

1 PLACE: Dobbs Building, Raleigh, North Carolina
2 DATE: Monday, May 13, 2024
3 TIME: 1:00 p.m. - 5:00 p.m.
4 DOCKET: W-1034, Sub 13
5 BEFORE: Hearing Examiner Freda Hilburn
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12 IN THE MATTER OF:
13 Application of Water Resources, Inc.,
14 for Authority to Adjust and Increase Rates for Water
15 Utility Service in Rocky River Plantation Subdivision
16 in Cabarrus County and River Walk Subdivision in
17 Mecklenburg County, North Carolina
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A P P E A R A N C E S:
FOR WATER RESOURCES, INC.:
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Edward S. Finley, Jr., PLLC
2024 White Oak Drive
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FOR THE USING AND CONSUMING PUBLIC:
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May 21 2024

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P R O C E E D I N G S

1
2 HEARING EXAMINER HILBURN: Good afternoon.
3 Let's come to order, please, and go on the record. My
4 name is Freda Hilburn, a Hearing Examiner with the
5 North Carolina Utilities Commission, and I have been
6 assigned to preside over this hearing.

7 I now call for hearing Docket Number W-1034,
8 Sub 13, which is In The Matter of an Application by
9 Water Resources, Inc., hereafter Applicant or WRI, for
10 its authority to adjust and increase rates for water
11 utility service in Rocky River Plantation Subdivision
12 in Cabarrus County and River Walk Subdivision in
13 Mecklenburg County, North Carolina.

14 On December 29, 2023, WRI filed an
15 Application with the Commission seeking authority to
16 increase its rates for providing water utility service
17 in the Rocky River Plantation Subdivision, hereafter
18 Rocky River, in Cabarrus County, and the River Walk
19 Subdivision, hereafter River Walk, in Mecklenburg
20 County, North Carolina.

21 On January 3rd, 2024, WRI filed an Amended
22 Application.

23 On January 22nd, 2024, WRI filed a letter
24 with the Commission updating the proposed effective

1 date of the rates requested in its Amended
2 Application.

3 The Applicant provides water utility service
4 to approximately 115 residential customers in the
5 Rocky River service area and approximately 39
6 residential customers in the River Walk service area.

7 On January 30th, 2024, the Commission issued
8 an Order Establishing General Rate Case and Suspending
9 Rates which declared this proceeding to be a general
10 rate case and suspended the proposed new rates for up
11 to 270 days pursuant to North Carolina General Statute
12 § 62-134 and 137, respectively.

13 On March 1, 2024, the Commission issued an
14 Order Scheduling Hearings, Establishing Procedural and
15 Filing Requirements, and Requiring Customer Notice,
16 which is the Scheduling Order.

17 On March 6, 2024, the Commission issued an
18 Errata Order to correct one omission in the Scheduling
19 Order related to the filing date of the Applicant's
20 prefiled direct testimony.

21 On March 7, 2024, WRI filed its Certificate
22 of Service indicating that customer notice had been
23 provided as required by the Commission's March 1, 2024
24 Order.

1 On March 14, 2024, WRI filed the direct
2 testimony of Dennis Abbott, President of WRI.

3 On March 25, 2024, the public witness was
4 held as scheduled at the Mecklenburg County Courthouse
5 in Charlotte, North Carolina.

6 On April 8, 2024, WRI filed its Verified
7 Report of Dennis Abbott for WRI on customer testimony.

8 On April 12, 2024, the Public Staff filed
9 the Affidavit of Gregory J. Reger, Public Utilities
10 Analyst with the Economic Research Division; the
11 testimony and exhibits of Evan M. Houser, Public
12 Utilities Engineer - Water, Sewer, and Telephone
13 Division; and Lynn Feasel, Public Utilities Regulatory
14 Supervisor with the Accounting Division.

15 On April 22nd, 2024, the Public Staff filed
16 its Verified Response indicating that the purpose of
17 the Public Staff's response is to provide the results
18 of the Public Staff's review of WRI's Verified Report
19 regarding the public witness hearing and the Public
20 Staff's opinion on whether WRI's responses adequately
21 address the customers' concerns.

22 On April 26, 2024, the Commission issued an
23 Order Granting Extension of Time to File Rebuttal
24 Testimony.

1 On April 26, 2024, Public Staff filed the
2 supplemental testimony and exhibits of Evan M. Houser
3 and Lynn Feasel.

4 On April 29, 2024, WRI filed the rebuttal
5 testimony of Peedin & Perry Consulting, LLC, and
6 Dennis Abbott.

7 On May 6, 2024, the Commission issued an
8 Order Requiring Filing of Supplemental Verified
9 Response to Customer Concerns. Also, on May 6, 2024,
10 the Public Staff and WRI jointly filed a list of
11 witnesses scheduled to appear at the expert hearing on
12 May 13, 2024, as well as the estimated
13 cross-examination times.

14 On May 8, 2024, the Public Staff filed a
15 Motion to Excuse Witness Gregory J. Reger From
16 Attending the Evidentiary Hearing.

17 On May 9, 2024, the Commission issued on
18 Order Granting Motion to Excuse Witness.

19 That brings us up-to-date. Will the parties
20 please announce their appearances, beginning with the
21 Applicant.

22 MR. FINLEY: May it please the Commission,
23 my name is Edward Finley, Raleigh, North Carolina,
24 appearing on behalf of the Applicant, Water Resources,

1 Inc.

2 HEARING EXAMINER HILBURN: Thank you,
3 Mr. Finley.

4 MS. HOLT: Good afternoon. I'm Gina Holt
5 with the Public Staff, here on behalf of the Using and
6 Consuming Public.

7 HEARING EXAMINER HILBURN: Thank you,
8 Ms. Holt.

9 Are there any preliminary matters that we
10 need to address before we begin this hearing?

11 MS. HOLT: Yes. The parties, as you know,
12 were unable to settle all of the issues in this case,
13 but in an effort to expedite this proceeding there are
14 some issues that are not in dispute, and we would like
15 to bring that to the Commission's attention at this
16 time.

17 HEARING EXAMINER HILBURN: Very well. That
18 will be good to hear.

19 MS. HOLT: And I will just read those into
20 the record. The parties, Water Resources, Inc., and
21 the Public Staff - North Carolina Utilities
22 Commission, agree that the following issues are not in
23 dispute.

24 The rate of return. Water Resources accepts

1 the Public Staff's position on the appropriate rate of
2 return to be afforded WRI in its Rocky River and River
3 Walk Subdivisions.

4 As to maintenance and repair for public
5 storage, Water Resources agrees with the amount of
6 maintenance and repair for public storage as
7 calculated by Public Staff Witness Evan Houser. As to
8 miscellaneous revenue, the Company agrees to the
9 miscellaneous revenues as calculated by the Public
10 Staff Witness Lynn Feasel.

11 As to administrative and office expense, the
12 Company agrees to the administrative and office
13 expense as calculated by the Public Staff Witness
14 Feasel.

15 As to insurance expense, the Company agrees
16 to the insurance expense as calculated by Public Staff
17 Witness Feasel.

18 As to miscellaneous expense, the Company
19 agrees to the miscellaneous expense as calculated by
20 Public Staff Witness Feasel.

21 As to amortization expense of CIAC, the
22 Company agrees to the amortization expense of CIAC as
23 calculated by Public Staff Witness Feasel.

24 And finally, the Company agrees to Public

1 Staff adjustments to test year water usage as filed by
2 Public Staff Witness Houser.

3 And that completes our list.

4 HEARING EXAMINER HILBURN: Mr. Finley, are
5 you in agreement with that list?

6 MR. FINLEY: Yes, ma'am.

7 HEARING EXAMINER HILBURN: May I ask, just
8 for our clarification, the Company in its rebuttal
9 testimony lists its issues on -- beginning on the
10 bottom of page 2 and it continues on to page 3. It's
11 actually a bullet list of the items that they are
12 providing their rebuttal testimony to address. And I
13 don't have them counted there but there's a number of
14 them there. Did the items that you just listed cover
15 any of these contested items listed on pages 2 or 3 of
16 this rebuttal testimony?

17 MS. HOLT: I don't believe so. No.

18 HEARING EXAMINER HILBURN: That's what I
19 thought I heard.

20 MS. HOLT: These are still in contention.

21 HEARING EXAMINER HILBURN: Okay. I was just
22 making sure before we got started that we didn't miss
23 anything. Okay.

24 MS. HOLT: The lists in the Company's

1 rebuttal testimony are still in contention.

2 HEARING EXAMINER HILBURN: Okay. But thank
3 y'all for settling on the ones that you did. All
4 help -- all will help at this point. Is there
5 anything further before we begin?

6 MS. HOLT: (Shakes head no).

7 MR. FINLEY: (Shakes head no).

8 HEARING EXAMINER HILBURN: I do have one
9 question then. Mr. Finley, the Commission did issue
10 an Order last Monday requiring a Supplemental Verified
11 Response to the customer concerns expressed at the
12 hearing. This was addressing the Public Staff's
13 report that was filed earlier, the previous week. The
14 Commission requested that, in particular, that WRI
15 address Highland Ridge Homeowners Association
16 statement at the hearing regarding the implementation
17 of online billing and payment processing. And the
18 Commission was expecting that report on Thursday so
19 the Public Staff could respond.

20 And one more thing before you respond, if
21 you don't mind. The Company was allowed also in that
22 Order to address any other concern now that they had
23 read the Public Staff's report. And they didn't have
24 the transcript I think in time to go into the detail

1 that they wanted to in their initial report. So,
2 those two items, the Company was given opportunity, or
3 I guess the first one the Company was given a
4 requirement but the second one was an opportunity for
5 the Company to respond, if you would like to address
6 that.

7 MR. FINLEY: Well, we asked the Commission's
8 indulgence so we've been so busy trying to talk and
9 get ready for this case. That deadline has been
10 passed and we apologize but we'll try to get that
11 report to you as quickly as we can.

12 HEARING EXAMINER HILBURN: Would the Company
13 want to address that from the stand today or would you
14 prefer to file something later?

15 MR. FINLEY: We will talk at the break and
16 perhaps we can do it from the stand.

17 HEARING EXAMINER HILBURN: Okay. You can
18 let me know.

19 With that, we will proceed with the
20 Applicant's case. Thank you.

21 MS. HOLT: Excuse me. How would the
22 Commission anticipate the Public Staff's opportunity
23 to respond to that report?

24 HEARING EXAMINER HILBURN: If the Public

1 Staff is prepared to respond once they hear it live on
2 the stand today from the Applicant, that would be fine
3 or if they would prefer to file a late-filed exhibit,
4 that would be fine as well. You can let me know after
5 we see how things proceed today.

6 MS. HOLT: Okay.

7 HEARING EXAMINER HILBURN: And I'll clarify
8 before we start, we have Hearing Examiner Jenny Li
9 here today in training. As y'all know, she
10 represented the Commission at our public witness
11 hearing, and so she is here in training today. We are
12 not a panel, but we are working together on this case.

13 Mr. Finley, we'll let you proceed.

14 MR. FINLEY: The Applicant will call
15 Mr. Dennis Abbott to the stand, please.

16 HEARING EXAMINER HILBURN: And I will swear
17 you in, Mr. Abbott. If you will come forward and
18 place your left-hand on the Bible and raise your right
19 hand.

20 DENNIS ABBOTT;
21 having been duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION BY MR. FINLEY:

24 Q Mr. Abbott, will you state your name and business

1 address for the record, please?

2 A Dennis Abbott, 6201 Fairview Road, Charlotte,
3 North Carolina 28210.

4 Q And what is your position with Water Resources,
5 Inc.?

6 A I'm president of the Company.

7 Q And on March 14, 2024, did you cause to be
8 prefiled in this docket testimony in question and
9 answer form consisting of some 17 pages?

10 A I did.

11 Q Are there corrections or additions that you would
12 like to make to that testimony at this time?

13 A One correction. On page 8, line number 1, I need
14 to make a correction where it says "in 2021", and
15 change that to "in December of 2018".

16 Q Are there any other corrections or additions?

17 A That's it.

18 Q And if the questions there were asked of you
19 today, would your answers be the same?

20 A Yes.

21 MR. FINLEY: Madam Hearing Examiner, we
22 would ask that Mr. Abbott's direct prefiled testimony
23 be copied into the record as though given orally the
24 stand.

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HEARING EXAMINER HILBURN: Without objection, that will be allowed.

(WHEREUPON, the prefiled direct testimony of DENNIS ABBOTT is copied into the record as if given orally from the stand.)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

Docket No. W-1034, Sub 13

In the Matter of)	
Application of Water Resources, Inc.	)	Testimony of
For Approval of Rates for the Rocky River	)	Dennis Abbott
Subdivision in Mecklenburg County and	)	for Water Resources
the River Walk service area in	)	Inc.
Cabarrus County North Carolina)	

OFFICIAL COPY

May 21 2024

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 13

Direct Testimony of Dennis Abbott

On Behalf of Water Resources, Inc.

March 14, 2024

OFFICIAL COPY

May 21 2024

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2
3 A. Dennis C. Abbott. 6201 Fairview Rd. Suite 200, Charlotte, North Carolina 28210

4
5 **Q. WITH WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6
7 A. I am President of Water Resources, Inc.

8
9 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT PREFILED TESTIMONY?**

10
11 A. The purpose of my direct prefiled testimony is to sponsor the Application for a rate
12 adjustment for the Rocky River service area in Mecklenburg County, and the River
13 Walk service area in Cabarrus County, that Water Resources (WRI or The
14 Company) has submitted in this docket and to provide background and other
15 information to place into context Water Resource's need for rate relief.

16
17 **Q. WHEN WERE CURRENT RATES PLACED INTO EFFECT, AND HAVE
18 EXISTING RATES BEEN ADEQUATE DO SUPPORT NECESSARY
19 IMPROVEMENTS, MAINTENANCE AND OPERATION OF THE SYSTEM?**

20
21 A. Current rates were placed into effect in Docket No. W-1034, Sub 8 in 2018. For
22 most of that period those rates have been in effect the rates have been insufficient
23 to support necessary improvements, maintenance and operations of the system.

24
25 **Q. AN ISSUE IN THE PAST HAS BEEN THE NEED FOR INSTALLATION OF
26 METERS IN THE SYSTEM AND OTHER SERVICE-RELATED ISSUES.
27 PLEASE DESCRIBE THE EFFORTS OF THE COMPANY TO INSTALL THE
28 METERS AND ADDRESS OTHER SUCH ISSUES.**

29
30 A. In the Commission's November 21, 2018 *Recommended Order Approving Agreed
31 Upon Rates and Requiring Customer Notice, Application by Water Resources, Inc,
32 for Authority to Increase Rates for Water Utility Service in the Rocky River
33 Plantation Subdivision in Cabarrus County and River Walk Subdivision in*

1 *Mecklenburg County, North Carolina*, Docket No. W-1034 Sub 8, the Commission
2 required the Company to make system improvements such as the replacing of
3 aging water meters.

4
5 The Commission required the Public Staff to investigate and file a report and
6 recommendation. On September 20, 2021, the Public Staff submitted its report. In
7 its report the Public Staff concluded that WRI was largely in compliance with the
8 actions required by the 2018 rate case order, although WRI had failed to complete
9 several items within the time frame specified by the Commission. The Public Staff
10 concluded that most of the items identified by DEQ notices of violation had been
11 addressed and thus had little or no impact on WRI's ability to adequately serve its
12 customers. The Public Staff concluded that while WRI has not yet complied with
13 the Consent Judgment by interconnection with the Town of Harrisburg water
14 system or executing an alternative course of action to comply with the state
15 drinking water laws, WRI has retained an experienced water engineer who was
16 exploring a possible, lower cost method of compliance. The Public Staff concluded
17 that given WRI's overall compliance with the 2018 rate case order and feedback
18 received from DEQ personnel, an appointment of an emergency operator should
19 not be ordered at that time. In this report the Public Staff listed items Water
20 Resources needed to address for complete for full compliance.

21
22 **Q. BY ORDER DATED JULY 29, 2022, THE COMMISSION ISSUED AN ORDER**
23 **REQUIRING COMPLIANCE WITH 2018 RATE CASE ORDER AND DEQ**
24 **NOTICES OF VIOLATION AND CONSENT JUDGMENT AND REQUIRING**
25 **FILING OF FURTHER REPORTS. PLEASE DESCRIBE THE ACTION WATER**
26 **RESOURCES TOOK IN RESPONSE TO THIS COMMISSION ORDER.**

27
28 A. On August 8, 2022, Water Resources submitted an updated report. In its report
29 the Company submitted a chart that listed the items identified for its updated report
30 and a status and narrative explanation. Except for the interconnection with the

1 Town of Harrisburg the Company reported that nearly all of the other items the
2 Commission required it to address had been completed or corrected

3
4 **Q. IN THE COMMISSION’S JULY 29 ORDER, THE COMMISSION REQUIRED**
5 **WATER RESOURCES TO ADDRESS METHODS TO OBTAIN CUSTOMER**
6 **FEEDBACK AND IMPROVE COMMUNICATIONS. PLEASE DESCRIBE THE**
7 **COMPANY’S EFFORTS TO COMPLY WITH THAT REQUIREMENT.**

8
9 A. Pursuant to decretal paragraph 4 of the Commission’s July 29 Order, Water
10 Resources was required to file on or before January 30, 2023, a report on its efforts
11 to create a website, form a customer advisory group, or otherwise institute means
12 to obtain customer feedback and improve communications between WRI and its
13 customers, specifically including notice of flushing activities.

14
15 On January 30, 2023, Water Resources filed a report on efforts to create a website,
16 form a customer advisory group, and other means to improve customer
17 communications. Water Resources reported that it found that existing
18 communications channels accomplished the function of a customer advisory
19 group, although not named as such, by providing a means to poll the members of
20 the representative customer groups regarding their experiences with water
21 pressure, water quality, and other issues related to the Company's operations.

22
23 With respect to River Walk, the Company reported that communications with the
24 HOA leadership provides a representative group of customers that are presumably
25 selected by other members of the HOA through a democratic process built into the
26 HOA governance structure. With respect to Rocky River, the Company reported
27 that it proactively contacts this group of customers to gain insight into their
28 experience and those of their neighbors, and any concerns brought to the
29 Company's attention are addressed and the Company follow up with the
30 homeowners is provided.

31

1 **Q. WHAT DID THE COMPANY'S JANUARY 30, 2023, REPORT SAY ABOUT**
2 **SYSTEM FLUSHING?**

3

4 A. With respect to system flushing, the Company reported that it only performs
5 system flushing on an as needed basis. The Company reported that the need for
6 flushing during the prior six months, subsequent to the Commission's July 29 order,
7 had been limited, and the Company had not received reports of discolored water
8 from customers. Water Resources committed to continue to make every attempt
9 to alert customers when flushing is necessary and to limit the disruption of
10 customers that flushing activities may cause.

11

12 **Q. IN ITS JANUARY 30, 2023, REPORT WHAT INFORMATION DID THE**
13 **COMPANY PROVIDE WITH RESPECT TO QUARTERLY CUSTOMER**
14 **CONTACT LOGS?**

15

16 A. The Company reported that it continues to file quarterly customer contact logs with
17 the Commission in Docket No. W-1034, Sub 8. The Company maintained that its
18 customer contact logs demonstrate a continued improvement in customer service
19 and an increasing level of satisfaction with the Water Resource responsiveness
20 and resolution of concerns.

21

22 **Q. WHEN WAS THE LAST CUSTOMER LOG FILED WITH COMMISSION IN**
23 **DOCKET NO. W-1034, SUB 8?**

24

25 A. January 17, 2024.

26

27 **Q. HOW WOULD YOU DESCRIBE CUSTOMER REACTION AND**
28 **COMMUNICATION TO THE SERVICE THEY RECEIVED DURING AND**
29 **SUBSEQUENT THE TEST PERIOD IN THIS DOCKET?**

30

1 A. For the most part, the Company records do not indicate a substantial number of
2 complaints.

3
4 **Q. IN YOUR OPINION HAS WATER RESOURCES COMPLIED WITH THE**
5 **REQUIREMENTS LISTED BY THE COMMISSION IN ITS JANUARY 29, 2022,**
6 **ORDER?**

7
8 A. Yes.

9
10 **Q. IS THE TIMING OF THE COMPANY'S REQUEST TO INCREASE ITS RATES**
11 **BASED UPON THE COST OF CAPITAL IMPROVEMENTS THAT HAVE BEEN**
12 **NECESSARY TO RECTIFY THE NEED TO TAKE THE COMPANY'S WELL #1**
13 **OFFLINE?**

14
15 A. Yes.

16
17 **Q. PLEASE EXPLAIN WHY IT WAS NECESSARY TO DISCONTINUE USE OF**
18 **WELL #1 AND WHAT ACTION THE COMPANY WAS REQUIRED TO TAKE IN**
19 **RESPONSE TO THE DISCONTINUANCE.**

20
21 A. The water system serving the Rocky River subdivision initially had two wells
22 installed in accordance with state requirements to be enforced by the Public Water
23 Supply Section of the Department of Environmental Quality. Two wells are
24 necessary in case one must be taken down or is inoperable. North Carolina
25 Administrative Code, Title 15A, Subchapter 18C, Rule .0402(g)(5) [15A NCAC 18C
26 .0402(g)(5)] requires that a residential community water system, using well water
27 as its source of supply and designed to serve 50 or more connections, must
28 provide at least two wells. If a second well cannot be provided, another approved
29 water supply source may be accepted.

30

1 In 2021 required periodic test results revealed that the groundwater source from
2 which one of the Company's two wells drew water displayed excess levels of
3 radium, above standard thresholds established by the environmental agency. That
4 finding led Water Resources voluntarily to take the well offline. The problem was
5 the natural elements in the groundwater as opposed to inappropriate treatment or
6 improper operation by the utility at the well. The Company had to take Well #1 out
7 of service to protect the health and safety of its customers, because it was
8 contaminated due to the Combined Radium Maximum Contaminant Level in three
9 consecutive quarters. Taking Well #1 out of service was based on the
10 recommendation of staff at NC DEQ. Water Resources was aware at the time that
11 Well #1 was taken out of service that doing so would trigger a violation of 15A
12 N.C.A.C. 18C .0402(g)(5) and has sought to resolve that violation since that action
13 was taken. In August 2019, the Company informed the staff at the NCDEQ, that
14 Well #1 was going to be taken out of service. . On August 12, 2019, the Company
15 presented its plan of action to NCDEQ to install a new connection with the Town
16 of Harrisburg in response to the required deactivation of Well #1. In addition, the
17 Company has had ongoing conversations with NC DEQ and the Public Staff
18 regarding this situation, including compliance filings filed with the Commission in
19 Dockets Nos. W-1034, Sub 8 and 10.

20
21 Even though the Company's decision to take Well #1 offline was the result of
22 conditions beyond the Company's control, the discontinuance nevertheless placed
23 the Company in technical violation of the requirements of the Division of Water
24 Resources. As a result, an action was filed in the Superior Court through which the
25 Division of Water Resources sought to obtain an injunction to force the Company
26 to rectify the fact that only one well was available. The State asked for authority to
27 hold the Company in contempt for its failure to rectify the problem. After the action
28 was filed, on November 7, 2022, the parties entered into an Amended Consent
29 Decree that set forth requirements Water Resources was obligated to meet.
30 Failure could have resulted in a finding of contempt. However, the standard for
31 imposition of sanctions for failure to comply with the Amended Consent Decree

1 was that the Company would have been shown to be willfully out of compliance.
2 No showing or finding of willful noncompliance was made.
3

4 **Q. WHAT EFFORTS DID THE COMPANY TAKE TO RECTIFY THE SITUATION**
5 **RISE FROM THE DISCONTINUATION OF THE SECOND WELL?**
6

7 A. Efforts were made to identify any available alternatives. It was not possible to drill
8 and install a new well. One potential alternative was to interconnect with the Town
9 of Harrisburg water system. An initial obstacle encountered in pursuing that option
10 was that the property owner along the route for the needed interconnection piping
11 refused to provide an easement. After substantial time-consuming negotiation and
12 efforts to persuade her to agree, including a threat of condemnation, she finally did
13 agree to supply the easement in exchange of a payment.
14

15 **Q. AFTER ENCOUNTERING DELAYS AND OBSTACLES IN THE COMPANY'S**
16 **EFFORTS TO INTERCONNECT WITH THE TOWN OF HARRISBURG, DID THE**
17 **COMPANY INVESTIGATED OTHER ALTERNATIVES?**
18

19 A. Yes. Water Resources hired an additional expert engineer to attempt to identify
20 other alternatives that possibly could have resulted in a quicker and less costly
21 remedy. He suggested that perhaps the situation could be rectified by an enhanced
22 or enlarged green sand filter for the well that had been taken offline. Tests were
23 undertaken to see if this option was available. This would have been much quicker
24 and less expensive. Ultimately the tests indicated that this expanded green sand
25 filter option was not available.
26

27 Water Resources then returned to pursuing the option of interconnection with the
28 Town of Harrisburg.
29

1 **Q. IN ADDITION TO THE OBSTACLE OF INABILITY TO OBTAIN AN EASEMENT,**
2 **WHAT OTHER OBSTACLES DID THE COMPANY ENCOUNTER IN ITS**
3 **EFFORT TO INTERCONNECT WITH THE TOWN OF HARRISBURG?**

4
5 A. One obstacle and delay involved approval of NC Department of Transportation
6 and the effort to obtain a meeting on the site to authorize a bore under a road. After
7 a delay the bore was approved.

8
9 **Q. DID THE COMPANY ENCOUNTER SUPPLY CHAIN ISSUES?**

10
11 A. Yes. An issue arose over the appropriate valve to be installed at the
12 interconnection point with the Town of Harrisburg. Purchase of water from the
13 Town of Harrisburg would be needed at times when capacity from the single
14 operating well was inadequate. There were supply chain issues to deal with in
15 obtaining this valve. The valve is a Zurn valve.

16
17 **Q. WHAT ACTIONS DID WATER RESOURCES TAKE WHILE AWAITING THE**
18 **AVAILABILITY AND DELIVERY OF THE ZERN VALVE?**

19
20 A. Water Resources purchased nearly all the materials for installation of piping and
21 other materials while awaiting the delivery of the Zern valve.

22
23 **Q. DID WATER RESOURCES ENCOUNTER OBSTACLES IN THE DESIGN AND**
24 **INSTALLATION OF THE VAULT IN WHICH TO PLACE THE VALVE**
25 **NECESSARY FOR THE INTERCONNECTION WITH THE TOWN OF**
26 **HARRISBURG?**

27
28 A. Yes. The initial plans and specifications called for a vault in which the valve was to
29 be placed that met the specifications of the City of Charlotte (CMUD). The Town
30 had approved these specifications. However, when the Water Resources
31 contractor contacted the Town of Harrisburg to make sure that the Town was still

1 agreeable to the vault that met those specifications, the Town replied instead that
2 the vault specifications had to meet the requirements of Cabarrus County. That
3 resulted in additional delay.
4

5 **Q. WHAT ACTION DID WATER RESOURCES TAKE IN RESPONSE?**
6

7 A. Tyler Truxell of Core and Main, which was responsible for supplying the materials
8 for the project, e-mailed Water Resources and its contractor, and said that the 4-
9 inch meter vault lid and hatch to meet the Town's requirements had to be custom
10 made. The lid could not be poured until Dellinger Precast had the hatch. Water
11 Resources was informed that the lid and hatch was estimated to be shipped from
12 the US Foundry on August 29, 2023. Core and Main reported "So, once it arrives
13 and is cast-in the lid I would estimate the delivery date of August/first week of
14 September 2023."
15

16 **Q. WERE INSPECTIONS AND APPROVALS OF THE TOWN AND THE DIVISION
17 OF WATER RESOURCES REQUIRED BEFORE THE COMPANY COULD
18 ACTIVATE THE INTERCONNECTION WITH THE TOWN?**
19

20 A. Yes. Scheduling these inspections approvals resulted in additional delays.
21

22 **Q. WAS THE IN INTERCONNECTION ULTIMATELY APPROVED AND
23 ACTIVATED?**
24

25 A. Yes. The interconnection was ultimately approved and activated, and on
26 December 6, 2023 Water Resources informed the Public Water Supply Section of
27 the Division of Water Resources of the North Carolina Department of
28 Environmental Quality that the project had been completed in accordance with the
29 engineering plans and specifications approved and has resulted in an Operation
30 and Maintenance Plan and Emergency Management Plan which has a certified

1 operator with access to aforementioned plans and is available to the Department
2 upon request.

3
4 Water Resources will rely upon this interconnection at a time when the output of
5 its remaining well proves inadequate to meet the demand on the system. It will be
6 necessary for Water Resources to compensate the Town for water it purchases
7 through the interconnection.

8
9 **Q. BETWEEN THE PERIOD WHEN THE WELL #1 WAS DISCONTINUED AND**
10 **THE INTERCONNECTION WITH THE TOWN OF HARRISBURG WAS**
11 **ACTIVATED, WAS SERVICE TO CUSTOMERS IMPAIRED?**

12
13 A. No. But for a brief encounter that did not arise from inability to meet demand from
14 the remaining well, service to customers was not interrupted. Fortunately the
15 customers in the subdivision have not actually experienced a lack of water supply
16 resulting from the discontinuation of the second well. Still, Water Resources has
17 continued to undertake efforts to rectify the fact that there is only one well was in
18 operation and did not minimize the seriousness of the situation.

19
20 **Q. DURING THE PERIOD THAT THE WELL #1 WAS DISCONNECTED, AND THE**
21 **COMPANY ENGAGED IN ACTIVATING THE INTERCONNECTION WITH THE**
22 **TOWN OF HARRISBURG, WHAT EFFORTS WERE REQUIRED ON THE**
23 **COMPANY'S BEHALF TO RESPOND TO THE REQUIREMENTS OF THE**
24 **DIVISION OF WATER RESOURCES?**

25
26 A. Water Resources provided the Water Supply Section with a weekly report of its
27 activities in seeking to resolve these pending issues. Water Resources was
28 required to report to the Superior Court to explain its efforts to address the State's
29 action seeking to hold the Company in contempt should the Company fail to
30 adequately comply with the Amended Consent Decree.

31

1 **Q. WHAT IS THE STATUS OF THE ACTION IN SUPERIOR COURT?**

2

3 A. The Division of Water Resources is now satisfied that Water Resources has taken
4 the appropriate steps to rectify the loss of Well #1, and the action before the
5 Superior Court has concluded.

6

7 **Q. DID THE COMPANY ATTEMPT TO KEEP THE PUBLIC STAFF AND THE**
8 **COMMISSION INFORMED OF ITS EFFORTS AS IT ATTEMPTED TO RECTIFY**
9 **THE SITUATION ARISING FROM THE LOSS OF THE SECOND WELL?**

10

11 A. Yes.

12

13 **Q. HAS THE DIVISION OF WATER RESOURCES ATTEMPTED TO PENALIZE**
14 **WATER RESOURCES FOR ITS FAILURE TO MAINTAIN THE TWO WELLS?**

15

16 A. The State initially imposed fines. However, after Water Resources explained and
17 attempted to justify its actions in response to the loss of the second well, the State
18 rescinded the fines.

19

20 **Q. IS THE TIMING OF THE COMPANY'S REQUEST FOR A RATE ADJUSTMENT**
21 **INFLUENCED BY THE EFFORTS AND EXPENSE IT UNDERTOOK TO**
22 **RECTIFY THE LOSS OF WELL #1?**

23

24 A. Yes. Now that the interconnection with the Town of Harrisburg has been placed in
25 service and is online and available to serve customers, the Company has filed this
26 rate request in order to adjust its rates to begin to recover the costs in the
27 interconnection as well as the current cost of operating the system. Of course, in
28 the meantime the Company has been operating at a loss and has been required
29 to subsidize the costs and expenses incurred to maintain service to its customers.

30

1 **Q. PLEASE EXPLAIN HOW THE COMPANY OBTAINED THE CAPITAL TO MAKE**
2 **THE APPROXIMATELY \$440,000 INVESTMENT IN THE INTERCONNECTION**
3 **WITH THE TOWN OF HARRISBURG?**

4
5 A. As owner of Water Resources, I provided those funds through my own personal
6 resources as well as additional funds to support the utility operations until the
7 Company could file for a rate increase. At the present time the Company has not
8 obtained third party financing for the Harrisburg interconnection. However, third
9 party financing is under consideration.

10
11 **Q. HAS WATER RESOURCES BEEN IN COMMUNICATION THE PUBLIC STAFF**
12 **ON THE ISSUES INVOLVED IN THIS DOCKET, AND HAS THE COMPANY**
13 **ATTEMPTED TO RESPOND TO PUBLIC STAFF DATA REQUESTS TO ASSIST**
14 **THE PUBLIC STAFF IN AUDITING THE COMPANY'S BOOKS AND IN**
15 **PREPARING THE PUBLIC STAFF TESTIMONY AND POSITION IN THIS**
16 **DOCKET?**

17
18 A. Yes. The Company has responded and continues to respond to data requests.

19
20 **Q. DURING THE TIME WATER RESOURCES HAS OWNED AND OPERATED THE**
21 **WATER SYSTEMS HAS THE COMPANY BEEN APPROPRIATELY**
22 **COMPENSATED FOR THE IMPROVEMENTS AND REPAIRS THAT HAVE**
23 **BEEN MADE OR FOR THE OPERATIONS OF THE SYSTEM THAT HAVE BEEN**
24 **UNDERTAKEN ON THE COMPANY'S BEHALF?**

25
26 A. No. The revenues that have been received have been inadequate. Water
27 Resources has operated this system during its ownership at a substantial loss.

28
29 **Q. ARE YOU SPONSORING THE APPLICATION SUBMITTED IN THIS DOCKET**
30 **AND DO YOU WISH THE COMMISSION TO ACCEPT IT INTO THE RECORD?**

1 A. Yes. In addition, Peedin and Perry Consulting, LLC, was hired by the Company to
2 prepare the Company's Exhibit I and Exhibit II as well as the Company's
3 Application.

4 **Q. WHAT ACCOUNTING ADJUSTMENTS OR ITEMS OF INTEREST IN THE**
5 **APPLICATION ARE NECESSARY FOR YOU TO BRING TO THE**
6 **COMMISSION'S ATTENTION?**

7
8 A. The Company's Exhibit I sets forth the following proforma adjustments for each of
9 the Rocky River and River Walk service areas utilizing a test year in this
10 proceeding of the twelve months ended December 31, 2022. I will briefly
11 summarize the adjustments:

- 12
13 1. Rate Base: The Company made updates to plant in service to reflect the
14 additions to utility plant in service since the last rate case in Docket No. 1034,
15 Sub 8, including corresponding adjustments to depreciation expense and
16 accumulated depreciation; the calculation of cash working capital using one-
17 eighth of operation and maintenance expenses and the calculation of average
18 tax accruals using one-half of property taxes plus one-fifth of payroll taxes.
- 19 2. Miscellaneous revenues: The Company made adjustments to remove non-
20 utility income related to the Verizon tower lease consistent with the Public Staff
21 adjustments in the prior rate case.
- 22 3. Salaries: The Company made adjustments to include an ongoing annualized
23 level of salaries for the owner and the office manager/bookkeeper. Due to cash
24 flow concerns, Dennis Abbott, the Owner/ Manager of the Utility stopped taking
25 a salary in 2022 but resumed his salary in 2023 as well as in 2024.
- 26 4. Administrative & office expense: The Company made an adjustment to include
27 an annualized level of office rent, as well as provided updated office lease
28 amounts for 2024.

- 1 5. Maintenance & repair expense: The Company made adjustments to reclassify
2 certain expenses that should have been capitalized to plant in service during
3 the test period.
- 4 6. Professional fees: The Company made adjustments to reclassify legal and
5 engineering fees that relate directly to the Harrisburg Interconnection to plant
6 in service for Rocky River that should have been capitalized when incurred.
7 The remaining professional fees represent a normal ongoing level of legal and
8 accounting expenses for regulatory proceedings that have been allocated to
9 both the Rocky River and River Walk service areas.
- 10 7. Regulatory expenses: The Company included estimates for accounting
11 consulting, legal and other expenses related to the mailing of customer notices
12 and the filing fee and amortized these costs over a three-year period. The
13 regulatory expenses will be trued up to actual as they become available.
- 14 8. Payroll taxes: The payroll taxes are based on the statutory rate of 7.65% and
15 are applied to the payroll adjustments discussed earlier.
- 16 9. Income taxes: The state and federal income taxes are based on the statutory
17 rates of 2.5% and 21%, respectively.

18

19 **Q. FOR RETURN PURPOSES, IS WRI A RATE BASE COMPANY OR AN**
20 **OPERATING RATIO COMPANY?**

21

22 **A.** WRI is comprised of two separate service territories. The Rocky River service area
23 qualifies as a rate base Company. The Company is recommending that Rocky
24 River's return on rate base be based on 4.6% debt and 9.8% equity.

25

26 The River Walk service area qualifies as an operating ratio company. The
27 Company is recommending that River Walk's return be calculated using an overall
28 7.2% return on operating revenue deductions. The basis for the return is founded
29 on the similar returns for recent cases decided by the Commission for other water
30 and sewer utilities in North Carolina.

1

2 **Q. PLEASE EXPLAIN THE COMPANY'S EXHIBIT II.**

3 A. The Company's Exhibit II sets forth the rate design proposed by the Company for
4 the Rocky River and River Walk service areas. For Rocky River, the Company
5 proposes a base rate of \$54.01 and a usage rate of \$15.04 per 1,000 gallons. For
6 River Walk, the Company proposes a base rate of \$48.69 and a usage rate of
7 \$17.50 per 1,000 gallons.

8

9 **Q. DOES WRI KNOW OF ANY ISSUES AT THIS TIME?**

10 A. No. Not at this time. Water Resources is unaware of what, if any, adjustments the
11 Public Staff may recommend at the conclusion of its audit and investigation.
12 However, Water Resources continues to respond to Public Staff data requests. To
13 the extent that the parties have unresolved issues as this case proceeds, Water
14 Resources will attempt to respond in its rebuttal testimony.

15 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

16

17 A. Yes.

1 BY MR. FINLEY:

2 Q And have you prepared a summary of your
3 testimony, Mr. Abbott?

4 A Yes, sir. In my testimony, I describe the steps
5 Water Resources has taken to comply with the
6 Commission's Order issued in our 2018 rate case
7 and address compliance efforts for DEQ
8 requirements and Consent Judgments' required
9 reports. I explain the steps that the Company
10 has taken to obtain customer feedback and improve
11 communications. I describe the information the
12 Company provides with respect to quarterly
13 customer contact logs. I maintain that the
14 Company has complied with requirements listed by
15 the Commission in its January 29, 2022 Order.

16 I explain the steps that were taken by the
17 Company in response to the disconnection of Well
18 Number 1 as a result of high levels of radium
19 from the groundwater and the steps taken by the
20 Company to make the interconnection with the Town
21 of Harrisburg. I describe the delays the Company
22 experienced in making the interconnection and the
23 reasons for them. And explained that the
24 interconnection ultimately has been approved and

1 activated. I report that while Well Number 1 was
2 not in service, the Company did not experience
3 water supply outages due to having only one well.
4 I describe the efforts taken by the Company to
5 respond to the requirements of the Division of
6 Water Resources between the time that Well Number
7 1 was taken offline and the interconnection with
8 the Town of Harrisburg was activated.

9 I provide a summary of proceedings before
10 the Cabarrus County Superior Court to monitor the
11 Company's progress in remedying the absence of
12 the second well. DEQ required that WRI explain
13 delays in its effort to complete the
14 interconnection with the Town of Harrisburg. WRI
15 was adequately -- has adequately explained to DEQ
16 in the Superior Court the reasons for the delays
17 and the justification for them. The result has
18 been the withdrawal of any fines and a conclusion
19 that there will be no sanctions to the Company
20 for the delays that it encountered in making the
21 interconnection.

22 I explained that the completion of the
23 interconnection with the Town of Harrisburg at a
24 cost in the range of \$470,000 is the primary

1 factor driving the Company's request to increase
2 its rates in this docket and the reason for the
3 timing of the request.

4 Q Does that complete your summary?

5 A It does.

6 MR. FINLEY: Mr. Abbott, is made available
7 for cross examination.

8 HEARING EXAMINER HILBURN: Thank you.
9 Ms. Holt.

10 CROSS EXAMINATION BY MS. HOLT:

11 Q Good afternoon, Mr. Abbott.

12 A Good afternoon.

13 MS. HOLT: I would like to -- in order to
14 not exhaust a lot of time, I would like to pass out my
15 intended cross-examination exhibits ahead of time.

16 HEARING EXAMINER HILBURN: Yes. Thank you.

17 BY MS. HOLT:

18 Q Mr. Abbott, I'd like to direct your attention to
19 your testimony. Do you have it before you?

20 A I do.

21 Q On page 7, beginning on page 7, you recount how
22 you initially had two wells and two wells are
23 necessary in order to be in compliance with North
24 Carolina Administrative Code and you list Title

1 15A and other subsections. And specifically
2 you're required to have two wells if you're going
3 to serve more than 50 or more connections,
4 correct?

5 A Two water sources. Yes, ma'am.

6 Q Two water sources.

7 A Uh-huh (yes).

8 Q And as you good on, on page 8 of your testimony,
9 in December of 2018, the Company became aware
10 that there were radium, elevated radium levels in
11 one of the wells?

12 A That's correct.

13 Q Now, you did not take that well offline right
14 away, correct?

15 A Well, I did take it off well but not officially,
16 but we didn't use it from that point forward. In
17 fact, it had been inactive for almost four years
18 prior to that. And the only reason why we were
19 testing it is because DEQ changed their position
20 and required us to bring it back online.

21 Q When you took it out of service officially, you
22 knew that would trigger a violation?

23 A Yes, ma'am.

24 Q You were in violation?

1 A Yes, ma'am.

2 Q And that this violation would subject public
3 health risks to your customers?

4 A No, ma'am. I wouldn't say that I would agree
5 that it would put public health at risk. We
6 still had an alternate well. In fact, the well
7 was taken offline at the suggestion of DEQ. It
8 was their suggestion that we go ahead and
9 officially take it offline with the agreement
10 that they understood that we would be in
11 violation of that state statute requiring two
12 sources of water.

13 Q Right. But notwithstanding that, wouldn't you
14 agree that it was also the understanding between
15 the Company and DEQ that you would have an
16 alternate source?

17 A Did we -- what they agreed was that they would
18 give me time to work through an alternate source
19 and find an alternate source of water supply.
20 Correct.

21 Q Right. But in order to be in compliance you had
22 to have an alternate source. You had to have two
23 water supplies --

24 A That's correct.

1 Q Okay. Now, let me go back to your answer
2 regarding public safety risks. Isn't the basis
3 for this rule to prevent or to ensure that the
4 public is not at risk? There's no public health
5 risk for consumers?

6 A There's not a health risk. There is a risk that
7 if one well goes down and you don't have the
8 alternate then there wouldn't be adequate water
9 supply. We have an elevated storage tank of
10 100,000 gallons on the property that would
11 provide water supply, reserve water supply for
12 approximately two days. In that situation, which
13 should have been enough time, if the well did go
14 down for some reason to repair it.

15 So, the conversations with DEQ, we felt
16 that -- both parties felt like the risk was very
17 minimal.

18 Q Minimal for how long?

19 A I'm not sure I understand the question.

20 Q The risk was minimal indefinitely?

21 A No. Again, because we have a 100,000 gallon
22 elevated storage tank that can provide water
23 supply without pumping any water for
24 approximately 48 hours depending on the usage in

1 the community, the conversations with DEQ was
2 that they believe that that gave adequate time if
3 the pump went down on the well that we could
4 repair and replace it before there was a loss of
5 water -- the customers experience a loss of any
6 type of water. That was the thought. If it
7 extended beyond 48 hours then certainly there
8 would be a period of time that the folks were out
9 of -- would be out of water.

10 Q So, I think you state that you -- on page 8 of
11 your testimony, lines 13 to 19, you informed
12 North Carolina DEQ that you were going to take
13 the well out off service after, several months
14 after you detected radium in your wells, and you
15 presented a plan of action to install a new
16 connection to that Town of Harrisburg, correct?

17 A That's correct. Yes, ma'am.

18 Q That's August of 2019?

19 A Yes, ma'am.

20 Q Now, in February, 6th -- we're jumping ahead.
21 February 6th of 2021, because you had not found
22 an alternate source, DEQ fined you or issued a
23 penalty against the Company for \$4500; isn't that
24 correct?

1 A Yes, ma'am.

2 Q Okay. Now, the Company didn't appeal this, did
3 it?

4 A No.

5 Q Okay. And although the Company didn't dispute
6 this fine, it didn't pay it either?

7 A No, ma'am. We had -- we were in conversations
8 with both DEQ and the Attorney General's Office
9 through my attorney at the time, and all parties
10 agreed not to pay. At that point in time we
11 would wait until such time as the interconnection
12 was resolved, was finalized, and then we could
13 decide on any type of penalties that needed to be
14 paid at that point in time.

15 Q When did these conversations take place?

16 A Right after the penalty was assessed.

17 Q Right after February 6th, 2021?

18 A Yes, ma'am.

19 Q Okay. Well, let's look at the timeline of the
20 actions filed against WRI by the Department of
21 Justice.

22 A Okay.

23 Q The Department of Justice Attorney General's
24 Office filed these actions on behalf of DEQ,

1 correct?

2 A Yes, ma'am.

3 Q And I might say DOJ as an abbreviation.

4 A Understood.

5 Q Okay. I would like to direct your attention to
6 Public Staff Cross Examination Exhibit -- Public
7 Staff Abbott Cross Examination Exhibit 1.

8 A Okay.

9 MR. FINLEY: You have that to your left
10 there, Mr. Abbott. You have that to your left there.

11 THE WITNESS: Oh, okay. Thank you. I was
12 waiting for somebody to give it to me.

13 MS. HOLT: Madam Hearing Examiner, that
14 exhibit has been passed out and it has been marked.

15 BY MS. HOLT:

16 Q And it's entitled, Mr. Abbott, for your
17 reference, "Complaint And Motion For Injunctive
18 Relief", and it was filed on June 18th, 2021.
19 Are you familiar with this document?

20 A I am.

21 HEARING EXAMINER HILBURN: Ms. Holt, do you
22 want to enter these into evidence one by one as you
23 get started?

24 MS. HOLT: Yes.

1 HEARING EXAMINER HILBURN: That might be
2 smoother for me if you don't mind.

3 MS. HOLT: Yes.

4 HEARING EXAMINER HILBURN: So we are going
5 to mark -- without objection, we are going to mark
6 this first exhibit Public Staff Abbott Cross Exam
7 Exhibit 1. It will be so identified as it is marked.

8 MS. HOLT: Thank you.

9 (WHEREUPON, Public Staff
10 Abbott Cross Exam Exhibit 1
11 is identified.)

12 BY MS. HOLT:

13 Q Now, Mr. Abbott, this Complaint and Motion for
14 Injunctive Relief, would you accept subject to
15 check that DEQ could bring actions for injunctive
16 relief whenever a person violates the drinking
17 water AC or rules adopted thereunder?

18 A I would.

19 Q Now, on pages 5 through 8 of this Complaint and
20 Motion for Injunctive Relief, there are several
21 factual allegations made beginning with paragraph
22 11 on page 5, page 6, page 7, on into page 8
23 comprising 23 factual allegations made by the DOJ
24 in conjunction with this complaint against the

1 Company. Isn't it true that the Company never
2 took issue with any of the factual allegations --

3 A No, ma'am.

4 Q -- in this complaint? Okay. Now, paragraph 13
5 states -- paragraph 13 of the factual
6 allegations, on page 5, states that on
7 December 17th, 2018, the PWS section, Public
8 Water Supply section sent an NOV to WRI for
9 violation of the combined rating standard in one
10 of two wells, Well 1, during the period of
11 January 1, 2018 to December 31st, 2018?

12 A Correct.

13 Q And it also states that on September 17th, that
14 would be paragraph 18 on page 6, that the Company
15 requested additional time to return into
16 compliance?

17 A Correct. Because we weren't able to engage the
18 Town of Harrisburg in direct conversations nor
19 were we able to secure the easement that was
20 necessary from the homeowner. And we thought we
21 were going to have to start condemnation
22 proceedings against the homeowner.

23 Q Okay. Now, on -- also on page 6, paragraph 19,
24 one of the factual allegations states that on

1 *November 21st, 2019, based on your September 17th*
2 *request for additional time, DEQ extended the*
3 *time for which the Company needed to be in*
4 *compliance from June 30th, 2019 to*
5 *September 30th, 2020. Correct?*

6 A Yes, ma'am.

7 Q So that's about 18 months?

8 A Yes, ma'am.

9 Q They're giving you 18 months to comply?

10 A Yes, ma'am.

11 Q Then, the allegations of this motion state on
12 page 7, paragraph 20, on *September 21st, 2020,*
13 *less than 10 days before the September 30th*
14 *deadline for coming into compliance, Defendant or*
15 *Water Resources claimed that the new connection*
16 *could not be constructed -- could not be*
17 *constructed due to the Company's inability to*
18 *obtain an easement.*

19 A That's correct.

20 Q Correct?

21 A Uh-huh (yes).

22 Q Now, the -- my interpretation of this is that the
23 DOJ emphasize the "less than 10 days". The
24 Company had 18 months to perform this yet waited

1 just 10 days before to inform DEQ. Was that a
2 reasonable -- was that timely in your opinion?

3 A No, I would say your interpretation is incorrect,
4 because what this report doesn't reflect is there
5 were ongoing and continuing conversations between
6 my attorney and DOJ on what progress was being
7 had. We were providing DEQ with regular updates,
8 quarterly updates as to what the status was, what
9 had been done. And so while that does say that
10 in the report, that's not reflected that we
11 didn't do anything nor that we didn't communicate
12 with them on a regular basis because we did.

13 Q But nonetheless, they filed this injunction.

14 A That's correct because that's correct.

15 Q Which alleges that they didn't know until 10 days
16 before.

17 A All I can tell you is we gave regular reports and
18 there was ongoing conversations. I can't speak
19 to why they would put that in the report.

20 Q But it's not in the report and it's a factual
21 allegation which was not controverted.

22 A But it's my testimony that there was conversation
23 going on.

24 Q So you're saying that this is inaccurate?

1 A No, ma'am. I'm not saying that.

2 Q Okay.

3 A I'm saying there is additional information that's
4 not reflected here.

5 Q Okay. I'd like to now go on to the Public
6 Staff's next cross examination exhibit. It's
7 entitled "Consent Judgment".

8 MS. HOLT: And Madam Hearing Examiner, I
9 would like for this to be marked as Public Staff
10 Abbott Cross Examination Exhibit 2 for identification.

11 HEARING EXAMINER HILBURN: Without
12 objection, that will be allowed. It will be so
13 identified.

14 (WHEREUPON, Public Staff
15 Abbott Cross Examination
16 Exhibit 2 is identified.)

17 BY MS. HOLT:

18 Q Mr. Abbott, are you familiar with this judgment?

19 A I am; yes, ma'am.

20 Q And this was -- this Consent Judgment was signed
21 on July 15th, 2021; correct?

22 A Yes, ma'am.

23 Q And it was signed by you?

24 A Yes, ma'am.

1 Q Now, this Consent Judgment, on page 5, paragraph
2 16; could you read that into the record?

3 A Sure. *As of the date of entry of this Consent*
4 *Judgment, Defendant has failed to implement the*
5 *plan set forth in the August 12th and*
6 *August 17th, 2019 (sic) status reports, the*
7 *public water supply system at the Rocky River*
8 *Plantation Subdivision continues to operate using*
9 *only one well and no other approved water supply*
10 *source, and Defendant remains in violation of*
11 *North Carolina's Drinking Water Regulation set*
12 *forth in 15A NCAC 18C.040 (g) (5).*

13 Q Thank you. And then on page 7, paragraph 8, the
14 last sentence, could you read that into the
15 record?

16 A "Defendant's" -- are you talking about where it
17 says "Defendant's"?

18 Q Yes.

19 A Okay. "Defendant's continued noncompliance
20 exposes residents at the Rocky River Plantation
21 Subdivision to significantly elevated public
22 health risks".

23 Q So a minute ago, earlier in our conversation, you
24 said that you didn't believe that your

1 noncompliance presented an elevated public health
2 risk; correct?

3 A Correct; I did.

4 Q Do you still maintain that position?

5 A From this perspective, I don't think it's -- I
6 think it's an interpretation of what is a public
7 health risk. If there was a risk of not having
8 water supply, if that poses a public health risk
9 then, yes, there was a risk of that. But there
10 wasn't a risk of contaminating water providing
11 any type of water that was not acceptable for
12 drinking water.

13 So that's what I meant when I said earlier,
14 and I think I stated that, yes, there was a risk
15 for them not to have water supply if the well
16 went down. So from that perspective, if that's a
17 health risk then, yes, it does pose a health
18 risk. But from a contamination of any water, no,
19 there's no health risk. So I appreciate you
20 letting me clarify that.

21 Q That's your interpretation?

22 A Yes, ma'am. That's what I meant earlier.

23 Q But that's not what the law says.

24 A I'm not a lawyer.

1 Q Okay.

2 A Yeah.

3 Q On -- if you turn to the next page, paragraph 11.
4 Could you read that paragraph into the record,
5 please?

6 A "The parties expressly waive any argument that
7 the recitation of the above Findings of Fact and
8 Conclusion of Law is insufficient to support the
9 injunctive relief ordered below."

10 MR. JUNIS: Relief order below.

11 Q So in light of this statement, which is in the
12 Consent Judgment which you signed, you're -- in
13 essence, the Company admitted that the
14 allegations that were in the initial Motion for
15 Injunctive Relief were valid?

16 MR. FINLEY: Objection. Objection. That's
17 not what it says. It says it waives any argument, it
18 doesn't say it agrees to that.

19 MS. HOLT: It waives any argument.

20 MR. FINLEY: It waives any argument.

21 BY MS. HOLT:

22 Q So you could not refute the allegations in the
23 Injunctive Motion; correct?

24 A Correct.

1 Q Thank you. So this Consent Judgment basically,
2 between DEQ and WRI, you reached resolution on
3 the injunctive relief sought. It held it in
4 abeyance, if you will, until you could comply?

5 A Correct.

6 Q So according to this Consent Judgment, the
7 Company agreed to file a compliance plan; right?

8 A Yes, ma'am.

9 Q Okay. And the Company agreed to various
10 milestones and engineering certifications and
11 things like that; right?

12 A Yes, ma'am.

13 Q And the ultimate goal was to have the
14 interconnection with the Town of Harrisburg
15 completed by September 9th, 2022; correct?

16 A Yes, ma'am.

17 Q And that meant everything being done?

18 A Yes, ma'am.

19 Q I'd like to now direct your attention to, it has
20 a cover page dated September 12th, 2022.

21 MS. HOLT: And Madam Hearing Examiner, we
22 would like to have that marked as Public Staff Abbott
23 Cross Examination Exhibit 3.

24 HEARING EXAMINER HILBURN: Without

1 objection --

2 MS. HOLT: For identification.

3 HEARING EXAMINER HILBURN: For
4 identification. That will be marked as identified and
5 accepted into the record.

6 (WHEREUPON, Public Staff
7 Abbott Cross Examination
8 Exhibit 3 is identified and
9 received into evidence.)

10 BY MS. HOLT:

11 Q And Mr. Abbott, this is -- if you'd turn to the
12 next page after the cover page, it is entitled a
13 "Motion For Entry Of Order To Show Cause For
14 Civil Contempt". Are you familiar with this
15 document?

16 A I am.

17 Q And it was filed on September 12th, 2022;
18 correct?

19 A Yes, ma'am.

20 Q And that's three days after WRI was supposed to
21 have the interconnection constructed, completed?

22 A Yes, ma'am.

23 Q Okay. And you would accept that this Motion to
24 Show Cause for Civil Contempt was filed because

1 WRI had not met its deadline to finalize
2 interconnection; correct?

3 A Yes, ma'am.

4 Q To not even begin construction; correct?

5 A Well define "construction".

6 Q Anything.

7 A No, that that's not true. I mean, to do a
8 construction project, you have to have
9 engineering, draw up plans, you have to have
10 surveys done, you have to have easements, you
11 have to have contracts, and there was a lot --
12 some of that work that had been done. And so,
13 and efforts made to get that work done. And
14 you've got to remember we were also in a pandemic
15 at that point in time, everything shut down
16 during a lot of this time that you're talking
17 about. So, the difficulties in getting work
18 completed and getting things done was extremely
19 difficult.

20 So, no, efforts has been made to have some
21 things done but -- so I wouldn't say construction
22 hadn't started. It depends on how -- that's why
23 I was asking how do you define construction. If
24 you're talking about digging and actually

1 equipment on site --

2 Q Right.

3 A -- that had not begun. No, ma'am.

4 Q Right. Now, if you look at page 2, page 2 of
5 Exhibit 2 (sic), the first paragraph states that
6 *pursuant to the Consent Judgment, Defendant is*
7 *required to perform the following actions set*
8 *forth in the Plan: Complete construction and*
9 *submit an Engineer certification and*
10 *Certification for a completed interconnection to*
11 *the Town of Harrisburg by September 9, 2022, and*
12 *place the interconnection into service by May*
13 *2nd, 2022.*

14 Now, in that next paragraph, 3, it states
15 that *on September 9th, 2022, an inspection of the*
16 *Rocky River Plantation public water supply system*
17 *was performed by staff of the Public Water Supply*
18 *Section and upon inspection, the Public Water*
19 *Supply Section staff member observed the*
20 *following: There were no sign that construction*
21 *of the interconnection to the Town of Harrisburg*
22 *had been constructed, and too, moreover, there*
23 *were no signs of any activity on site related to*
24 *construction of the interconnection, nor were*

1 *there any signs that construction of the*
2 *interconnection had ever -- had even been*
3 *initiated.*

4 Would you agree that's a correct statement?

5 A They wouldn't have seen anything on a site visit.
6 There was no equipment that had been dispatched
7 or anything like that at that point in time.
8 That's correct.

9 Q Okay.

10 A But engineers had been hired and surveys had been
11 conducted, conversations with the Town of
12 Harrisburg were ongoing; those types of things
13 were happening. They're preliminary work before
14 you can ever start construction.

15 Q Right. Right. At any time before September,
16 that site visit, at any time did the Company
17 reach out and say we're not going to make our
18 milestone?

19 A We provided -- as required, we provided updates,
20 regular updates on progress and what was done.

21 Q Right but -- I hate to interrupt you. But did
22 you say, did you inform DEQ before
23 September 12th, 2022, that you had not begun
24 construction and it would not be done by the

1 September 9th, 2022 deadline --

2 MR. FINLEY: I would respectfully request
3 that Mr. Abbott be allowed to answer the question
4 without being interrupted.

5 HEARING EXAMINER HILBURN: That will be
6 allowed. Ms. Holt, Mr. Abbott may respond. I'd also
7 like to just clarify for the record, I think I heard
8 while ago when we were talking about Exhibit 2 and
9 we're actually on Exhibit 3, page 3 of 38. This line
10 of questioning is where she's referring to. Thank
11 you.

12 THE WITNESS: Thank you.

13 MS. HOLT: Thank you.

14 MR. FINLEY: You were going to finish an
15 answer you were interrupted, Mr. Abbott, if you want
16 to finish, please.

17 THE WITNESS: Yes, please. So we provided
18 regular updates to DEQ as to the status of
19 construction, what activities we were performing to
20 try to comply with the plan. And so by submitting
21 those updates, it was easy for them to see we were
22 woefully behind in getting things done that needed to
23 be done, and they could easily see that there was no
24 way construction was going to begin or be completed by

1 that time. They hadn't even received plans for their
2 approval at that point in time so clearly they knew
3 that we weren't going to be able to meet that
4 deadline. And again, I'll state we were in the middle
5 of a -- either a -- we might have been in a pandemic
6 at that time or just coming out of the pandemic, and I
7 don't remember exactly when the pandemic ended, but
8 the pandemic impacted all of this.

9 BY MS. HOLT:

10 Q Let's see. Now, did you at any time -- did the
11 Company at any time contest the factual
12 allegations contained in this Motion to Show
13 Cause?

14 A No, ma'am.

15 Q Do you understand -- I know you're not an
16 attorney, but do you understand what a Motion to
17 Show Cause is?

18 A Well, as I understood it was that if I didn't
19 comply with this, or willfully did not comply
20 with this, then there would be a risk of me
21 actually going to jail.

22 Q If you did not appear and prove why you did not
23 willfully comply, you could go to jail.

24 A Correct.

1 Q Correct. Okay. So, after this was filed against
2 you for noncompliance, the Company came up with
3 another Consent Judgment, correct, an amended
4 Consent Judgment?

5 A Yes, ma'am.

6 Q And that was entered into on November 7th, 2022;
7 correct?

8 A Yes, ma'am.

9 Q Now, I'd like to direct your attention to that
10 Amended Consent Judgment.

11 MS. HOLT: Madam Hearing Examiner, we would
12 like for this to be marked as Public Staff Abbott
13 Cross Examination Exhibit 4 for identification.

14 HEARING EXAMINER HILBURN: Without
15 objection, that will be so identified.

16 MS. HOLT: Okay.

17 (WHEREUPON, Public Staff
18 Abbott Cross Examination
19 Exhibit 4 is identified.)

20 BY MS. HOLT:

21 Q Now, Mr. Abbott, are you familiar with this
22 Amended Consent Judgment?

23 A I am.

24 Q And you signed it; correct?

1 A Yes, ma'am.

2 Q And so, in light of the motion that was filed
3 that could have held you in contempt, the Company
4 in contempt, you and your attorneys on your
5 behalf entered into this Amended Consent
6 Judgment?

7 A Yes, ma'am.

8 Q And so, also, contained in the allegations of
9 this Amended Consent Judgment, it states that --
10 I'm sorry. So, in order to enter into this
11 agreement, this Amended Consent Judgment after
12 you had violated the first Consent Judgment, the
13 Company had to agree to make more promises, if
14 you will, in order to comply and also was
15 required to submit regular filings on a weekly
16 basis; correct?

17 A Yes, ma'am.

18 Q Let's see. On page 12, paragraph 2 A and B,
19 could you read -- and as part of this Amended
20 Consent Judgment there were certain prescribed
21 actions or terms to which the Company had to
22 stipulate in order to -- in order for DEQ to
23 allow an extension.

24 A Yes.

1 Q If you'll read paragraph 2 A.

2 A Do you want me to read A and B?

3 Q Yes, A and B.

4 A Okay. "If Defendant has not completed the
5 actions described in Paragraph 1 above by
6 December 7th, 2022: a. Defendant hereby
7 stipulates that such failure is conclusive
8 evidence of civil contempt and waives any right
9 to contest the same by presenting evidence or
10 legal argument; b. Defendant and Plaintiff both
11 reserve the right and preserve in all respects
12 the opportunity to present to the Court evidence
13 and arguments regarding the appropriate remedy as
14 a consequence of the stipulated contempt".

15 Q So basically what this meant was you have one
16 more chance to comply and if you don't you waive
17 your right to contest you would be held in
18 contempt?

19 A I think the way I read it --

20 Q You waive your right -- you waive your right to
21 defend yourself against contempt.

22 A If I'm found in contempt.

23 Q If you do not comply with the stipulated, the
24 stipulated terms of this consent.

1 A Right.

2 Q Amended Consent Judgment.

3 A But I was never found in contempt.

4 Q You waive -- no, you weren't because you complied
5 after this; correct?

6 A Not by this date; no, ma'am.

7 Q Did you provide all of your weekly compliance
8 filings?

9 A We did; yes, ma'am.

10 Q After this order was entered?

11 A Yes, ma'am.

12 MS. HOLT: Finally, I have one final
13 exhibit, Exhibit 5. It's entitled "Order Granting
14 Public Staff's Motion Requiring Increase In Bond".
15 And I would like to have this marked as Public Staff
16 Abbott Cross Examination Exhibit Number 5 for
17 identification.

18 HEARING EXAMINER HILBURN: Without
19 objection, that will be so marked and identified in
20 the record.

21 (WHEREUPON, Public Staff
22 Abbott Cross Examination
23 Exhibit 5 is identified.)

24

1 BY MS. HOLT:

2 Q Mr. Abbott, do you recall the Public Staff's
3 motion filed against WRI for failure to have its
4 bond increased from \$35,000 to \$235,000?

5 A Yes, ma'am; uh-huh (yes).

6 Q And this was filed on September 29th, 2022;
7 correct?

8 A Yes, ma'am.

9 Q So -- and it was filed in Docket Number W-1034,
10 Sub 8 and 10. And Sub 8 was the Company's last
11 rate case prior to this one.

12 A Yes, ma'am.

13 Q And Sub 10 involved a complaint filed by
14 Mr. Lenny Devito.

15 A Yes, ma'am.

16 Q A customer of Water Resources; correct?

17 A Yes, ma'am.

18 Q So -- now, just to keep things in perspective,
19 this motion, the motion that was filed by the
20 Public Staff was approximately three and a half
21 years after you became aware of the elevated
22 radium levels in Well 1.

23 A Yes, ma'am.

24 Q You still hadn't made repairs; correct?

1 A Correct.

2 Q Now, if we look on page 6 of the Commission's
3 Order. Well, first, I'll go back, and you don't
4 have to turn to this, but on page 2 there's a
5 summary of the pleading. The Public -- the
6 Commission recounts the Public Staff's motion.
7 Then on page 3, it discusses WRI's response to
8 the Public Staff's motion. The Public Staff
9 replied which is summarized on page 4, and it
10 discusses Water Resources' report.

11 Now, on page 6, paragraph 2, the beginning
12 of paragraph 2, the Commission, in its Discussion
13 and Conclusion regarding the Public Staff's
14 motion, states, the first sentence states, and
15 I'll read it. "Primary among the evidence is the
16 continued failure of WRI to comply with DEQ
17 regulations requiring a second water supply for
18 Rocky River." And the Commission goes on to list
19 the requirements the consent judgment and a true
20 of -- a true and accurate copy of which was
21 attached to WRI -- a motion filed by WRI, and it
22 just goes through the list of proceedings and
23 actions or inactions of WRI. And notwithstanding
24 WR- -- the Company's excuses for its

1 noncompliance, the Commission ultimately agreed
2 with the Public Staff; correct? And granted its
3 motion to increase the bond?

4 A Yes, ma'am.

5 Q Now, in the recitation of the facts in the
6 Commission's Orders, do you contend that there
7 are any misstatements of the facts?

8 A I'd have to go back and read the entire Order. I
9 didn't read the Order when it was issued. I just
10 knew I needed to comply.

11 Q Okay. Well, do you doubt the Commission made
12 any --

13 A No, ma'am. Never.

14 Q Good idea. In light of the list of facts
15 regarding -- it appears to be a pattern of WRI,
16 does it not, of noncompliance? Whether you have
17 an excuse or not.

18 A But I would --

19 Q There is evidence --

20 A -- agree with that but I do take exception to
21 excuses. They're not excuses. They're actually
22 facts. Other facts involved. Not excuses but
23 facts involved as to why there was ongoing
24 delays.

1 Q And I might add that even today we received
2 another example of the Company's failure to
3 comply on time with its failure to file the
4 customer supplemental customer report; correct?

5 A Today was the first I've heard of that. So it
6 was on oversight on my part. That's all I can
7 say. I don't recall receiving anything.

8 Q Mr. Abbott, if WRI had complied with all
9 timelines and met its deadlines prior to June 17,
10 2021, would the DOJ have needed to file a
11 complaint on motion for injunctive relief?

12 A If we had not had a pandemic that shut down the
13 entire economy of this country that prevented any
14 work from getting done and any progress being
15 made, yes, I would say we would have met that
16 deadline.

17 Q But would you also say that they wouldn't have
18 needed to file these motions had you,
19 notwithstanding whatever, I won't say excuses,
20 reasons you state, had you complied, timely
21 complied with the milestones, would they have
22 needed -- would they have needed to file a
23 complaint for injunctive relief?

24 A No. But I also think that the courts found that

1 the reasons were justified. That's why I was
2 never found in willful contempt of court as we
3 explained the delays and what was causing the
4 delays that were outside of our control.

5 This wasn't a matter of efforts not being
6 made. You're correct. It wasn't a lack of
7 effort between the pandemic and the after-effects
8 of the pandemic with a shortage of supplies and
9 labor and those types of things. All of those
10 delays caused that. But you're absolutely
11 correct, if we would have completed it by the
12 21st then that wouldn't have been necessary for
13 that to be filed.

14 Q Now, the court didn't actually rule on the motion
15 regarding finding you -- the court did not say
16 you're not in contempt, did it?

17 A It was dismissed. The case was dismissed I think
18 is the way it reads. I'm not an attorney. I
19 know we -- the court found that we did what we
20 needed to do and never found that we were in
21 willful contempt of court and willful breach of
22 our agreement, and so they never found me in
23 contempt of court. That's all I know. And then
24 when we finished the project, the case was

1 dismissed. I don't know the legal aspect, if
2 it's called dismissed or you're not found guilty
3 or whatever the case was. I don't think that I
4 was ever charged with contempt for them to
5 actually move forward with a hearing or a trial
6 to see if I was in contempt. I think the whole
7 matter -- again I'm not an attorney so I don't
8 know this. But I think what the hearings before
9 the judge was about was to decide if contempt
10 charges should be brought against me and the
11 Company but that never proceeded to that level.

12 Q But isn't it true that if you had not met the
13 terms of the Amended Consent Judgment, you would
14 be held in contempt?

15 A I could have been.

16 MS. HOLT: Thank you. No further questions.

17 THE WITNESS: Thank you.

18 HEARING EXAMINER HILBURN: Mr. Finley.

19 REDIRECT EXAMINATION BY MR. FINLEY:

20 Q That answer, Mr. Abbot, I think as you've said
21 two or three times, in order for you to be found
22 in contempt, you would have to be a willful
23 violation; is that not right?

24 A That is correct.

1 Q And you did have to go to court, did you not?

2 A That's correct.

3 Q A number of times?

4 A I did.

5 Q And did the Attorney General's Office ever ask
6 the court to find you in contempt, willful
7 contempt for failure to meet the deadlines
8 established in these various documents, the
9 Consent Judgments?

10 A They did not.

11 Q Never asked for that, did they?

12 A No, sir.

13 Q And you had to go and you had to explain first to
14 the Attorney General's Office then to DEQ the
15 difficulty you were having in meeting the
16 deadlines that had been imposed on you; is that
17 correct?

18 A That's correct.

19 Q And after you explained it to them, they kept
20 pushing, pushing, pushing, but you were doing the
21 best you could, and they couldn't push but so
22 hard; isn't that correct?

23 A That's correct. They understood this was all a
24 result of the pandemic and trying to get things

1 done during a pandemic and after the pandemic and
2 what we were dealing with from an economic
3 perspective.

4 Q Has anybody said, Mr. Abbott, that you should
5 have had the interconnection with the Town of
6 Harrisburg in accordance with these -- ever tell
7 the court that you should have had these
8 interconnection in place by the time these
9 deadlines were established?

10 A Did I tell the courts that?

11 Q Did the Attorney General's Office ever say that
12 you should be held in contempt for willfully
13 complying with the deadlines?

14 A No.

15 Q And you haven't been held in contempt.

16 A That's correct.

17 Q And the mention of the fine of \$4,500; what
18 happened to that?

19 A The Attorney General's Office and DEQ decided
20 that they would waive that fine and there would
21 be no further penalties for the action for the
22 delays.

23 Q And the responses that you made to DEQ and
24 various reports and that you made to the court

1 Q Right. And you had to have attorneys when you
2 went to court.

3 A That's correct? And you had to go to court and
4 explain to the court what you were doing and the
5 reasons why you were unable to meet the
6 milestones?

7 A Yes, that's correct.

8 Q Is there anyway possible, Mr. Abbot, you could
9 have met these milestones in light of the
10 obstacles that you confronted?

11 A No, sir.

12 Q And you explained that.

13 A That's correct. Nobody has a crystal ball
14 whenever we set these timelines and deadlines
15 we're trying to meet. It's our best estimate and
16 things happen that are outside of your control
17 that moves that deadline. And who would have
18 known we were going to end up having a
19 once-in-a-lifetime pandemic.

20 MR. FINLEY: No further questions.

21 EXAMINATION BY HEARING EXAMINER HILBURN:

22 Q Mr. Abbott, can I ask you about, on page 9 of
23 your direct testimony, you talk about getting the
24 easement, finally being able to get the easement

1 that was needed for the connection to the Town of
2 Harrisburg in exchange for payment.

3 Can you tell me a little bit about the
4 process of getting that easement and how long
5 that took and what was the problem there?

6 A The homeowner there, took us some time to get a
7 response from her, and she -- once she finally
8 responded it was very short and to the point and
9 says I'm not interested, check with my neighbor
10 across the street to see if they will give you an
11 easement. So, we continued trying to secure the
12 easement, contacting her and then, of course, the
13 pandemic came along as well.

14 Finally, after months and months and months
15 of trying to talk with her, going through an
16 attorney to contact her as well, we finally had
17 to tell her that if she wasn't willing to give us
18 an easement voluntarily that we would have to
19 begin condemnation through the courts, which we
20 didn't want to do. It was going to be costly for
21 us and certainly costly for her. It's not the
22 way we like to do business either. Once we
23 stated that, she came back and said she would but
24 she put a lot of conditions on it and had some

1 price, quite frankly. But at that point, because
2 we were so far behind we wanted to move forward,
3 so I paid her everything she asked for to get the
4 easement which was a little under \$9000 I
5 believe, for just a very narrow easement, and
6 other conditions regarding construction and
7 returning the property to the condition we found
8 it.

9 Q And how different was that from your original
10 offer or what you were hoping you would pay for
11 that easement? How much more was the \$9,000?

12 A Well, in talking with my attorneys, and their
13 past experience, they felt like something around
14 \$4000 or \$4500 was appropriate. So it was about
15 double what we thought would be appropriate.

16 Q And is that a perpetual easement?

17 A Yes, ma'am.

18 Q Okay. And did you ever contact the neighbor or
19 was that just not an option really?

20 A It really wasn't an option from talking with my
21 engineers.

22 Q And --

23 A Because -- so the reason why is because our water
24 main was stubbed out to the road on her side of

1 the road. To go to her neighbors would have
2 meant we would have had to take the water main
3 and cross the road in the neighborhood and then
4 do a tie in. So that wasn't really feasible. It
5 would -- I guess in reality it was but it would
6 have cost us a lot more money to construct it
7 that way.

8 Q And I think I heard when you were first
9 responding to Ms. Holt with the first exhibit
10 which was the Complaint and Motion for Injunctive
11 Relief, you knew you had the easement problem to
12 work out but you also said you had to make that
13 connection with Harrisburg. Now, did you run
14 into problems with Harrisburg or were they
15 receptive to this from the beginning?

16 A We ran into problems just getting them to respond
17 to us and it took us awhile to find the right
18 person within the Town of Harrisburg. We
19 contacted their director of, I guess, Public
20 Utilities. I'm not sure of the exact title but
21 the person that oversaw that for them. Didn't
22 get a response. Ultimately, I think I finally
23 got a response from the Town Manager who
24 redirected me to the proper person and then that

1 took some time to get a response. So, it was
2 months just to get them to respond. And I was
3 following up every 10 days, two weeks with them
4 to try to get them engaged. Once we got them
5 engaged, I would say their response was slow but
6 they did respond. And all the requests, they
7 were somewhat slow, and typically would require
8 sometimes two and three follow-ups with them.

9 Q And was that you directly, did you say, or your
10 attorneys?

11 A No, it was either myself or Beth Lockwood in our
12 office. The two of us were sort of both
13 following up with them.

14 Q And one more question. When Mr. Finley was
15 asking you about your conversations with DEQ
16 about the status, you were giving these status
17 reports, and they started out quarterly and they
18 turned to weekly reports as time went on. You
19 know, he made the comment that the pressure was
20 on. Were you feeling that when you gave these
21 weekly reports?

22 A Yes, ma'am. I didn't want to go to jail.

23 Q So they would -- when you would -- were they
24 verbal reports or written reports?

1 A They were written reports. Yes, ma'am.

2 Q Okay. And would they respond back to these
3 written reports?

4 A Sometimes they would call and they may email and
5 they would ask for clarification but they never
6 challenged anything that we were doing as we
7 weren't being -- making the proper effort to move
8 forward and we weren't doing the right things and
9 trying to get the project to completion.

10 Q Thank you.

11 A Yes, ma'am.

12 HEARING EXAMINER HILBURN: Any questions on
13 Commission questions from Public Staff?

14 EXAMINATION BY MS. HOLT:

15 Q Mr. Abbott, when did you first begin negotiations
16 on the easement?

17 A I'd have to go back in my notes and look and see.
18 There's a lot of dates and a lot of milestones.
19 I can't remember exactly when I started
20 negotiations with her. There was a period of
21 time, because I didn't even know I needed an
22 easement, originally -- there's two entrances to
23 the community and originally we wanted to use the
24 other entrance. And I engaged an engineer and a

1 survey company to study that. And by the time
2 they finished, they came back and said it wasn't
3 possible. So we had to start over at the second
4 easement -- the second entrance which is where
5 Ms. Hook's property is and had the survey and the
6 easement drawn up and, you know, basically
7 preliminary engineering done of where everything
8 would have to be. So I can't remember the exact
9 date to be honest with you. It wasn't
10 immediately after we took the well offline
11 because there was again engineering and surveying
12 going on and those types of things.

13 Q Okay. Not immediately but was it --

14 A It was timely once we knew that we needed an
15 easement there.

16 Q It was within a year? 2019?

17 A I would think so. Without checking my notes, I
18 can't confirm that but I would think so.

19 Q And when did the easement situation -- when was
20 it resolved? When did you reach agreement?

21 A I'm sorry. I don't recall the exact date of when
22 that was resolved.

23 Q Thank you.

24 HEARING EXAMINER HILBURN: Mr. Finley, did

1 you have questions?

2 MR. FINLEY: Just a few questions, please.

3 EXAMINATION BY MR. FINLEY:

4 Q So the lady's name, the property owner was
5 Ms. Hooks?

6 A Correct.

7 Q And she had representation, did she not?

8 A She did.

9 Q And she came with you with some terms in the
10 easement that she suggested she might sign with
11 you and you couldn't live with those; is that
12 correct?

13 A Correct.

14 Q And she was a person who changed her mind from
15 time to time?

16 A I would say that would be correct.

17 Q And I think at one point she insisted that the
18 document be executed in the Superior Court; is
19 that right?

20 A That's correct.

21 Q And about the negotiations and so forth and
22 oversight with the Town of Harrisburg, was it
23 correct that at one point you thought that
24 Harrisburg was okay with you following the plans

1 and specifications of Charlotte Utility
2 Mecklenburg District? And when you went back to
3 the Town they said, nope, we want you to comply
4 with the Town of Harrisburg directly.

5 A Correct. Before we ever submitted the actually
6 plans to the State for their approval, we
7 submitted them to the Town of Harrisburg and they
8 approved the plans. We then submitted them to
9 the State which they approved so we thought we
10 were ready to go. And then the Town of
11 Harrisburg came back and said, oh, no, no, no, we
12 need to change this. And that caused an
13 additional delay because of the changes they
14 wanted meant we had to order custom materials.
15 They weren't just regular run-of-the-mill
16 materials that you would order.

17 Q Did that add time to have to get the custom
18 materials?

19 A Absolutely. It added at least two more months
20 just for that one piece.

21 Q And you had to have approvals or permissions from
22 the Department of Transportation, the Town of
23 Harrisburg, and DEQ?

24 A That's correct. All three of those. We were

1 doing a boring underneath a State-maintained road
2 so we had to get the Department of Transportation
3 approval. We also had to get inspections, not
4 only for approvals, but by all three of those
5 agencies as well. So there was a lot of
6 governmental agencies involved and approvals and
7 coordination with them as well.

8 Q And approval from Ms. Hooks?

9 A Yes.

10 Q And am I correct in my understanding that from
11 time to time you would have meetings scheduled on
12 site there and some of those people who were
13 supposed to give the approvals, for whatever
14 reason, didn't show up?

15 A That's correct.

16 Q And you explained all of this to DEQ and to the
17 Superior Court?

18 A Yes, sir.

19 Q Did you explain it to the Public Staff and make
20 reports to the Utilities Commission?

21 A We had conversations with people, folks on the
22 Public Staff and making them aware of delays and
23 what the status was and the progress. I don't
24 recall if we gave written reports, but we did --

1 and I know the Public Staff and DEQ were in
2 conversation as well about what was happening.

3 Q Mr. Abbott, were you taking this lightly and just
4 letting the time go by without addressing these
5 issues?

6 A No, sir. I'm not a procrastinator. And I wanted
7 to get this done as quickly as I possibly could.
8 Because at one time, in 2021, we did give notice
9 that we were going to apply for a rate increase.
10 I desperately needed a rate increase. But we
11 ultimately did not move forward with this
12 application because we didn't have this
13 interconnection done. I wanted to get this
14 interconnection done so I could recover the cost.
15 Also, in this rate case, I was losing money
16 operationally and I needed to get all of that
17 corrected. So, it was to my benefit to get this
18 done as quickly as possible so I could get rate
19 relief to recover the money I spent to do this.

20 Q So you understood that to get rate relief for
21 this \$470,000 improvement, you had to have it
22 complete?

23 A Yes, sir.

24 Q And did that give you any incentive to get it

1 completed as quickly as you could?

2 A It gave me a lot of incentive. Yes, sir.

3 MR. FINLEY: No further questions.

4 HEARING EXAMINER HILBURN: Thank you.

5 Mr. Abbott, you're excused for right now. You'll be
6 back on rebuttal.

7 THE WITNESS: Okay. Thank you, ma'am.

8 HEARING EXAMINER HILBURN: Mr. Finley, is
9 that your direct case?

10 MR. FINLEY: That's the direct case. Yes,
11 ma'am.

12 HEARING EXAMINER HILBURN: Would you like at
13 this time to admit your Application into the record?

14 MR. FINLEY: That will be fine. We would
15 move admission of the Application.

16 HEARING EXAMINER HILBURN: And the Amended
17 Application that was filed on January 3rd?

18 MR. FINLEY: So moved.

19 HEARING EXAMINER HILBURN: And the Amendment
20 to the Effective Date Letter on January 22nd as well.

21 MR. FINLEY: So moved.

22 HEARING EXAMINER HILBURN: So, without
23 objection, those three filings related to the
24 Application will be admitted into the record.

1 (WHEREUPON, Application of
2 Water Resources, Inc.,
3 Amended Application, and
4 Effective Date Letter are
5 received into evidence.)

6 HEARING EXAMINER HILBURN: And with that, as
7 we're switching witnesses here, we're going to go
8 ahead and take our afternoon break here. We'll take a
9 10-minute break for the court reporter and we'll come
10 back with the Public Staff's case.

11 MS. HOLT: Excuse me. I'd like to move the
12 admission of --

13 HEARING EXAMINER HILBURN: Excuse me. Yes,
14 please.

15 MS. HOLT: I'd like to move --

16 MR. FINLEY: I think they've been admitted,
17 but no objection.

18 HEARING EXAMINER HILBURN: Okay. You go
19 ahead then, Ms. Holt.

20 MS. HOLT: I'd like to move the admission of
21 Public Staff Abbott Cross Examination Exhibits 1, 2,
22 3, 4, and 5.

23 HEARING EXAMINER HILBURN: Yes. And they
24 will be so admitted as identified and premarked. So

1 thank you.

2 (WHEREUPON, Public Staff
3 Abbott Cross Examination
4 Exhibits 1, 2, 4, and 5 are
5 received into evidence.)
6 (Public Staff Abbott Cross
7 Examination Exhibit 3 was
8 received into evidence on
9 page 53.)

10 HEARING EXAMINER HILBURN: So, with that,
11 we're going to take a 10-minute break. We'll be back
12 here at 2:30, 2:40. Thank you.

13 (A recess was taken from 2:30 p.m. to 2:40 p.m.)

14 HEARING EXAMINER HILBURN: We'll go back on
15 the record.

16 Ms. Holt, would you like to call your first
17 witness?

18 MS. HOLT: Yes. The Public Staff calls Evan
19 Houser.

20 HEARING EXAMINER HILBURN: And Ms. Holt, as
21 he's coming up, can I ask you and Mr. Finley, would
22 you like or have any objection to us copying the
23 summaries into the record as if given orally from the
24 stand versus them reading them orally this afternoon?

1 MS. HOLT: That would be fine.

2 MR. FINLEY: No objection.

3 HEARING EXAMINER HILBURN: No objection.

4 Then, we'll do that starting now.

5 Mr. Houser, if I could swear you in before
6 you get started. I'm going to ask you to put your
7 left hand on the Bible and raise your right hand.

8 EVAN M. HOUSER;

9 having been duly sworn,

10 testified as follows:

11 DIRECT EXAMINATION BY MS. HOLT:

12 Q Mr. Houser, on April 12th, 2024, did you prefile
13 testimony consisting of 40 pages in question and
14 answer format --

15 A Yes.

16 Q -- an appendix and two exhibits?

17 A Yes.

18 Q Do you have any changes or corrections to that
19 prefiled direct testimony?

20 A I do. I have two quick changes. The first one
21 is on page 28, line 19. And I'll just let
22 everybody flip to it. It looks like we're all
23 there. Okay. So on line 19, it currently reads
24 as filed on the 12th, "repairs from 2022 test

1 year costs" and there's a comma. The three words
2 preceding the comma should be replaced with the
3 words "plant in service". So the line should
4 read, "repairs from 2022 plant in service" comma.

5 Q Any additional?

6 A Yes. The second revision, I suppose, or
7 correction, is on line 39, line 7. I'll give
8 y'all a couple of seconds to jump to that. So
9 the number on that line which reads as filed
10 "373%" should be corrected to "384%".

11 Q Is that it?

12 A Yes. That concludes the corrections.

13 Q If I were to ask you the same questions today
14 with those corrections, would your answers be the
15 same?

16 A Yes.

17 MS. HOLT: At this time, Madam Hearing
18 Examiner, I move that Mr. Houser's direct testimony,
19 as corrected, be copied into the record as if given
20 orally from the stand, and that the appendix and
21 exhibits attached to his direct testimony be
22 identified as marked when filed.

23 HEARING EXAMINER HILBURN: Without
24 objection, that will be allowed.

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(WHEREUPON, Houser Appendix A and Houser Exhibits 1 and 2 are identified.)

(WHEREUPON, the prefiled direct testimony of EVAN M. HOUSER is copied into the record as if given orally from the stand.)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 13

In the Matter of
Application of Water Resources, Inc.,)
for Authority to Adjust and Increase Rates)
for Water Utility Service in Rocky River)
Plantation Subdivision in Cabarrus County)
and River Walk Subdivision in)
Mecklenburg County, North Carolina)

**TESTIMONY OF
EVAN M. HOUSER
PUBLIC STAFF –
NORTH CAROLINA
UTILITIES COMMISSION**

April 12, 2024

1 **Q. Please state your name, business address, and present**
2 **position.**

3 A. My name is Evan M. Houser. My business address is 430 North
4 Salisbury Street, Dobbs Building, Raleigh, North Carolina. I am a
5 Public Utilities Engineer with the Water, Sewer, and Telephone
6 Division of the Public Staff – North Carolina Utilities Commission
7 (Public Staff).

8 **Q. Briefly state your qualifications and duties.**

9 A. My qualifications and duties are included in Appendix A.

10 **Q. What is the nature of the Company's application in this rate**
11 **case?**

12 A. On December 29, 2023, Water Resources, Inc. (WRI or Company),
13 filed an application seeking authority to increase rates for water utility
14 service in its Rocky River Plantation (Rocky River) and River Walk
15 service areas in Cabarrus and Mecklenburg Counties, North
16 Carolina (Application). The Company amended its Application on
17 January 3, 2024. The test year for this rate case is the 12-month
18 period ended December 31, 2022.

19 On January 30, 2024, the North Carolina Utilities Commission
20 (Commission) issued an order establishing a general rate case and
21 suspending rates. On March 1, 2024, the Commission issued an

1 order scheduling a public witness hearing, an evidentiary hearing,
2 and requiring customer notice. WRI filed a certificate of service on
3 March 7, 2024, stating that the required customer notice was mailed
4 or hand-delivered to all affected customers.

5 **Q. What is the purpose of your testimony?**

6 A. The purpose of my testimony is to provide the Commission with (1)
7 the results of my investigation, and (2) recommendations regarding
8 specific areas of the Application, including customer complaints,
9 Notices of Violation (NOVs) and Notices of Deficiency (NODs) issued
10 by the North Carolina Department of Environmental Quality (DEQ),
11 certain expenses, plant in service, revenues, and rate design.

12 **Q. Please describe the WRI service areas and water utility**
13 **systems.**

14 A. WRI provides water utility service to approximately 114 residential
15 customers in its Rocky River service area in Cabarrus County. The
16 Rocky River system consists of a well, well house, treatment facility
17 building with a chlorination apparatus, a six-foot diameter sand filter,
18 a 100,000-gallon elevated storage tank, an eight-inch
19 interconnection to the Town of Harrisburg, and a distribution system
20 including various diameter piping, valves and other appurtenances.
21 The system provides bulk water service to McMillan Acres through a
22 four-inch master meter.

1 WRI provides water utility service to approximately 39 residential
2 customers in its River Walk service area in Mecklenburg County. The
3 River Walk system consists of two wells, well houses, chlorination
4 apparatus, a 15,000-gallon ground storage tank, two booster pumps,
5 a 2,000-gallon hydropneumatic storage tank, and a distribution
6 system with various diameter piping, valves, and other
7 appurtenances.

8 **Q. Have you performed a site visit of the WRI water systems and,**
9 **if so, what were your observations?**

10 Yes, on March 21, 2024, I inspected the WRI water systems. I was
11 accompanied by Raymond Whitner from DEQ's Public Water Supply
12 Section (PWS), a section within the Division of Water Resources,
13 and Dennis Abbott from WRI. My observations of the systems'
14 conditions as of March 21, 2024, are described below.

15 The water systems appeared to be in fair condition. The elevated
16 storage tank in the Rocky River system appeared to have some
17 visible corrosion, as well as some discoloration on the underside of
18 the tank bowl. The gate was unlocked and the fence, which
19 surrounds the elevated storage tank, was damaged in one corner,
20 allowing access to the storage tank.

21 One of the River Walk system's well enclosures was damaged,
22 compromising the structure. Mr. Abbott discussed the possibility that

1 a vehicle moving tree debris had struck the enclosure, which
2 appeared to be reasonable based on the damage observed. The well
3 components inside the structure did not appear to be damaged.

4 **Q. Briefly describe the results of the American Tank Maintenance
5 inspection of the water tower.**

6 A. On February 10, 2020, American Tank Maintenance (ATM)
7 performed a visual inspection of the 100,000-gallon elevated storage
8 tank.

9 ATM noted that the exterior had corrosion forming on the tank legs,
10 riser, bowl, and roof. It was noted that the millage, or thickness, of
11 the exterior coating was good in all areas tested, and that an exterior
12 overcoat was recommended. ATM noted that the interior surfaces
13 had corrosion forming on all welded seams, that light sediment was
14 found in the tank, and that an interior sandblast and two coats of
15 epoxy were recommended. ATM additionally recommended
16 installation of a new hatch and roof vent, as well as a ladder gate on
17 the access ladder.

18 ATM reported that the tank was structurally sound and that no
19 defects were noted.

20 **Q. Briefly describe the most recent DEQ inspection of Rocky River.**

21 A. DEQ most recently inspected the Rocky River system on February
22 17, 2023. The inspection report noted that the water system had

1 recently been “plagued” by multiple water outages when an internet
2 contractor broke pipes during an underground fiber optic line
3 installation. The inspection report noted that the elevated tank lot was
4 not locked, and that the lot was overgrown with saplings. The report
5 stated that no water was observed running down the street from the
6 meter boxes with the exception of one home next to the Well #2
7 access. The inspection noted that in regard to whether WRI had
8 followed the recommendations from DEQ’s previous report, the
9 leaking Well #2 meter and the Well #2 cover had been replaced, but
10 the tank gate had not been locked. The inspection report
11 recommended that the Company clear a path and the storage tank
12 lot of saplings. The saplings had not been cleared at the time of my
13 March 2024 site visit.

14 However, Mr. Abbott stated his intention to have the saplings cleared
15 out, and subsequently provided me photos of the cleared tank lot and
16 new gate lock on April 5, 2024.

17 **Q. Briefly describe the most recent DEQ inspection of River Walk.**

18 A. DEQ most recently inspected the River Walk system on March 1,
19 2022. The inspection report noted that both booster pumps had been
20 replaced and made several recommendations. DEQ recommended
21 (1) modifying the roof over Well #2 to allow the operator in
22 responsible charge (ORC) to lift it by themselves; (2) cleaning and

1 painting of the ground and hydropneumatic storage tanks; (3)
2 screening or providing a solid weather resistant cover for the holes
3 in the doors, or replacing the doors for the Well #1 and treatment
4 plant rooms to prevent animal or vermin infiltration; (4) removing
5 trash, debris, and unused equipment from the wellhouse and
6 treatment plant rooms; (5) replacing the broken meter on Well #1;
7 and (6) replacing or repairing the injection parts to stop leaking at the
8 chemical injection site. At the time of my site visit, the roof had not
9 been modified, the holes in the doors had not been covered, there
10 were some old components and debris present in the treatment
11 building, and there appeared to be some fluid leaking in the room
12 that contained the chemical injection point. Each of the tanks has
13 recently been painted.

14 During the site visit and subsequently via email, Mr. Abbott notified
15 me of his intention to replace the Well #2 well structure with a fiber
16 glass cover to allow the ORC easy access and resolve the damage
17 to the structure.

18 **Q. Briefly describe the results of your investigation of DEQ**
19 **actions.**

20 A. Between February 1, 2021, and February 1, 2024, WRI's Rocky
21 River water system was issued two NOVs and WRI's River Walk
22 water system was issued four NOVs.

1 Both NOVs issued for the Rocky River water system were reporting
2 violations, issued for not providing the annual consumer confidence
3 report (CCR) within the required timeframe. The first CCR violation
4 was issued on October 14, 2021, and was marked as returned to
5 compliance on the same date the violation was issued. The second
6 CCR violation was issued on November 13, 2023, and was marked
7 as returned to compliance on November 22, 2023.

8 WRI's River Walk system was issued four NOVs between February
9 1, 2021, and February 1, 2024. The first violation was issued on
10 October 14, 2021, for failure to submit a CCR within the required
11 timeframe and was returned to compliance on the date it was issued.
12 The second NOV was issued on November 10, 2021, for failure to
13 monitor for lead and copper. WRI collected four of the five required
14 lead and copper samples during the 2021 sampling period. The lead
15 and copper monitoring violation was returned to compliance on
16 October 1, 2022. WRI received two NOVs on February 22, 2023, for
17 failing to sample for Oxamyl and Carbofuran – both synthetic organic
18 compounds – between 2020 and 2023. WRI is required to collect one
19 sample of each compound every three years.

20 On February 3, 2021, PWS issued an Administrative Penalty against
21 WRI for failing to provide at least two wells in the Rocky River system.

1 This penalty was associated with the Consent Judgement, which is
2 outlined in further detail below.

3 **Q. Please discuss the circumstances leading to the Consent**
4 **Judgment.**

5 A. On December 17, 2018, April 15, 2019, and Jun 13, 2019, DEQ
6 issued NOVs to WRI for violation of the combined radium standard
7 in its Well #1. The December 17, 2018 violation notice ordered WRI
8 to return to compliance by June 30, 2019, submit quarterly status
9 reports, and advise residents of the violation.

10 PWS staff recommended, as a short-term solution, that Well #1 be
11 taken out of service to protect the community. Well #1 was taken out
12 of service on June 30, 2019. At the time that Well #1 was taken out
13 of service, WRI was aware that the system was required to operate
14 two wells, because its system served more than 50 customers. DEQ
15 formally approved WRI's request to inactivate Well #1 in September
16 of 2019, and notified WRI that an NOV would be forthcoming for
17 failure to have at least two wells or another approved water supply
18 source.

19 On August 12, 2019, PWS received a status report from WRI, which
20 stated that the violation would be resolved by installing a new
21 connection with the Town of Harrisburg.

1 On September 17, 2019, WRI sent another status report to PWS
2 outlining the steps to the interconnection to the Town of Harrisburg
3 and requesting additional time to come into compliance. The request
4 for additional time was subsequently granted on November 21, 2019,
5 and the deadline for coming into compliance was moved from June
6 30, 2019, to September 30, 2020.

7 On September 21, 2020, nine days before the September 30, 2020
8 deadline, WRI claimed that the new connection could not be
9 constructed due to WRI's inability to obtain an easement from one of
10 the property owners. On October 22, 2020, PWS issued an NOV to
11 WRI due to the operation of the water system in continued violation
12 of state regulations, noting that if connection to the town could not be
13 completed, WRI must take other action to resolve the violation. On
14 February 3, 2021, PWS assessed an Administrative Penalty against
15 WRI in the amount of \$4,500. As of the date of the penalty, the
16 system had not returned to compliance.

17 On June 17, 2021, the North Carolina Attorney General's Office
18 (AGO) filed on behalf of DEQ a Complaint and Motion for Injunctive
19 Relief against WRI for its continued violation. On July 15, 2021, DEQ
20 and WRI entered into a Consent Judgment in order to resolve WRI's
21 non-compliance with state drinking water requirements after taking
22 one of its two wells (Well #1) out of service and failing to provide

1 another source of drinking water within a reasonable period of time.
2 The terms of the Consent Judgement required (1) WRI to submit a
3 plan for approval to interconnect, or an alternative means of returning
4 the system to compliance, within 30 days of entry of the Consent
5 Judgement; and (2) that once the work set forth in the plan was
6 completed, WRI was required to submit a final report documenting
7 the results of the activities set forth in the plan.

8 The terms of the Consent Judgment also required WRI to complete
9 construction of the interconnection to the Town of Harrisburg's
10 drinking water system by September 9, 2022. Construction had not
11 begun as of September 9, 2022. On September 12, 2022, DEQ filed
12 a Motion for Entry of Order to Show Cause (Show Cause Motion),
13 and on November 7, 2022, the Cabarrus County Superior Court
14 issued an Order directing WRI to appear and show cause why it
15 should not be held in contempt because of its failure to abide by the
16 terms of the Consent Judgment and complete the interconnection
17 with the Town of Harrisburg as ordered. After a hearing on the Show
18 Cause Motion for alleged contempt, WRI showed the Court that
19 some progress had been made on obtaining a necessary easement
20 and stated that construction was delayed due to supply chain issues.

21 On November 8, 2022, DEQ and WRI entered into an Amended
22 Consent Judgment, which required WRI, among other things, to

1 provide weekly reports detailing its efforts and progress regarding
2 completing the interconnect with the Town of Harrisburg.

3 On January 18, 2024, following the interconnection with the Town of
4 Harrisburg, DEQ sent a letter to WRI stating that the administrative
5 penalty amounting to \$4,500 had been rescinded following DEQ's
6 review of the actions taken by WRI.

7 **Q. Is Rocky River's Well #1 currently in use?**

8 A. No. Well #1 was taken offline on June 30, 2019, due to repeated
9 exceedances of the combined radium Maximum Contaminant Level
10 (MCL) and is not used and useful. I recommend that all costs
11 associated with the well be removed.

12 **Q. Did WRI provide Notice to Customers?**

13 A. Yes, on March 1, 2024, the Commission issued its Order Scheduling
14 Hearings, Establishing Procedural and Filing Requirements and
15 Requiring Customer Notice (Scheduling Order). The Scheduling
16 Order directed WRI to provide Notice to Customers no later than ten
17 days after the date of the Scheduling Order and to submit a signed
18 and notarized certificate of service not later than 20 days after the
19 date of the Scheduling Order. On March 7, 2024, WRI filed a
20 Certificate of Service that the Notice to Customers was mailed or
21 hand delivered as of March 5, 2024.

1 **Q. Were consumer statements received following WRI's Notice to**
2 **Customers?**

3 A. Yes, approximately 56 consumer statements were received and filed
4 in Docket No. W-1034, Sub 13CS, prior to the start of the customer
5 hearing. Consumer statements are still being received as of the date
6 of writing, and approximately 68 consumer statements have been
7 received in total. Some consumer statements are duplicates.

8 The consumer statements generally express concerns related to the
9 extremely high percentage increase in rates proposed by the
10 Company in the Rocky River service area, water outages in the
11 system, poor water quality provided by WRI, and poor customer
12 service. Additionally, some customers expressed concerns related to
13 the timeliness of the customer notice, the maintenance of the system,
14 and leaking meters.

15 **Q. Has the Public Staff received any customer complaints?**

16 A. From February 1, 2021, through March 1, 2024, the Public Staff
17 Consumer Services Division received seven customer complaints
18 related to WRI.

19 One customer complaint was received in September 2021 and was
20 related to low water pressure over a month-long period in the River
21 Walk system. WRI responded, stating that the reduction in water
22 pressure during a peak usage period was due to booster pumps on

1 the system that were not operating efficiently. WRI's response went
2 on to state that one pump would be repaired, and another would be
3 replaced. WRI's plant in service records show that one pump was
4 repaired in September 2021, and the other was replaced in early
5 2022.

6 Six additional customer complaints were received between June 27,
7 2022, and July 11, 2022. The six complaints from 2022 were
8 predominantly concerned with water outages over a multiple-day
9 period, with poor water quality and pressure issues afterwards. WRI
10 responded to the customer complaints, noting that a pipe on the
11 system's filter broke on June 27, 2022, and that the system was
12 returned to service on June 29, 2022. The system's storage tank was
13 reported to have reached full capacity on July 5, 2022, at which point
14 WRI attempted to blow air out of the system's lines. In response to a
15 complaint on July 11, 2022, the Company stated that the operator
16 had turned off the pump to stop air from entering the system and let
17 the well recover.

18 **Q. Was a public witness hearing held on March 25, 2024?**

19 A. Yes, on March 25, 2024, a public witness hearing was held at the
20 Mecklenburg County Courthouse, and 13 customers testified. The
21 customers were primarily concerned with the large rate increase
22 requested by the Company, water outages over the years, poor

1 water quality, poor communication with customers, poor customer
2 service, and inaccurate billing. A petition was signed by
3 approximately 133 residents to have WRI removed as their water
4 utility provider. One customer submitted two bottles of discolored
5 water, which he testified came from his home spigot.

6 Customers generally acknowledged that minor improvements had
7 taken place recently regarding frequency of outages and customer
8 service following a water outage. One customer explained that given
9 the long history of frustration, customers do not have any confidence
10 in the Company, and though things had improved somewhat,
11 customers were still very frustrated.

12 Customers described boil water notices that had been hung recently
13 on their doors and had been provided by mail following outages¹.

14 In response to cross examination asking if there are any
15 communications via email or message boards, one customer stated
16 that communication had only been received through the mail or hung
17 on the door.

18 Another customer described having to replace appliances, including
19 refrigerators and dishwashers, several times due to the water quality,

¹ It is possible that customers are receiving system pressure advisories, which generally direct customers to boil water, similar to a boil water notice.

1 and also reported having muddy water, which multiple customers
2 echoed when they spoke.

3 One customer described billing issues, including being notified
4 erroneously that he had not paid a bill, and then receiving a bill credit
5 the following month. The customer also stated that the Company
6 does not accept web payment.

7 Another customer brought a petition, which had been signed by a
8 number of residents in the Rocky River system. The petition outlined
9 the experiences of the customers regarding the system and stated
10 that the rate increase requested by WRI should not be considered.

11 **Q. Are the Company and the Public Staff required to file reports on**
12 **the customer hearing?**

13 A. Yes, the Scheduling Order requires the Company to file a verified
14 report addressing all customer service and service quality complaints
15 expressed during the public witness hearing. The Company's report
16 should be filed no later than 14 days after the conclusion of the public
17 witness hearing. The Scheduling Order additionally requires the
18 Public Staff to file a verified response and any comments to WRI's
19 report on or before April 22, 2024.

20 WRI filed its report addressing customer concerns on April 8, 2024.
21 The Public Staff will review the Company's report and file its
22 response on or before April 22, 2024.

1 **Q. What recommendations do you have to address the issues**
2 **regarding the Rocky River system raised at the customer**
3 **hearing?**

4 A. I have several actions that I recommend the Commission order WRI
5 complete with fixed timelines and reporting requirements, as well as
6 a general recommendation that the Commission impose penalties on
7 the Company if deadlines or reporting requirements are not met.

8 I recommend that the Company be required to evaluate the
9 effectiveness of the filter in the Rocky River system, which should
10 include taking source and treated water samples, and also
11 investigate the need for interior cleaning of the elevated storage tank.
12 A 12-month deadline following the date of a Commission order in this
13 docket would be a reasonable time period for completion of these
14 tasks. The Company stated in response to a Public Staff data request
15 that it had never replaced the media in its filter, but that field tests
16 show that the iron and manganese are being removed effectively.
17 The Company went on to state that the internal portion of the tank
18 has not been cleaned because the water in the tank is chlorinated
19 and disinfected. Notwithstanding the Company's responses,
20 customer concerns related to muddy or discolored water outside of
21 periods related to a line break or water outage could suggest that the
22 tank or filter are causing the water discoloration.

1 I also recommend that the Company be ordered to create an opt-in
2 customer email communication to regularly send announcements to
3 customers in each service area. The customer email list can be used
4 to notify customers of system pressure advisories, outages, or other
5 necessary information in addition to WRI's current door hanger
6 notifications. Multiple customers expressed concerns with the lack of
7 regular or proactive communication by the Company, and a regularly
8 scheduled email communication would be a cost-effective method to
9 inform and notify customers in a timely manner of events such as
10 system pressure advisories and outages. The Company should be
11 ordered to establish an email communication system within three
12 months of a Commission order in this docket and further be ordered
13 to report to the Commission and the Public Staff when the
14 communication system is in place.

15 I recommend a deadline be set for the Company's implementation of
16 its website. WRI stated in a response to a data request that it
17 expected to introduce customers to its website in May 2024. WRI
18 expects its website to provide (1) customer usage information,
19 customer billing for the current billing cycle, customer payment
20 options including credit card or automated clearing house for
21 electronic funds transfer payments; (2) the ability for customers to
22 initiate service requests; and (3) announcements and notices to
23 customers regarding line breakage, boil water notices, and system

1 flushing. Given that the Company intends to introduce its customers
2 to the website within a month, a six-month deadline for the Company
3 to fully implement the website is reasonable.

4 I recommend that the Commission order the Company to continue
5 its three-month reporting of customer contacts, including brief
6 updates on its compliance with my recommendations above. Once
7 the Company complies with each recommendation above, the
8 reporting period could be extended to require bi-annual or annual
9 reporting.

10 **Q. Describe customer concerns related to service reliability.**

11 A. Based on my review of customer complaints, consumer statements
12 of position, and the record of customer concerns voiced at the public
13 witness hearing, it appears that WRI has had several water service
14 outages and lack of pressure in the Rocky River system. The recent
15 customer complaints related to water service outages appear to be
16 primarily related to a three-day water outage that began on June 27,
17 2022, due to a mechanical failure. Following the event, the system
18 did not reach full pressure until July 5, 2022. Multiple customers had
19 concerns related to system pressure, which may have been the
20 result of an oversized pump being operated manually in the
21 operational Well #2 in the Rocky River service area. WRI stated that
22 it had been manually operating the system's pump to avoid

1 overdrawing the well, and for that reason the well would not be
2 automatically turned on in the event of low tank volume.

3 WRI reported that two subsequent water outages occurred on
4 February 7 and 22, 2023, due to lines being cut by a fiber optic
5 installer. In both cases WRI reported resolving the issue within the
6 day; however, due to an error with a valve, some customers were not
7 returned to service after the first outage until the following afternoon.

8 Most of the customers who spoke at the public witness hearing
9 expressed, in response to questions from the Public Staff, that they
10 had not experienced water outages since December 2023, and WRI
11 stated, in response to Public Staff data requests, that the utility has
12 not experienced any water outages since completing the
13 interconnect with the Town of Harrisburg in December 2023. I believe
14 that the issues caused by pump failures or a lack of pumping capacity
15 in the system should be resolved, going forward, by the recent
16 interconnection project; however, issues related to line breaks and
17 mechanical failures may be beyond the Company's control. The
18 Company is expected, however, to attempt to resolve the issues as
19 quickly as possible and to communicate in a timely manner with
20 customers when unavoidable issues arise.

21 The Public Staff reviewed the Customer Contact Logs filed quarterly
22 by WRI in Docket No. W-1034, Sub 8, and identified that the volume

1 of customer calls generally increased heavily during the outages
2 reported by WRI staff. I believe the Customer Contact Logs were
3 generally indicative of water service outages based on the volume of
4 calls. Customer Contact Logs from the first quarter of 2024 appear
5 to be generally unrelated to service quality issues, suggesting there
6 had not been significant service issues during that time period.

7 **Q. Is WRI providing safe and reliable service?**

8 A. Based on my review of environmental compliance records issued by
9 DEQ and customer discussion related to recent water outages, WRI
10 is providing reasonably safe and reliable service in the River Walk
11 system. Furthermore, considering the interconnection and recent
12 performance, WRI is now providing safe and fairly reliable service in
13 the Rocky River system. However, there are some outstanding
14 customer concerns related to service reliability in the Rocky River
15 system, and it will require time to determine whether those issues
16 have been properly addressed and whether future equipment
17 failures and main breaks are resolved in an effective and timely
18 manner.

1 **Q. Is Mr. Abbott correct in arguing that the Rocky River system was**
2 **not impaired between the time of the Well #1 disconnection and**
3 **the interconnection completion?**

4 A. No. On page 12 of Mr. Abbott's testimony, he appears to argue that
5 because the system experienced outages that were not due to a lack
6 of water supply availability, the system should not be considered to
7 have been impaired.

8 I disagree with Mr. Abbott's interpretation of the situation. The
9 Company reported three water outages during this time period, one
10 due to a mechanical failure, and two due to line breaks. Based on
11 conversations with Mr. Abbott, I understand that, for some amount of
12 time, the system was operating with a larger pump than the pump
13 size for which the system was designed, so this oversized pump had
14 to be operated manually to prevent the well from being overdrawn.
15 Thus, during this period, the system was not operating as intended,
16 and while mechanical failures and line breaks may not have been
17 entirely preventable, I believe that the system was impaired between
18 the Well #1 disconnection and the interconnection completion.

19 **Q. What are the existing and proposed water utility service rates in**
20 **the Rocky River service area?**

21 A. The Commission approved a rate increase for WRI on November 21,
22 2018, in its Recommended Order Approving Agreed Upon Rates and

1 Requiring Customer Notice, in Docket No. W-1034, Sub 8 (Sub 8).
2 The present base charge in the Rocky River service area is \$11.20
3 per month, and the present usage rate is \$3.10 per 1,000 gallons of
4 water.

5 The Application proposes to raise the monthly base charge to \$54.01
6 per month, and the usage rate to \$15.04 per 1,000 gallons of water
7 usage, a proposed increase of over 370%².

8 **Q. What are the existing and proposed water utility service rates in**
9 **the River Walk service area?**

10 A. In Sub 8, the Commission approved a base charge in the River Walk
11 service area of \$37.50 per month, and the present usage rate of
12 \$9.07 per 1,000 gallons of water.

13 The Application proposes to raise the monthly base charge to \$48.69
14 per month, and the usage rate to \$17.50 per 1,000 gallons of water
15 usage, a proposed increase of over 60%.

16 **Q. Describe your review of WRI's expenses.**

17 A. I reviewed WRI's maintenance and repair, contract operator, electric
18 power, water testing, chemicals, and purchased water expenses. I
19 made adjustments to WRI's expenses, which included (1) the

² This figure has been revised from 384% to approximately 373% following Public Staff adjustments to usage.

1 removal of some costs associated with a well that is not in service,
2 annualization of ongoing testing, chemicals, and purchased water
3 expenses; and (2) changing certain customer count allocated
4 expenses to directly allocate those costs to the appropriate service
5 area.

6 **Q. Did you determine that the Company's test year expense level**
7 **for contract operator expense was reasonable?**

8 A. Yes, the test year expense levels for Contract Operator expense
9 represent a reasonable ongoing level of expense and are \$29,412
10 for Rocky River and \$9,974 for River Walk.

11 **Q. Describe the supporting documentation provided by the**
12 **Company for each of the expense categories you reviewed.**

13 A. Supporting documentation for certain expenses such as contract
14 services, chemicals, electric power, and purchased water provided
15 by the Company did not include all expenses incurred during the test
16 year.

17 Chemical costs are located on the contractor services invoices.
18 Supporting documentation for both spanned a period between
19 September 2021 and May 2022.

20 Supporting documents for electric power and purchased water
21 spanned a 12-month period between December 2021 and November
22 2022.

1 However, supporting documents for testing were provided for the test
2 year.

3 **Q. Describe your expense adjustments by account.**

4 A. Maintenance and Repair – The Company requested \$9,106 and
5 \$3,071 for the Rocky River and River Walk maintenance and repair
6 expense, respectively. The Company used customer count
7 allocation of nearly all expenses that were not reclassified to plant in
8 service.

9 I modified the Company's allocation from being based on customer
10 count to directly assigning costs for expenses associated with
11 repairing the Rocky River filter piping and for permitting costs for
12 each service area. I reclassified additional costs related to the
13 Harrisburg interconnection project and the work for recoating the
14 River Walk tanks to their respective plant in service records, which
15 was consistent with the Company's treatment of a portion of the
16 costs. I removed costs associated with the Company's public storage
17 unit following Mr. Abbott stating, in a phone call on April 5, 2024, that
18 the storage unit is not used for Company purposes.

19 I annualized costs related to repair of the piping in the filter building
20 at Rocky River's Well #2 over a three-year period to reach a
21 reasonable ongoing level of expense. Given the magnitude and

1 atypical frequency of this event, this type of repair should not be
2 expected on an annual basis.

3 Based on my adjustments, I recommend maintenance and repair
4 expense be adjusted from \$9,106 to \$6,054 for Rocky River and from
5 \$3,071 to \$1,800 for River Walk.

6 Testing Fees – The Company requested \$3,433 and \$914 for the
7 Rocky River and River Walk testing fees expense, respectively. The
8 Company allocated a total of \$3,610 to its service areas by customer
9 count. It appears that the Company made an error in its allocation
10 calculation, resulting in a requested amount of \$3,433 for Rocky
11 River rather than the \$2,696 that it may have intended to request.

12 I disagree with the Company's allocation of total testing costs by
13 customer count, because each water system and well must be
14 sampled according to its own sample schedules.

15 I annualized testing costs based on WRI's lab's current fees and the
16 sampling requirements detailed in DEQ's Drinking Water Watch
17 portal for each of the service areas. Based on this analysis, I
18 determined that \$1,657 is a reasonable annual level of testing
19 expense for each service area, which currently have identical
20 sampling requirements. I recommend water testing expense be
21 adjusted from \$3,433 to \$1,657 for the Rocky River service area and
22 from \$914 to \$1,657 for the River Walk service area.

1 Electric Power – The Company requested \$6,938 and \$3,451 for
2 electric power expense, which does not correlate to the invoices the
3 Company provided as supporting documentation. The Company
4 provided 12 months of invoices for each of its five electric power
5 accounts between December 2021 and November 2022. I removed
6 the invoices associated with Rocky River’s Well #1, which is no
7 longer in service, as well as six late fees. I believe that this 12-month
8 period represents a reasonable ongoing level of expense. I
9 recommend that the electric power expense be adjusted from \$6,938
10 to \$6,211 for the Rocky River service area and from \$3,451 to \$3,046
11 for the River Walk service area.

12 Chemicals – The Company requested a total of \$4,708 for chemical
13 expense, which it then allocated by customer count resulting in a
14 request of \$3,516 and \$1,192 for the Rocky River and River walk
15 service area chemicals expenses, respectively. The total amount
16 requested does not directly correlate with the chemical costs on the
17 invoices provided as supporting documentation.

18 WRI’s contract operator notified me that the current cost of sodium
19 hypochlorite (bleach) used to treat each of the systems is \$78 per
20 case. In a typical month, four cases were used for the Rocky River
21 system and one case for the River Walk system during the test year.

1 I recommend that the chemicals expense be adjusted from \$3,516
2 to \$3,744 for the Rocky River service area and from \$1,192 to \$936
3 for the River Walk service area.

4 Purchased Water – The Company requested \$1,245 for the
5 purchased water expense, which does not directly correlate to the
6 invoices provided as supporting documentation.

7 WRI utilizes a sewer connection to the Town of Harrisburg for
8 backwashing its filter. The flat charge for the sewer connection is
9 currently \$66.18 per month, and the base charge for the
10 interconnection with Harrisburg is \$38.76 per month. These amounts
11 represent a reasonable ongoing level of monthly expense. I
12 recommend that the purchased water expense, including the sewer
13 charges, be adjusted from \$1,245 to \$1,259 for the Rocky River
14 service area.

15 **Q. What adjustments have you made to plant additions in the**
16 **Rocky River service area since the last rate case?**

17 I changed the service life of a Meter & Ball Valve replacement from
18 seven to 15 years. Further, I removed an item associated with pump
19 repairs from 2022 test year costs, because the pump and motor were
20 later replaced in 2023, and the repaired equipment is no longer used
21 and useful.

1 I made specific adjustments to the Harrisburg Interconnection
2 project, which are detailed below.

3 **Q. Describe the Company's treatment of the interconnection**
4 **project.**

5 A. The primary driver of the Company's Application is to pay for the
6 completion of the interconnection with the Town of Harrisburg, which
7 was required by DEQ to maintain the provision of adequate water
8 service and ensure safe drinking water in the Rocky River service
9 area. The Company's delay in completing this interconnect was the
10 basis for the NOV's, Motions to Show Cause, and Consent
11 Judgments, which are discussed in more detail below. The total cost
12 the Company seeks to recover in its Application for the
13 interconnection is approximately \$460,000. The Company seeks to
14 recover costs related to (1) the interconnection project, including
15 legal fees; (2) permitting with Town of Harrisburg and DEQ; (3)
16 acquiring an easement; (4) design and construction; (5) evaluation
17 of alternative options; (5) survey; and (6) landscaping. The legal fees
18 included work for what appears to be potential condemnation of
19 easement land, DEQ Compliance reporting, correspondence and
20 weekly reporting to the AGO, and filings to NCUC.

21 The Company used an in-service date of 2023 and an expected
22 lifetime of 20 years for the project.

1 **Q. Describe your specific adjustments to the Harrisburg**
2 **Interconnection project.**

3 A. I adjusted the service life of the Harrisburg interconnection project
4 from 20 to 50 years, which I believe is more representative of the
5 expected life of the assets, primarily pipe and encasement.

6 As noted earlier in the history of WRI's violations, WRI incurred legal
7 fees associated with responding to DEQ's Injunctive Complaint and
8 Show Cause Motion alleging possible contempt, making court
9 appearances, and engaging in discussions regarding these actions.
10 In consultation with the Public Staff Legal Division, I removed (1)
11 unsupported legal fees from 2021; (2) all legal fees related to
12 preparing for hearing, consulting with WRI and other parties, and
13 representing WRI in contempt and other proceedings relating to
14 WRI's failure to comply with the Consent Judgment entered into
15 between WRI and DEQ on July 15, 2021; and (3) half of all legal
16 invoices related to the Consent Judgment and Amended Consent
17 Judgment dated November 8, 2022, issued by the Court. Legal fees
18 related to the Consent Judgment were incurred due to a prolonged
19 period of noncompliance when Well #1 was taken offline for an
20 extended period, and should not solely be borne by WRI's
21 customers. However, I recommend that a portion of the Company's
22 legal fees related to reporting to the Cabarrus County Superior Court,
23 the Commission, and DEQ on the progress of the interconnect with

1 the Town of Harrisburg be allowed. I also removed legal fees
2 associated with the proceeding to increase WRI's bond, which was
3 filed by the Public Staff due to WRI's non-compliance.³ From the
4 interconnection project costs, I reclassified the one-time \$97,565
5 Harrisburg development fee as a plant in service item with an in-
6 service date of 2023. WRI was required to pay a one-time
7 development fee to the Town of Harrisburg in order to connect to
8 their system. The development fee allows the Company perpetual
9 access to purchase water from the Town of Harrisburg and should
10 be nondepreciable. I also reclassified \$3,575 in costs related to the
11 meter fee paid to the Town of Harrisburg as a plant in service item
12 and assigned it a 15-year life, consistent with the Public Staff's typical
13 recommendation for meters.

14 After my adjustments, my recommended interconnection project cost
15 is \$310,176.

³ On September 29, 2022, the Public Staff filed a motion to post an additional bond in the amount of \$200,000, to be allocated to water utility service in the Rocky River Plantation subdivision. The Public Staff filed the motion to raise the amount of WRI's bond from \$35,000 to a total of \$235,000. On July 10, 2023, the Commission issued an Order in Sub 8, requiring WRI to supplement its current bond on file with the Commission with an appropriate new bond and surety in the amount of \$200,000, allocated to the Rocky River Plantation system, for a total bond amount posted by the Company of \$235,000. A primary factor taken into consideration was the continued failure of WRI to comply with DEQ regulations requiring a second water supply for Rocky River.

1 **Q. What adjustments have you made to plant additions in the River**
2 **Walk service area since the last rate case?**

3 A. I increased the service lives of five pump-related projects from five
4 to seven years to move them more in line with the pump repairs
5 lifetime used by the Company in the Rocky River service area, a
6 seven-year service life for pump repairs, and a ten-year service life
7 for a pump and motor replacement.

8 **Q. Did the Public Staff correct any errors in the Company's Plant**
9 **in Service Records?**

10 A. Yes, Exhibit I Schedule 2-1(a) to the Application lists \$1,017 on line
11 3, column a, which should be corrected to \$10,017 per the last rate
12 case. This change, however, should not impact the net plant in
13 service amount, because it is fully depreciated.

14 Exhibit I, Schedule 2-1(b) to the Application lists service lives of 50
15 and 30 years on lines 2 and 3 in column c, respectively. The service
16 life of these plant items should be five and three years, respectively,
17 per the last rate case. This change reduces the net plant in service
18 amount by approximately \$384.

19 **Q. Briefly explain your billing analysis.**

20 A. I reviewed and analyzed WRI's billing data for the test year ended
21 December 31, 2022. I performed a billing analysis to determine the
22 level of annual service revenues produced at present and proposed

1 rates utilizing the billing data provided for the test year. I normalized
2 the billing determinants for end of period customer counts and
3 analyzed the consumption data for the test year.

4 **Q. Did you make changes to the test year water usage?**

5 A. Yes. The Company confirmed in response to a Public Staff data
6 request that the meter that serves its bulk customer, McMillan Acres,
7 has been broken for some time, and further stated that it did not know
8 how long it has been in disrepair due to changing contractors. WRI
9 has a verbal agreement to continue billing McMillan Acres based on
10 its average usage at the time the meter broke. The approximation
11 used by WRI for McMillan Acres is 28,500 gallons per month.

12 A review of meter readings from WRI's Docket No. W-1034 Sub 8
13 rate case shows that WRI has been using 28,500 gallons per month
14 for the McMillan Acres usage since at least December 2016.

15 DEQ's Drinking Water Watch portal shows that McMillan Acres has
16 approximately 17 connections. I confirmed with WRI's operator, who
17 also operates the McMillan Acres' system, that this number is
18 reasonably accurate.

19 The average non-bulk customer in the Rocky River service area uses
20 approximately 5,157 gallons of water per month based on test year
21 data. Based on the average consumption of the customers in Rocky

1 River, I do not believe that 28,500 gallons per month, or 1,676
2 gallons per customer per month, is an accurate estimation of usage.
3 The approximation used by WRI for McMillan Acres' 17 connections
4 represents approximately 32% of the per household usage of the
5 other Rocky River customers. If the usage portion of the billing
6 determinants for McMillan Acres is under-accounted for, then rates
7 for all Rocky River customers would have to be set higher to
8 generate the revenue requirement. Given that WRI does not know
9 when the meter stopped functioning, I believe that it is reasonable to
10 utilize the average customer usage for the bulk connection.

11 I calculated a test year usage for McMillan Acres of 1,052,127
12 gallons, or approximately 87,677 gallons per month, resulting in a
13 total Adjusted Test Year Usage of 8,143,668 gallons. My
14 Calculations can be found in Houser Exhibit 1.

15 **Q. What is your recommendation for the McMillan Acres base**
16 **charge moving forward?**

17 A. Under the current rates, the McMillan Acres bulk connection has only
18 been charged a single \$11.20 base charge each month, the same
19 amount charged to individual residential customers. However, as
20 stated above, there are 17 connections served behind the meter for
21 the bulk customer. The meter will require replacement, and WRI will
22 incur costs related directly to the bulk connection.

1 The McMillan Acres interconnect utilizes a 4-inch connection per the
2 testimony of Public Staff Witness David Furr in Sub 8. Typically, the
3 Public Staff would recommend a base charge multiplier of 25 for a
4 connection of this size, however, due to the circumstances of WRI
5 having a single bulk customer, I believe a base charge multiplier of
6 17 is reasonable. If the customer count portion of the billing
7 determinants for McMillan Acres is under-accounted for, then rates
8 for all Rocky River customers would have to be set higher to
9 generate the revenue requirement.

10 I recommend that the McMillan Acres interconnect base charge be
11 assigned a 17 REU multiplier.

12 **Q. What are the Public Staff's annual service revenues under**
13 **present and proposed rates?**

14 A. The present and proposed service revenues for each service area
15 for the 12-month period ended December 31, 2022, are shown below
16 in **Houser Table 1**. The revenues were calculated using the Public
17 Staff's recommended billing determinants, WRI's present rates
18 approved in Sub 8, and WRI's proposed rates.

1 **Houser Table 1 - Public Staff's Calculated Service Revenues**

Service Area	Present Rates	Proposed Rates
Rocky River	\$42,852	\$207,384
River Walk	\$35,263	\$ 56,963
Total	\$78,115	\$264,348

2 **Q. Briefly describe the rate design proposed by WRI.**

3 A. WRI proposes a 40:60 (base facility charge: usage charge) rate
4 design for both service areas. The current rate design, calculated
5 based on adjusted test year usage at the Public Staff's Billing
6 Determinants, is 41:59 in Rocky River and 50:50 in River Walk.

7 **Q. What is the Public Staff's position on rate design?**

8 A. The Commission has previously said that it "seeks to strike an
9 appropriate balance between achieving revenue sufficiency and
10 stability to ensure quality, reliability, and long-term viability for [a
11 utility company] on the one hand and setting fair and reasonable
12 rates that effectively promote efficiency and conservation on the
13 other hand." See Order Approving Partial Settlement Agreement and
14 Stipulation, Deciding Contested Issues, Granting Partial Rate
15 Increase, and Requiring Customer Notice, Docket No. W-218, Sub
16 526. Based on this principle, the Public Staff recommends a service
17 revenue ratio of 30:70 (base facilities charge: usage charge) for each
18 of WRI's service areas.

1 A lower base facility charge reduces the cost burden to customers
2 for access to utility service before the use of any service. It allows
3 customers to have greater control over their total bill by adjusting
4 their usage through conservation and improved efficiency. The
5 Public Staff's recommended 30:70 rate design ratios have been
6 implemented in my recommended rates and supporting exhibits
7 detailing the billing analysis.

8 **Q. What benefits are provided to WRI's customers by a 30:70 rate**
9 **design?**

10 A. WRI customers have filed consumer statements about the rising cost
11 of their water service. A rate design that is more heavily weighted to
12 the volumetric charges gives customers more control over their
13 monthly bill. With the continued rising cost of service, a rate design
14 that achieves an appropriate balance between attaining revenue
15 sufficiency and stability and setting fair and reasonable rates that
16 effectively promote efficiency and conservation, as the Public Staff
17 has proposed, could ease the effects of the rate increases for
18 customers.

19 **Q. What benefits are provided to WRI by a 30:70 rate design?**

20 A. WRI's Rocky River service area is operating its interconnection to
21 the Town of Harrisburg on an as-needed basis rather than as a full
22 purchase system. The interconnection may not be utilized regularly,

1 but if it is needed, WRI will purchase water from Harrisburg at a cost
 2 of \$11.97 per 1,000 gallons for consumption between 2,001 gallons
 3 and 15,000 gallons, and at \$13.10 per 1,000 gallons for consumption
 4 above 15,001 gallons.

5 Utilizing a higher usage rate near or above the purchased water rate
 6 has the effect of mitigating the difference between the price paid to
 7 the Town of Harrisburg, if the interconnection is utilized, and the
 8 amount charged to WRI's customers to recover that cost.

9 **Q. What is your recommendation concerning WRI's proposed**
 10 **rates?**

11 A. Using a service revenue ratio of 30:70, the Public Staff recommends
 12 a partial rate increase for each service area. My revenue calculations
 13 for each service area are shown in Houser Exhibit 2. The Public
 14 Staff's recommended rates are as follows:

15 Rocky River

16	Base Charge, zero usage:	
17	Residential	\$ 25.80
18	Bulk (McMillan Acres)	\$ 438.77
19	Usage Charge, per 1,000 gallons	\$ 11.63

20 River Walk

21	<u>Base Charge, zero usage:</u>	
22	Residential	\$ 24.15
23	Usage Charge, per 1,000 gallons	\$ 13.51

1 The Public Staff's proposed rates would result in an increase of
2 209% bill increase for a customer in the Rocky River subdivision and
3 a 7.5% bill increase for a customer in the River Walk subdivision.

4 **Q. Please address the magnitude of the Company's and the Public**
5 **Staff's proposed increase in rates.**

6 A. The Company has proposed a significant increase in rates in the
7 Rocky River service area of 373% and in the River Walk subdivision
8 of 62%⁴. The Public Staff has reviewed the Company's expenses
9 and rate base, and recommends amounts that are reasonable and
10 representative of WRI's cost of service. Based on this review of the
11 Company's expenses and rate base, the Public Staff recommends
12 rates that would result in an increase of 209% for a customer in the
13 Rocky River subdivision and an increase of 7.5% for a customer of
14 the River Walk subdivision. While the Public Staff's recommended
15 rates are less than those proposed of the Company, they would be
16 significantly higher than present rates. As noted above, the primary
17 driver of this rate case is the cost of the Company's required
18 secondary source of water supply, the interconnection with the Town
19 of Harrisburg. This cost alone constituted over a third of the
20 requested increase filed by WRI. Under North Carolina statute, the

⁴ Comparison calculated using the average bill at the present and proposed rates with the Public Staff's calculated average usage.

1 Company is entitled to recover its prudently incurred investment,
2 expenses, and a reasonable return.

3 **Q. Does this conclude your testimony?**

4 **A. Yes, it does.**

1 BY MS. HOLT:

2 Q Mr. Houser, on April 26, 2024, did you file
3 supplemental direct testimony consisting of three
4 pages and one revised Houser Exhibit 2?

5 A Yes.

6 Q Do you have any changes or corrections to your
7 supplemental testimony?

8 A I do not.

9 Q If I were to ask you those same questions today,
10 would your answers be the same?

11 A Yes.

12 MS. HOLT: I move that Mr. Houser's
13 supplemental direct testimony be copied into the
14 record as if given orally from the stand, and that the
15 exhibit attached to his supplemental testimony be
16 identified as marked when filed.

17 HEARING EXAMINER HILBURN: Without
18 objection, that will be so allowed.

19 (WHEREUPON, Revised Houser
20 Exhibit 1 is identified.)

21 (WHEREUPON, the prefiled
22 supplemental testimony of
23 EVAN M. HOUSER is copied
24 into the record as if given

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orally from the stand.)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 13

In the Matter of)	
Application of Water Resources, Inc.,	)	SUPPLEMENTAL
for Authority to Adjust and Increase Rates	)	TESTIMONY OF
for Water Utility Service in Rocky River	)	EVAN M. HOUSER
Plantation Subdivision in Cabarrus County	)	PUBLIC STAFF –
and River Walk Subdivision in	)	NORTH CAROLINA
Mecklenburg County, North Carolina	)	UTILITIES COMMISSION

April 26, 2024

1 **Q. Please state your name, business address, and present position.**

2 A. My name is Evan M. Houser. My business address is 430 North Salisbury
3 Street, Dobbs Building, Raleigh, North Carolina. I am a Public Utilities
4 Engineer with the Water, Sewer, and Telephone Division of the Public Staff
5 – North Carolina Utilities Commission (Public Staff).

6 **Q. Are you the same Evan M. Houser who filed direct testimony on behalf**
7 **of the Public Staff in this proceeding on April 12, 2024?**

8 A. Yes.

9 **Q. Are your qualifications and duties the same as stated in your direct**
10 **testimony?**

11 A. Yes.

12 **Q. What is the purpose of your supplemental testimony.**

13 A. The purpose of my supplemental testimony is to provide updates to the
14 Public Staff's recommended rates following changes to the service revenue
15 requirements recommended by Public Staff Witness Feasel.

16 **Q. What are the updated service revenue requirements recommended by**
17 **Public Staff Witness Feasel?**

18 A. Public Staff Witness Feasel has advised me that the updated service
19 revenue requirements are \$138,027 and \$38,706 for the Rocky River and
20 River Walk service areas respectively.

1 **Q. What are the revised recommended rates?**

2 A. The Public Staff recommends the following:

3 Rocky River

4 Base Charge, zero usage:

5 Residential \$ 26.32

6 Bulk (McMillan Acres) \$ 447.44

7 Usage Charge, per 1,000 gallons \$ 11.87

8 River Walk

9 Base Charge, zero usage:

10 Residential \$ 24.79

11 Usage Charge, per 1,000 gallons \$ 13.88

12 My revised calculations can be found in **Revised Houser Exhibit 2**.

13 The Public Staff's revised recommended rates would result in a 215%
 14 increase in the average customer bill in the Rocky River subdivision and a
 15 10.5% increase in the average customer bill for a customer in the River
 16 Walk subdivision.

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.

1 BY MS. HOLT:

2 Q Mr. Houser, do you have a summary of your
3 testimony?

4 A Yes, I do.

5 MS. HOLT: In lieu of reading that, the
6 Public Staff will provide that to the court reporter
7 and file it. Does that meet your approval?

8 HEARING EXAMINER HILBURN: Yes.

9 MS. HOLT: And entered into the record.

10 MR. FINLEY: With all respect, we'd like to
11 see it first.

12 MS. HOLT: Do you have a copy?

13 THE WITNESS: I have five.

14 HEARING EXAMINER HILBURN: And is this the
15 direct or --

16 MR. FINLEY: No objection to copy that into
17 the record.

18 HEARING EXAMINER HILBURN: Thank you. And
19 this is the direct and the supplemental?

20 MS. HOLT: Yes.

21 HEARING EXAMINER HILBURN: Yes. Okay.

22 MS. HOLT: Yes, that's correct.

23 HEARING EXAMINER HILBURN: So, without
24 objection, this will be copied into the record as if

1 given orally from the stand.

2 (WHEREUPON, the summary of
3 testimony of EVAN M. HOUSER
4 is copied the record as if
5 given orally from the
6 stand.)

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My testimony, filed on April 12, 2024, discusses the following

- My site visit to the Rocky River and River Walk systems
- Notices of Violation issued by DEQ between February 2021 and February 2024
- The circumstances leading to the consent judgement during the Rocky River Systems four and a half year period of non-compliance
- Customer complaints
- Customer concerns raised at the public witness hearing
- My review and recommended adjustments to the company's test year expenses plant in service including the Harrisburg Interconnection Project, and test year water usage.

I make recommendations to the Commission regarding actions to address water discoloration, the company website, and customer communications, as well as the base charge for McMillan Acres, rate design, and rates.

On April 26, 2024, I filed supplemental testimony and one exhibit to reflect the Public Staffs updated recommended rates following changes to the service revenues calculated by Witness Feasel.

This concludes my summary.

1 MS. HOLT: And with Commission's approval,
2 I'd like to conduct additional limited direct
3 regarding the report that the Commission required that
4 we filed, supplemental customer report.

5 HEARING EXAMINER HILBURN: Okay. Yes. That
6 was required by the Commission Order?

7 MS. HOLT: Yes.

8 HEARING EXAMINER HILBURN: Please proceed.

9 BY MS. HOLT:

10 Q Mr. Houser, can you briefly summarize the
11 Commission's May 6th Order?

12 A On May 6th, the Commission ordered the Company to
13 file a supplemental verified report addressing
14 the HOA statement, which is filed as Stremovihtg
15 Exhibit 2, on or before Thursday, May 9th, and
16 ordered me to either respond on Friday, May 10th
17 or address it today on the stand.

18 Q Could you briefly summarize the HOA statement?

19 A The HOA statement outlines customer concerns with
20 the proposed increase, customer service quality,
21 water quality, billing, and customer
22 recommendations regarding the rate increase.

23 My testimony outlines my recommendation to
24 address a number of issues raised in the HOA

1 statement including customer communications,
2 deadline for implementation of the website, and
3 investigating the filter and tank for causes of
4 water discoloration.

5 Q Please provide your verbal responses required by
6 the Commission Order?

7 A As of today, the Company has not filed the report
8 addressing the HOA statement. Furthermore, the
9 Public Staff acknowledges the magnitude of the
10 proposed rate increases, especially for Rocky
11 River customers and the impact that can have on a
12 household budge. The adjustments recommended by
13 the Public Staff are reasonable, adhere to
14 ratemaking standards, and mitigate the rate
15 impact to some degree.

16 Q The Company has indicated that they will file a
17 report as a late-filed exhibit. When -- how much
18 time would the Public -- would you need to
19 respond to that report?

20 A I'd like to request that the Commission allow two
21 business days following the filing date of the
22 Company's report to allow me to examine the
23 Company's report in comparison with the HOA
24 statement filed as Stremovihtg Exhibit 2.

1 HEARING EXAMINER HILBURN: That request will
2 be allowed.

3 MS. HOLT: Mr. Houser is available for cross
4 examination.

5 HEARING EXAMINER HILBURN: Thank you.
6 Mr. Finley.

7 CROSS EXAMINATION BY MR. FINLEY:

8 Q Mr. Houser, if you would turn to page 30 of your
9 testimony, please. And beginning on page 11, I
10 mean, line 11, you removed all legal fees related
11 to preparing for hearing, consultation with WRI
12 and other parties; and representing WRI in
13 contempt in other proceedings related to WRI's
14 failure to comply with the Consent Judgment
15 entered into between WRI and the DEQ on
16 July 15, 2021; and half of the legal invoices
17 related to the Consent Judgment and Amended
18 Consent Judgment dated November 8, 2022 issued by
19 the court; legal fees related to the Consent
20 Judgment are incurred due to the prolonged period
21 of noncompliance with Well Number 1 when Well
22 Number 1 was taken offline for an extended period
23 and should be -- should not be borne solely by
24 WRI's customers. That's basically what you said,

1 is it not?

2 A Yes, similar.

3 Q Pretty close. You do understand that the purpose
4 of the preparation for and appearing before the
5 Cabarrus County Superior Court was to report to
6 the court with DEQ and the North Carolina
7 Attorney General's Office on the progress made by
8 WRI, among other things, with construction of the
9 interconnection with the Town of Harrisburg?

10 A And those legal fees would not have been required
11 to be incurred if the Company had completed the
12 project to any of the numerous deadlines set
13 forth by NC DEQ.

14 Q But your answer to the question is yes?

15 A Because the project was not completed to a timely
16 manner with NC DEQ's requirements; yes, they
17 brought a complaint forward requiring the Company
18 to be in court.

19 Q WRI and DEQ negotiated mileposts for steps for
20 completing the interconnection or otherwise
21 eliminating the situation where Well Number 1 was
22 offline; right?

23 A I'm sorry, repeat that.

24 Q DEQ and the WRI negotiated mileposts for steps

1 for completing the interconnection or otherwise
2 eliminating the situation of Well Number 1 being
3 offline; correct?

4 A As part of the Consent Judgment or --

5 Q Yes.

6 A My understanding is that as a part of the Consent
7 Judgment following the complaint brought forward
8 in 2021, that -- let me jump to it. If there
9 were certain terms the parties, specifically WRI,
10 was required to file a following Consent
11 Judgment.

12 Q Well, it was a Consent Judgment, C-O-N-S-E-N-T
13 Judgment, wasn't it?

14 A Consent, C-O-N-S-E-N-T.

15 Q Consent Judgment.

16 A Did I say something differently? I'm sorry.

17 Q It was a Consent Judgment, was it not?

18 A Yes, it was a Consent Judgment.

19 Q I want you to -- you have read the rebuttal
20 testimony, have you not?

21 A Yes.

22 Q All right. I want it read you a sentence in the
23 rebuttal testimony from page 9, line 13 and have
24 you respond to it, please.

1 A You said page 9, line 13; is that correct?

2 Q Yes. Ms. Holt asked Mr. Abbott some questions
3 about these documents. You were here in the
4 hearing room when that took place, were you not?

5 A I was.

6 Q Here's the statement I want to read to you. The
7 November 8, 2022 Amended Consent Judgment,
8 paragraph 16 states in its description of the
9 July 16, 2021 Consent Judgment, *the parties*
10 *initially reached resolution, a resolution of the*
11 *injunctive relief sought by Plaintiff through*
12 *this suit and memorialized the agreement and the*
13 *Consent Judgment, which was entered into by the*
14 *court on July 16, 2021.*

15 As cited in paragraph 23 of the November 22
16 Amended Consent Judgment, "the parties seek to
17 memorialize the actions that Defendant will take
18 in the future in this Amended Consent Judgment".

19 So it was an agreement that the parties
20 reached?

21 A Yes. The parties reached an agreement after the
22 complaint was brought forward by DEQ, but I'd
23 argue that this agreement was not necessary if
24 Water Resources had completed their project to

1 the timeline set out by NC DEQ.

2 Q Do you argue any where in your testimony,
3 Mr. Houser, that the Company could have complied
4 with those deadlines? Do you argue that any
5 place in your testimony? If you do just show me
6 where it is.

7 A It's not written in my testimony.

8 Q To the extent the parties have disagreements
9 leading up to these Consent Judgments, it was a
10 compromise, wasn't it, to your knowledge?

11 A Presumably, the parties jointly agreed and
12 signed.

13 Q You do not address any knowledge you have of the
14 negotiations leading up to the terms of the
15 Consent Judgment in your testimony, do you?

16 A My testimony outlines the actions which led up to
17 the Consent Judgment.

18 Q Do you address any negotiations that the parties
19 entered into, DEQ and the Attorney General's
20 Office and WRI, leading up to the terms of the
21 Consent Decrees?

22 A You're asking if I detailed the negotiation
23 between the parties --

24 Q That's what I'm asking you.

1 A -- in my testimony? No, I did not. I did not
2 detail negotiation between DEQ and Water
3 Resources, Inc., in regards to the Consent
4 Judgment.

5 Q And you did not dispute that the purpose of the
6 work and the representation was to show the
7 environmental regulator and the court, which
8 oversaw the Consent Judgment, what WRI was doing,
9 among other things?

10 A I'm sorry. Your question was that I do not
11 dispute that the purpose of the Consent Judgment
12 was for --

13 Q You don't dispute that the purpose of the work
14 and the representation was to show the
15 environmental regulatory and the court, which
16 oversaw the Consent Judgment, how WRI was doing?

17 A The need for the work was only created by the
18 project not being completed in a timely and
19 prudent manner.

20 Q Well, we'll accept that for every answer you give
21 if you want to, but would you please answer the
22 question?

23 A Please repeat the question.

24 Q You do not dispute that the purpose of the work

1 and the representation was to show the
2 environmental regulatory and the court, which
3 oversaw the Consent Judgment, how WRI was doing?

4 A The purpose of the work was to appear to
5 represent the Company for the complaint; yes
6 generally.

7 Q So that's a yes generally.

8 A No, I do not dispute your statement.

9 Q And you do not dispute that WR -- and I'm talking
10 about what you say in your testimony here. You
11 do not dispute that WRI was successful in
12 explaining to DWQ -- DEQ, the Attorney General's
13 Office and the Superior Court, that the actions
14 that were taken to complete the interconnection
15 with the Town of Harrisburg were ultimately
16 appropriate?

17 A I'm sorry. You're going to have to repeat it one
18 more time.

19 Q All right. You do not dispute that WRI was
20 successful in explaining to DEQ, the Attorney
21 General's Office, and the Superior Court Judge or
22 Judges, that the actions it was taking to
23 complete the interconnection with the Town of
24 Harrisburg were appropriate?

1 A That's -- I do not dispute it in my testimony.

2 Q Now, the Public Staff did not participate in the
3 proceedings before the Superior Court, did it?

4 A Not that I'm aware of.

5 Q Well, you -- Mr. Abbott has been asked a lot
6 about the Consent Judgment. You do understand
7 how that thought came about, don't you?

8 A My understanding is that the Company received
9 three MCL violations beginning in the fall of
10 2018 leading into the early part of 2019.
11 Following the MCL violations, the Company took
12 its well offline and in violation of NCAC
13 18C.0402(g) (5).

14 Q So the answer to the question is yes? You don't
15 know what the question was, do you?

16 A Yes. I generally understand the actions that led
17 to it.

18 Q Did you review any of the transcripts before the
19 court?

20 A I did not review the transcript.

21 Q Did you listen to it online?

22 A No.

23 Q You do not state in your testimony that you
24 interviewed DEQ, Ms. Maynard of the Attorney

1 General's Office to learn more about what
2 transpired, do you?

3 A I do not.

4 Q You do not indicate that you know the names of
5 the judges before WRI appeared, do you, in your
6 testimony?

7 A No.

8 Q And you don't know -- you don't list in your
9 testimony whether the appearances before the
10 court were virtual or in person, do you?

11 A No.

12 Q And you do not indicate in your testimony whether
13 you understand that WRI confronted obstacles in
14 completing the interconnection as quickly as DEQ
15 wished and in compliance with mileposts initially
16 established; correct?

17 A All projects run into issues. There -- it's
18 typical for projects to run into issues.

19 Q Well, I'm asking -- Mr. Houser, I'm asking you
20 what your testimony says.

21 A No. That is not discussed in my testimony.

22 Q And you do not indicate in your testimony that
23 you understand that the State while pushing WRI
24 never concluded that what WRI was doing to remove

1 the obstacles constituted a willful refusal to
2 comply with the Consent Judgment or Judgments;
3 correct?

4 A Read the -- can you reiterate the very first part
5 of that question?

6 Q You do not indicate that you understand that the
7 State while pushing WRI never concluded that what
8 WRI was doing to remove the obstacles constituted
9 a willful refusal to comply with the Consent
10 Judgment?

11 A That's -- again, I guess that's not in my
12 testimony. But --

13 Q Repeat it again. Go ahead.

14 A That is not written in my testimony.

15 Q Now, you also do not acknowledge that the purpose
16 of the hearing before the court was not to hold
17 WRI in contempt but to monitor the progress made
18 to complete the interconnection. You don't
19 acknowledge that, do you?

20 A It's not in my testimony.

21 Q All right. Now, you've conducted some discovery
22 of the case and you're looking at -- you looked
23 at bills for legal services; correct?

24 A Yes. I removed them and reviewed them with

1 Public Staff, Legal.

2 Q And from time to time, there would be a reference
3 to contempt in some of those bills on the
4 itemized numbers?

5 A Yes, that's correct.

6 Q But you do understand that that is sort of a
7 shorthand version in the bills to explain the
8 more detailed action that was taken before the
9 court; right?

10 MS. HOLT: I'm going to object to this line
11 of questioning. As Mr. Houser stated in his
12 testimony, he opined on the legal invoices based on
13 his consultation with his counsel. We can include
14 this in a brief in our proposed orders.

15 HEARING EXAMINER HILBURN: Mr. Finley, would
16 you like to respond?

17 MR. FINLEY: I certainly do. The Public
18 Staff has a habit of putting up an engineer to make
19 these points upon which it asks the Commission to make
20 the substantial adjustments and when you ask them
21 about it, they say, Oh, I consulted with counsel. We
22 don't have counsel to cross examine. If that's the
23 way they want to do it, then all that stuff ought to
24 be stricken. If they're relying upon hearsay witness

1 from a lawyer who's not here, that's a copout and it
2 shouldn't be allowed. And I'm entitled to ask what
3 the witness is testifying to and why he supports it.

4 HEARING EXAMINER HILBURN: I'm going to
5 allow the line of questioning for now. And please
6 proceed, Mr. Finley.

7 MR. FINLEY: Thank you.

8 BY MR. FINLEY:

9 Q Mr. Houser, you do not address the ultimate
10 penalty. And this contempt issue would have been
11 to fine the Company and perhaps put Mr. Abbott in
12 prison. You don't address that in your
13 testimony, do you?

14 A You're referring to the fine by DEQ?

15 Q I'm referring to what you said -- I'm asking you
16 about the testimony and the support for the
17 recommendation you make and what you said in your
18 testimony.

19 A The reason for the Company ending up in these
20 legal proceedings was because it did not complete
21 the project to DEQ's required timeframe for --
22 the Company was arguably aware in 2018 of their
23 increasing levels of radium in Well 1 and that
24 led the Company to take the -- take Well 1

1 offline in knowing violation of the North
2 Carolina supply standards. And if the Company
3 had acted prudently in a timely manner to address
4 the interconnect quickly or at a reasonable pace
5 as set out by DEQ, and DEQ gave them multiple
6 extensions, they would not have incurred any of
7 these legal fees. Potentially, they would have
8 occurred none. So --

9 Q Mr. Houser -- Mr. Houser, where in -- are you
10 finished with your answer? I don't want to
11 interrupt you. Are you finished with your
12 answer? You've given about the same thing about
13 six times now. Are you finished?

14 A Sure.

15 Q Where in your testimony do you say that the
16 Company was imprudent in what it did to
17 interconnect with the Town of Harrisburg? Where
18 is it? Show me in your testimony where you say
19 that.

20 A It's not written directly in my testimony.

21 Q No, it's not. And you're not making a request,
22 are you, that any of that \$470,000 be disallowed
23 in this case, are you?

24 A I think the costs incurred for the actual

1 construction of the project are reasonable and we
2 are recommending removal of some costs related to
3 legal fees because we believe the legal fees were
4 imprudently incurred.

5 Q You don't say anything anywhere in your testimony
6 that those fees were legally or imprudently
7 incurred. If you did show me where it is.

8 A Not all of the -- I don't believe all of the
9 reasoning for all adjustments made in this
10 proceeding need to be explicitly laid out in the
11 testimony.

12 Q Oh, you don't. Did your counsel tell you that?

13 A No.

14 MS. HOLT: I'm going to object again. What
15 he discussed with counsel is confidential and I'm
16 going to leave it at that.

17 MR. FINLEY: Then, I'll move to strike
18 everything he said that he -- where he says that it's
19 based on the advice of counsel. If it's confidential
20 and I can't question him about it then it has no
21 business in his testimony.

22 MS. HOLT: You asked him what he discussed
23 with counsel, what counsel said.

24 MR. FINLEY: Yes, ma'am.

1 MS. HOLT: And that is not -- that's
2 inappropriate.

3 HEARING EXAMINER HILBURN: I'm going to
4 interrupt here. And what we'll say is we're going to
5 sustain that the witness does not speak about matters
6 that are in formal discussions with his counsel.
7 However, what's been put in his testimony which is
8 public record, Mr. Finley, you may cross exam on that
9 and the witness will answer to the best of his
10 knowledge. Thank you.

11 MR. FINLEY: Then, in all due respect, Madam
12 Hearing Examiner, I'm going to reserve the opportunity
13 to move to strike testimony, the witness's prefiled
14 testimony where he says he relied upon advice of
15 counsel.

16 HEARING EXAMINER HILBURN: So noted.

17 MR. FINLEY: Always at another time.

18 HEARING EXAMINER HILBURN: So noted.

19 BY MR. FINLEY:

20 Q And you do not testify in your testimony, do you,
21 Mr. Houser, that WRI willfully failed to comply
22 with the mileposts established by DEQ to
23 complete the interconnection with the Town of
24 Harrisburg? Willfully; you don't say that, do

1 you?

2 A No.

3 Q And you do not testify that after the process was
4 complete the initial fine of \$4500 has been
5 rescinded. There will be no more fines and
6 there's no contempt. You don't say that in your
7 testimony, do you?

8 A In the fine, the administrative penalties by DEQ
9 was a tool to move the system towards act in
10 compliance with their standards. It is not
11 explicitly written in my testimony.

12 Q And you do not testify -- you do not mention in
13 your testimony that WRI was successful in
14 avoiding fines, ultimately, and the penalties,
15 and avoiding contempt. You do not say that in
16 your testimony, do you?

17 A It is not written in my testimony.

18 Q That's right. And you do not testify that DEQ
19 was dissatisfied with the interconnection with
20 the Town of Harrisburg and has ceased to require
21 ongoing reports to the court to address issues in
22 the Consent Decrees, do you?

23 A I did not explicitly discuss that in my
24 testimony.

1 Q And you do not address Ms. Hook and the role that
2 she played in WRI's ability to interconnect with
3 the Town of Harrisburg. In your testimony, you
4 don't discuss that, do you?

5 A That's not in my testimony.

6 Q And in your testimony, Mr. Houser, you do not
7 indicate that you were aware of the delays
8 encountered by WRI in completing the project as a
9 result of Covid interference, do you?

10 A No.

11 MS. HOLT: I'm going to object to this line
12 of questioning. You're asking the witness what's not
13 in his testimony as opposed to what is in his
14 testimony.

15 MR. FINLEY: Oh yeah, that's completely
16 right. And I'm leading up to what I believe to be the
17 legal standard in this case and I'm going to -- be
18 sure I'm not going nowhere with it, Ms. Holt.

19 HEARING EXAMINER HILBURN: Okay. For now,
20 we're going to allow this line of questioning.
21 Mr. Finley, we're going to allow this line of
22 questioning for now. Get to your point.

23 MR. FINLEY: Thank you.

24

1 BY MR. FINLEY:

2 Q And you do not indicate in your testimony that
3 you are aware of the delays experienced by WRI in
4 obtaining permission from DOT to use the
5 right-of-way and access to the roadways to
6 complete the interconnection, do you?

7 A I do not.

8 Q And you do not indicate that you are aware of the
9 differences of opinion between the Town of
10 Harrisburg and CMUD over the specifications of
11 the vault and valving requiring interconnection,
12 do you?

13 A No.

14 Q And you do not testify that you are aware of
15 delays caused by meetings that were held on the
16 site and some of the parties failed to -- who had
17 to give attention failed to appear, do you?

18 A No.

19 Q And you do not testify that you are aware that
20 the vault into which the valve was installed had
21 to be cast specifically for this particular
22 project; correct?

23 A No.

24 Q Now, after WRI submitted its rebuttal testimony

1 taking issue with most of your adjustments, the
2 Public Staff filed a comprehensive data request
3 that you maintained was due 24 hours asking for
4 voluminous information about the actions WRI took
5 to replace Well Number 1 with the Town of
6 Harrisburg interconnection, didn't you?

7 A My understanding is that the Company had agreed
8 to respond to that data request in one day prior
9 to the Public Staff providing that data request
10 to the Company.

11 Q Well, they didn't agree to that particular data
12 request after -- before having even seen it, did
13 they?

14 A I don't think you typically agree to what's in
15 the data request prior to receiving it.

16 Q No. But let me read you what you had in Question
17 Number 1 of the data request, after the rebuttal
18 testimony. Did you have any role in preparing
19 the data request?

20 A I'm aware of what the data request is.

21 Q Question Number 1: "On page 5 of the Company's
22 rebuttal, the joint witnesses state that the
23 Public Staff makes no allegations that WRI should
24 have been taking actions that would have resulted

1 in activating the Interconnection with the Town
2 of Harrisburg sooner that it did. Please provide
3 a list of actions performed by WRI staff in 2019
4 and 2020 to resolve radium contamination in Well
5 #1, and, following the well's removal from
6 service, actions taken to provide an additional
7 source to comply with 15A NCAC 18C .0402.(g)(5).
8 Please provide actions taken by WRI staff, the
9 name of the staff member who took the action, and
10 the date of the action taken. Please also
11 provide supporting documentation for each
12 action."

13 I basically read that correctly, haven't I?

14 A To my understanding, subject to check.

15 Q Was the Public Staff unaware of the answer to
16 these questions when you made your recommendation
17 with respect to the disallowance of the legal
18 fees in your direct testimony and waited until
19 the Company had filed the rebuttal testimony to
20 inquire into the steps the Company took with
21 respect to Well Number 1?

22 A The Company didn't incur any costs related to
23 this project until August of 2021. So, I think
24 it was subject to investigation what actions the

1 Company had taken prior to the incurrence of
2 costs related to the interconnection project.

3 Q Well, okay. But my question is, why did you wait
4 til the rebuttal testimony? Did you not make
5 that investigation before you filed your report
6 and submitted your testimony?

7 A Based on the documents that are available, and
8 the Amended Consent Judgment and the Consent
9 Judgment, it seems like there was significant
10 gaps of time with questionable amounts of
11 progress towards the interconnect so I think it's
12 a reasonable question to ask.

13 Q But my question to you is not the reasonableness
14 of the question but the timing of the question.
15 Why did you wait until the rebuttal testimony was
16 filed and not before you came up with your
17 recommendations?

18 A I don't have an answer as far as to the timing of
19 when we asked.

20 (WHEREUPON, the Court
21 Reporter requested the
22 witness repeat his answer.)

23 THE WITNESS: I said I did not have an
24 answer as far as the timing of when we asked.

1 BY MR. FINLEY:

2 Q And, of course, one of the things the Company had
3 to do in response to that data request where you
4 wanted an answer in 24-hours was to say they had
5 to rely upon looking at the Order that the
6 Commission issued about discovery request and
7 said, oh, by the way, you have violated the Order
8 about what you're supposed to ask on discovery
9 through rebuttal; right? Do you remember that?

10 A I'm sorry. You said the Company --

11 Q Objected to that question.

12 A I'm aware the Company objected to the question.

13 Q Right. And one of the things the Company -- the
14 Public Staff wants to do is limit the legal fees;
15 correct?

16 A Yes.

17 Q You know, in order to do battle with the Public
18 Staff, the Company's got to have its own lawyers
19 and to address the questions that you ask and
20 that type, and then you will agree with that,
21 wouldn't you?

22 A Sorry. Are you asking if the Public Staff is
23 attempting to limit legal fees related to Consent
24 Judgment because that's covered in my testimony.

1 The professional expense is covered in the
2 testimony of Witness Feasel.

3 Q How many data requests the Public Staff submit to
4 the Company in this case?

5 A Twelve.

6 Q Now, the provision -- how aware are you,
7 Mr. Houser, about these Consent Judgments? I
8 mean, the Attorney General's Office and DEQ
9 enters into these things with some regularity.
10 Are you familiar with that?

11 A I'm sorry. Excuse me. Sorry. You asked how
12 familiar I am with the Consent Judgment. You
13 meant the Consent Judgment in this filing; is
14 that correct?

15 Q Yes.

16 A Yes. I'm familiar with the documents.

17 Q And don't they always include in their Consent
18 Judgments this provision about if you don't
19 comply you may be subject to contempt? Isn't
20 that a standard provision in the Consent
21 Judgment?

22 MS. HOLT: If you know the answer to that.
23 He is not an attorney.

24 HEARING EXAMINER HILBURN: If the witness

1 will respond to the extent he knows.

2 A I'm not aware if it's something that is always
3 included in these.

4 Q Have you seen it in other Consent Judgments?

5 A I haven't specifically reviewed these documents
6 for that language.

7 Q Have you ever reviewed other Consent Judgments
8 that deal with companies besides Water Resources?

9 A I have not specifically reviewed other Consent
10 Judgment documents for those proceedings.

11 Q And nowhere in your testimony do you maintain,
12 Mr. Houser, that with respect to the work
13 undertaken, to report to DEQ and to appear in the
14 Cabarrus County Superior Court the steps which
15 DE- -- WRI took were imprudent or were
16 unreasonable. You don't put that in your
17 testimony, do you?

18 A It's not in my testimony but it doesn't mean that
19 that may not be a fact of the case.

20 Q Do you argue that WRI -- in your testimony, do
21 you argue that WRI should have insisted on fewer
22 reports to DEQ or fewer appearances in the
23 Cabarrus County Superior Court?

24 A No, I do not.

1 Q And you do not maintain, do you, that the
2 preparation undertaken was in your view wasteful
3 or excessive?

4 A In -- as our treatment of legal expenses
5 recommended in my testimony, we recommended
6 removal of half the legal expenses related to the
7 interconnection. There's some legal costs which
8 we understand were incurred due to Water
9 Resources' need to report to the Attorney
10 General, the Department of Justice, the Public,
11 or sorry, the Utilities Commission and was
12 supposed to copy the Public Staff and DEQ. So
13 we're not recommending removal of all costs
14 related to legal fees because we understand that
15 there are some costs which are related to
16 reporting which became necessary.

17 Q But nowhere in your testimony do you show what
18 formula you came up to divide the costs to be
19 recovered from customers and the costs that were
20 not to be recovered from customers, but you don't
21 say how you came up with that calculation, do
22 you?

23 A I don't think you can calculate it, because the
24 amount of legal fees that would have been

1 incurred is unknowable. Had the Company acted
2 quickly to or in a prudent and timely manner to
3 place interconnection in service or if there even
4 would have been a complaint brought forward by NC
5 DEQ, because it seems like in the Consent
6 Judgment it outlines that DEQ was willing to
7 provide Water Resources with an extension given
8 that they showed there had been delays in
9 acquiring their easement up until 2020. Between
10 September 2019 and September 2020, there was an
11 extension given. So it's plausible that if the
12 Company has been able to show DEQ that they had
13 been incurring delays, that DEQ may have given
14 them an additional extension and the complaint
15 never would have been brought forward.

16 Q On page 30, line 17, you say, *Legal fees related*
17 *to the Consent Judgment were incurred due to a*
18 *prolonged period of noncompliance when Well #1*
19 *was taken offline for an extended period, and*
20 *should not be borne solely by WRI's customers.*
21 Correct?

22 A What line does that start on?

23 Q Page 30, line 17.

24 A I mean, I'll accept that what you read is similar

1 to what my testimony says.

2 Q And the phrase I want to ask you about is "and
3 should not solely be borne by WRI's customers".
4 You do say that?

5 A Yes.

6 Q And that's your justification for disallowing
7 these legal fees because your view is it's
8 unfair, it's unfair, for the customers to bear
9 some of these costs; isn't that right?

10 A In this case, the Application by the Company
11 requests that the company -- the customers bear
12 all of the costs.

13 Q Yes.

14 A So I think it would be -- I think it's unfair for
15 the customers to bear all of the costs. And I
16 think the Company is trying to convince the
17 Commission that even though the Company has a
18 continued habit of delaying taking action until
19 they are on the cusp of serious legal issues,
20 that in this one case they acted prudent and
21 reasonable and incurred at the time having to
22 incur a significant, a volume of legal costs.

23 Q Nowhere in your testimony, Mr. Hower --
24 Mr. Houser, is the word "reasonable" and

1 "prudent" anywhere, is it? You base it on
2 unfairness, not reasonableness and prudence, do
3 you? Show me if you use reasonableness and
4 prudence in your testimony. I'd like to see it.

5 A I'm not immediately aware whether or not that's
6 in my testimony.

7 Q You're not aware? It's your testimony. It's not
8 in there, is it?

9 A It's 40 pages of writing. I mean, I'm not sure
10 if I --

11 Q Do you need some time to look to see if
12 reasonableness and prudence is in your testimony?

13 A No.

14 Q So this business of unfairness is your opinion;
15 right?

16 A Is that a question?

17 Q Yes. Reasonableness and fairness is your
18 opinion; right?

19 A I don't believe the Company -- the customers
20 should be required to bear the costs associated
21 with noncompliance with DEQ's regulations.

22 Q You don't believe it. In other words, that's
23 your opinion.

24 A Yes.

1 Q Now again, you do not testify that that is the
2 opinion of your consults with the legal arm of
3 the Public Staff, do you?

4 A You asked if I testified that that was the
5 opinion of -- this recommendation is made in
6 concert with working with the Public Staff, Legal
7 Division.

8 Q Well, I don't see where you say that in this page
9 30 on line 17. Is it your opinion or somebody
10 else's opinion?

11 A It's my opinion.

12 Q Did you ask your legal consultants on the Public
13 Staff what standard the Commission uses to
14 determine whether or not costs incurred, legal
15 costs incurred, are to be recovered from rates or
16 not? Did you ask them that?

17 A Did I ask the Public Staff, Legal Division?

18 Q That's my question.

19 MS. HOLT: I object. That's attorney-client
20 privilege.

21 HEARING EXAMINER HILBURN: I will sustain
22 that. Let's do not pose our questions regarding the
23 witness's discussion with his legal counsel. Let's
24 stick to what's in the testimony.

1 MR. FINLEY: Madam Hearing Examiner, I'll
2 have to ask you for making an Offer of Proof.

3 HEARING EXAMINER HILBURN: All right.

4 MR. FINLEY: So the question -- this is
5 the -- the court reporter, would you please indicate
6 that this is the making of an Offer of Proof?

7 BY MR. FINLEY:

8 Q My question to you is, Mr. Houser, when you were
9 getting your advice from legal counsel, did you
10 ask them what the standard was under which the
11 Utilities Commission approves or disapproves
12 costs?

13 A Sorry. Am I required to answer this question?

14 HEARING EXAMINER HILBURN: Answer it -- I'm
15 sorry.

16 MS. HOLT: You're asking him whether or not
17 he asked his counsel.

18 MR. FINLEY: That's what I'm asking.

19 MS. HOLT: That's still inappropriate.

20 MR. FINLEY: Well, she's sustained your
21 objection. I'm making an Offer of Proof. So, I'm --
22 you understand that. I'm making an Offer of Proof so
23 it's in the record what the answer would be in case we
24 have to take this somewhere else.

1 HEARING EXAMINER HILBURN: I'll give
2 Ms. Holt just a moment to respond.

3 (Pause).

4 MR. FINLEY: May I explain what I've done
5 while she's thinking about it?

6 HEARING EXAMINER HILBURN: Yes.

7 MS. HOLT: Yes, please explain what you're
8 doing.

9 HEARING EXAMINER HILBURN: Yes.

10 MR. FINLEY: You made an -- my question was
11 whether or not this witness, talking about the
12 consultation with the Public Staff, asked Legal,
13 consultation with the Public Staff, as to what the
14 standard was under which the Commission allows or
15 disallows costs. And she sustained your objection.
16 And I'm asking to create a record here as to what the
17 answer would be had it not been objected to. I've
18 asked for an Offer of Proof so that the answer will be
19 in the record to the extent I take it up to some other
20 level.

21 MS. HOLT: Well, ask him if he knows.

22 MR. FINLEY: I did ask him that. No, no,
23 no. I asked him about the consultation --

24 MS. HOLT: Ask him if --

1 MR. FINLEY: No, no, no. Listen, I've asked
2 the question.

3 MS. HOLT: Ask him if he knows whether or
4 not the Commission's position on --

5 MR. FINLEY: Well, I may ask that at a
6 subsequent time.

7 HEARING EXAMINER HILBURN: Do you want to
8 ask the question again, Mr. Finley?

9 MR. FINLEY: No, ma'am.

10 HEARING EXAMINER HILBURN: You want to
11 continue with your offer to prove.

12 MR. FINLEY: That's right.

13 HEARING EXAMINER HILBURN: And Ms. Holt was
14 contemplating whether she had an objection to that.

15 MR. FINLEY: You've already sustained her
16 objection.

17 HEARING EXAMINER HILBURN: Okay. Excuse me.

18 MR. FINLEY: You've already sustained the
19 objection.

20 MS. HOLT: What is the relevance of the
21 question?

22 MR. FINLEY: She's already sustained your
23 objection, Ms. Holt.

24 HEARING EXAMINER HILBURN: Mr. Finley, then

1 proceed. And the witness will answer to the extent he
2 knows.

3 BY MR. FINLEY:

4 Q Did you consult with your attorneys and ask them
5 what the standard was for allowing or disallowing
6 the costs that the Company seeks to recover in a
7 general rate case? Did you ask them that
8 question?

9 MS. HOLT: I object again.

10 HEARING EXAMINER HILBURN: All right. We're
11 just going to take just a five-minute break for just a
12 minute and I'll see the counsel up here at the Bench
13 for just a minute.

14 (A recess was taken from 3:28 p.m. to 3:34 p.m.)

15 HEARING EXAMINER HILBURN: We're going to go
16 back on the record. And if it's agreeable to all the
17 parties, we're going to move along from this line of
18 questioning for now and we'll come back to it at the
19 appropriate time.

20 So for right now, Mr. Finley, please proceed
21 with your next line of questioning.

22 MR. FINLEY: All right.

23 BY MR. FINLEY:

24 Q Mr. Houser, you do not site any cases, do you, in

1 support of your opinion the Commission should
2 enter into on this issue should be based on the
3 fairness as concluded by you as the engineer for
4 the Public Staff?

5 A No. But I believe the case cited by the Company
6 was Glendale Water, in their rebuttal testimony,
7 outlines the removal of noncompliant costs
8 related to noncompliance.

9 Q Well, that's exactly what I want to ask you
10 about. In your testimony, you do not make
11 reference to the Glendale Water case, do you?

12 A I do not.

13 Q Had you read the Glendale Water case before you
14 filed your testimony?

15 MS. HOLT: I'm going to object. That calls
16 for legal conclusions. And counsel can brief the
17 discussion of those cases as they relate to the facts
18 of this case.

19 MR. FINLEY: He just talked -- he brought it
20 up himself.

21 HEARING EXAMINER HILBURN: Excuse me. The
22 question was had you read the case, the Glendale case,
23 and the answer would be yes or no.

24 THE WITNESS: Not beyond what's included as

1 the citation in the rebuttal.

2 (WHEREUPON, the Court
3 Reporter requested the
4 witness to speak up and
5 repeat his answer for the
6 record.)

7 THE WITNESS: Not beyond what's included as
8 the citation in the rebuttal.

9 BY MR. FINLEY:

10 Q Let me -- since you brought up Glendale Water in
11 the rebuttal, let me read to you several
12 paragraphs from the rebuttal, page 13, line 28.
13 Do you want to flip over there?

14 A Thirteen, line 28?

15 Q Yes.

16 A Sorry. Thirteen, line 28 is a citation online.

17 Q Yes.

18 A Okay.

19 Q Let me read it.

20 *The distinction between this case and*
21 *Glendale Water is that... there is no finding in*
22 *the other litigation brought against the Company,*
23 *or admission by the Company in that litigation,*
24 *that any violation actually occurred. No*

1 *intervenor introduced evidence in this case that*
2 *any violation actually occurred. Witness Junis'*
3 *testimony that the Company's legal expense for*
4 *state litigation of coal ash complaints resulted*
5 *from "violations" is based on DEQ's reports of*
6 *groundwater exceedances and the fact that DEQ*
7 *sought SOCs to address seeps in the Allen,*
8 *Marshall and Rogers (Cliffside) stations, both of*
9 *which Junius interprets as compelling evidence of*
10 *DEQ's violations. Transcript Volume 26, pages*
11 *730-31.*

12 *The Commission determines that the facts of*
13 *this case are distinguishable from Glendale*
14 *Water. Litigants settle disputed matters*
15 *frequently for many reasons that are unrelated to*
16 *the settling parties underlying views of the*
17 *merits of the dispute.*

18 *Likewise, an SOC is a regulatory mechanism*
19 *intended to provide clarity and certainty with*
20 *respect to scope and schedule for*
21 *compliance-related activities given a change of*
22 *circumstances, such as a change in requirements*
23 *or in operations. The Company's willingness to*
24 *enter into an SOC, therefore is not premised upon*

1 *an underlying admission of culpability.*

2 *Furthermore, as explained by witness Wells, a DEQ*
3 *report of an exceedance does not equate to a*
4 *violation of environmental law or regulation.*

5 *Mr. Junis attempted to expand the*
6 *applicability of Glendale Water by applying its*
7 *holding beyond the litigated facts of liability*
8 *to include resolution of complaints that do not*
9 *involve findings of liability and pending legal*
10 *claims for environmental violations where there*
11 *is compelling evidence of environmental*
12 *violations. Transcript Volume 26, pages 729-30.*
13 *The Commission disagrees with the Public Staff*
14 *position. Glendale Water applies where there is*
15 *a finding of liability, and the Commission*
16 *declines to expand its holding further. In*
17 *addition, the Commission does not find DEQ*
18 *exceedance reports or SOCs to constitute*
19 *compelling evidence of environmental violations.*

20 *The Commission determines as it did in the*
21 *2018 DEP rate order, that entering into a*
22 *settlement does not equate to an admission of*
23 *guilt or wrongdoing. 2018 DEP rate case, page*
24 *180. Conflating the existence of a settlement*

1 *agreement or an SOC with an admission or other*
2 *proof of guilt or wrongdoing is inconsistent with*
3 *both the law and public policy of North Carolina.*
4 *The North Carolina rules of evidence, for*
5 *example, prohibit parties from using the*
6 *existence of a settlement as evidence of*
7 *liability. Likewise, in other matters before the*
8 *Commission, the Public Staff has defended the*
9 *regulatory policy of encouraging reasonable and*
10 *prudent settlement.*

11 Have I read that correctly?

12 A Reasonably accurate.

13 Q Now I'm going to -- you'll be happy to know I'm
14 going to move on to something else. And I'm
15 going to ask you about development fees.

16 A Okay.

17 Q If you'll turn to page 31, beginning on line 3.
18 I'm going to read this to you, please.

19 "From the interconnection project costs, I
20 reclassified the one-time \$97,565 Harrisburg
21 development fee as a plant in service item with
22 an in-service date of 2023. WRI was required to
23 pay a one-time development fee to the Town of
24 Harrisburg in order to connect to their system.

1 The development fee allows the Company perpetual
2 access to purchase water from the Town of
3 Harrisburg and should be nondepreciable."

4 I read that correctly, didn't I?

5 A Reasonably correct.

6 Q Well, I didn't mean to be an unreasonable.

7 A Oh yes, but I just -- you know.

8 Q All right. And you do not testify do you,
9 Mr. Houser, that the payment of the development
10 fee to the Town of Harrisburg for the
11 interconnection was an unnecessary component of
12 the project and that without them WRI could have
13 made the interconnection and avoided issues with
14 environmental regulations requiring it to have
15 the two wells?

16 A No. I think the development fee is necessary but
17 in this case I believe that because this is a
18 one-time fee I do believe setting the asset as
19 nondepreciable is reasonable.

20 Q So, you do not testify that the fee was not an
21 essential just as essential in completing the
22 interconnection with the Town as the pipes, the
23 valves --

24 A It was --

1 Q Just a minute. The vault, the Zurn valve, and
2 the money paid to Ms. Hook to get the easement,
3 and the money expended with DOT and other
4 compliance aspects of the Town of Harrisburg, do
5 you?

6 A It was necessary to purchase water from the Town
7 of Harrisburg.

8 Q And you do not testify that the vault, the Zurn
9 valve, the costs incurred to hire the contractor
10 for the installation, the costs to hire the
11 engineer, the costs incurred by Mr. Abbott and
12 Ms. Lockwood, leading to the construction of the
13 interconnection are other than one-time costs
14 anymore than the development fee is a one-time
15 cost. You don't testify for that, do you?

16 A I don't. But in the case where in the future
17 this interconnect would need to be replaced
18 potentially after the life of the assets, the
19 costs would need to be incurred again.

20 So, in the case of this particular
21 interconnect with the Town of Harrisburg, these
22 are one-time fees. They will be completed. In
23 order for the interconnect to be placed into
24 service in 2023, they would have had to incur

1 those costs one time. But the reality of capital
2 assets, at some point, it may need replacement,
3 and in that case, the fees, you will need to
4 incur similar costs. If you choose a similar
5 project, you would need to incur that cost again.
6 So in that case, in the narrow view of this
7 project, yes, those costs were incurred once, but
8 if the asset needs to be rebuilt in 50 or 100
9 years, then the costs that were incurred in this
10 project would be incurred again, likely, in
11 another project.

12 So in the sense that the development fee
13 paid the Town of Harrisburg is a one-time fee,
14 you would not need to pay the development fee to
15 the Town of Harrisburg if you reconnected to it
16 after replacing the plant.

17 Q How do you know that?

18 A I mean, I don't unless Harrisburg intends to
19 charge them repeatedly for use of the
20 interconnect that they've already paid a
21 development fee for.

22 Q And you do not testify that the other costs of
23 interconnection, in addition to the development
24 fee, are costs that allow the Company perpetual

1 access to purchase water from the Town of
2 Harrisburg, do you? You don't testify to that,
3 do you?

4 A No.

5 Q Are you familiar, Mr. Houser, of the parable of
6 the "Want of the Nail" (sic).

7 A I'm sorry. Repeat the name.

8 Q "Want of the Nail". Well, here it is. Add a
9 little levity to the case.

10 *For want of a nail, the shoe was lost;*
11 *For want of the shoe, the horse was lost;*
12 *For want of the horse, the rider was lost;*
13 *For want of the rider, the message was lost;*
14 *For want of the message, the battle was*
15 *lost;*
16 *For want of the battle, the kingdom was*
17 *lost;*
18 *For want -- All for want of the horseshoe*
19 *nail.*

20 Never heard that one before?

21 A I have not or I don't remember having heard it
22 before.

23 Q Would you agree with me that for want of the
24 development fee, the interconnection with the

1 Town of Harrisburg would not have taken place and
2 the ability to provide service to customers in
3 the Rocky Creek -- Rocky River Subdivision in
4 compliance with the environmental law would be
5 lost.

6 A You're asking if the development fee would not
7 have been incurred if the interconnection had not
8 taken place?

9 Q That's what I'm asking you.

10 A It wouldn't, but in this case the life of the
11 interconnection fee payment should be perpetual,
12 and the life of the physical Harrisburg
13 interconnection will not be.

14 Q Now, you recommend depreciating the cost of the
15 interconnection minus the development fee over a
16 50-year term, do you not?

17 A Yes, that's correct.

18 Q Now, as I read your testimony Mr. Hower --
19 Mr. Houser, nowhere do I find that you cite a
20 project comparable to the construction of the
21 Harrisburg interconnection? Do you cite that?

22 A I don't, but it's understood that ductile iron
23 pipe typically has a life expectancy in excess of
24 100 years. And if you look at the application of

1 Aqua North Carolina in Sub 573, they include, I
2 think it's Exhibit NS, a depreciation study which
3 uses transmission main and distribution main as
4 58 years. And that likely includes plastic as
5 well as all the other transmission and
6 distribution system appurtenances, valves, blow
7 offs, things like that, and that's all rolled
8 into 50 years.

9 Given that this interconnect is constructed
10 from ductile iron pipe and it's restrained for
11 the entirety, my understanding based on the
12 plans, I think 50 years is a reasonable amount
13 and potentially short.

14 Q Well, it's got meters, and it's got vaults, and
15 it's got telemetry, and it's got all sorts of
16 wires, and it's -- is that the same thing as the
17 example you gave from the Aqua case? Is that a
18 different project?

19 A I believe the transmission main and distribution
20 system is in, as a whole, their -- their
21 assessment of the systems as a whole including
22 the various components you and I just discussed.

23 Q It's comparable?

24 A I believe so.

1 Q How many -- how much of the investment in the
2 Aqua project is pipes?

3 A I'm not sure.

4 Q How much of the cost in this project with the
5 Town of Harrisburg is pipes?

6 A I'm not sure the construction explicitly lays
7 out. I believe it's 140 linear feet.

8 (WHEREUPON, the Court
9 Reporter requested the
10 witness repeat his answer
11 for the record.)

12 THE WITNESS: I'm sorry. I believe it's 140
13 linear feet of ductile iron pipe but I'm not sure of
14 the costs associated with that component compared to
15 the others.

16 BY MR. FINLEY:

17 Q And what about the cost of the Zurn valve and the
18 volt and the --

19 A I'm not exactly aware of each single components
20 cost in relation to the entirety of the total --

21 Q Can you -- are you finished with your answer?

22 A (Nods head in agreement).

23 Q Can you give me other examples besides the one
24 you gave as to where a development fee like this

1 has been taken out of the total cost of a project
2 in order to determine depreciation expense?

3 A No.

4 Q So WRI is a small company and has been required
5 to make major investment in the neighborhood of
6 \$470,000 for this interconnection with the Town
7 of Harrisburg that it didn't intend to make and
8 that clearly, those costs are clearly not being
9 recovered in current rates and the rates that
10 will be in affect during the period the steps
11 were taken to complete the interconnect; that's
12 correct, isn't it?

13 A Yes.

14 Q And the investor in WRI had to come up with the
15 money to make the interconnection. It had to
16 wait until the interconnection was complete
17 before it could come in and ask to begin
18 recovering the costs. It had to incur all the
19 costs to file the Application, to undertake the
20 expense of complying with the Public Staff data
21 requests, of going to the public hearing, and
22 going to this hearing in the hope of getting some
23 rate relief some months from now. And it's the
24 Public Staff's position that they should not be

1 allowed to recover the cost of this
2 interconnection for 50 years.

3 A I believe a 50-year depreciation life is
4 reasonable given the asset, and they'll earn a
5 return on their investment into the system.

6 Q So my math is not very good but that's 2074.

7 A Say again.

8 Q 2074.

9 A Oh sorry, the year of the depreciation?

10 Q Yes.

11 A Yes. Excuse me. The asset was placed in service
12 in 2023. Sorry.

13 Q It's all right. Let's talk a little bit about
14 the cost of the bond. Going back to page 31,
15 line 1, and you testify, *I also removed legal*
16 *fees associated with the proceeding to increase*
17 *WRI's bond, which was founded by the Public --*
18 *due to not -- that's probably not the right*
19 *word -- but requested by the Public Staff due to*
20 *WRI's noncompliance.* That's basically correct,
21 right?

22 A Yes, that's basically what's written.

23 Q And again you don't make any assertion in your
24 testimony that the cost of complying with the

1 Commission's Order was unreasonable or imprudent,
2 do you?

3 A In relation to the bond filing?

4 Q Yes.

5 A No.

6 Q All right. And again, in your footnote, too, on
7 that page, you refer to the DEQ requirements
8 having to do with the second well; right? Bottom
9 of the page down there.

10 A Yeah, I'm looking at it.

11 Q So again, here we're talking about the bond that
12 the Commission requires in its Order and we're
13 dealing with DEQ requirements again, are we not?

14 A Yes.

15 Q So where do you discuss the disallowance of the
16 pump?

17 A That is in the plant in service page. It is on
18 page 28.

19 Q Tell me what you understand about the facts of
20 the pump costs, please.

21 A I understand that in 2022, the Company incurred
22 costs to repair or replace a pump, which the
23 Company stated in a response to Data Request 12
24 that the -- it was a 45-gallon per minute pump

1 while the Company is approved to use a 78-gallon
2 per minute pump in their Well Number 2, and that
3 the Company incurred costs to replace or repair
4 it. And in the following year that same pump was
5 replaced entirely from service and so the pump
6 was not deemed reasonable and prudent in the rate
7 case. And it was not in service at the time of
8 our review of plant in service costs.

9 Q What do you understand the reason for the
10 acquisition of this particular pump and the
11 reason that it was taken offline?

12 A During my site visit, I spoke with Mr. Abbott and
13 I was under the impression that this was the
14 replacement for the pump, which at some point a
15 pump which oversized and was being operated in
16 the system manually. It sounds like I may have
17 not recalled the conversation correctly or that
18 the Company is providing conflicting information,
19 and that this pump was, in fact, undersized and
20 wasn't able to actually meet the DEQ supply
21 standards, and it's no longer used and useful
22 following the removal of the -- in 2023 in that
23 replacement.

24 Q Do you understand that it was taken offline

1 because it was hit by lightening?

2 A I did not know that.

3 MR. FINLEY: May I take a minute?

4 HEARING EXAMINER HILBURN: Yes. Do you want
5 to approach?

6 MR. FINLEY: No, no.

7 HEARING EXAMINER HILBURN: Do you want to
8 take a five-minute break?

9 MR. FINLEY: Yes, please. To collect my
10 notes, please.

11 HEARING EXAMINER HILBURN: We're going to go
12 off the record for about five minutes.

13 (A recess was taken from 3:56 p.m. to 4:01 p.m.)

14 HEARING EXAMINER HILBURN: We're going to go
15 back on the record.

16 BY MR. FINLEY:

17 Q Mr. Hower, we were talking about -- Houser -- I
18 apologize. I get those consonants mixed up a
19 little bit, so forgive me for that.

20 A No, I saw that you had a client named with a
21 similar name last week.

22 Q That's right. We're talking about the pump a
23 minute ago. Isn't it correct that in the
24 Response to the data request it was indicated

1 that the pump was removed because of a lightning
2 strike?

3 A The Response to the data request -- I'm holding
4 the data request in my hand right now -- the
5 words it uses in response to Question 3(d) are,
6 *There was no warranty on the pump. Based on a*
7 *phone call with Reid Mullis of Gopher Utilities*
8 *regarding the pump warranty, he stated that a*
9 *warranty applies only if, quote, it was a literal*
10 *act of God; it was struck by lightning, so no*
11 *warranty. So the warranty applies only if it was*
12 *struck by lightning.*

13 MS. PERRY: No, that's not --

14 MR. FINLEY: Well, we'll leave that to
15 another day.

16 MS. PERRY: We can send you the email.

17 BY MR. FINLEY:

18 Q Let me ask you about --

19 HEARING EXAMINER HILBURN: To clarify the
20 record there: So the response to the question is the
21 pump was taken out of service because it was
22 undersized or oversized?

23 THE WITNESS: My understanding from what the
24 Company, just says that the pump was taken out of

1 service because it was struck by lightning. And the
2 data response says that the warranty applies only if.
3 So my understanding based on the data response is that
4 the pump should have been in warranty, based on what
5 it says.

6 MR. FINLEY: The Company will be prepared to
7 address that in greater detail.

8 HEARING EXAMINER HILBURN: Okay. Thank you.
9 Thank you.

10 BY MR. FINLEY:

11 Q So let's take a quick look at page 25, line 19.
12 *Annualized costs related to repair of the piping*
13 *in the filter building at Rocky River Well --*
14 *Rocky River's Well Number 2 over a three-year*
15 *period to reach a reasonable ongoing level of*
16 *expense. Given the magnitude and atypical*
17 *frequency of this event, this type of repair*
18 *should not be expected on an annual basis.*

19 What is your justification for your
20 conclusion that pipe breaks of this magnitude
21 don't occur with some regularity?

22 A My understanding from Mr. Abbott's testimony is
23 that during the time that the well was offline
24 there were only three events which led to service

1 outages. One was this maintenance issue and two
2 others were line breaks due to fiberoptic
3 installers in the neighborhood.

4 The customer testimony may not agree with
5 that, but based on review of the Consumer Service
6 Division's complaints over a three-year period,
7 we received seven complaints. Six of which
8 happened at the time of this issue. So I believe
9 it's reasonable to determine that a break of this
10 magnitude does not occur and it only occurred
11 once in the three-year period, so I believe an
12 annualization over a three-year period is
13 reasonable for this maintenance issue.

14 MR. FINLEY: Those are the questions I have
15 on cross examination.

16 HEARING EXAMINER HILBURN: Thank you,
17 Mr. Finley. Do you want to go back now to the Offer
18 to Approve.

19 MR. FINLEY: That's completely up to you.

20 HEARING EXAMINER HILBURN: Okay. So we can
21 complete that discussion. So we're going to go back
22 to that discussion where you were wanting to ask the
23 question to the witness regarding what he had asked
24 his attorney about being reasonable and prudent.

1 The Public Staff had objected. And I
2 allowed it for the Offer of Proof and I'm going to
3 allow it now. Just to reiterate for the Offer of
4 Proof, the witness will be able to answer the question
5 from Mr. Finley, but it's only for the purpose of if
6 the Company is to appeal this decision of the
7 Commission. These responses will not be taken into
8 consideration as part of the evidence in this
9 particular proceeding that this Commission will use to
10 make its decision on the legal fees. It's an Offer of
11 Proof for appeal purposes. So Mr. Finley can ask his
12 questions. You can respond to the best of your
13 ability, but your counsel will know it's not a part of
14 this record for this decision making.

15 BY MR. FINLEY:

16 Q So the question is: Did you ask legal counsel
17 with the Public Staff whether or not the tests to
18 be employed by the Commission to disallow costs
19 is whether or not those costs are reasonable and
20 prudent or unreasonable and imprudent? I'm just
21 asking if you asked them that.

22 A It's an industry standard that the benchmark for
23 disallowance is reasonableness and prudence.

24 Q Well, the specific question that we're talking

1 about is did you ask your lawyers whether or not
2 that is the standard. Did you ask -- I didn't
3 ask you what they told you. I just said did you
4 ask that question?

5 A I did not discuss that with them.

6 MR. FINLEY: So, there we go. That's it.

7 HEARING EXAMINER HILBURN: Okay. Thank you.

8 Redirect from Public Staff?

9 REDIRECT EXAMINATION BY MS. HOLT:

10 Q Mr. Houser, counsel from WRI asked you about
11 different conversations the Company might have
12 had that you didn't discuss in your testimony.

13 Would the Public Staff be privy to
14 settlement negotiations between DEQ, DOJ, and
15 WRI?

16 A No.

17 Q And was the Consent Judgment a result of WRI's
18 noncompliance?

19 A Yes.

20 Q Was the Amended Consent Judgment a result of
21 WRI's failure to comply with the Consent Judgment
22 and the subsequent Motion to Show Cause?

23 A Yes. It was associated with continued
24 noncompliance.

1 Q Okay. And in your investigation of this case,
2 have you reviewed the DEQ/DOJ complaint, Consent
3 Judgment, Motion for Show Cause, Amended Consent
4 Judgment?

5 A Yes.

6 Q Have you -- did you review the direct testimony
7 of Mr. Abbott?

8 A Yes.

9 Q Did you review the Public Staff's motion for
10 increase in the Company's bond?

11 A Yes.

12 Q Did you review the Company's responses to the
13 data request that the Public Staff sent?

14 A Yes.

15 Q Did this knowledge contribute to your
16 understanding and recommendation in this case?

17 A Yes.

18 Q In your opinion, is it common for large projects
19 to be broken down into specific plan accounts
20 with discrete depreciation rates?

21 A Yes, I believe so.

22 Q Okay. Is it uncommon for capacity fees or
23 development fees to be recurrent?

24 A It's not common for a utility to incur a capacity

1 fee or a development fee multiple times.

2 Q Are -- counsel referred to your recommendation of
3 a 50-year depreciation or life of the
4 interconnect. Are depreciation rates recommended
5 by the Public Staff based on the financial
6 capabilities of the utility?

7 A No. They are based on the expected life of the
8 asset.

9 Q Now, in terms of when we ask questions, sent data
10 requests, did the Company make additional claims
11 in its rebuttal testimony when compared to its
12 direct testimony, which necessitated additional
13 discovery?

14 A Yes.

15 Q The Company made reference to a data request, and
16 I think it would be prudent to offer that as an
17 exhibit.

18 MS. HOLT: For the record, I'm offering as
19 an exhibit Public Staff Data Request Number 12, dated
20 May 2nd, 2024. And the subject of the data request,
21 joint rebuttal testimony of Peedin & Perry Consulting
22 and Dennis Abbott. And I would request that this
23 exhibit be marked as Public Staff Redirect -- Public
24 Staff Houser Redirect Exhibit 1.

1 HEARING EXAMINER HILBURN: And, without
2 objection, that will be so identified and marked in
3 the record.

4 (WHEREUPON, Public Staff
5 Houser Redirect Exhibit 1
6 is identified.)

7 BY MS. HOLT:

8 Q Mr. Houser, let me direct your attention to
9 Public Staff data request, I mean, I'm sorry,
10 number 3? My copy is kind of light.

11 A I'm sorry. I think our printer run out of ink
12 upstairs.

13 Q It's DR-12 Question 3. And I'll read the
14 question. "On page 20 of the Company's rebuttal
15 the joint witnesses discuss the Public Staff's
16 removal of pump repairs from 2022. Regarding the
17 pump that was removed by the Public Staff, please
18 answer the following: What was the approved
19 design pumping capacity; what was the actual
20 pumping capacity of the pump that was repaired in
21 2022; was the pump operating manually or
22 automatically; and were the repairs which were
23 completed in 2022 under warranty when the pump
24 was replaced in 2023"?

1 Now, could you discuss specifically the
2 Company's Response to D?

3 A Yes. The Company response to Part D was there
4 was no warranty on the pump, and that based on a
5 phone call with Reid Mullis of Gopher Utilities
6 regarding the pump warranty, he had stated that a
7 warranty applies only if it was a literally act
8 of God; it was struck by lightning, so no
9 warranty.

10 Q Okay. And what does that mean to you?

11 A That the pump is under warranty if a -- excuse
12 me. The warranty would apply if it was a literal
13 act of God, that is, it was struck by lightning.

14 Q Thank you. Now, going to A and B, could you
15 follow up on the difference between the Company's
16 Response in A and B?

17 A Yes. So, the approved design pumping capacity is
18 the DEQ capacity approved for the pump in that
19 well. In this case, it's Well 2. The design
20 pumping capacity, according to the Company's
21 Response, that Jeff Westmoreland had stated that
22 the approved pumping capacity is 78 gallons per
23 minute with a 10-horsepower pump.

24 So the response to Part B states that a

1 45-gallon-per-minute pump was operating at the
2 time. And, given the utility's source issues
3 where they were operating only on one well, I
4 don't believe it's reasonable to be operating on
5 a 45-gallon-per-minute pump when your approved
6 capacity is 78 gallons per minute. In this case,
7 DEQ requires approximately 400 gallons per day
8 per connection and this service area has if you
9 count the bulk customer connections 131
10 connections. The map boils down to .55 gallons
11 per minute per connection. And so a
12 45-gallon-per-minute pump would be insufficient
13 and this lends credit to the customer testimony
14 at the customer witness hearing that there were
15 significant outages on a potentially regular
16 basis, and it seems reasonable to expect that
17 that's accurate given that the Company for some
18 amount of time was operating on a single source
19 with an undersized pump.

20 MS. HOLT: Thank you. I have no further
21 questions.

22 HEARING EXAMINER HILBURN: I have a few
23 questions for you, Mr. Houser.

24 EXAMINATION BY HEARING EXAMINER HILBURN:

1 Q Speaking about the pump that we were just talking
2 about that's on page 25 of your testimony, you
3 say that you annualized the costs related to that
4 repair over a three-year period. I'm trying to
5 understand your adjustment. When you say you
6 annualized, did you look at several years of
7 expense and normalize the level, like, instead of
8 annualize you amortized it or kind of spread it
9 out over a longer period of time? Help me
10 understand what do you mean by annualize.

11 A Similar, yes. So I looked at a three-year period
12 of customer service-related complaints and it
13 appeared there were an extremely high volume of
14 customer service complaints at the moment of
15 this -- or preceding this repair. And so based
16 on that three-year period of customer service
17 complaints, it seems reasonable that this has
18 only happened in one -- over one -- sorry, one
19 time in a three-year period, otherwise, we would
20 have seen other similar spikes in complaints in
21 the Consumer Services Division customer complaint
22 report, and I did see that. So I believe a
23 three-year period -- I'm sorry, I didn't see
24 other spikes and complaints, and I believe that's

1 a reasonable time period to spread the cost
2 recovery out over, or the expense amount over.

3 Q So you took a dollar amount of expense and
4 divided it by three years --

5 A Yes.

6 Q -- is what you did. Where is that in the
7 exhibits?

8 A I don't believe that's actually calculated in my
9 exhibits. I'd be happy to provide a late-filed
10 exhibit of my maintenance and repair
11 recommendations.

12 Q Yes. That would be very helpful because we could
13 not find that. We were thinking we were
14 overlooking it. So it would be good to see what
15 that total dollar amount is, how you amortized
16 it, and how that fits into your recommendation
17 for repairs and maintenance.

18 And following up one more time on the pumps.
19 So, is it your testimony that the pump that was
20 taken out of service, that it's not reusable,
21 that it is -- it can't be reused at a different
22 place, or sold; that it's no longer functional?

23 A The pump that was removed in 2022? Yes. Based
24 on the Company's information that it was struck

1 by lightning, I would think it's likely not
2 usable beyond --

3 Q Okay. And what was the dollar amount of that
4 pump?

5 A That's actually not listed directly in my
6 testimony. I think it -- I'll include it as a
7 late-filed exhibit. It may be \$14,500
8 approximately.

9 Q Okay. That will be helpful as well. Yes.

10 And while we're talking about numbers, the
11 legal fees. We were trying to determine where in
12 the testimony is the breakdown of the adjustment
13 to legal fees. Because, you know, there's
14 varying types. There's the legal fees related to
15 the bonds, complaints, maybe some other legal
16 fees as well. And this was in I think
17 miscellaneous professional fees. But we really
18 couldn't see the detail of that in the Public
19 Staff's exhibits. If you could point me to that.

20 A The legal fees addressed in my testimony are
21 limited to the legal fees which were included in
22 the Company's plant in service cost for the
23 Harrisburg interconnection project. Other legal
24 fees and professional expenses are included in

1 the testimony and schedules of Public Staff
2 Witness Feasel.

3 Q Okay. I'll ask her about those then.

4 A Would you like a table of the Harrisburg
5 interconnection?

6 Q Of the ones, yes. The ones that were removed
7 from plant in service. Yes, that would be very
8 helpful as well. Yes, that you were talking
9 about in your testimony, that you had quite a bit
10 of discussion with Mr. Finley.

11 A Okay.

12 Q And I know Mr. Finley touched on this; how the
13 Public Staff determined that one half of certain
14 of the legal fees would be recovered from
15 customers or recommended for recovery, tying them
16 into the DEQ and reporting, Commission reporting.
17 But the question is, and I believe you answered
18 Mr. Finley, but I just want to be sure, how you
19 determine 50 percent or one half of the amount of
20 that category would be reasonable?

21 A So it is a removal of half. And the total amount
22 that would have been or would have not been
23 incurred had the Company completed the project
24 sooner is unknowable because it's -- it's not --

1 you can't say oh, this is the amount that would
2 have been incurred versus the amount that had
3 not. So, it is 50 percent of the cost related to
4 the interconnect filings and the compliance
5 filings with DOJ and 100 percent of costs related
6 to the contempt filings.

7 Q And you do have those dollar amounts that you can
8 provide in that late-filed exhibit.

9 A Yes.

10 Q Yes.

11 A I'll include that as part of the Harrisburg
12 interconnection legal fees.

13 Q Okay. And on the development fee, the one-time
14 fee. How did you obtain your understanding that
15 that was the one-time fee? I mean, what
16 documents did you look at?

17 A The Company included documentation for -- the
18 Company included a table in their plant in
19 service records showing each of the costs which
20 went into that. And I believe there was 97,565
21 or 95 potentially.

22 Q I've got 97,565.

23 A Okay.

24 Q So that was included in the Company's plant in

1 service records that you reviewed?

2 A Yes.

3 Q Why was the number uneven or not like a flat fee?

4 Is it some calculation?

5 A I'm not sure. It's based on the costs paid to
6 Town of Harrisburg so I would have to review
7 their schedule of fees. But they do have
8 schedule of fees related on their website which
9 outlines what the development fee costs are.

10 Q That would be helpful to know.

11 A Sure. We can potentially include a copy of that
12 with our filing.

13 Q Do you know if that fee, that one-time fee that
14 the Company has reported as an asset, that would
15 be transferred to another operator if the system
16 were sold?

17 A Yes. In the event of sale of the system, because
18 the asset as recommended be treated -- as I
19 recommended the asset to be treated as
20 non-depreciable, the value of it would not
21 decrease over time. So if another company wanted
22 to purchase the system, the rate base would
23 remain constant between now and then and the
24 company would recover at that time or be returned

1 to the \$97,565 associated with the development
2 fee.

3 Q All right. That's helpful.

4 A Excuse me, I want to add a caveat to that.

5 Q Okay. Yes.

6 A It depends on the purchase price, of course, but
7 it would remain in the rate base until then.

8 Q Okay. Have you had a chance to review the
9 rebuttal testimony of WRI?

10 A Yes.

11 Q And is there anything in there that struck the
12 Public Staff as information had they known when
13 they wrote their testimony they might would have
14 said more or said additional -- regarding and
15 specifically asking about the Public Staff's
16 belief and view and recommendation regarding that
17 WRI took all reasonable steps that they could or
18 should they have done something different or
19 taken additional steps. Has anything changed
20 from the Public Staff's recommendation as a
21 result of reading this rebuttal testimony?

22 A Certainly, given -- and I can't base your
23 question solely on the rebuttal based on the
24 cross here today.

1 Q Yes, include that as well.

2 A I definitely reviewed a lot of information
3 regarding the interconnection and, of course, not
4 all of it can be placed into the testimony.
5 There's a significant amount of information of
6 review to go into these recommendations. So,
7 yeah, potentially I would have expounded upon
8 some of that.

9 Q Would there be something you would want to say
10 right now based on what you've ascertained?

11 A Yeah. I've --

12 MR. FINLEY: I'm going to respectfully
13 object. Madam Chair, you're asking this witness to do
14 surrebuttal.

15 HEARING EXAMINER HILBURN: Okay.

16 MR. FINLEY: I don't mean to be impolite but
17 I don't think that's quite fair.

18 HEARING EXAMINER HILBURN: Okay. Then, I'll
19 keep going.

20 BY HEARING EXAMINER HILBURN:

21 Q Then, anything that you would like to say, and I
22 will not say surrebuttal, but I guess I just want
23 to know that you stick by your recommendation.

24 A Yes. And I believe regarding the interconnection

1 that the Company first learned of issues related
2 to radium in their Well 1 in 2018, when they
3 first began pulling it -- I believe it was
4 May 2018 they pulled their first sample which was
5 above the MCL that is currently available in
6 drinking water watch. I think it was 5.2
7 picocuries per liter.

8 They pulled another sample in the fall
9 monitoring period, that third quarter monitoring
10 period, which came back and I believe it was 7.7.
11 And only until they pulled a third sample at 10.2
12 did they exceed the MCL which a rolling annual
13 average.

14 The Company should have known in May --
15 yeah, sorry -- May of 2018 that there was a
16 potential issue and at that time they likely
17 should have been looking into it. It sounds
18 like, based on Mr. Abbott's testimony today, that
19 the well was previously offline and it was
20 required to be brought online by the Company in
21 order to perform radium testing. So it sounds
22 like, based on his testimony today, that the
23 Company was already operating in noncompliance
24 with NCAC 18C 0402(g) (5) which is the requirement

1 to operate two wells.

2 So at some point prior to the issuance of
3 the MCLs and taking the well offline due to
4 radium, the Company was not operating the well in
5 compliance. And I think based on that, the
6 Company should have been looking for replacements
7 much sooner than what it did. And I think there
8 are a lot of delays in here that it seems like
9 the Company is repeatedly incurring delays, and I
10 believe they could have acted quicker.

11 Q Thank you.

12 MR. FINLEY: I'm going to respectfully move
13 to strike that answer, Madam Chair. This was not the
14 Public Staff's position, that there was any imprudence
15 or unreasonableness in the steps that the Company took
16 to take Well Number 1 offline and to replace it with
17 the Town of Harrisburg. So, we've got a brand new
18 issue here that was not known to the Company when it
19 filed its rebuttal testimony, when it prepared its
20 cross examination, and I just don't think that's fair.

21 HEARING EXAMINER HILBURN: And Mr. Finley,
22 the Company will have the last word so we're just
23 going to leave that where it is for right now.

24

1 BY HEARING EXAMINER HILBURN:

2 Q Mr. Houser, I just have just a couple more
3 clarifying questions for you. The Company stated
4 in their rebuttal testimony that they now have
5 now provided some invoices to the Public Staff
6 regarding some legal fees that were removed for
7 2021 related to the interconnection. Has the
8 Public Staff received those invoices? What's the
9 status of review of those invoices?

10 A Can you refresh my mind on which -- I know it's
11 at the top left part of one of the pages or the
12 top part of one of the pages. Could you --

13 Q Okay. Yes. Did I write down the page number?
14 Let's see. And it's going to be --

15 A Is it 20?

16 Q I'm sorry. Hold on just one moment.

17 A I think it's 20, lines 3 through 6.

18 Q Okay. Yes, thank you.

19 A No. I'm not aware of having received them. I
20 don't believe we received them on the date of the
21 filing of the Company's testimony which was
22 April 29th.

23 Q I just wondered if there was an update on that.

24 Can we talk about the website for just a

1 minute? This is something that the Company
2 followed up on from the last rate case. And the
3 Company will testify to that in a few minutes in
4 their rebuttal testimony. But as I understand
5 from readings the testimony, the Public Staff has
6 not included any amounts related to the website
7 in this current case because it wasn't live as of
8 the audit period that was going on.

9 In its rebuttal testimony, the Company
10 states that it has provided or can provide
11 invoices for payments made to date, along with a
12 proposal. Has the Public Staff seen any of that
13 information?

14 A The -- sorry. There were invoices provided to us
15 for the website. There were -- I believe we had
16 two invoices for the website. And my
17 understanding is at the moment the website, and
18 admittedly have not looked at it today
19 specifically, is not currently functional. And I
20 do believe the website would be a benefit to
21 customers.

22 Q I will follow up with Mr. Abbott on that on
23 rebuttal and what the status of the website is.

24 How much was the costs that were removed

1 from this proceeding for the website?

2 A The Company's Application did not include any
3 costs related to the website. I understand that
4 the invoices we were provided in response to a
5 data request included two invoices for it. I
6 don't know the total amount off the top of my
7 head for the invoices.

8 Q So no amount -- what I'm hearing, no amount was
9 included initially so you didn't remove any
10 amount but some proposed amounts have not been
11 added in?

12 A Correct. My understanding is that we did not add
13 costs related to the website.

14 MS. HOLT: Excuse me Commissioner -- Hearing
15 Examiner Hilburn.

16 HEARING EXAMINER HILBURN: Yes.

17 MS. HOLT: Public Staff Witness Lynn Feasel
18 would know, have information regarding invoices
19 received.

20 HEARING EXAMINER HILBURN: Okay. I'll ask
21 Ms. Feasel when she gets up. Thank you.

22 I think that -- well, let me ask one more
23 question.

24

1 BY HEARING EXAMINER HILBURN:

2 Q Mr. Houser, are you the person who sponsored the
3 adjustment to the bookkeeper hours?

4 A I am not.

5 Q That would be Ms. Feasel as well.

6 A It would be.

7 Q All right. Then you get off the hook then. I
8 think that's all I have for you until we get
9 redirect here on my -- or questions on
10 Commissioner questions. So I'm sorry, hold on
11 just a minute.

12 HEARING EXAMINER HILBURN: Mr. Finley.

13 EXAMINATION BY MR. FINLEY:

14 Q So, in light of the Hearing Examiner's questions,
15 Mr. Houser, are you saying that the costs now
16 that the Company incurred to put in this
17 interconnection with the Town of Harrisburg ought
18 to be -- some of those ought to be disallowed?

19 A The costs?

20 Q The cost of the interconnection, the 475 --
21 \$470,000?

22 A Yes. The legal fees which I recommended to --

23 Q I didn't ask you about the legal fees, I asked
24 you about the cost of the interconnection.

1 A The amount that you just referenced, the
2 \$470,000, I think it's \$462,000 after an update
3 to an invoice from landscaping, and that amount
4 does include legal fees which are the ones that
5 my testimony discusses removal of. But a total
6 amount of project without -- I'm not exactly sure
7 of the total amount of the project without the
8 legal fees, but we did not make other adjustments
9 with the exception of the invoices which we did
10 not have -- we did not make other adjustments to
11 the cost of construction or the cost -- we
12 actually included the cost to evaluate alternate
13 treatment options for the Greensand filter. So
14 we're not recommending any changes to those
15 costs, just the legal fees.

16 Q You're not recommending, are you, that had the
17 Company made the interconnection sooner than it
18 did that the costs would be different? You've
19 not testified to have, have you?

20 A The --

21 Q Besides the legal fees I'm talking about.

22 A Yeah. With the exception of legal fees, I don't
23 know what the cost would have been if the
24 interconnection had been completed with a

1 different date.

2 MR. FINLEY: Thank you.

3 HEARING EXAMINER HILBURN: Ms. Holt.

4 MS. HOLT: Yes. I have one clarifying
5 question.

6 EXAMINATION BY MS. HOLT:

7 Q Mr. Houser, did you recommend disallowance of the
8 website charges or did Ms. Feasel?

9 A I don't believe I recommended disallowance of the
10 website charges. I'm not sure if it was some
11 kind of was recommended to be disallowed or just
12 not included in the Company's -- or in the Public
13 Staff's recommendation.

14 MS. HOLT: Thank you.

15 HEARING EXAMINER HILBURN: With that,
16 Mr. Houser, you are excused. Thank you for your
17 testimony today.

18 Ms. Holt you may call your next witness.

19 MS. HOLT: I would like to first move the
20 admission of Public Staff Houser Redirect Exhibit 1.

21 HEARING EXAMINER HILBURN: Yes. And that
22 will be, without objection, that will be allowed in
23 the record as marked.

24 (WHEREUPON, Public Staff

1 Houser Redirect Exhibit 1
2 is received into evidence.)

3 MS. HOLT: The Public Staff calls Lynn
4 Feasel.

5 MR. FINLEY: Madam Hearing Examiner, how
6 long are we going to go today?

7 HEARING EXAMINER HILBURN: Excuse me. We're
8 going to go til five o'clock today. And then we'll
9 start back in the morning at 9:30 if we do not finish,
10 which I don't think we will.

11 If you will place your left hand on the
12 Bible and raise your right hand.

13 LYNN FEASEL;
14 having been duly sworn,
15 testified as follows:

16 HEARING EXAMINER HILBURN: Thank you. And
17 if you will also state your name and your place of
18 employment for the record.

19 THE WITNESS: My name is Lynn Feasel. Place
20 of employment is North Carolina Utilities Commission -
21 Public Staff. Business address is 430 North Salisbury
22 Street, Raleigh, North Carolina.

23 HEARING EXAMINER HILBURN: Ms. Holt, do you
24 want to move her summary into the record?

1 MS. HOLT: Yes. I was going to go over some
2 introductory questions first.

3 HEARING EXAMINER HILBURN: Yes, please
4 proceed.

5 DIRECT EXAMINATION BY MS. HOLT:

6 Q Ms. Feasel, on April 12th, 2024, did you prefile
7 testimony consisting of 16 pages in question and
8 answer format?

9 A Yes.

10 Q An appendix and one exhibit?

11 A Yes.

12 Q Do you have any changes or corrections to your
13 prefiled direct testimony?

14 A No.

15 Q If I were to ask you those same questions today,
16 would your answers be the same?

17 A Yes.

18 MS. HOLT: Madam Hearing Examiner, I move
19 that Ms. Feasel's direct testimony be copied into the
20 record as if given orally from the stand and that her
21 appendix and exhibit be identified as marked when
22 filed.

23 HEARING EXAMINER HILBURN: Without
24 objection, that will be allowed.

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(WHEREUPON, Feasel Appendix
A and Accounting Exhibit 1
are identified.)

(WHEREUPON, the prefiled
direct testimony of LYNN
FEASEL is copied into the
record as if given orally
from the stand.)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 13

In the Matter of)	
Application of Water Resources, Inc.,)	
for Authority to Adjust and Increase Rates	)	TESTIMONY OF
for Water Utility Service in Rocky River	)	LYNN FEASEL
Plantation Subdivision in Cabarrus County	)	PUBLIC STAFF –
and River Walk Subdivision in	)	NORTH CAROLINA
Mecklenburg County, North Carolina	)	UTILITIES COMMISSION

April 12, 2024

1 **Q. Please state your name, business address, and present position.**

2 A. My name is Lynn Feasel. My business address is 430 North Salisbury
3 Street, Dobbs Building, Raleigh, North Carolina. I am the Public
4 Utilities Regulatory Supervisor of the Water, Sewer, and
5 Telecommunications Sections with the Accounting Division of the
6 Public Staff – North Carolina Utilities Commission (Public Staff).

7 **Q. Please state your qualifications and experience.**

8 A. My qualifications and experience are included in Appendix A.

9 **Q. What is the mission of the Public Staff?**

10 A. The Public Staff represents the concerns of the using and consuming
11 public in all public utility matters that come before the North Carolina
12 Utilities Commission (Commission). Pursuant to N.C. Gen. Stat. §
13 62-15(d), it is the Public Staff's duty and responsibility to review,
14 investigate, and make appropriate recommendations to the
15 Commission regarding the following utility matters: (1) retail rates
16 charged, service furnished, and complaints filed, regardless of retail
17 customer class; (2) applications for certificates of public convenience
18 and necessity; (3) transfers of franchises, mergers, consolidations,
19 and combinations of public utilities; and (4) contracts of public utilities
20 with affiliates or subsidiaries. The Public Staff is also responsible for
21 appearing before State and federal courts and agencies in matters
22 affecting public utility service.

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to present the accounting and
3 ratemaking adjustments I am recommending, as well as those
4 recommended by other Public Staff witnesses, as a result of the
5 Public Staff's investigation of the application filed by Water
6 Resources, Inc. (WRI), for Authority to Adjust and Increase Rates for
7 Water Utility Service in Rocky River Plantation (Rocky River)
8 Subdivision in Cabarrus County, North Carolina, and River Walk
9 (River Walk) Subdivision in Mecklenburg County, North Carolina
10 (Application).

11 **Q. Please describe the scope of your investigation into the**
12 **Company's filings.**

13 A. My investigation includes a review of the Application, exhibits, and
14 testimony filed by the Company and an examination of the books and
15 records for the 12-month test year ended December 31, 2022, with
16 updates for certain items through December 31, 2023. The Public
17 Staff also conducted extensive discovery in this matter, including
18 auditing information provided by the Company in response to the
19 Public Staff's written and verbal data requests.

1 **Q. Please briefly describe the Public Staff's presentation of the**
2 **issues in this case.**

3 A. Each Public Staff witness will present testimony and exhibits
4 supporting his or her position and will recommend any appropriate
5 adjustments to the Company's proposed rate base and cost of
6 service for the test year. My exhibits reflect and summarize these
7 adjustments, as well as the adjustments I recommend.

8 **Q. Please provide a more detailed description of the organization**
9 **of your exhibits.**

10 A. Schedules 1a and 1b of Public Staff Accounting Exhibit I present the
11 return on original cost rate base under present rates, the Company's
12 proposed rates, and the Public Staff's recommended rates.

13 Schedules 1c and 1d of Public Staff Accounting Exhibit I present the
14 margin on operating revenue deductions requiring a return under
15 present rates, Company proposed rates, and the Public Staff's
16 recommended rates.

17 Schedules 2a and 2b of Public Staff Accounting Exhibit I, along with
18 their supporting schedules, present the original cost rate base.

19 Schedules 3a and 3b of Public Staff Accounting Exhibit I, along with
20 their supporting schedules, present the net operating income for a

1 return under present rates, Company proposed rates, and the Public
2 Staff's recommended rates.

3 Schedules 4a and 4b of Public Staff Accounting Exhibit I present the
4 calculation of revenue requirement.

5 Schedules 5a and 5b of Public Staff Accounting Exhibit I present a
6 summary of the revenue impacts from the Public Staff's adjustments
7 and the Public Staff's recommended revenue increase.

8 **Q. What conclusions have you reached as to the Company's rate
9 increase request for Rocky River?**

10 A. Based on the results of my investigation, Rocky River's original cost
11 rate base as of December 31, 2022, with updates for certain items
12 through December 31, 2023, is \$433,170. The test year level of
13 operating revenue deductions requiring a return is \$99,224. Based
14 on the foregoing, I utilized the rate base method to evaluate the
15 Company's proposed revenue requirement.

16 I calculated the gross revenue requirement using the overall rate of
17 return of 7.00% recommended by Public Staff Regulatory Analyst
18 Gregory J. Reger. The resulting total revenue requirement is
19 \$136,077, of which \$135,229 is attributed to service revenue and
20 \$848 is attributed to miscellaneous revenue. Therefore, the Public
21 Staff recommends that water service rates for Rocky River be set to

1 reflect a service revenue increase of \$92,377 based on the difference
2 between the recommended service revenue of \$135,229 and the
3 service revenue under the present rates of \$42,852 approved in
4 Docket No. W-1034, Sub 8 on November 21, 2018.

5 **Q. What conclusions have you reached as to the Company's rate**
6 **increase request for River Walk?**

7 A. Based on my investigation, River Walk's original cost rate base as of
8 December 31, 2022, with updates for certain items through
9 December 31, 2023, is \$24,160. The test year level of operating
10 revenue deductions requiring a return is \$34,850. Based on the
11 foregoing, and as allowed under N.C. Gen. Stat. § 62-133.1, I utilized
12 the operating ratio method to evaluate the Company's proposed
13 revenue requirement.

14 I calculated the gross revenue requirement using the margin on
15 operating revenue deductions requiring a return of 7.00%
16 recommended by Public Staff witness Reger. The resulting total
17 revenue requirement is \$38,073, of which \$37,682 is attributed to
18 service revenue, and \$391 is attributed to miscellaneous revenue.
19 Therefore, the Public Staff recommends that water service rates for
20 River Walk be set to reflect a service revenue increase of \$2,419
21 based on the difference between the recommended service revenue
22 of \$37,682 and the service revenue under the present rates of

1 \$35,263 approved in Docket No. W-1034, Sub 8 on November 21,
2 2018.

3 **Q. Does Public Staff Accounting Exhibit I reflect the adjustments**
4 **supported by other public staff witnesses?**

5 A. Yes. Public Staff Accounting Exhibit I reflects the following
6 adjustments supported by other Public Staff witnesses:

7 1. The recommendation of Public Staff witness Reger for the margin
8 on operating revenue deductions and the overall rate of return.

9 2. The recommendation of Public Staff Utilities Engineer Evan
10 Houser for the following items:

11 (a) Plant in service

12 (b) Maintenance and repairs;

13 (c) Contract operator;

14 (d) Electric;

15 (e) Testing;

16 (f) Chemicals; and

17 (g) Purchased water.

1 **Q. What adjustments will you discuss?**

2 A. I discuss the following recommended accounting and ratemaking
3 adjustments:

4 (a) Accumulated depreciation and depreciation expense;

5 (b) Accumulated amortization of CIAC and amortization of
6 CIAC expense;

7 (c) Cash working capital and average tax accrual;

8 (d) Miscellaneous revenues;

9 (e) Salaries and wages;

10 (f) Administrative and office expense;

11 (g) Insurance;

12 (h) Professional services;

13 (i) Miscellaneous expense;

14 (j) Rate case expense;

15 (k) Property tax;

16 (l) Payroll tax;

17 (m) Regulatory fee;

18 (n) State income tax; and

19 (o) Federal income tax.

1 **Plant in Service**

2 **Q. Please explain the adjustments to Plant in Service.**

3 **A.** The calculation begins with plant, accumulated depreciation, and net
4 plant based on the Company's actual per books plant in service and
5 accumulated depreciation amounts as of the period ending
6 December 31, 2023. I have then incorporated the plant adjustments
7 recommended by Public Staff witness Houser.

8 **Accumulated Depreciation and Depreciation Expense**

9 **Q. How have you adjusted accumulated depreciation and**
10 **depreciation expense?**

11 **A.** I calculated accumulated depreciation and depreciation expense to
12 reflect depreciation related to the adjusted plant balances stated
13 above as of December 31, 2023 for Rocky River and River Walk,
14 respectively.

15 Accumulated depreciation was calculated based on the service lives
16 recommended by Public Staff witness Houser and the year each
17 plant asset was placed in service, using the half-year convention
18 methodology. Depreciation expense reflects a single year's
19 depreciation.

1 **Accumulated Amortization of CIAC and Amortization of CIAC Expense**

2 **Q. How have you adjusted accumulated amortization and**
3 **amortization expense?**

4 **A.** I calculated accumulated amortization and amortization expense to
5 reflect amortization related to the contributions in aid of construction
6 (CIAC) as of December 31, 2023 for River Walk.

7 Accumulated amortization was calculated based on the service lives
8 recommended by Public Staff witness Houser and the year each
9 CIAC was collected, using the half-year convention methodology.
10 Amortization expense reflects a single year's amortization.

11 **Cash Working Capital and Average Tax Accruals**

12 **Q. Please describe your calculation of cash working capital and**
13 **average tax accruals.**

14 **A.** Cash working capital, net of average tax accruals, provides the
15 Company with the funds necessary to carry on its daily operations.
16 For both Rocky River and River Walk, I included one-eighth of total
17 adjusted operating and maintenance expenses as a measure of cash
18 working capital. Average tax accruals, calculated as one-fifth of
19 payroll tax plus one-half of property taxes, reflects the tax that the
20 Company collects in rates but does not pay to the government
21 agency every month. Since the Company has the use of this money

1 the average pay for an employee performing similar tasks, to the
2 median 10 hours per week of work to calculate a representative
3 ongoing level of payroll expense for the employee. Although the
4 representative level I have included exceeds the amounts for which
5 the Company provided payroll stubs for the test year, I believe the
6 calculation to be a fair representation of payroll expense for the
7 employee given the Company's lack of supporting documentation
8 and inability to support the number of hours worked by the employee.
9 Based on the foregoing, I also recommend the Company keep time
10 records for employees going forward.

11 **Administrative and Office Expense**

12 **Q. Please explain your adjustments to administrative and office**
13 **expense.**

14 **A.** I adjusted administrative and office (A&G) expenses to: (1) remove
15 meals expense, (2) update business phone expenses, (3) include
16 personal phone reimbursement expense reclassified from salaries
17 and wages, (4) remove phone charges outside of test period, (5)
18 update postage meter expenses for which supporting documentation
19 was provided, (6) adjust office supplies based on a reasonable
20 estimation of costs to reflect an on-going level of expenses for a
21 small utility company, (7) update office rent to reflect the rent
22 increase to be effective June 1, 2023, (8) update A&G miscellaneous

1 expenses for which supporting documentation was provided, and
2 (10) remove late payment fees.

3 **Insurance Expense**

4 **Q. Please explain your adjustments to insurance expense.**

5 **A.** I updated the insurance expense to reflect the most current rates for
6 property and liability insurance.

7 **Professional Expense**

8 **Q. Please explain your adjustments to professional services.**

9 **A.** First, I corrected the professional fees error shown on the Company's
10 Schedule 3(a) and 3(b) for Rocky River and River Walk, respectively,
11 to reflect the adjusted professional fees supported by the Company's
12 Schedule 3-5. Additionally, I included a correction for an invoice,
13 which included an incorrect number of billing hours. Then, I removed
14 expenses that were outside of the test period as well as expenses
15 based on the recommendation of Public Staff witness Houser.
16 Finally, I reclassified professional expenses related to rate case
17 expense to rate case expense.

1 **Miscellaneous expense**

2 **Q. Please explain your adjustments to Miscellaneous.**

3 **A.** After reviewing the responses to Public Staff data requests, I updated
4 miscellaneous expenses to reflect the most recent interest expense
5 on the \$35,000 loan for a revolving line of credit with Western
6 Alliance Bank that satisfies the initial bond requirement set forth in
7 Docket No. W-1034, Sub 0.

8 **Rate Case Expense**

9 **Q. Please explain your adjustments to Rate case expense**

10 **A.** The Company included an estimated amount of regulatory expenses
11 in its application. I adjusted regulatory expenses to include the actual
12 rate case expenses and expenses reclassified to rate case expense,
13 and included an estimated amount for notices, printing envelopes,
14 and postage fees to be incurred after the evidentiary hearing. I then
15 amortized the calculated expenses over a five-year period based on
16 my analysis of the frequency of the Company's historic rate case
17 filings. Additionally, I recommend that if the Company's next rate
18 case filing exceeds the five-year amortization period, starting with the
19 date on which rates become effective in the present case, the
20 Company shall record any overcollection of rate case expense,
21 beginning the first month after the five-year amortization period ends,

1 in a regulatory liability account on a monthly basis. I further
2 recommend that the amounts be recorded in the regulatory liability
3 account and be returned to ratepayers with interest based on the
4 weighted average cost of capital, in a manner determined in the
5 Company's next rate case. Should the Company file for a rate case
6 before the expiration of the amortization period, any unrecovered
7 rate case expense balance will be added in the new rate case
8 expense and amortized over the number of years approved by the
9 Commission in that rate case.

10 **Property Taxes**

11 **Q. Please explain your adjustments to Property tax.**

12 **A.** I adjusted the property tax to exclude the property tax paid on a
13 former office space owned by WRI, which is no longer in use, and
14 the property tax paid for a well that is not in use based on the
15 recommendation of Public Staff witness Houser.

16 **Payroll Taxes**

17 **Q. Please explain your calculation of Payroll tax.**

18 **A.** Payroll taxes were updated based on the updated salaries and
19 wages, applying the most current statutory rates for FICA (7.65%),
20 SUTA (1.9%), and FUTA (0.6%), including a wage cap on FUTA of
21 \$7,000.

1

Regulatory Fee

2 **Q. How have you adjusted the regulatory fee?**

3 A. I applied the statutory rate of 0.1475% to the total operating revenues
4 under present rates, the Company's proposed rates, and the Public
5 Staff's recommended rates, respectively.

State And Federal Income Taxes

6 **Q. Please explain your calculation of state and federal income**
7 **taxes.**

8 **A.** State and federal income taxes were calculated based on the
9 statutory corporate rates for the level of income and expenses after
10 all Public Staff adjustments.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes, it does.

1 BY MS. HOLT:

2 Q Ms. Feasel, on April 26, 2024, did you file
3 supplemental testimony consisting of four pages
4 and one exhibit, Feasel Supplemental Exhibit 1?

5 A Yes.

6 Q Do you have any changes or corrections to your
7 supplemental testimony?

8 A No.

9 Q If I were to ask you the same questions today,
10 would your answers be the same?

11 A Yes.

12 MS. HOLT: I move that Ms. Feasel's
13 supplemental testimony be copied into the record as if
14 given orally from the stand and that her exhibit be
15 identified as marked when filed.

16 HEARING EXAMINER HILBURN: Without
17 objection, that will be allowed.

18 (WHEREUPON, Feasel
19 Supplemental Exhibit 1 is
20 identified.)

21 (WHEREUPON, the prefiled
22 supplemental testimony of
23 LYNN FEASEL is copied into
24 the record as if given

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orally from the stand.)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1034, SUB 13

In the Matter of)	
Application of Water Resources, Inc.,	)	SUPPLEMENTAL
for Authority to Adjust and Increase Rates for	)	TESTIMONY OF
Water Utility Service in Rocky River Plantation	)	LYNN FEASEL
Subdivision in Cabarrus County and River	)	PUBLIC STAFF –
Walk Subdivision in Mecklenburg County,	)	NORTH CAROLINA
North Carolina	)	UTILITIES COMMISSION

April 26, 2024

1 **Q. Please state your name, business address, and present position.**

2 A. My name is Lynn Feasel. My business address is 430 North Salisbury
3 Street, Dobbs Building, Raleigh, North Carolina. I am the Public
4 Utilities Regulatory Supervisor of the Water, Sewer, and
5 Telecommunications Sections with the Accounting Division of the
6 Public Staff – North Carolina Utilities Commission (Public Staff).

7 **Q. Are you the same Lynn Feasel who filed direct testimony on**
8 **behalf of the Public Staff in this proceeding on April 12, 2024?**

9 A. Yes.

10 **Q. Are your qualifications and duties the same as stated in your**
11 **direct testimony?**

12 A. Yes.

13 **Q. What is the purpose of your supplemental testimony?**

14 A. The purpose of my supplemental testimony is to update the rate case
15 expense and subsequently the Public Staff recommended revenue
16 requirement based upon the update. My updated adjustment and
17 revenue requirement schedules are attached as Public Staff
18 Accounting Supplemental Exhibit I.

1 **Q. Please describe your update to rate case expense since your**
2 **initial testimony.**

3 **A.** After the filing of my direct testimony and exhibit on April 12, 2024,
4 the Public Staff audited rate case expense invoices provided by the
5 Company and included the prudently incurred actual rate case
6 expenses to date and amortized the rate case expenses over a five-
7 year period in Public Staff Accounting Supplemental Exhibit I.
8 Additionally, I continue to recommend that if the Company's next rate
9 case filing exceeds the five-year amortization period, starting with the
10 date on which rates become effective in the present case, the
11 Company shall record any overcollection of rate case expense,
12 beginning the first month after the five-year amortization period ends,
13 in a regulatory liability account on a monthly basis, to be returned to
14 ratepayers with interest based on the weighted average cost of
15 capital, in a manner determined in the Company's next rate case.
16 Should the Company file for a rate case before the expiration of the
17 amortization period, any unrecovered rate case expense balance will
18 be added in the new rate case expense and amortized over the
19 number of years approved by the Commission in that rate case.
20 Finally, the Public Staff intends to include audited rate case expense
21 deemed prudently incurred through the close of the expert witness
22 hearing and will reflect the final rate case expense and subsequent
23 revenue requirement in its proposed order in the present case.

- 1 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**
- 2 **A. Yes, it does.**

1 BY MS. HOLT:

2 Q Ms. Feasel, did you prepare a summary of your
3 testimony?

4 A Yes, I did.

5 MS. HOLT: I would like to pass out a copy
6 to opposing counsel for approval.

7 HEARING EXAMINER HILBURN: Yes, please
8 proceed.

9 (Handing out document)

10 MR. FINLEY: No objection.

11 MS. HOLT: I'm sorry we don't have any extra
12 copies but I'd like to move the admission of
13 Ms. Feasel's summary.

14 HEARING EXAMINER HILBURN: That will be
15 allowed -- without objection, that will be allowed.

16 (WHEREUPON, the summary of
17 testimony of LYNN FEASEL is
18 copied the record as if
19 given orally from the
20 stand.)

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PUBLIC STAFF – NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. W-1034, SUB 13
SUMMARY OF FEASEL TESTIMONY

On April 12, 2024, I filed Public Staff Testimony and Exhibits of Lynn Feasel. My testimony discussed the adjustments I made for accumulated depreciation and depreciation expense, accumulated amortization of CIAC and amortization of CIAC expense, cash working capital and average tax accrual, miscellaneous revenues, salaries and wages, administrative and office expense, insurance, professional services, miscellaneous expense, rate case expense, property tax, payroll tax, regulatory fee, state income tax; and federal income tax.

For Rocky River, I calculated the gross revenue requirement as \$136,077, of which \$135,229 is attributed to service revenue and \$848 is attributed to miscellaneous revenue. For River Walk, I calculated the gross revenue requirement as \$38,073, of which \$37,682 is attributed to service revenue, and \$391 is attributed to miscellaneous revenue.

On April 26, 2024, I filed supplemental testimony and exhibits to reflect the updated rate case expense information. The updated gross revenue requirement is \$138,875 for Rocky River and \$39,097 for River Walk.

This concludes my summary.

1 MS. HOLT: The witness is available for
2 cross examination.

3 CROSS EXAMINATION BY MR. FINLEY:

4 Q Ms. Feasel, I want you to please turn to page 14
5 of your testimony.

6 A I'm there.

7 Q I'm going to read your answer beginning on page
8 10 (sic) so we can talk about it, please.

9 *The Company included estimated -- an*
10 *estimate amount of regulatory expenses in its*
11 *application. I adjusted regulatory expenses to*
12 *include the actual rate case expenses and*
13 *expenses reclassified to rate case expense, and*
14 *included an estimated amount for notices,*
15 *printing envelopes, and postage fees to be*
16 *incurred after the evidentiary hearing. I then*
17 *annualized the calculated expenses over a*
18 *five-year period based on my analysis of the*
19 *frequency of the Company's historic rate case*
20 *filings. Additionally, I recommended that the*
21 *Company's -- that if the Company's next rate case*
22 *filing exceeds the five-year amortization period,*
23 *starting with the date on which rates become*
24 *effective in the present case, the Company shall*

1 *record any overcollection of rate case expense,*
2 *beginning the first month after the five-year*
3 *amortization period ends, in a regulatory*
4 *liability account on a monthly basis. I further*
5 *recommend that the amounts be recorded in the*
6 *regulatory liability account and be returned to*
7 *ratepayers with interest based on the weighted*
8 *average cost of capital, in a manner determined*
9 *by the Company's -- in the Company's next rate*
10 *case. Should the Company file a rate case before*
11 *the expiration of the amortization period, any*
12 *recovered rate case expense balance will be added*
13 *in the new rate case expense and amortized over*
14 *the number of years approved by the Commission in*
15 *that rate case.*

16 I basically read that correctly, have I not?

17 A Yes.

18 Q Now, you cite no precedent that you rely upon in
19 making this recommendation, do you?

20 A I disagree because both DEC and DEP has willfully
21 filed with the Commission to put the
22 over-collection of the rate case expense in the
23 regulatory liability account. So that is not --
24 this is not the first case.

1 Q And where do you cite that in your testimony?

2 That was my question --

3 A It's not in -- it's not in the testimony. But I
4 did some research and found that two of these --
5 two of DEC/DEP rate cases as the Commission
6 Ordered discussed the over-collection of rate
7 case expense over certain years.

8 Q And now you're giving us that information for the
9 first time. We haven't seen it before.

10 A I can provide the final order for DEC/DEP rate
11 case as a late-filed exhibit if you want.

12 (WHEREUPON, the Court
13 Reporter requested the
14 witness to back away from
15 the microphone.)

16 THE WITNESS: Okay.

17 BY MR. FINLEY:

18 Q And what was the -- you know, here we go again
19 into something we've never heard before. What
20 was the docket number of those cases.

21 A Give me a moment and let me -- hang on. DEC
22 Docket Number is E-7, Sub 1276. DEP Docket
23 Number is E-2, Sub 1300.

24 Q What are the dates?

1 A It's part of the record. I do not have the date
2 here but you can check it on the Commission
3 website.

4 Q My goodness.

5 MR. FINLEY: Madam Chair, I hope you can
6 appreciate the dilemma this puts us in. We prepare
7 for this case and we read what the justification for
8 their adjustments are. There's no justification. And
9 you come in and say you don't have any justification
10 and they start giving you the justifications that
11 we're not prepared to address. I mean, that's
12 completely irresponsible in my opinion.

13 I move to strike that last answer. The last
14 answer having to do with rate case of these electric
15 companies.

16 HEARING EXAMINER HILBURN: Ms. Holt, would
17 you like to respond to his motion?

18 MS. HOLT: It's -- the Company could have
19 done its own research and found these cases.

20 MR. FINLEY: Madam Hearing Examiner, we
21 don't have the burden of proof on the adjustments that
22 the Public Staff is making. They say that in one of
23 their data responses. You could have gone and looked
24 up -- find the answer to this. They have the burden

1 of proof on this, not us.

2 MS. HOLT: The Company has the burden of
3 proof of supporting its case, it's Application.

4 HEARING EXAMINER HILBURN: Yes. I agree
5 with that, Mr. Finley. The Company does have the
6 burden of proof in the rate case proceeding. Your
7 frustration and your comments have been duly noted.
8 The witness has provided the docket numbers and we'll
9 just proceed from there.

10 BY MR. FINLEY:

11 Q Were those cases settled cases, Ms. Feasel?

12 A Those were stipulations?

13 Q Stipulations?

14 A And those cases discussed the overcollection of
15 rate case expenses and over the period of how
16 many periods it can be returned to customers. I
17 can read some if it helps.

18 Q I'm not asking you to read anything. I'm asking
19 you about your testimony, not this all this other
20 information you're coming up with.

21 In your testimony here, which is all we've
22 got to prepare the cross examination for, it's
23 correct, is it not, that you haven't cited any
24 precedent but you're coming up with it after the

1 fact?

2 A The regulatory liability account records the
3 overcollection of rate case expenses has been in
4 service for years. So this is not the first case
5 we've recommended this methodology.

6 Q Do you say -- you say this is our recommendation.
7 Do you say it's fair? It's unfair? You just say
8 this is my recommendation. That's all you've
9 said that I've read there; right?

10 A Would you repeat your question, please?

11 Q The question is, in the part of your testimony
12 that I just read, you say this is the Public
13 Staff recommendation. You don't say it's fair.
14 You don't say it's something that the Commission
15 should approve. You just say this is my
16 recommendation, don't you?

17 A My recommendation is based on my opinion that
18 it's fair and equitable to customers.

19 Q Well, you didn't say that in your testimony, did
20 you?

21 A It's by default.

22 Q Beg your pardon.

23 A It's by default.

24 Q By default. Okay.

1 Q Let's talk about the three years versus the five
2 years. You would agree with me that for many, if
3 not most of the small water companies in the
4 state, the amortization for rate case expense is
5 three years as opposed to five years?

6 A We annualize the years of amortization for
7 companies on a company-by-company basis. So
8 maybe some other company uses three years. Some
9 company use nine years. Some company use seven
10 years. There is not one fit-for-all year for
11 small companies.

12 I estimate the amortization period for WRI
13 based on my investigation of the historical
14 tendency of how frequent the Company filed rate
15 cases.

16 Q Do you disagree that, setting aside for the
17 moment just the facts having to do with WRI,
18 probably the most often period for amortization
19 of rate case expenses is three years?

20 A It's not. So I can give at least a detail of how
21 frequent that WRI filed rate cases from beginning
22 to the end.

23 Q Well, I'll ask you to get into that in a minute,
24 but that's not really what my question was. It's

1 setting aside for the moment the facts of WRI,
2 would you agree or disagree that probably the
3 most often amortization period for rate case
4 expense recovery is three years for small water
5 companies?

6 A I disagree.

7 Q What is it? What is the average?

8 A It's four years.

9 Q Four years, not five years?

10 A I can -- the Company filed in Docket W-1034, Sub
11 2 rate case. That is the first rate case. The
12 final Order approved is on February 24th, 1998.
13 The second rate case the Company filed is W-1034,
14 Sub 4. The final Order approved is in 2002. The
15 years gap between these two rate cases is five
16 years. The third franchise the Company filed is
17 W-1034, Sub 6. The final Order approved is
18 January 27, 2012. The time gap between this
19 franchise and the rate case is nine years. The
20 third rate case the Company filed is W-1034, Sub
21 8. The final Order is approved in November 21,
22 2018. The gap between this rate case and the
23 prior franchise is seven years. The most recent
24 one, Sub 13, the Company filed a rate case on

1 December 29, 2023. The time gap between this
2 current case and the prior rate case is five
3 years. So the range is from four years to nine
4 years.

5 Q So the answer to my question is yes?

6 A It's not.

7 Q What question are you answering? I didn't ask
8 you about anything like that.

9 A Your question is the most frequent year, the
10 Company filed a rate case is three years. I
11 disagree.

12 Q That's not my question.

13 A It's from four to nine years.

14 Q That was not my question at all. But let's --

15 MR. FINLEY: Could we please get the witness
16 to answer the question. I asked her with respect to
17 companies other than this company was not, for small
18 water companies, perhaps the most frequently used
19 amortization period is three years. I said not this
20 company and the other companies. And she went through
21 a litany of answers with respect to this company.
22 Just please ask her to answer the question --

23 MS. HOLT: Excuse me. I do believe she
24 answered the question. She said she disagreed with

1 three and she gave you an answer.

2 HEARING EXAMINER HILBURN: Just for the
3 clarity here, Ms. Feasel, would you please just repeat
4 your answer to Mr. Finley's direct question that he
5 just spoke --

6 THE WITNESS: Yes. I disagree with the
7 three years' amortization.

8 HEARING EXAMINER HILBURN: And what else did
9 you say? Not what else you say, but you had a follow
10 up of how many years it is.

11 THE WITNESS: Yes. I will list that again.
12 The first transfer case WR --

13 HEARING EXAMINER HILBURN: I'm sorry.
14 Excuse me. He just wanted you to answer: Is the
15 average three years for companies other than WRI?

16 THE WITNESS: I mean, there are many small
17 utility companies. Some has three years, some has
18 not. So I cannot just average many utility companies
19 to three years.

20 HEARING EXAMINER HILBURN: Mr. Finley, is
21 that sufficient?

22 MR. FINLEY: Yes, that's --

23 BY MR. FINLEY:

24 Q Let's talk about the -- now, we can talk about

1 this case, this Company. And you are -- with
2 respect to the last rate case, you are aware, are
3 you not, that WRI inquired of its lawyers to
4 investigate at some length the notification of
5 the filing of this particular case a number of
6 years ago, are you not?

7 A I was aware that companies are required to file
8 some reportings based on the Commission's --

9 Q Well, are you aware or are you not aware that the
10 Company considered a number of years ago coming
11 into the Commission and asking for the rate
12 adjustment to its currently existing rates before
13 this case was filed?

14 A Yes, I'm aware.

15 Q And in the meantime, Well Number 1 was taken
16 offline because of excessive radium and the
17 Company had to undertake the investigation and
18 investment and the Town of Harrisburg
19 interconnection?

20 A If it is anything related to Well Number 1 and
21 whether it is qualified or not, I believe Witness
22 Houser is the better candidate to answer the
23 question.

24 Q Well, all I'm asking you is, do you know that the

1 Company delayed coming in for the rate increase
2 because it had to make the interconnection with
3 the Town of Harrisburg that would have been a big
4 expense, it would have taken a long time to
5 complete, and that influenced the timing of their
6 staying out before they came in in this case.

7 A I'm aware that the Company is required to file
8 the interconnection which -- which is what the
9 Company is waiting for to file this rate case.

10 Q I'm going to take that as a no.

11 HEARING EXAMINER HILBURN: And Mr. Finley,
12 we're getting right on five o'clock so if you want
13 to -- if this is a good stopping point.

14 MR. FINLEY: This is a good stopping point.

15 HEARING EXAMINER HILBURN: Okay. Thank you.
16 Thank you. So we'll just -- we'll stop for this
17 evening. We'll start again tomorrow same time --
18 excuse me, same place at 9:30 in the morning, right
19 here. So thank you-all and we'll see you tomorrow.
20 And we'll go off the record.

21 (The hearing was adjourned at 5:00 p.m., and set
22 to reconvene at 9:30 a.m., on Tuesday, May 14, 2024)

23 (The proceedings were adjourned)

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C E R T I F I C A T E

I, KIM T. MITCHELL, do hereby certify that the Proceedings in the above-captioned matter were taken before me, that I did report in stenographic shorthand the Proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

Kim T. Mitchell

Kim T. Mitchell

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May 21 2024