to those costs.

20                   So really the only issues we're talking is  
21 what is a reasonable level to pay Mr. Clifford to operate  
22 that system, and that's what we've tried to present here  
23 with our testimony, based on not just something we pulled  
24 out of a hat, because we don't really know what a standard  
25 hourly wage rate should be for this utility. So what we

1 did, I don't -- so what I did, initially, I asked Staff  
2 some Data Requests, what they pay other utilities, and we  
3 proposed in the range of those responses they provided us.

4                   And then additionally, we went out and  
5 looked at the market to see what the market is, to see  
6 what advertisements, employment advertisements are for  
7 people doing this similar work. Those advertisements we  
8 found were for operators with higher certification levels  
9 and much larger municipalities, and those wage rates were  
10 in that same ballpark. And so, therefore, we made a  
11 recommendation based on that, so that is -- it's not that  
12 he's operating on a shoestring.

13                   We're just trying to get -- we want the  
14 company to operate too. It's not that we're trying to  
15 favor one side or the other. We want there to be balance,  
16 and we think this provides that balance.

17                   Q.       Okay. But the advertisement in the paper  
18 was for employees at municipalities that was just going to  
19 come in as an employee and not an owner of the plant?

20                   A.       That is correct. And then you take into  
21 account the fact the size of this company and the  
22 management responsibilities and what he has to do as a  
23 manager. And we did -- we took a deposition of  
24 Mr. Clifford to try to identify those activities, and  
25 they're in our opinion -- my opinion, those management

1 activities are somewhat limited in nature. Now, I'm not  
2 saying he doesn't do anything, but they're somewhat  
3 limited. And it's not -- it's a very small company. It  
4 takes a limited amount of time to do that type of work.

5 COMMISSIONER APPLING: Thank you. That's  
6 all I have, Judge.

7 JUDGE REED: Thank you. Mr. Mills, my  
8 question is how long is your redirect?

9 MR. MILLS: Well, if I have a cooperative  
10 witness, I can do it in a few minutes. I think it  
11 shouldn't take too long. Do you want to offer additional  
12 cross-examination based on questions from the Bench?

13 JUDGE REED: Is there any cross based on  
14 questions from Commissioner Appling?

15 MR. McCUTCHEON: Do I get to go first?  
16 Yes, your Honor. The same order I believe.

17 RE-CROSS-EXAMINATION BY MR. McCUTCHEON:

18 Q. My question, Mr. Robertson, the  
19 Commissioner had asked you the management activities of  
20 Randy Clifford. I want to know what management activities  
21 of Randy Clifford you took into consideration in compiling  
22 his \$13 an hour.

23 A. He has 16 years of experience of running  
24 this system, and as I state in my testimony, that's the  
25 reason we increased the hourly rate from what we thought

1 it should be to \$13, as a big part of it. The management,  
2 I mean, this is part of his management responsibilities,  
3 doing the -- providing forms, filing reports, making sure  
4 the billing gets done. He has admitted he has very little  
5 accounting knowledge, financial knowledge, so that  
6 somewhat limits his managerial ability, but he has a lot  
7 of knowledge in other areas, such as operating and  
8 maintaining the system. So, therefore, that's the reason  
9 we raised the wage rate up to \$13.

10                   Based on his deposition, the activities he  
11 performs as manager, mail, buying supplies, that's it.  
12 There was a number of activities, and we tried --

13           Q.       That's what I want to know, all the  
14 activities that you took into consideration setting his  
15 pay.

16           A.       Well, I mean, meeting with the PSC, meeting  
17 with us, meeting with the Commission, I mean, strategy,  
18 thinking about the company, management activities are  
19 varied, but even then, on a small size company of this  
20 size, they're certainly not as convoluted or as time  
21 intensive as they are in a large corporation.

22           Q.       Would meeting with Department of Natural  
23 Resources and trying to keep the system in compliance be  
24 some of those management activities?

25           A.       I would think it is, yes.

1 Q. Keeping up with all the law and regulations  
2 as far as the Department of Natural Resources?

3 A. That would be correct, if he's doing that.

4 MR. McCUTCHEON: That's all the questions I  
5 have.

6 JUDGE REED: Mr. Berlin?

7 MR. BERLIN: Yes, your Honor.

8 RE-CROSS-EXAMINATION BY MR. BERLIN:

9 Q. Mr. Robertson, in response to one of  
10 Commissioner Appling's questions regarding a set of  
11 standards for auditing purposes, you indicated that you  
12 looked at Staff's data responses. Do you have Staff's  
13 Da-- I'm sorry -- Staff's Data Request responses, do you  
14 have those --

15 A. I think so.

16 Q. -- in front of you?

17 Now, if you go to paragraph F --

18 A. Excuse me.

19 Q. Page -- I'm sorry. It's OPC Data Request  
20 No. 18. I'm sorry. 10.

21 A. I have to shuffle through here, so it's not  
22 going to be quick. I've got to find it first.

23 I'm there.

24 Q. I'm looking at paragraph F, and it starts  
25 off with the Cause No. WR-2005-0452, the Noel Water

1 Company?

2 A. Yes.

3 Q. Now, that's a company that has three  
4 employees listed in the response. Are you following me,  
5 where it says operators, Dan Harmon, owner?

6 A. No, I'm not following you. Okay. I'm  
7 there. All right.

8 Q. Are you there?

9 A. Dan Harmon, owner, water license B307.

10 Q. Right. Where it lists he's paid \$7,200  
11 yearly as the owner?

12 A. Yeah.

13 Q. And then there's a Dennis Miller listed,  
14 who has no license who works 1,950 hours at a rate of \$8  
15 an hour?

16 A. Sure.

17 Q. And then they list another employee, Rick  
18 Marsh. He was not included in their last rate case.  
19 Would you agree that this water company is a small water  
20 company with two employees?

21 A. That's my assumption.

22 Q. And the owner is paid \$7,200 yearly?

23 A. Uh-huh.

24 Q. And then the operator, who actually is  
25 doing all of the tasks that the owner presumably is not

1 doing, those 1,950 hours, if you multiply that, that comes  
2 out to \$15,600?

3 A. Okay.

4 Q. Correct?

5 A. You want me to do that?

6 Q. If you'd like.

7 A. I'll take your word for it.

8 Q. All right. Well, if we add the \$15,600 and  
9 the owner's salary of \$7,200, we come up with a total of  
10 \$22,800, correct?

11 A. Okay.

12 Q. Now, your recommendation for Hickory Hills  
13 Water & Sewer Company does not approach a \$22,000 number  
14 for salaries, does it?

15 A. I don't know that this company exactly  
16 matches the circumstances at Hickory Hills either. It has  
17 two employees, the size of the company. This was Staff's  
18 response to the Data Request. Whether it actually is a  
19 correlation of what is appropriate for Hickory Hills,  
20 that's not a given. That's not something I would agree  
21 with. The request was just to find out what they were  
22 paying. There are other instances listed on the request  
23 where, for example, in Foxfire Utility, it's operated for  
24 \$8,900 a year total.

25 Q. Well, this is a company here that I cite

1 because there's two employees for the Noel Water Company,  
2 just like there's two employees for the Hickory Hills  
3 Water & Sewer Company.

4 A. That's not accurate. That's not an  
5 accurate comparison. There's not two employees operating  
6 the system at Hickory Hills. Mrs. Clifford does some  
7 bookkeeping and meter reading.

8 MR. BERLIN: Okay. No further questions.

9 JUDGE REED: We're going to take a break.  
10 We've been going almost two hours. Let's take ten  
11 minutes. When we come back, we'll begin the redirect.

12 (A BREAK WAS TAKEN.)

13 JUDGE REED: Okay. Redirect?

14 REDIRECT EXAMINATION BY MR. MILLS:

15 Q. Mr. Robertson, bear with me. It's sort of  
16 the nature of redirect that it's disjointed. I write down  
17 questions as they come up, so this is in no particular  
18 order.

19 One of the first questions you were asked  
20 was whether you viewed any equipment or equipment storage  
21 space on the Hickory Hills system. Do you recall that  
22 question?

23 A. I do.

24 Q. Are there any issues in this rate case with  
25 respect to cost of equipment or cost of storage of

1 equipment?

2 A. There are not.

3 Q. Should the cost of storing equipment or the  
4 cost of equipment be reflected in a wage rate in a utility  
5 rate case?

6 A. No.

7 Q. Does the wage rate that Staff is proposing  
8 in this case recover any cost for equipment or equipment  
9 storage?

10 A. No, it does not.

11 Q. Now, you were asked some questions about  
12 whether in particular the City of Columbia employee  
13 advertisement that you refer to in your testimony, and all  
14 of them, whether those were entry-level positions. Do you  
15 recall that?

16 A. I do.

17 Q. Can you tell me what kind of qualifications  
18 the City of Columbia was looking for for that particular  
19 employee?

20 A. Yes. Just one moment, please. I'll read  
21 you a short paragraph. The duties include handling and  
22 operating overhead cranes and hand tools, reading meters  
23 and gauges, taking water samples and conducting lab tests.  
24 Must be physically able to perform work in all weather  
25 conditions and to work in confined spaces while cleaning,

1 repairing equipment and adjusting valves and slide gates,  
2 and must be high school graduate and possess a valid  
3 Missouri D level wastewater certificate. And that's just  
4 a summary. There's a larger description.

5 Q. So two of the items there were taking water  
6 samples and doing lab tests?

7 A. That's correct.

8 Q. Does Mr. Clifford perform both of those  
9 functions?

10 A. He does take water samples, but I believe  
11 his lab testing, particularly his sewer system, is done by  
12 an outside service, outside contractor.

13 Q. So that particular employee advertisement  
14 requires a job set that Mr. Clifford doesn't perform?

15 A. In addition to higher certification,  
16 operator certification.

17 Q. Now, you were asked whether you had any  
18 personal knowledge of the hours and miles that  
19 Mr. Clifford records. Do you recall that question?

20 A. Vaguely.

21 Q. In addition to reviewing his own time and  
22 mileage logs, his testimony in this case, his testimony at  
23 the deposition, his testimony at the local public hearing,  
24 have you ever talked to Mr. Clifford in meetings?

25 A. We have sat in meetings, several different

1 meetings, and I'm sure the topic has been brought up.

2 Q. Now, another question you were asked was  
3 about vacation days and whether you allowed any vacation  
4 days for Mr. Clifford in your calculation of appropriate  
5 hours. Did you allow any vacation days?

6 A. What I allowed was --

7 MR. McCUTCHEON: I'm going to object as  
8 nonresponsive. He asked if he allowed any vacation days,  
9 and that's a yes or no answer, and he's going off in some  
10 direction I don't know.

11 JUDGE REED: What was the answer, yes or  
12 no?

13 THE WITNESS: Yes.

14 JUDGE REED: Go ahead.

15 BY MR. MILLS:

16 Q. How many vacation days did you allow?

17 A. I didn't pick a number of days. I just  
18 allowed hours in for all days except those specifically  
19 excluded, specific disallowances.

20 Q. And on days when Mr. Clifford, whether he  
21 was on vacation or sick or whatever reason that he doesn't  
22 visit the water system on a daily basis, are there costs  
23 in Staff's case which -- with which we have agreed for a  
24 contract operator to do the testing on those days?

25 A. The test year for this case was 2004.

1                   MR. McCUTCHEON: Again, I'm going to  
2 object. It's nonresponsive. The question he's asked is  
3 yes or no, and the witness is not responding to answer the  
4 question.

5                   MR. MILLS: Well, these are my questions,  
6 and so far I've been perfectly happy with the responses.

7                   MR. McCUTCHEON: He's got to answer the  
8 question. He can't just make up his own questions and  
9 answer them.

10                  JUDGE REED: If it's a yes or no question,  
11 please answer yes or no, and then Mr. Mills can follow up.

12                  THE WITNESS: To my knowledge, as far as  
13 outside contractor costs to operate the system, there are  
14 none built into this case.

15 BY MR. MILLS:

16                  Q.       Were there any in the test year?

17                  A.       That's what my original response was going  
18 to be, that I don't believe there are. It was outside the  
19 test year. And that's based on Mr. Clifford's responses.  
20 I haven't seen the invoices or any information to indicate  
21 that those costs actually occurred.

22                  Q.       You were asked a question or two about  
23 AutoCAD. Are you familiar with that software?

24                  A.       I have seen AutoCAD systems before. I'm  
25 not what you'd call real familiar with them, but I know

1 what they are.

2 Q. Is knowledge of AutoCAD required to run a  
3 small water and sewer system?

4 A. Not to my knowledge, no.

5 Q. Should an owner/operator of a small water  
6 and sewer system be allowed to charge ratepayers based  
7 upon a specific skill he may have that's not really  
8 necessary to run that system?

9 A. I don't think so.

10 Q. So, for example, if Mr. Clifford had a  
11 degree in paleontology, should ratepayers be required to  
12 pay him as a paleontologist?

13 MR. McCUTCHEON: I'm going to object as  
14 being irrelevant and immaterial. It's already been asked  
15 and answered. It's repetitious.

16 JUDGE REED: Overruled.

17 THE WITNESS: He should not.

18 BY MR. MILLS:

19 Q. You reviewed Mr. Clifford's time logs; is  
20 that correct?

21 A. I did.

22 Q. Is there any indication in those time logs  
23 that despite the fact that he is theoretically on call  
24 24 hours a day, that he is called out in the middle of the  
25 night for emergencies?

1 A. I've seen no instances where that occurred.

2 Q. No indication in the time log of emergency  
3 midnight calls, anything to that effect?

4 A. None that I know of.

5 Q. Now, one of the questions you were asked by  
6 Commissioner Appling was something along the lines of he's  
7 a -- he owns rental property and every time he visits one  
8 of his property, he's sure to check things out. Do you  
9 recall that question?

10 A. Yes.

11 Q. Did you hear Mr. Clark testify that the  
12 well house is about 8 foot by 12 foot?

13 A. I did.

14 Q. And you're aware that Mr. Clifford keeps  
15 the well house locked?

16 A. I had no specific knowledge of that, but I  
17 would assume he probably does.

18 Q. Well, to refresh your recollection, in the  
19 deposition we talked about whether anybody but  
20 Mr. Clifford visits the well house?

21 A. That's correct.

22 MR. McCUTCHEON: I'm going to object as far  
23 as to refresh his memory from a recollection to a  
24 deposition by telling him what to say is improper. The  
25 way to refresh his recollection is show him the deposition

1 and then --

2 JUDGE REED: Mr. McCutcheon, I don't  
3 disagree, but the question's been answered. Let's move  
4 on.

5 BY MR. MILLS:

6 Q. And because of DNR requirements, you know  
7 that Mr. Clifford visits the well house virtually every  
8 day; is that correct?

9 A. That's my understanding, it's a requirement  
10 for him to do the chlorine testing every day.

11 Q. How long do you think it would take  
12 somebody to check out an 8-by-12 building that he just  
13 checked out the day before?

14 A. Not very long.

15 Q. Now, you based some of your adjustments on  
16 the fact that at his deposition Mr. Clifford said that he  
17 could perform the routine tasks in about 15 minutes; is  
18 that correct?

19 A. That is correct.

20 Q. Are there any days in the entire year in  
21 which you allowed only 15 minutes?

22 A. No.

23 Q. Okay. So even though he said that he could  
24 do it in 15 minutes, in every day you allowed at least a  
25 half an hour?

1           A.       It was my belief that, based on his  
2 deposition, where he stated on a good day he could do it  
3 in 15 minutes, it would provide some leeway to double that  
4 amount of time for activities that he may need, other  
5 activities he may need to do or the fact that some things  
6 took longer to do during the day, yes. So that's why we  
7 moved from 15 minutes, didn't go 15 minutes, instead made  
8 this half hour to double the amount of time that he would  
9 have to perform the activities that he does to give him  
10 some leeway.

11           Q.       Now, turning specifically to your  
12 Schedule TJR-2, and you were asked about a number of  
13 different lines, but I'm just going to pick one for an  
14 example. And let's look at line 146. Maybe we can clear  
15 up some misunderstanding about the way this works.  
16 Line 146 was a Tuesday, May 25th, 2004. Mr. Clifford's  
17 description and comments are CL test/check system. What  
18 is your understanding of what CL test/check system means?

19           A.       Well, from the deposition -- that's where  
20 we got most of the information of the activities he  
21 performs -- the CL test is just that, the two chlorine  
22 tests he performs, mixing chlorine if he has to, adjusting  
23 the feed pump of the chlorine, items of that nature, to  
24 operate the water system itself.

25           Q.       Go ahead.

1           A.       And then the check system itself is just a  
2 overlook look at the entire operation, look at the flow of  
3 the sewage lagoon, things like that, to just -- in his  
4 deposition I think one of the items he mentioned was to  
5 listen to the pumps run, things like that, to make sure  
6 the system is operating as it's supposed to.

7           Q.       So when you see notation, that represents  
8 to you that's the normal stuff he does every day?

9           A.       Yes.

10          Q.       The kind of stuff he told us he could do in  
11 15 minutes?

12          A.       Yes.

13          Q.       In addition to that, on line 146, there's a  
14 notation three hours at lagoon, correct?

15          A.       That's correct.

16          Q.       And Mr. Clifford logged four hours for that  
17 day?

18          A.       That is correct.

19          Q.       Your adjustments allowed the entire three  
20 hours at lagoon, correct?

21          A.       We did.

22          Q.       And out of the one remaining hour, you  
23 reduced that one hour down to a half an hour to allow  
24 Mr. Clifford to do his general 15-minute routine, plus a  
25 full 100 percent cushion; is that correct?

1           A.       That's what we did.

2           Q.       And that's typical of the adjustments you  
3 made throughout the year; is that correct?

4           A.       That essentially is the rationale that we  
5 tried to make consistency with all throughout this  
6 analysis.

7           Q.       Now, one specific question you were asked  
8 about the log was concerning the comments that appear on a  
9 number of occasions, b-a-c-t period sample. What is your  
10 understanding of what that means?

11          A.       Based on the information at the deposition,  
12 it's my understanding he has to take a bacterial sample --  
13 I believe he has five different sites, and then once a  
14 month from one of those sites, not all five, but one of  
15 those sites he has to take that sample. Essentially it's  
16 a DNR requirement as part of checking the system.

17          Q.       So even if we were to allow all of those at  
18 the logged amount, all the bacteria check amounts, would  
19 that materially change your recommendation?

20          A.       Well, if it happened 12 times, it would not  
21 be a material change.

22          Q.       Now, one of the questions you were asked by  
23 Mr. Berlin was whether or not you sought responses from  
24 either Staff or the company concerning your disallowances.  
25 Do you recall that?

1           A.       I do.

2           Q.       When did you provide a copy of your work  
3 paper that showed your disallowances?

4           A.       I believe -- we met with Staff and the  
5 company, I believe it was early March. I'm not sure of  
6 the date, 2nd, 3rd, 4th, somewhere in there, and what I  
7 presented to them at -- we met in our offices -- was the  
8 accounting exhibits I had put together, in addition to  
9 some work papers. I gave them copies, and then I walked  
10 them through it and expressed some of the concerns that we  
11 had.

12                       There have been subsequent changes to some  
13 degree or another, not real material but some changes, and  
14 essentially I just wanted to give them a heads-up what --  
15 that we agreed to do this earlier at the prehearing, to  
16 give them a heads-up of what the OPC's concerns were. And  
17 then once those concerns were laid out on the table, we  
18 could talk about possibly negotiating a settlement of some  
19 kind.

20                       I gave them to the parties -- gave the  
21 documents to the parties, walked through them, explained  
22 our position, explained our concerns, and they took the  
23 documents and they left.

24           Q.       So early in March, before direct testimony  
25 was filed, you told the other parties what you were

1 planning to do and why?

2 A. Yes.

3 MR. McCUTCHEON: I'm going to object as far  
4 as telling parties. I don't think I was included in any  
5 of that.

6 JUDGE REED: That's overruled.

7 MR. MILLS: Well, just so the record is  
8 clear, I believe Mr. McCutcheon was correct, he was not at  
9 that meeting. I'm not sure whether Mr. McCutcheon had  
10 been engaged at that point, but Mr. and Mrs. Clifford were  
11 there, as well as a number of representatives of Staff.

12 BY MR. MILLS:

13 Q. Now, on cross-examination based on  
14 questions from the Bench, Mr. McCutcheon asked if keeping  
15 up with -- keeping up with and keeping in compliance with  
16 DNR regulations is part of Mr. Clifford's  
17 responsibilities. Do you recall that question?

18 A. I do.

19 Q. Is Hickory Hills currently in compliance  
20 with all DNR regulations?

21 A. No, it is not.

22 Q. And the final topic I want to talk to you  
23 about is the DR response that you discussed with  
24 Mr. Berlin, in particular Noel Water and Sewer.

25 A. Maybe you can ask the question.

1           Q.       How many total hours did the employees  
2 charge to that system during the course of a year?

3           A.       Well, I really can't answer that because I  
4 don't know what the hours were they actually charged to  
5 the system. This was just what I believe to be a  
6 rendition of what Staff allowed in a particular rate case.  
7 It may have been what was actually charged. It may not.  
8 But for the second employee, Staff apparently built in  
9 1,950 hours for that employee.

10          Q.       And a full 40-hour week in a year would be  
11 how many hours?

12          A.       In a year?

13          Q.       Yeah.

14          A.       Approximately 2,000.

15          Q.       So the 1,950 is close to a full-time job?

16          A.       Pretty close.

17          Q.       How many hours did Ms. Clifford allow --  
18 charge during the test year?

19          A.       The time log that we utilized in the  
20 determination showed less than 40.

21          Q.       Less than 40 hours?

22          A.       Yes.

23          Q.       And as you have adjusted Mr. Clifford's  
24 hours, how many hours is that?

25          A.       My recommendation, that his hours be I

1 believe it was 539.

2 Q. And Staff's --

3 A. And --

4 Q. Go ahead.

5 A. -- which is a reduction of approximately  
6 119 hours more than he booked.

7 Q. So his booked hours are what?

8 A. His booked hours were approximately -- I  
9 think Staff has annualized a number in theirs of about  
10 675, so somewhere in there. I think they just increased  
11 it a few hours, but it was close.

12 Q. So Mr. and Mrs. Clifford together are way  
13 short of half of that one employee of Noel Water and  
14 Sewer?

15 A. Oh, yes. Yes.

16 MR. MILLS: That's all the questions I  
17 have. Thank you.

18 JUDGE REED: Thank you. All right. Those  
19 are all the witnesses who had prefiled testimony in this  
20 case?

21 MR. MILLS: Your Honor, at this time I'd  
22 like to offer Exhibit 9, which is Ted Robertson's direct  
23 testimony.

24 JUDGE REED: Is there any objection to  
25 No. 9?

1 MR. BERLIN: No objection.

2 MR. McCUTCHEON: I actually thought it had  
3 been already filed or offered.

4 JUDGE REED: Exhibit 9 is received into  
5 evidence.

6 (EXHIBIT NO. 9 WAS RECEIVED INTO EVIDENCE.)

7 JUDGE REED: The exhibits that I have that  
8 were offered and received are 1, 3, 4, 5 and 9. Exhibit 2  
9 was offered and was not received. Is that accurate?

10 MR. MILLS: That's correct. That was  
11 the -- that was the statement of rate case expense, legal  
12 expense for the rate case.

13 JUDGE REED: Before I close the testimony,  
14 is there anything else?

15 MR. McCUTCHEON: Your Honor, may I make a  
16 request at this point in time? As far as at this point in  
17 time, your Honor, I'd respectfully request to offer  
18 surrebuttal testimony by Randy Clifford under  
19 4 CSR 240-130. The Code of State Regulations provides  
20 under paragraph 2, surrebuttal testimony shall be limited  
21 to material which is responsive to matters raised in other  
22 parties' rebuttal testimony, which I believe he would have  
23 material to be responsive to what Mr. Robertson has just  
24 testified in his rebuttal testimony.

25 And one reason I think it should be

1 offered, because I think Mr. Robertson testified something  
2 to the effect there is no challenge of his testimony with  
3 regard to Mr. Clifford's log, the disallowance of his  
4 hours and that sort of thing, which obviously I could not  
5 challenge because that was filed as rebuttal instead of  
6 direct testimony.

7                   So based upon the Code of State  
8 Regulations, as well as his testimony on the witness  
9 stand, I think it would be only fundamentally fair to  
10 allow Randy Clifford to testify in surrebuttal testimony  
11 as provided in the Code of State Regulations.

12                   JUDGE REED: This is an issue that Staff  
13 and the Office of Public Counsel had litigated over the  
14 past week or two regarding whether any surrebuttal would  
15 be offered. The Commission had entered an Order when it  
16 adopted the procedural schedule in this case, as proposed  
17 by the parties, indicating that there would be direct  
18 testimony and rebuttal.

19                   After the Public Counsel and the Staff had  
20 filed some motions and responses and made their arguments  
21 regarding allowing surrebuttal testimony in this case, the  
22 Commission entered another Order on April 14th wherein it  
23 stated in one of the ordered paragraphs that no party  
24 would be allowed to offer surrebuttal testimony. The  
25 Commission is going to stick with that ruling so,

1 Mr. McCutcheon, your request is denied. And so with that,  
2 the evidence is closed here today.

3                   What I propose that we do, because the two  
4 Commissioners who were with me had to leave, you-all would  
5 be making your closing statements to me. What I propose  
6 that we do is that each of the parties prepare a Brief  
7 that addresses the arguments and the evidence that we've  
8 heard today.

9                   I know that the Commission is going to be  
10 interested in how you support your opinion regarding the  
11 hourly wage that's appropriate, whether retirement benefit  
12 is appropriate for a part-time job, as well as the mileage  
13 issue, and so I would ask that you make your arguments  
14 regarding those issues in the Brief. And how long will it  
15 take to get the transcript?

16                   THE REPORTER: Ten days.

17                   JUDGE REED: Ten days? We'll need the  
18 benefit of the transcript, I take it?

19                   MR. MILLS: It certainly would be very  
20 helpful.

21                   MR. BERLIN: I believe so.

22                   JUDGE REED: Can we have -- within ten days  
23 after the transcript is delivered to us, can we have Staff  
24 and Hickory Hills file their brief, and ten days  
25 thereafter Public Counsel respond?

1 MR. MILLS: That would be fine with me.

2 JUDGE REED: Mr. Berlin, what's your  
3 opinion on that?

4 MR. BERLIN: Well, if -- at first thought I  
5 think that ten days is a little bit short because all we  
6 really have here is the benefit of live testimony that's  
7 going to really require review of the record, what is the  
8 transcript of today's hearing. So I think we're looking  
9 at what, 20 days out from today, which is the 18th, which  
10 would put it -- I would move more towards the outside. If  
11 we assume ten days from today, that would mean the 28th,  
12 and ten days following we're looking somewhere around  
13 May 10th.

14 JUDGE REED: Mr. Berlin, if you want  
15 14 days, you can have 14 days.

16 MR. BERLIN: I prefer 14 days.

17 JUDGE REED: And then, Mr. Mills, do you  
18 want 14 or can you do it in 10?

19 MR. MILLS: I can do it in 10.

20 JUDGE REED: Good. Okay. Is there  
21 anything else?

22 MR. BERLIN: Your Honor, I do have a  
23 question. If I understand we're allowing 10 days to  
24 receive the transcript of today's hearing and then 14 days  
25 for the company to file and Staff to file a Brief?

1 JUDGE REED: Correct.

2 MR. BERLIN: And then Public Counsel has,  
3 if I'm correct -- correct me if I'm wrong -- 10 days  
4 afterwards to file a responsive Brief?

5 JUDGE REED: Yes.

6 MR. BERLIN: Will the company or Staff be  
7 permitted to file a Brief in response to theirs?

8 MR. MILLS: At the risk of offending  
9 someone, this is a fairly simple case. If we're going to  
10 get into three rounds, let's just do one round, and rather  
11 than try and drag this out into three weeks or a month or  
12 more of briefing schedule, why don't we just do one round  
13 of simultaneous Briefs?

14 JUDGE REED: Why don't we do one round of  
15 simultaneous Briefs, all due 14 days, how's that?

16 MR. BERLIN: Staff agrees with that.

17 JUDGE REED: 14 days after the transcript  
18 becomes available for us. And what I'll probably try and  
19 do, when I get the transcript I'll try to issue an Order  
20 setting the date when the Briefs are due, and if you don't  
21 have your transcript yet or something else happens, you'll  
22 have to let me know by filing something. All right?

23 Is there anything else? We're adjourned.

24 WHEREUPON, the hearing of this case was  
25 concluded.

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