

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Evidentiary Hearing
8 January 31, 2008
9 Jefferson City, Missouri
Volume 2

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12 Mrs. Walter L. Schwab,)
)
13 Complainant,)
)
14 vs.) Case No. WC-2008-0106
)
15 Missouri American Water,)
)
16 Respondent.)

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19 CHERLYN D. VOSS, Presiding,
REGULATORY LAW JUDGE.

20

21 ROBERT M. CLAYTON III,
LINWARD "LIN" APPLING,
TERRY JARRETT,
COMMISSIONERS.

22

23 REPORTED BY:

24 KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

25

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10 Service Commission.

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

2 JUDGE VOSS: We're here today for a
3 prehearing -- excuse me, for a hearing in the complaint of
4 Mrs. Walter L. Schwab against Missouri American Water
5 Company, Commission Case No. WC-2008-0106. We're going to
6 begin by taking entries of appearance, beginning with
7 Mrs. Walter L. Schwab. Mrs. Schwab, would you state your
8 name for the record.

9 MS. SCHWAB: My name is Geraldine Schwab.

10 JUDGE VOSS: And then we're going to go to
11 Staff of the Commission.

12 MR. KRUEGER: Keith R. Krueger for the
13 Staff of the Missouri Public Service Commission. My
14 address is P.O. Box 360, Jefferson City, Missouri 65102.

15 JUDGE VOSS: And Missouri American Water
16 Company?

17 MS. SULLIVAN: Mary Sullivan on behalf of
18 Missouri American Water Company. My address is 727 Craig
19 Road, St. Louis, Missouri 63141.

20 JUDGE VOSS: Now I want to ask all of the
21 parties, do people want to do opening statements or just
22 begin giving official statements for the record and
23 testimony?

24 MR. KRUEGER: I don't have an opening
25 statement.

1 MS. SULLIVAN: Missouri American does not
2 have an opening statement.

3 JUDGE VOSS: I'm assuming that is all right
4 with you, too, Mrs. Schwab, we're just going to begin with
5 your testimony?

6 MS. SCHWAB: All right.

7 JUDGE VOSS: I'm going to send an e-mail
8 very quickly. We're going to take about a two or three-
9 minute break.

10 (A BREAK WAS TAKEN.)

11 JUDGE VOSS: Okay. Ms. Schwab, I'm going
12 to swear you in. Are you ready? Can you hear me all
13 right?

14 MS. SCHWAB: Yes.

15 (Witness sworn.)

16 JUDGE VOSS: Now I want to take care of --
17 you didn't send me any additional exhibits that you wanted
18 to enter into the record. Were there any that I for some
19 reason did not receive?

20 MS. SCHWAB: Well, the problem, of course,
21 is that most of the things have been sent from Missouri,
22 so it takes over two weeks for it to arrive in Florida,
23 and I also mentioned at the time to Missouri American
24 Water that I would be leaving town on October the 13th,
25 2007, that we live in Florida during the winter.

1 JUDGE VOSS: Well, I have a copy of your
2 Complaint. Is there anything else that you wanted to
3 admit into evidence that you would like me to potentially
4 reserve a late-filed exhibit number for?

5 MS. SCHWAB: I guess, yes. I had mentioned
6 this previously. The St. Louis Post Dispatch on Friday,
7 July the 7th, 2006, has written an article on Missouri
8 American Water and Illinois Water, and it stated that
9 there had been many billing errors and they wanted to have
10 these things investigated. There were numerous problems
11 with the quality and accuracy of its bills and metering.

12 JUDGE VOSS: Since that's a standard
13 publication, could you give me the date again? You said
14 Friday, December 7th?

15 MS. SCHWAB: Friday, July the 7th --

16 JUDGE VOSS: Oh, July 7th.

17 MS. SCHWAB: -- 2006, St. Louis Post
18 Dispatch newspaper.

19 JUDGE VOSS: Of 2006?

20 MS. SCHWAB: Yes.

21 JUDGE VOSS: I'm going to go ahead and take
22 official notice of that so that we don't have to do it as
23 a late-filed exhibit since that's a standard publication
24 that most people can get online or at their local library.
25 Is that okay with you?

1 MS. SCHWAB: Yes.

2 JUDGE VOSS: That okay with the parties?
3 Does anyone object to that?

4 MS. SULLIVAN: Well, I would object that
5 it's hearsay.

6 JUDGE VOSS: Well, it will be given the
7 weight that it's due. We do tend to give pro se
8 complainants a little bit more leeway, and there is the
9 point that it is hearsay, there is no actual evidentiary
10 value, but it is a public record to which, since she's
11 kind of summarized it for us, we will just take notice of
12 it.

13 MR. KRUEGER: I would also like to point
14 out that she has mentioned this article I think beginning
15 at the prehearing conference a month and a half ago, and I
16 still haven't seen it, and she did not provide it by
17 January 21st as she was ordered to do.

18 JUDGE VOSS: You say that was the St. Louis
19 Post Dispatch?

20 MS. SCHWAB: He said he was going to look
21 for it and get it in the paper. That's what he told me.

22 JUDGE VOSS: Was it the St. Louis Post
23 Dispatch? What was the paper? I'm sorry.

24 MS. SCHWAB: St. Louis Post Dispatch
25 newspaper.

1 JUDGE VOSS: Well, I'll look for it, and I
2 will, if it exists and if I can find it, put it into the
3 record. If I can't find it, I'll send out a notice to the
4 parties.

5 MS. SCHWAB: Okay.

6 JUDGE VOSS: Does anyone have an objection
7 to that? And again, it will be given the evidentiary
8 value a news story is due. Okay. Is that the only other
9 piece of information aside from your Complaint that you
10 would want into the record?

11 MS. SCHWAB: Yes. I was told that I would
12 be represented, and then Mr. Krueger told me that since my
13 Complaint was just about the meter, that it didn't
14 warrant, and they were too busy and too overworked to have
15 anybody represent me, but that I was supposed to have
16 somebody represent me.

17 JUDGE VOSS: Mrs. Schwab, as a, what they
18 call a pro se complainant, that means a complainant that
19 is representing yourself, you don't need an attorney as an
20 individual to appear and give your testimony to the
21 Commission.

22 MS. SCHWAB: I was so informed by Keith
23 Krueger.

24 JUDGE VOSS: Well, I don't think it's that
25 the Staff didn't have time. They have filed a formal

1 recommendation in this case, and I'm sure you received a
2 copy of that; is that correct?

3 MS. SCHWAB: Yes.

4 JUDGE VOSS: Okay. I think in that
5 recommendation Staff states what they found in their
6 investigation and their position on the case. Since it
7 seems to be contrary to yours at this point, I think
8 that's why they made it clear that they weren't working on
9 your behalf.

10 MS. SCHWAB: Well, I also must add that a
11 sign was left on my door resulting in a break-in in my
12 home.

13 JUDGE VOSS: I think that's something
14 you'll have to take up with local authorities. I don't
15 think the Commission has any jurisdiction there.

16 MS. SCHWAB: I had to spend \$150 boarding
17 up and over \$400 for a new window.

18 JUDGE VOSS: That has nothing to do with
19 the Commission. I'm sorry. You'll need to talk to the
20 local authorities.

21 MR. SCHWAB: It just points to the
22 incompetence of the parties involved.

23 JUDGE VOSS: Since it seems like we're
24 already getting into the testimony side, Mrs. Schwab,
25 because it's very confusing because you are both your

1 counsel and your witness, but I just want to remind you,
2 you are under oath, which I'm sure you know, and I'm sure
3 you are a truthful person and that everything you say
4 is -- you've sworn to be true. So now just go ahead and
5 give your testimony as to your position on what happened
6 in this situation. I'm going to step back. I'm getting
7 ahead of myself.

8 MS. SCHWAB: I received a bill for \$566.62,
9 and I asked for help, thinking the bill was not at all
10 right, and I previously had been told by people at
11 American Missouri Water that their equipment was not
12 accurate.

13 JUDGE VOSS: Do you have the names of these
14 people?

15 MS. SCHWAB: Yes, I do have the names of
16 these people.

17 JUDGE VOSS: And what were their names,
18 Mrs. Schwab?

19 MS. SCHWAB: I'm afraid I cannot tell you.
20 I would do it in confidentially, but I don't want them to
21 lose their job because of this. I'm not that kind of
22 person. The Missouri American Water Company is in a
23 win/win situation.

24 JUDGE VOSS: Is there going to be a hearsay
25 objection to that?

1 MS. SULLIVAN: Yes, your Honor, we'll
2 object as to hearsay.

3 JUDGE VOSS: I'm going to, of course, leave
4 it in the record, give it the credibility it's due, given
5 that there's no documentation to support a statement made
6 by a third party.

7 Mrs. Schwab, before I go any further, I
8 wanted to make sure that we get your Complaint as an
9 exhibit. I'm going to mark your Complaint as Exhibit 1,
10 and you wanted to enter that into the record as part of
11 your case; is that correct?

12 MS. SCHWAB: Yes.

13 JUDGE VOSS: Does anyone object to the
14 admission of the Complaint as Exhibit 1?

15 MR. KRUEGER: No objection.

16 MS. SULLIVAN: No objection.

17 (EXHIBIT NO. 1 WAS MARKED AND RECEIVED INTO
18 EVIDENCE.)

19 JUDGE VOSS: All right. Then the Complaint
20 filed by Mrs. Schwab is officially Exhibit 1, and I'm
21 sorry to interrupt you, Mrs. Schwab. Go ahead and
22 continue with your testimony.

23 MS. SCHWAB: Okay. The next bill we
24 received was for \$199.66, and most of the time -- we left
25 St. Louis on October the 13th, 2007. We do not have our

1 February bill yet, but we continue to receive water bills
2 even though there is no one in the house and there is no
3 water used.

4 JUDGE VOSS: So you've turned off the
5 water?

6 MS. SCHWAB: Yes.

7 JUDGE VOSS: Is there anything else you'd
8 like to add at this point, or would you like to answer
9 some questions now from the other parties? I'm sorry if
10 I'm not speaking loud enough. I know you're having
11 trouble hearing me. Is there anything else you'd like to
12 add at this point?

13 MS. SCHWAB: Well, the fact is we do not
14 have a hot tub or a pool or anything. Our bill was
15 triple, and I asked for help because I do not think this
16 is a correct reading.

17 JUDGE VOSS: Okay. Is that all you have to
18 say at this point? You'll have another opportunity to
19 speak after questions. Is that all you have right now,
20 Mrs. Schwab?

21 MS. SCHWAB: Yes.

22 JUDGE VOSS: I thought I lost you for a
23 second. Okay. Now we're going to go to
24 cross-examination, and as set out in the Order scheduling
25 the hearing, Staff will go first, since Public Counsel is

1 not participating. MR. KRUEGER: No questions,
2 your Honor.

3 JUDGE VOSS: Missouri American?

4 MS. SULLIVAN: No questions, your Honor.

5 JUDGE VOSS: Do the Commissioners have any
6 questions of this witness?

7 COMMISSIONER APPLING: I have no questions.

8 COMMISSIONER JARRETT: No questions.

9 JUDGE VOSS: Mrs. Schwab, there are no
10 questions for you, so unless you have something to add at
11 this time, you can take a break, and we're going to have a
12 witness from the Staff or actually from Missouri American
13 speak next, and after that witness testifies, you will
14 have an opportunity to ask her questions at the end, too.
15 Is that all right?

16 MS. SCHWAB: All right.

17 JUDGE VOSS: Missouri American Water
18 Company, please bring your first witness.

19 MS. SULLIVAN: Do you want her to stay here
20 or --

21 JUDGE VOSS: Yes, please testify from your
22 seat. And I do want to ask, Mrs. Schwab, did you get the
23 packet from Missouri American Water Company that included
24 the exhibits they wanted to present?

25 MS. SCHWAB: Yes.

1 JUDGE VOSS: Okay. Good. You talked about
2 the mailing delay. I wanted to make sure. Okay. Go
3 ahead. Please proceed.

4 MS. SULLIVAN: Do you need to swear my
5 witness in?

6 JUDGE VOSS: You need to introduce her.

7 MS. SULLIVAN: This is our witness. We're
8 going to call Gina Myers.

9 (Witness sworn.)

10 JUDGE VOSS: Please proceed.

11 GINA MYERS testified as follows:

12 BY MS. SULLIVAN:

13 Q. Go ahead and state your name for the
14 record, please.

15 A. Gina Myers.

16 Q. And where are you currently employed?

17 A. Missouri American Water.

18 JUDGE VOSS: Can you make sure your
19 microphone's on? Especially -- it will be very
20 difficult -- Ms. Schwab, if you have trouble hearing, like
21 if someone's mic's not on, please feel free to speak up
22 and let me know.

23 MR. SCHWAB: Thank you.

24 BY MS. SULLIVAN:

25 Q. What is your job title with Missouri Water?

1 A. Operations supervisor.

2 Q. What are your job responsibilities?

3 A. I work with the field customer service
4 representatives.

5 Q. That includes the meter reading?

6 A. Yes. We do high bill inspections, meter
7 reading, turn water off and on, assist the customers.

8 Q. Missouri American is a public utility
9 regulated by the Missouri Public Service Commission; is
10 that correct?

11 A. Yes.

12 JUDGE VOSS: I might suggest grabbing the
13 microphone off the table behind you. Will that help?
14 Make sure it's on. Please proceed.

15 BY MS. SULLIVAN:

16 Q. Are you familiar with the Complaint on the
17 account at 3 Godwin Lane?

18 A. Yes, I am.

19 Q. As a regulated utility, does Missouri
20 American maintain tariffs?

21 A. Yes, we do.

22 Q. And are you familiar with the tariffs that
23 applied to the St. Louis County service area?

24 A. Yes.

25 Q. I'm going to hand you a document that is

1 labeled MAWC Exhibit 4.3. Do you recognize what that
2 document is?

3 A. Yes.

4 Q. And what is that?

5 A. It's one of the definition pages. Includes
6 the definition of a water meter.

7 Q. And that is out of St. Louis' tariff sheet,
8 it's sheet No. DF 1.5?

9 A. Correct.

10 JUDGE VOSS: Do you want to mark this as an
11 official exhibit? Are you contemplating offering it?

12 MS. SULLIVAN: Yes.

13 (EXHIBIT NO. 2 WAS MARKED FOR
14 IDENTIFICATION BY THE REPORTER.)

15 JUDGE VOSS: Mrs. Schwab, can you find that
16 exhibit so you can follow? You don't have to, but I just
17 wanted to make sure you weren't having trouble finding it
18 because I was searching for it. On the bottom of it, it
19 says MAWC Exhibit 4.3. Okay. Please proceed.

20 BY MS. SULLIVAN:

21 Q. Next I'm going to hand you what was
22 previously labeled MAWC Exhibit 4.7. Do you recognize
23 that document?

24 A. Yes.

25 Q. And what is that?

1 A. It is a Rule 7, and it explains how the
2 meter's installed and how it measures water flow for
3 billing.

4 Q. And the point of Rule 4.7, is -- or 7.0 is
5 that billing is based off of the meter; is that correct?

6 A. Yes.

7 Q. And again, that is sheet No. R7.0?

8 A. Correct.

9 JUDGE VOSS: For the record, these are
10 tariff sheets of the company.

11 MS. SULLIVAN: And will this be labeled
12 Exhibit 3, your Honor?

13 JUDGE VOSS: Yes.

14 (EXHIBIT NO. 3 WAS MARKED FOR
15 IDENTIFICATION BY THE REPORTER.)

16 BY MS. SULLIVAN:

17 Q. How long is a -- in general, would you say
18 a domestic or residential meter, is it kept in service?

19 A. 10 to 15 years.

20 Q. Do you know how long the meter had been at
21 3 Godwin Lane in St. Louis?

22 A. Since 2005.

23 Q. When a meter goes out of calibration in
24 general, what happens?

25 A. It will slow down and stop registering. It

1 would definitely indicate zero usage.

2 COMMISSIONER CLAYTON: Please speak up,
3 ma'am. We want to make sure that those here can hear.

4 THE WITNESS: Yes. If the meter
5 malfunctions, slows down, or it stops registering usage.

6 BY MS. SULLIVAN:

7 Q. You told me you were familiar with the
8 Complaint on 3 Godwin Lane. Are you also familiar with
9 the water account itself?

10 A. Yes.

11 Q. Have you had an opportunity to review the
12 usage and billing history on this account?

13 A. Yes, I have.

14 Q. I'm going to hand you a set of documents
15 that were previously labeled MAWC Exhibits 2.1 through
16 2.5, and just in general, what are those documents?

17 A. These are copies of Mrs. Schwab's water
18 bill.

19 Q. And this account is billed how often?

20 A. Quarterly.

21 Q. By looking at these bills, can you tell if
22 this account was based on actual reads or meter estimates?

23 A. Yes, all of these bills indicate actual
24 meter readings.

25 JUDGE VOSS: Let's collectively mark that

1 as Exhibit 3 -- or Exhibit 4.

2 MS. SULLIVAN: As a group exhibit?

3 (EXHIBIT NO. 4 WAS MARKED FOR
4 IDENTIFICATION BY THE REPORTER.)

5 BY MS. SULLIVAN:

6 Q. Again, looking at those bills and other
7 billing history, did you have prepared an account history?

8 A. Yes, I did.

9 Q. I'm going to hand you the document that was
10 previously marked MAWC Exhibit 3.1. Can you just
11 generally describe what that is?

12 A. This is a spreadsheet that summarizes the
13 usage of the customer, the number of days between meter
14 readings, daily usage, read type, the bill dates, the bill
15 amounts, et cetera.

16 Q. And by looking at that, which -- which
17 billing period is the one that's at issue in this
18 Complaint?

19 A. It would be the bill that was from
20 June 1st, 2007 through August 29, 2007.

21 Q. And this -- looking at that same billing
22 period over the last couple of years, what has the usage
23 been during that time period?

24 A. Normal summer usage, which traditionally is
25 higher in St. Louis.

1 Q. When was the first time that Mrs. Schwab or
2 someone on her behalf contacted Missouri American
3 regarding the high bill that was issued in September of
4 '07?

5 A. That would have been September 5th of 2007.

6 Q. Ordinarily when Missouri American receives
7 an inquiry about a high bill, what is the response of
8 Missouri American?

9 A. We will send a field representative out to
10 the property to inspect for leaks and to verify the meter
11 reading.

12 Q. And was that done in this case?

13 A. Yes.

14 Q. What did the field personnel discover or
15 was his conclusions when he went out to the account?

16 A. He verified that the meter reading was
17 correct and there were no leaks.

18 Q. And how did he do those? I mean, how did
19 he do that?

20 A. There is a flow indicator on the water
21 meter, and it would -- any time the water flows to the
22 meter, this little triangle, the flow indicator registers
23 usage. It moves. And when he visited the site on
24 September 7th, there was no registration and the flow
25 indicator was not moving.

1 Q. Was that information communicated to
2 Mrs. Schwab?

3 A. Yes.

4 Q. I'm going to hand you what's been
5 previously marked MAWC Exhibit 1.1. Can you identify
6 that?

7 A. Yes.

8 Q. What is it?

9 A. It's a check meter, no leak detected. It
10 states that we verified the meter reading and there was
11 not a leak present.

12 Q. What is the date of that letter?

13 A. September 12th, 2007.

14 Q. After that letter was sent, was there any
15 more contact with Mrs. Schwab?

16 A. Yes. She called again and requested that
17 we come out and do another high bill inspection, and we
18 revisited the site on the 24th of September.

19 MS. SULLIVAN: Just for the record, are we
20 going to mark this Exhibit 5, then?

21 JUDGE VOSS: Yes. Wait. Actually, I
22 thought this was 5. Didn't you have your meter --

23 MS. SULLIVAN: Oh, I got off by one. Yes.
24 Thank you.

25 This will be Exhibit 6, the letter of

1 September 12.

2 (EXHIBIT NO. 6 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 BY MS. SULLIVAN:

5 Q. Okay. I'm sorry. You said that you got
6 contacted and a field service representative went back
7 out?

8 A. Yes.

9 JUDGE VOSS: Please talk to the microphone
10 in the center.

11 MS. SULLIVAN: Okay.

12 JUDGE VOSS: Thank you.

13 BY MS. SULLIVAN:

14 Q. Did the field representative have any
15 conversations with anyone at the location when he went
16 out?

17 A. Yes. He stated there was a handyman
18 working on the site, and he showed him the meter reading,
19 showed him no indication of leaks, and he also noted a
20 very green lawn.

21 Q. After this visit, was that information
22 again communicated to Mrs. Schwab?

23 A. Yes.

24 Q. I'll hand you what was previously marked
25 MAWC Exhibit 1.2. Can you identify that?

1 A. Yes. It's another letter generated to
2 Mrs. Schwab dated 9/25/2007, verifying the meter reading
3 and indicating there were no leaks.

4 Q. At any point has there been any evidence
5 that there was a leak on this service line?

6 A. No.

7 Q. In any conversations that Missouri
8 American's had with Mrs. Schwab, has she indicated that
9 she's had a leak repaired?

10 A. No.

11 Q. Has there been any indication or evidence
12 that there was a meter malfunction?

13 A. No.

14 Q. After the billing period which is at issue
15 in this Complaint, has there been another billing cycle?

16 A. Yes.

17 Q. Do you know what the usage was in that next
18 billing cycle?

19 A. Yes. There was another bill. We read the
20 meter on 11/28/2007. The usage was 9,600 cubic feet.

21 Q. Is that lower than it was in the last one?

22 A. Yes.

23 Q. Ordinarily would you expect to see the
24 usage to go down if the meter's malfunctioning? I
25 probably worded that poorly. I guess if it was

1 registering high, would it then suddenly start registering
2 low?

3 A. No.

4 Q. I think you previously said that the field
5 representative noted that the lawn was green; is that
6 correct?

7 A. Yes.

8 Q. Was there any evidence that there was an
9 irrigation system for this lawn?

10 A. Yes. We did note an irrigation system.

11 Q. In general, in St. Louis County, in your
12 experience, does water usage tend to go up during summer
13 months?

14 A. Yes.

15 Q. Do you have any information about the
16 summer of 2007?

17 A. It was very hot.

18 Q. Did Missouri American see historic usage on
19 certain days?

20 A. Yes.

21 MS. SULLIVAN: No other questions.

22 JUDGE VOSS: All right. We're going to do
23 cross-examination now. Does Staff have any questions for
24 the witness?

25 MR. KRUEGER: No questions, your Honor.

1 JUDGE VOSS: Mrs. Schwab, do you have any
2 questions for this witness?

3 MS. SCHWAB: I think that her material is
4 very technical, very difficult for the layperson to
5 understand. They also -- since she says that the field
6 rep has read the meter, I have been out in my yard working
7 where they couldn't find the meter.

8 JUDGE VOSS: Well, actually, this is the
9 opportunity to direct questions to her. Do you have any
10 questions that you want to ask the witness at this point?
11 Because I think the Commissioners might.

12 Mrs. Schwab, if you don't have any other
13 questions, I'm going to let the Commissioners ask
14 questions now. Are you good?

15 MS. SCHWAB: Yes. We've had a broken water
16 meter previously. I don't think that's been stated.

17 JUDGE VOSS: Okay.

18 MS. SCHWAB: Broken water main also.

19 JUDGE VOSS: Is that all you'd like to add,
20 Mrs. Schwab?

21 (No response.)

22 JUDGE VOSS: Commissioner Clayton?

23 COMMISSIONER CLAYTON: I'm sorry. I got
24 here late. I apologize. I'm getting my scorecard put
25 together here.

1 QUESTIONS BY COMMISSIONER CLAYTON:

2 Q. Ma'am, would you just give me your name,
3 please?

4 A. Gina Myers.

5 Q. Gina Myers. Okay.

6 COMMISSIONER CLAYTON: And Ms. Schwab, can
7 you hear me from where you're sitting right now?

8 MS. SCHWAB: Yes, I can.

9 COMMISSIONER CLAYTON: Okay. My name is
10 Robert Clayton. I'm one of the five Commissioners on the
11 Public Service Commission. And with the parties'
12 permission, I may bounce to Ms. Myers in asking some
13 questions and I may go to Mrs. Schwab if I need
14 clarification on something. Would that be appropriate,
15 Mrs. Schwab?

16 MS. SCHWAB: Yes.

17 COMMISSIONER CLAYTON: Okay. First of all,
18 I wanted to just verify some of the facts in this case,
19 and some of this may be repetitive, but sometimes these
20 cases tend to come off looking more complicated than what
21 they really are. So first of all, I wanted to verify that
22 the amount in dispute here is \$566.62; is that correct?

23 MS. SCHWAB: Yes.

24 COMMISSIONER CLAYTON: And you all agree
25 with that as well?

1 THE WITNESS: Yes.

2 COMMISSIONER CLAYTON: And we're talking
3 about a time period of service of June 1, 2007 to
4 August 29, 2007; is that correct?

5 MS. SCHWAB: Yes.

6 COMMISSIONER CLAYTON: Mrs. Schwab; is that
7 correct?

8 MS. SCHWAB: Yes.

9 COMMISSIONER CLAYTON: And you-all agree
10 with that, from Missouri American?

11 THE WITNESS: Yes.

12 COMMISSIONER CLAYTON: So we're talking
13 about a -- basically a three-month period during the
14 summer months; is that correct, Ms. Schwab?

15 MS. SCHWAB: Yes.

16 COMMISSIONER CLAYTON: And Ms. Schwab, were
17 you physically -- were you at that residence or that home
18 during that time period?

19 MS. SCHWAB: Yes.

20 COMMISSIONER CLAYTON: You were. Okay. So
21 you were residing there. And were you residing by
22 yourself or were there other people who were living there?

23 MS. SCHWAB: Two people lived there, my
24 husband Walter and myself.

25 COMMISSIONER CLAYTON: Okay. Two people.

1 I'm not going to ask for ID or any names like that. Just
2 want to know how many people. Thank you. And how long
3 have you lived at that address, Ms. Schwab?

4 MS. SCHWAB: Ten years.

5 COMMISSIONER CLAYTON: Ten years.

6 MS. SCHWAB: Approximately.

7 COMMISSIONER CLAYTON: And I'm assuming
8 that either Missouri American or its predecessor was the
9 water provider at that residence during that entire time?

10 MS. SCHWAB: I assume so.

11 COMMISSIONER CLAYTON: I don't think we
12 have too much competition in the water industry right now.
13 Would you agree with that?

14 MS. SCHWAB: Are you speaking to me?

15 COMMISSIONER CLAYTON: Well, it's kind of a
16 rhetorical question. So there was no other provider.
17 That's -- you're -- the only game in town is Missouri
18 American Water; is that correct?

19 MS. SCHWAB: Yes. I would like another
20 provider.

21 COMMISSIONER CLAYTON: I understand. That
22 will be a discussion for another day. I just wanted to
23 verify that.

24 BY COMMISSIONER CLAYTON:

25 Q. Now, from the company's perspective, do

1 you-all have records of Ms. Schwab's bill for the prior --
2 prior years? I don't know if I want to go back ten years,
3 but do you have prior years' worth of bills that we can
4 compare this amount?

5 A. Yes.

6 Q. Okay. And could you just once again
7 describe for me the amount of water charges during the
8 same three months for prior years, say one year back, say
9 2006?

10 A. Yes. In 2006, the same time frame, she
11 used 197 hundred cubic feet.

12 Q. Let's focus on dollars. Focus on dollars.

13 A. About \$362.86, and then in 2005, it was
14 \$167.45.

15 Q. 167 how much?

16 A. 45.

17 Q. And did you have 2004?

18 A. No, I did not.

19 Q. Okay. Now, let's -- that was dollars.
20 Let's go to -- let's actually -- let me make sure because
21 we've had several rate cases. How many gallons do we have
22 in 2007?

23 A. We bill in hundred cubic feet.

24 Q. Okay.

25 A. So in 2007, it was 301.

1 Q. Okay.

2 A. In 2006 it was 197, and in 2005 it was 210.

3 Q. 210. Okay.

4 COMMISSIONER CLAYTON: And Ms. Schwab, do
5 you dispute any of those figures?

6 MS. SCHWAB: I dispute them all. I just --

7 COMMISSIONER CLAYTON: Well, for the --
8 for -- does it sound -- does it sound right to you that
9 for -- to the year 2006, going back a year, that your bill
10 for that same period would have run about 362 bucks?

11 MS. SCHWAB: Yes, that is correct.

12 COMMISSIONER CLAYTON: Okay. Okay. And
13 going back to 2005, do -- do you dispute that your bill
14 would have been about \$167 during that same time?

15 MS. SCHWAB: I believe that would be
16 correct.

17 COMMISSIONER CLAYTON: And are you saying
18 that you think that your bills were wrong in those years
19 as well?

20 MS. SCHWAB: I have spoken previously with
21 Ms. Myers. I don't know if it's her boss or the person
22 that was in our district who informed me at that time that
23 their meters were not accurate, that their readings were
24 not accurate, but that was the best they could do.

25 COMMISSIONER CLAYTON: Okay.

1 MS. SCHWAB: And the article that I quoted
2 from the St. Louis Post Dispatch verifies those facts.

3 COMMISSIONER CLAYTON: Okay.

4 BY COMMISSIONER CLAYTON:

5 Q. Okay. Ms. Myers, do you have figures for
6 '04?

7 A. I can get them.

8 Q. But you don't have them with you here
9 today?

10 A. I do not have them now.

11 Q. Okay. From the company's perspective, can
12 you tell me whether there were any meter changes or any
13 infrastructure changes that would impact Ms. Schwab's
14 property during the time period of 2005 or 2006 or in
15 2007?

16 A. Not to my knowledge, no.

17 Q. So there -- up until this dispute, there
18 weren't any meter changes or problems from the company's
19 perspective?

20 A. That's correct.

21 COMMISSIONER CLAYTON: Ms. Schwab, are you
22 aware of any meter changeout or any infrastructure changes
23 during that time period?

24 MS. SCHWAB: Yes. We've had a water main
25 break, and we also had -- I don't know the time period,

1 but I know my property was left unacceptable by the water
2 company and I had to repair it, and also that we did, I
3 believe, have a meter change.

4 COMMISSIONER CLAYTON: Okay. Do you know
5 when that water break was, just approximately?

6 MS. SCHWAB: I don't know the exact date,
7 but --

8 COMMISSIONER CLAYTON: Just approximately?

9 MS. SCHWAB: I just had long distance calls
10 to Florida, so I cannot tell you the exact date.

11 COMMISSIONER CLAYTON: How about the year,
12 can you narrow it down to a year when that water break
13 occurred?

14 MS. SCHWAB: I know it was several years
15 ago. That's all I know.

16 COMMISSIONER CLAYTON: So you don't know if
17 it was '04, '05 or '06?

18 MS. SCHWAB: No. I'm sorry, I do not.

19 BY COMMISSIONER CLAYTON:

20 Q. Does the company have any information on
21 that?

22 A. Not with us. We have a database that we
23 could query.

24 Q. So you're not -- so you can't dispute that
25 a water main break occurred that would have impacted that

1 property?

2 A. That's correct, I can't at this time.

3 COMMISSIONER CLAYTON: Ms. Schwab, do you
4 recall was that water main break, was it -- did it occur
5 in your yard or was it --

6 MS. SCHWAB: Yes, we have a water main in
7 our yard. There's a water -- a fire -- what do you call
8 those, you know, the fire department uses?

9 COMMISSIONER CLAYTON: A hydrant?

10 MS. SCHWAB: Hydrant. Yeah, hydrant.

11 COMMISSIONER CLAYTON: I thought I knew
12 what you were talking about there. Okay. And it occurred
13 out by the fire hydrant?

14 MS. SCHWAB: I was not there. I'm sorry.
15 I can't help you. I live in Florida in the winter. We've
16 lived here for the past 12 years.

17 COMMISSIONER CLAYTON: So you weren't there
18 when the water main break occurred?

19 MS. SCHWAB: No. I just get emergency
20 calls when there's a problem.

21 COMMISSIONER CLAYTON: Okay. Do you know
22 what time of year it was? Are you in Florida just during
23 the wintertime or are you down there full time?

24 MS. SCHWAB: Yes, it was during the winter.

25 COMMISSIONER CLAYTON: During the winter.

1 So it would have happened during the winter months?

2 MS. SCHWAB: Well, we don't arrive back in
3 St. Louis until April or May. So any time between October
4 and April or May.

5 COMMISSIONER CLAYTON: Okay. So fall,
6 winter, early spring. Okay. Now, Ms. Schwab, does anyone
7 live -- live in the house when you're not there?

8 MS. SCHWAB: No.

9 COMMISSIONER CLAYTON: Okay. And there's
10 been some discussion about a sprinkler system in the yard.
11 And if we -- do you acknowledge that there is a sprinkler
12 system that's in your -- on your property?

13 MS. SCHWAB: Yes, we have a sprinkler.

14 COMMISSIONER CLAYTON: Was it recently put
15 in or has it been there for a long time?

16 MS. SCHWAB: No. We've had that since we
17 originally moved in the house.

18 COMMISSIONER CLAYTON: Okay. So it's been
19 there and hasn't -- hasn't been materially changed in the
20 past ten years?

21 MS. SCHWAB: No.

22 COMMISSIONER CLAYTON: Okay. And have you
23 changed usage of that sprinkler system in any way over the
24 past ten years? I mean, do you use it some years, not use
25 it some years? Do you change the timing?

1 MR. SCHWAB: Well, now, I'm very careful.
2 If it rains, I turn it off. I've even gotten up in the
3 middle of the night to turn it off. I have a sensor on
4 it, but I don't -- I don't think it -- I don't think the
5 rain sensors work just right. I'm just a very careful
6 person with water usage. I don't even flush my toilets
7 every time they're used to try to conserve water.

8 COMMISSIONER CLAYTON: Okay. That's --
9 that's -- I understand that. But have you changed the use
10 of the sprinkler system, I think was the question? I
11 mean, have you -- have you -- are you using it the same
12 way you used it ten years ago? And it sounds like you
13 are.

14 MS. SCHWAB: Yes. Yes, I am. I'm very
15 careful with its usage.

16 COMMISSIONER CLAYTON: I mean, you haven't
17 put in new lines? You haven't doubled the amount of usage
18 or anything like that?

19 MS. SCHWAB: No, no. The yard is exactly
20 the same.

21 COMMISSIONER CLAYTON: You turn it on and
22 it does the same thing that it did ten years ago,
23 theoretically, correct?

24 MS. SCHWAB: Yes.

25 COMMISSIONER CLAYTON: Okay. Now, have you

1 had to do any maintenance on the sprinkler system? Have
2 you had to replace any lines or replace any of the
3 sprinkler heads because of damage or freezing or anything
4 like that?

5 MS. SCHWAB: We turn our sprinkler system
6 off in October when we leave. I have my system maintained
7 every year. You have to have a flow -- something that's
8 required by law. I have it -- if there's a problem, it's
9 corrected.

10 COMMISSIONER CLAYTON: Well, I guess --
11 have you had to replace like a line in your yard or dig
12 out one of the sprinkler heads because it got run over by
13 the lawn mower or something like that? I just -- I want a
14 general idea, have you had to do any major maintenance on
15 the sprinkler system in the last several years?

16 MS. SCHWAB: No. It was just routine,
17 every day maintenance.

18 COMMISSIONER CLAYTON: Okay. So you blow
19 it out in the winter and then you have someone come over
20 and turn it on in the spring, something like that?

21 MS. SCHWAB: Yes. The people that do our
22 landscape work do both. So if there's a problem, it's
23 immediately corrected.

24 COMMISSIONER CLAYTON: Okay. And you
25 haven't added any new appliances to your home that use

1 water in the past several years or in 2006 anyway?

2 MS. SCHWAB: No.

3 BY COMMISSIONER CLAYTON:

4 Q. Okay. Now, Ms. Myers, coming back to you,
5 basically we've got a situation here where the -- where
6 the resident says that, you know, there have been no
7 substantive changes in water usage, no changes in the
8 sprinkler usage, at least that's the testimony right now,
9 and it looks like we've got water usage in the
10 neighborhood of around 200, is it cubic feet?

11 A. Yes.

12 Q. Around 200 cubic feet in 2005, 2006. We
13 don't have records going back to '04. So those two years
14 are consistent. Then we have a jump of about 100 cubic
15 feet for the year 2007. So if we don't have any evidence
16 of new sprinkler systems or any damage or significant
17 maintenance issues, if we don't have any evidence of new
18 appliances that would use water and increase the water
19 usage, and we don't have any evidence that any more than
20 two people lived in the residence, and I think you-all
21 said that you tested the meter and the meter tested fine;
22 is that correct?

23 A. We have not tested the meter.

24 Q. You have not tested the meter?

25 A. Correct.

1 Q. Okay. So what would the explanation be
2 here? We've got a time period of increased usage of 100
3 cubic feet with no evidence of any other changes in
4 behavior, no evidence of leakage. You don't have any
5 evidence of water main break that would lead to this
6 increased usage. The company is the expert. What is
7 your-alls explanation of that extra usage?

8 A. Let me just state if there was a water main
9 break, water main breaks do not register through the water
10 meters, so that would be not material too.

11 Q. Okay. Okay. Thank you.

12 A. And I guess the evidence would be the meter
13 readings. That's what we base our billing on. So it
14 shows that the customer did use 301 cubic feet -- hundred
15 cubic feet for the billing time, that would be my
16 evidence. As to how they use water, I certainly don't
17 know Mrs. Schwab or her habits.

18 Q. Okay. And you said that you haven't tested
19 the meter?

20 A. Yes. The customer has to request that we
21 pull the meter and test it.

22 Q. And is there any charge for doing that?

23 A. No.

24 Q. The meter testing?

25 A. No.

1 COMMISSIONER CLAYTON: Ms. Schwab, did you
2 ever ask that your meter be tested?

3 MS. SCHWAB: Yes.

4 BY COMMISSIONER CLAYTON:

5 Q. And you-all dispute that?

6 A. Yes.

7 Q. Okay. So we don't know if the meter's good
8 or bad, then, do we?

9 A. Am I supposed to answer that?

10 Q. Do we know if it's good or bad? Yes. Yes.
11 Yes. You're supposed to answer that.

12 A. Based on our tariffs, we rely on the meter
13 readings, and unless otherwise stated, we assume that the
14 meter readings are correct.

15 Q. That doesn't really answer the question,
16 does it?

17 A. No.

18 Q. We don't know if the meter's good or bad.
19 You're saying, look, the meter says this, this is how much
20 she owes. We've got a situation where Ms. Schwab says,
21 well, wait a minute, this thing's way off, it's out of the
22 ordinary, the bill's too high, and she says that she asked
23 for the meter to be checked. Now, can you tell me why the
24 company hasn't -- you're disputing that she asked for the
25 meter to be checked?

1 A. There's a difference between checking the
2 meter and testing the meter. Checking, we go out and we
3 verify the read and we check for leaks. Testing the
4 meter, we actually pull the meter, run it through the
5 testing meter shop, which anyone can witness. That was
6 not requested. Had it been requested, we would have
7 happily done so.

8 Q. How long -- how long of a process does that
9 take? Is that something she can do during a day or --

10 A. Yes. I could have somebody pull the meter
11 today.

12 COMMISSIONER CLAYTON: Okay. All right.
13 Ms. Schwab, is there anything else -- I've kind of asked a
14 bunch of questions here I'll give you a chance. Is there
15 anything else you want to bring up, bring to my attention?

16 MS. SCHWAB: Well, yes. I guess Ms. Myers
17 has given me a very difficult time. She was not
18 reachable. She said she had two jobs and therefore didn't
19 answer her phone or return phone calls, and yes, I did ask
20 that the meter be changed. She told me it was not
21 necessary.

22 COMMISSIONER CLAYTON: Okay. Okay. From
23 Staff's perspective, has Staff put on its witness yet?

24 MR. KRUEGER: We have not.

25 COMMISSIONER CLAYTON: Do you intend on

1 putting on a witness?

2 MR. KRUEGER: I do.

3 COMMISSIONER CLAYTON: Then I will -- at
4 this point I will cease and desist and wait for Staff, and
5 I thank Ms. Schwab and Ms. Myers for answering the
6 questions.

7 JUDGE VOSS: At the end of this, we'll give
8 redirect or recross options on both Mrs. Schwab and the
9 Company since we've kind of let her put in some more
10 direct testimony as well. Commissioner Jarrett, do you
11 have some questions?

12 COMMISSIONER JARRETT: Yes, thank you,
13 judge. Good morning, Ms. Schwab. my name is Terry
14 Jarrett, and I'm another Commissioner here listening to
15 this case this morning, and I had a question for
16 Ms. Myers.

17 QUESTIONS BY COMMISSIONER JARRETT:

18 Q. You indicated when you were answering
19 questions from Commissioner Clayton that your evidence is
20 the meter reading. What about the meter reader, could the
21 meter reader make a mistake?

22 A. They have automatic reading devices. When
23 inserted into the touchpad, display a digital image that
24 is fed into their meter reading guns. So we try to
25 alleviate as much human error as possible.

1 your personal experience the summers of 2005, 2006, 2007,
2 was 2007 a hotter summer or dryer summer than the other
3 two summers?

4 MS. SCHWAB: I believe the -- maybe the
5 last month of August was maybe a little bit dryer than
6 normal, but --

7 COMMISSIONER JARRETT: And you had
8 indicated, I believe, when you were answering questions
9 from Commissioner Clayton that you -- when it rained you
10 would turn it off, so you kind of, I guess, judged your
11 usage by the weather. So did you use it more when it was
12 dryer than when it rained?

13 MS. SCHWAB: Well, we take very good care
14 of our lawn. We have it reseeded. We have it aerated.
15 You only use about five minutes at that point when those
16 things are done on each section. We only have ten
17 sections for the lawn. So with only two people living in
18 the house and -- I mean, they keep saying that I have a
19 green lawn, but I spend a lot of money with my yard
20 service e, and his name is J.D. Schlager, and he could be
21 reached at 314-872-3203 to verify what I'm saying.

22 COMMISSIONER JARRETT: Okay.

23 MS. SCHWAB: And I can send you his bill.

24 COMMISSIONER JARRETT: Well, it's your
25 case. I guess you can send us whatever you think is

1 useful for us to make a decision.

2 I don't think I have any further questions.

3 Thank you very much, both of you.

4 JUDGE VOSS: I have a couple questions

5 before we go to cross-examination.

6 QUESTIONS BY JUDGE VOSS:

7 Q. First, and it may have been stated earlier,
8 but how old is this meter?

9 A. Two years old.

10 Q. So it was changed out two years ago?

11 A. January of '05, I believe, yes.

12 Q. Which is actually three years ago, so it's
13 three years old.

14 A. I'm sorry. It was 2008.

15 Q. That is why it is critical. If they had
16 changed that two years ago, then one of the data years
17 would have been under a different meter. And what type of
18 a meter is it? Do you know what type of --

19 Q. It's a three-quarter-inch Neptune.

20 Q. Is this type of meter prone to failure at
21 any certain time or --

22 A. In my experience, I've been with the water
23 company 22 years, no, they're not prone to failure.

24 Q. So there's no certain time where you change
25 them out routinely?

1 A. No. We routinely change them every 10 to
2 15 years.

3 Q. And you mentioned electronic meter reader,
4 they actually read the electronic -- with an electronic
5 device. Do those devices fail?

6 A. Very rarely.

7 Q. What happens when they fail?

8 A. Usually the wires become disconnected from
9 the touchpad, the lead of the meter from the meter inside,
10 then it will read all Xs. Then the meter reader has to
11 flip open the lid and manually read it. That's not the
12 case here. It was working properly.

13 Q. And how much water would you have to use to
14 get to this level? I mean, how long would a water pipe
15 have to be on to get to this level of usage? I'm just not
16 comprehending.

17 A. A three-quarter-inch meter, you can get
18 50 gallons a minute through a three-quarter-inch opening,
19 and they used 301 hundred cubic feet. We've have to
20 divide that by 750 gallons.

21 Q. So 750 gallons per cubic feet?

22 A. Yes.

23 Q. With those numbers, I can do the math
24 later.

25 MR. KRUEGER: I think it's 750 gallons per

1 hundred cubic feet.

2 THE WITNESS: 100 cubic feet.

3 JUDGE VOSS: Thank you.

4 COMMISSIONER JARRETT: Judge, I do have
5 some more questions.

6 JUDGE VOSS: Commissioner Jarrett?

7 FURTHER QUESTIONS BY COMMISSIONER JARRETT: I had -- where
8 exactly in St. Louis is this address?

9 A. 3 Godwin Lane.

10 Q. Yes. Is it south St. Louis, St. Louis?
11 Where in St. Louis county?

12 A. I would say it would be mid-county, mid
13 St. Louis County.

14 Q. What town? Is it like creve Coeur?

15 A. I believe --

16 COMMISSIONER JARRETT: I can ask
17 Ms. Schwab. I guess she knows where she lives.

18 Ms. Schwab?

19 MS. SCHWAB: Yes. I live in the city of
20 LaDue.

21 COMMISSIONER JARRETT: LaDue. Okay. And
22 Ms. Schwab, do your neighbors, do a lot of your neighbors
23 have lawn sprinkler systems as well?

24 MS. SCHWAB: We have the only new house in
25 the area. Our area is probably a 75 to 100 years old.

1 COMMISSIONER JARRETT: Okay. So is that a
2 no, other neighbors don't have --

3 MS. SCHWAB: I really don't know. We're
4 not there very much. I just -- I have no idea what the
5 neighbors have.

6 COMMISSIONER JARRETT: So you haven't,
7 like, talked to your neighbors, and have any of your
8 neighbors complained about their water usage to you?

9 MS. SCHWAB: No. I've spoken with them
10 about the break-in in the house, but I have not spoken to
11 them about their water usage.

12 COMMISSIONER JARRETT: Okay. I'm sorry to
13 interrupt, Judge. That's all I have.

14 JUDGE VOSS: Are there any other questions
15 from the Bench?

16 Okay. It's almost 9:30. I wanted to
17 check, Mrs. Schwab, do you need a break? We can take a
18 break for like, 10 or 15 minutes to give everybody a
19 chance to --

20 MS. SCHWAB: All right.

21 JUDGE VOSS: We'll come back -- by my
22 clock, it is 9:25. Let's come back at 9:35.

23 MS. SCHWAB: So what am I supposed to do?
24 Am I supposed to call back in or am I supposed to leave
25 the phone off the hook, or what do I do?

1 JUDGE VOSS: Whatever you want to do, your
2 choice. I'll leave the port line open if you want to
3 actually hang up and call back in, or you can just leave
4 the phone open, since it is a -- you are on the toll free
5 number, correct?

6 MS. SCHWAB: I'm sorry. I can't hear you.

7 JUDGE VOSS: You did dial in on the toll
8 free port line number, correct?

9 MS. SCHWAB: I called the number I was told
10 to call.

11 JUDGE VOSS: The 866?

12 MS. SCHWAB: Yes, I did.

13 JUDGE VOSS: I wanted to make sure you
14 weren't on hold on your dime. Okay. So the choice is
15 yours. You can hang up and call back in, or you can leave
16 the port line open.

17 MS. SCHWAB: Okay. I'll just hang up and
18 call back in then, if I could.

19 JUDGE VOSS: That's fine. All right. See
20 everyone in ten minutes.

21 (EXHIBIT NO. 7 WAS MARKED FOR
22 IDENTIFICATION BY THE REPORTER.)

23 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

24 JUDGE VOSS. We're going to resume with a
25 little bit more cross-examination of Missouri American's

1 witness, and then I'm going to open it up for
2 cross-examination questions based on the questions from
3 the Bench that brought up more testimony from both
4 Missouri American's witness and Mrs. Schwab.

5 I have a couple questions real quick for
6 the Missouri American witness. I know you had a rate
7 increase. When did the rate increase go into effect for
8 Missouri American Water, do you know?

9 MS. MYERS: No, I don't know.

10 JUDGE VOSS: Okay. Staff might know. Do
11 you know what the percent increase was?

12 MS. MYERS: No, I do not.

13 JUDGE VOSS: Does the meter at
14 Mrs. Schwab's address have a number associated with it?

15 MS. MYERS: Yes.

16 JUDGE VOSS: Do you know what that number
17 is? The why will become clear later.

18 Since you can't see what's happening,
19 Mrs. Schwab, she's looking for the number for me.

20 MS. MYERS: Okay. The current meter number
21 is 0049410265.

22 JUDGE VOSS: Thank you. Before we do
23 cross-examination, does anybody object to having a meter
24 reading or change -- or meter changed out so it can be
25 read and tested off premises? Because I would like to

1 have Staff present at the test of the meter. Is that
2 possible?

3 MR. KRUEGER: Yes.

4 JUDGE VOSS: Okay. Because I would like to
5 reserve a late-filed exhibit number. Right now we're on
6 Exhibit 7. I'm going to put late-filed Exhibit 8 to be a
7 meter test of meter 0049410265, and I'd like an affidavit
8 from the Staff member that witnesses that test, and I'd
9 like that in the record so that we can end the question of
10 whether there's a problem with the meter itself. Is that
11 okay with you, Mrs. Schwab?

12 MS. SCHWAB: Yes.

13 JUDGE VOSS: All right. Now we're going to
14 do cross-examination questions again for you, Mrs. Schwab,
15 based on questions from the Bench. There may not be any,
16 but we're going to give the other counsel an opportunity.
17 Staff, did you have any questions for Mrs. Schwab?

18 MR. KRUEGER: Yes, your Honor, I have a
19 couple.

20 GERALDINE SCHWAB testified as follows:

21 CROSS-EXAMINATION BY MR. KRUEGER:

22 BY MR. KRUEGER:

23 Q. Mrs. Schwab, you testified, I believe, that
24 you had asked that the meter be changed; is that right?

25 A. Yes.

1 Q. Do you recall when you asked that?

2 A. It was sometime after I received the bill
3 that was \$566.62. It was triple any bill I had ever
4 received previously, and I thought it was exorbitant.

5 Q. And what you asked for was that the meter
6 be changed?

7 A. Yes, I did.

8 Q. You didn't ask just that it be checked or
9 tested?

10 A. I think she said the first step was that it
11 would be tested.

12 Q. But you did specifically ask that it be
13 changed?

14 A. Yes, I did. She said there was no reason
15 to. It was new.

16 Q. And did you talk to Ms. Myers about this?

17 A. Yes, I did.

18 Q. Okay. How large is the lot where your
19 house is located?

20 A. I think we have less than an acre, which
21 includes the house.

22 Q. And you have automatic sprinklers there; is
23 that right?

24 A. Yes. I forgot to mention one thing. We
25 have a problem. I know MSD is not under your

1 jurisdiction, but I just need to illustrate this problem.
2 We have complained about our yard of being low and being
3 flooded by water, and, therefore, do not use the sprinkler
4 in the back of the yard very much. Finally after ten
5 years of repeated complaints and raw sewage in our yard,
6 they found the manhole they said -- that we found the
7 manhole I should say that did not exist.

8 So this is typical of the public service
9 companies. You can complain and complain and complain and
10 now it is agreed that there is a problem.

11 Q. You said that you did not use the
12 sprinklers very much?

13 A. In the backyard, because of the situation
14 created by MSD and the manhole that was not properly -- I
15 don't know. You'd have to ask them what the problem was.
16 I don't know.

17 Q. But the point is you're saying that you did
18 not use the sprinkler in the backyard very much?

19 A. Well, we have a problem with it being -- we
20 have a very low lot, and the water would run off from the
21 neighbor's yard. In fact, sometimes when it rained, it
22 would be as high as a small child, and I was very
23 concerned about my grandchildren, that they might come
24 over. A three or two-year-old, it was as high as they
25 were.

1 Q. What was as high as they were?

2 A. The water.

3 Q. The water standing in the backyard?

4 A. Yes.

5 Q. And you're talking about these things that
6 happened in the past. When did they happen?

7 A. I'm talking about a problem that we've had
8 with MSD and the fact that we don't water very much
9 because of the low lying land and the fact that there has
10 been a problem with water.

11 Q. My question, though, is, when was this
12 problem?

13 A. This has been a problem for about ten
14 years.

15 Q. Does it still exist?

16 A. Hopefully -- hopefully they have found the
17 manhole or we have found the manhole and they have sealed
18 it.

19 Q. What about the period between June and
20 August of 2007?

21 A. I don't know what -- at what time they
22 sealed it. I know I've had to hire an eminent domain
23 lawyer.

24 Q. You testified that you do not use the
25 sprinkler very much in the backyard. Did that include the

1 period of time from June to August of 2007?

2 A. I'm just saying that we have a problem.

3 Q. But do you know whether that specific
4 problem existed in June through August of 2007?

5 A. Like I say, I don't know when they shut the
6 manhole off. I know that I had many emergency calls in
7 April when we were still here in Florida that there was
8 raw sewage in the yard. The city of LaDue came out and
9 tested our lines. MSD came out.

10 MR. KRUEGER: Okay. Thank you. That's all
11 the questions I have.

12 JUDGE VOSS: Missouri American Water
13 Company, did you have any questions?

14 MS. SULLIVAN: No questions, your Honor.

15 JUDGE VOSS: I have one more now.

16 QUESTIONS BY JUDGE VOSS:

17 Q. Based on Mr. Krueger's questions, who is
18 the Staff attorney, Ms. Schwab, in case you're not aware,
19 do you have this problem when it's not raining or is this
20 a problem that's associated with times when there is a lot
21 of rain? Like, if there's a lot of rain, do you get this
22 flooding?

23 A. The rain makes the problem worse.

24 Q. So it's present even when there's not rain?

25 A. Yes. We have a very low lot.

1 Q. What I'm saying, it sounds like you're
2 talking about runoff water, and if there hadn't been rain
3 for a couple months, I'm assuming it would dry out; is
4 that correct?

5 A. It's dryer than it would be if there had
6 been rain, but it still is a low, wet area.

7 JUDGE VOSS: Okay. Thank you. Does anyone
8 have any questions based on my clarification?

9 MR. KRUEGER: No your Honor.

10 MS. SULLIVAN: No, your Honor.

11 JUDGE VOSS: Okay. Now we're going to move
12 to redirect -- or actually, does anyone -- Mrs. Schwab,
13 based on the questions that the Commissioners asked of
14 Missouri American's witness, do you have any other
15 questions for her?

16 MS. SCHWAB: I don't believe so.

17 JUDGE VOSS: Okay. Great. Redirect?
18 Well, actually, does Staff have any questions?

19 MR. KRUEGER: No, your Honor.

20 MS. SULLIVAN: Your Honor, I guess at this
21 time would it be all right if I went ahead and moved for
22 the admission of my Exhibits 2 through 7?

23 JUDGE VOSS: Are there any objections to
24 the admission of Exhibits 2 through 7?

25 MR. KRUEGER: No, your Honor.

1 JUDGE VOSS: Do you have any objections,
2 Mrs. Schwab?

3 MS. SCHWAB: No.

4 JUDGE VOSS: Hearing none, they're
5 admitted.

6 (EXHIBIT NOS. 2 THROUGH 7 WERE RECEIVED
7 INTO EVIDENCE.)

8 JUDGE VOSS: And we will move on to Staff's
9 witness.

10 MR. KRUEGER: Staff calls Marilyn Doerhoff.

11 JUDGE VOSS: You might also grab the mic
12 from the table behind you, just so you don't have to
13 share.

14 (Witness sworn.)

15 JUDGE VOSS: Please proceed.

16 MARILYN DOERHOFF testified as follows:

17 DIRECT EXAMINATION BY MR. KRUEGER:

18 Q. State your name and address for the record,
19 please.

20 A. My name is Marilyn Doerhoff. My last name
21 is D-o-e-r-h-o-f-f. P.O. Box 360, Jefferson City,
22 Missouri 65102.

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

25 A. I'm employed by the Missouri Public Service

1 Commission as a consumer services coordinator.

2 Q. What are your -- what duties do you have as
3 consumer services coordinator?

4 A. My duties are to investigate consumer
5 complaints and review the company's tariffs and the
6 Commission's rules to be sure that there are no tariffs or
7 rules being violated by the company.

8 Q. In the course and scope of this -- of
9 carrying out these duties, did you receive a Complaint
10 from Mrs. Schwab?

11 A. Yes, I did.

12 Q. And did you investigate that Complaint?

13 A. Yes, I did.

14 Q. Did you find any reason to believe that the
15 bills that Missouri American had rendered to Mrs. Schwab
16 were inaccurate?

17 A. No, I did not. I -- they appeared to be
18 based on actual readings.

19 Q. Did you find any evidence of any violation
20 of Commission rules?

21 A. No.

22 Q. Did you prepare a report of your
23 investigation?

24 A. Yes, I did.

25 Q. And I'm going to show you a copy of a

1 document that will be marked, I guess, as Exhibit 9, and
2 this was filed as highly confidential, so I guess it will
3 be HC, your Honor.

4 (EXHIBIT NO. 9 WAS MARKED FOR
5 IDENTIFICATION BY THE REPORTER.)
6 BY MR. KRUEGER:

7 Is that the report that you prepared?

8 A. Yes, sir.

9 Q. And does that accurately summarize -- does
10 that report accurately summarize the results of your
11 investigation?

12 A. Yes, it did.

13 Q. I'd like to call your attention
14 specifically to Schedule 2, which is about fifth or sixth
15 page in. Do you find that?

16 A. Yes, sir.

17 JUDGE VOSS: Mr. Krueger, one second.
18 Mrs. Schwab, do you have a copy of that?

19 MS. SCHWAB: No.

20 JUDGE VOSS: It's the Staff's report and
21 recommendation that you said you had seen earlier. Are
22 you familiar with it?

23 MS. SCHWAB: No. I don't know what you're
24 speaking about. Sorry.

25 JUDGE VOSS: Can you hear me okay? Because

1 you're getting softer for me.

2 MS. SCHWAB: Yes.

3 JUDGE VOSS: It's the Staff recommendation
4 or report that was filed in the case, and you received a
5 copy quite a while back I'm sure.

6 MR. SCHWAB: No, I'm sorry, I don't have
7 that.

8 MR. KRUEGER: Mrs. Schwab, this report was
9 filed, I believe, on November 26th, and then last week I
10 sent you the documents that I wanted to offer as evidence
11 in this case. Did you receive that?

12 MS. SCHWAB: With whom am I speaking?

13 MR. KRUEGER: This is Keith Krueger.

14 MS. SCHWAB: Oh, Mr. Krueger. I don't know
15 if I have.

16 JUDGE VOSS: All right. Well, if you have
17 any questions about the details of what they're talking
18 about, take note, and then you can ask for clarification.
19 This is a document that I know you received quite a while
20 ago and then maybe have not received the new copy in the
21 mail. It's difficult being out of state.

22 I do want to stress to you, the reason it's
23 HC is because it contains your address information, which
24 the Commission will not disseminate to the public. That's
25 why it's highly confidential, in case you wonder what the

1 HC meant. It's just protecting your privacy rights.

2 Okay. Please proceed, Mr. Krueger. Sorry
3 for the interruption.

4 MR. KRUEGER: Thank you, your Honor.

5 BY MR. KRUEGER:

6 Q. Ms. Doerhoff, do you see a Schedule 2 which
7 is attached to that report?

8 A. Yes, I do.

9 Q. Can you tell me what that is?

10 A. That is the account history that I asked
11 for Missouri American to provide as part of my
12 investigation of the complaint.

13 Q. And what does that show?

14 A. The -- the -- it's a two-page document, and
15 it shows the history of usage from June of 2002 through
16 September of 2007.

17 Q. And what I'd like you to do is to tell me
18 what the bills were for the comparable period in each of
19 those years, if you could, please.

20 A. All right.

21 Q. The comparable period meaning the June,
22 July, August period that Ms. Schwab has complained about.

23 A. So I am assuming that you're talking about
24 the September bill, then? That's the one I'm going to
25 be --

1 Q. Correct.

2 A. -- be looking at. Okay. In September of
3 2002 the usage was 241. In September of 2003 it was 158.
4 In September of 2004 it was 107. September of 2005 it was
5 210. September of 2006, 197; and September of 2007, 301.

6 Q. Okay. And what are the units? You
7 mentioned that in 2002 it was 241. 241 what?

8 A. Cubic -- 100 cubic feet, it's how -- the
9 measurement that they use.

10 Q. And that's the units that are used for all
11 of those readings?

12 A. Yes, sir.

13 Q. And can you tell me what the bills were for
14 each of those readings?

15 A. Okay. The bill for the 2002 period, the
16 bill was \$418.34. The bill for September 2003 was 281.91.
17 September of 2004 it was 198.33. September of 2005 it was
18 372.35. September of 2006, 362.86. And September of
19 2007, 566.62.

20 MR. KRUEGER: Okay. Thank you. Your
21 Honor, I'd offer Exhibit 9HC.

22 JUDGE VOSS: Are there any objections to
23 the admission of Staff recommendation as Exhibit 9?

24 MS. SULLIVAN: Not for the company.

25 JUDGE VOSS: Do you have any objections,

1 Mrs. Schwab?

2 MS. SCHWAB: No.

3 MR. KRUEGER: That's all the questions I
4 have, Your Honor.

5 JUDGE VOSS: It's in.

6 (EXHIBIT NO. 9HC WAS RECEIVED INTO
7 EVIDENCE.)

8 JUDGE VOSS: All right. We're going to go
9 to cross-examination. Does the company have any questions
10 for this witness?

11 MS. SULLIVAN: Your Honor, no questions for
12 this witness, but I need -- can I quickly go back on the
13 record and point out that some of my exhibits need to be
14 marked HC. I had originally sent them that way, but I did
15 not -- when I asked them to be admitted because they are
16 copies of her bills.

17 JUDGE VOSS: I was thinking that as well.

18 MS. SULLIVAN: Thank you. That's just for
19 clarification.

20 JUDGE VOSS: Would you like to note that
21 now?

22 MS. SULLIVAN: Yes, please.

23 JUDGE VOSS: Which ones? This is just to
24 make sure, Mrs. Schwab, that your address and personal
25 information is not accessible by anybody from the public.

1 MS. SULLIVAN: It would be group Exhibit 4,
2 Group Exhibit -- or Exhibit 5 also has her address. And
3 then so does 6 and 7. Thank you.

4 JUDGE VOSS: Okay. Did the court reporter
5 get them?

6 THE REPORTER: Yes.

7 JUDGE VOSS: Okay. Great. So did you have
8 any questions for the witness?

9 MS. SULLIVAN: No questions for the
10 witness.

11 JUDGE VOSS: Mrs. Schwab, did you have any
12 questions for Staff's witness?

13 MS. SCHWAB: No, thank you.

14 JUDGE VOSS: I have one.

15 Do you know when -- are you familiar with
16 the rate increase that Missouri American Water -- I
17 believe went into effect this year. If that's not right,
18 let me know.

19 THE WITNESS: I would have to check myself,
20 your Honor. I'm not sure.

21 MR. KRUEGER: My recollection, your Honor,
22 is that it was in the fall of the year, October possibly.
23 I'm quite sure that it was after August.

24 JUDGE VOSS: It was after August. Okay.
25 The tariffs speak for themselves, but I just knew it went

1 into effect and I wasn't sure, because the usage seems
2 like it's up approximately a third but the price seems to
3 be up more than that.

4 Okay. I think all of the exhibits have
5 been admitted. Do the parties want to give a closing
6 statement in lieu of filing Briefs? I'm assuming nobody
7 wants to file a legal brief.

8 MR. KRUEGER: I don't want to file a brief.
9 I'd like to make a very brief closing statement.

10 JUDGE VOSS: And company?

11 MS. SULLIVAN: Your Honor, as well, yes, no
12 brief, but closing.

13 JUDGE VOSS: Mrs. Schwab, especially being
14 pro se, if you would like the opportunity to file a legal
15 brief, we'll file legal briefs, but the parties are
16 willing to just give closing statements and then just give
17 the information to the Commission.

18 I will note that we have late-filed Exhibit
19 No. 8, which is going to be -- they're going to pull your
20 meter, which the number of that meter has been noted for
21 the record, and a member of the Staff is going to be
22 present when that meter is tested to make sure that it's
23 working properly or to find out that it's not working
24 properly, and that test result is going to be admitted
25 into the record for the Commission to consider also. Did

1 you want to give a closing statement or would you want a
2 formal written brief?

3 MS. SCHWAB: Whichever you think is
4 acceptable, your Honor.

5 JUDGE VOSS: Well, either is fine. I just
6 didn't know if you wanted to make a legal argument in
7 writing or if you just wanted to give a closing statement
8 of your position.

9 MS. SCHWAB: I think my position's clear.
10 I'd be happy to do that.

11 JUDGE VOSS: Okay. Please proceed.

12 MS. SCHWAB: Were you speaking to me?

13 JUDGE VOSS: Yes. I'm sorry.

14 MS. SCHWAB: I -- my only statement is that
15 I believe there's still \$566.62, it is not correct.

16 JUDGE VOSS: Does that conclude your
17 statement, in addition to everything else that's been
18 said?

19 MS. SCHWAB: Yes, your Honor.

20 JUDGE VOSS: It's very confusing, because
21 if you were here I'd be looking at you and you'd know who
22 I was speaking to. Does the company have a closing
23 statement they'd like to make?

24 MS. SULLIVAN: Yes. Very briefly, your
25 Honor. In the case of this nature the burden is on the

1 complainant to come forth with evidence to indicate that
2 the company has in some way violated its tariffs or
3 regulations. I don't believe there's been any evidence to
4 indicate any violation of company tariffs or regulations.
5 There's been no evidence to indicate that there was any
6 inaccuracy in the meter. It's a two-year-old meter.

7 Again, our tariffs provide that the meter
8 is conclusive for billing both for the customer and for
9 the company. The past history shows that during this time
10 period usage does increase on this account. In addition,
11 Missouri American did have increased pumpage during this
12 time period. So across the system we had higher water
13 usage.

14 JUDGE VOSS: Let me make a statement very
15 quickly. Attorney comments are not evidence.

16 MS. SULLIVAN: Okay. I guess at this point
17 we feel like that the company has demonstrated that it
18 complied with its tariffs with the Commission's
19 regulations and would ask that the Complaint be dismissed.

20 JUDGE VOSS: Does Staff have a closing
21 argument?

22 MR. KRUEGER: Yes, your Honor. Basically I
23 just want to reiterate what Ms. Sullivan said. The burden
24 of proof in a case like this is upon the complainant. And
25 so it is the burden of Ms. Schwab to show that the bills

1 are inaccurate in some way. She seems to base this claim
2 on the claim that the meter is not reading accurately, and
3 there was testimony that -- from Ms. Myers that she
4 doesn't know if the meters are good or bad, but there
5 was -- but by the same token there was no testimony by --
6 no evidence presented by Ms. Schwab that the meter is bad,
7 and the burden is upon her to show that there's an error.
8 She has not done that, and I think that the Complaint
9 should be dismissed.

10 JUDGE VOSS: Now, I'll say hopefully that
11 question will be answered by the meter test that has been
12 ordered. I'm not sure how quickly, Ms. Schwab, that meter
13 test can be done, so -- and you'll, of course, receive a
14 copy of that as it will be filed in the case.

15 And sometime after that the Commission will
16 reach a decision, because the Commission will reserve
17 making any decision on the case until after that meter
18 test is received into the record.

19 Is there anything else that we need to
20 address before we go off the record? I thank everyone for
21 their time today. Mrs. Schwab, I appreciate you bearing
22 with us with your long distance participation. And if no
23 one else has anything we need to address, we'll go ahead
24 and adjourn the hearing. Do you have any questions before
25 we go off the record, Ms. Schwab?

1 MS. SCHWAB: No. Thank you very much for
2 your help.

3 JUDGE VOSS: Thank you.

4 WHEREUPON, the hearing of this case was
5 concluded.

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I N D E X

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

15 Given at my office in the City of
16 Jefferson, County of Cole, State of Missouri.

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
19 My commission expires March 28, 2009.
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