

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO SOUTHERN)	
WATER AND SEWER DISTRICT MANAGER DEAN)	CASE NO.
HALL ALLEGED FAILURE TO COMPLY WITH KRS)	2019-00084
278.160, KRS 278.170, KRS 278.300, 807 KAR)	
5:066, AND 807 KAR 5:095)	

NOTICE OF FILING

Notice is given to all parties that the stenographic transcript of the January 8, 2019 and January 24, 2019 hearings in Case No. 2018-00230,¹ as transcribed by the court reporter, has been filed into the record of this proceeding.

A copy of the Notice has been electronically served upon all parties listed at the end of this Notice. Parties desiring an electronic copy of the stenographic transcript may submit a written request by electronic mail to pscfilings@ky.gov.



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Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

DATED MAR 25 2019

cc: Parties of Record

¹ Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Jan. 31, 2019).

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COMMONWEALTH OF KENTUCKY
KENTUCKY PUBLIC SERVICE COMMISSION

CASE NO. 2018-00230

IN RE:

APPLICATION OF SOUTHERN WATER AND SEWER
DISTRICT FOR AN ALTERNATIVE RATE ADJUSTMENT

* * * * *

HEARING HELD ON:
JANUARY 8, 2019

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1 CHAIRMAN SCHMITT: We are now on the
2 record. This is the Kentucky Public
3 Service Commission. My name is Michael
4 Schmitt. I'm chairman of the Commission.
5 Seated to my right is Vice Chairman Robert
6 Cicero and to my left Dr. Talina Matthews.

7 We are here today on Case No.
8 2018-0022 -- 00230, the application of
9 Southern Water and Sewer District for an
10 Alternative Rate Adjustment.

11 The reason for this hearing, which is
12 basically to consider Southern's application
13 for a rate increase, is for basically the
14 following reasons. Although the application
15 was filed here on, I think, July 3rd, 2018,
16 information was obtained through data
17 requests and otherwise. A staff report was
18 issued and a few days after the staff
19 report, Southern sent a letter, by and
20 through its Chairman, I think, Paula
21 Johnson, that the staff report was accepted.
22 The Commission, however, is not bound to
23 accept the staff report. And because of
24 other issues that have come up in the case,
25 we felt that it best to hold a hearing.

1 information was that basically nothing could
2 be done until after the primary because of
3 county judge and others perhaps were -- did
4 not ask that no application be filed prior
5 to the election.

6 I then got a call from Ben Hayden, who
7 told me that they wanted -- needed to file a
8 rate increase, that he doubted the District
9 could survive for a period of six months
10 without going into insolvency or bankruptcy
11 because it couldn't pay its bills, and that
12 was associated with somehow the City of
13 Prestonsburg, the Prestonsburg Utility
14 Commission's acquisition of not the sewer
15 systems in question, but the -- the water
16 assets in, what, Pyramid, Betsy Layne, Mare
17 Creek area.

18 Subsequent to that there have been all
19 kinds of things. The Attorney General -- we
20 got a notice here that the Attorney General,
21 I guess, was investigating some allegation
22 that the general manager had -- was allowing
23 people to have free water in exchange for, I
24 guess, food or other services. We got -- we
25 got customer comments from various people

1 that meters weren't being read and that
2 their bills do not reflect what the -- what
3 the true, I guess, nature of their water use
4 was.

5 Subsequently, we had -- well, I guess
6 before the rate increase was filed we had an
7 inspector make a report, an inspection
8 report of the District, who ultimately
9 reported that employees told her that
10 Southern was the next Martin County. And so
11 that basically, along with, you know,
12 isolated rumors here and there caused us to
13 conclude that perhaps we better have a
14 hearing and not necessarily go into great
15 detail, but to try to get some understanding
16 of what occurred.

17 In 2017 the Commission approved the
18 proposed transfer of water assets and sewer
19 assets from Southern to the Prestonsburg
20 City Utility Commission, and at that time,
21 based on the information that the Commission
22 had, it looked like a win-win situation for
23 both entities. We had no idea that there
24 were other potential problems in the offing
25 and -- but apparently that transaction has

1 not been fully completed at this time. I
2 know that apparently in, what, July -- June,
3 July of this year maybe sewer assets were
4 transferred. I don't know if water assets
5 were transferred or not.

6 We had communication from U.S.
7 Department of Agriculture Rural Development
8 that they had liens on the project.
9 Somebody from county government, I think
10 initially Judge Hale, before the case was
11 filed, and then later somebody else called
12 in here and said that Floyd County --
13 actually, Floyd County government owned the
14 assets of the water system. So we don't
15 know exactly what's going on, but we got a
16 drop-dead date of February 12th to try to
17 sort some of this stuff out, and our goal is
18 to be as fair as possible to the water
19 district to provide the money it needs to
20 survive, but by the same token there are a
21 number of other issues here that at least
22 require some explanation, to the extent we
23 can do it, in this limited -- this limited
24 hearing.

25 So having given that explanation --

1 and I also want to point out that
2 Mr. McNeil, from the Attorney's General's
3 Office, filed comments to the staff report.
4 The staff report recommended more money for
5 Southern than Southern had asked for, and
6 that's not unusual because -- in the rural
7 water districts that happens many times.
8 But the Attorney General, after reviewing
9 the information -- and I don't know anything
10 else about the other things the AG's been
11 doing -- recommended that an investigation
12 be opened, that certain requirements be
13 placed, reporting requirements be placed on
14 Southern if the rate increase and the
15 additional money were granted. And for that
16 reason also we're -- we're here basically
17 just to try to see where we are.

18 We have in this case, and in prior
19 cases, much to my regret, but it's been
20 necessary I think, subpoenaed Mr. Campbell
21 and -- and Mr. Stapleton, or whoever from
22 City of Prestonsburg, to try to get
23 additional information from a third party.
24 And so I'll say this now as we go forward.
25 Mr. Campbell has had to stay here sometimes

1 into the late afternoon on these hearings,
2 and so today what we would like to do is,
3 when we get into the hearing, is call
4 Mr. Campbell first to try to get some
5 information from him on the present status
6 of the water assets and the transfer, and
7 then to allow everybody to ask Mr. Campbell
8 questions that might want to, but so that he
9 could leave and not be stuck here all day on
10 something that is probably of only
11 collateral interest perhaps, and perhaps
12 not, to him.

13 Okay. So at this time moving forward,
14 would counsel for Southern Water District
15 please state for the record your names, the
16 names of your firm, your address, the
17 clients that you represent, and the people
18 you have here perhaps that will testify
19 today.

20 MR. STROBO: Thank you, Mr. Chairman. My
21 name is Randy Strobo. I'm with Strobo
22 Barkley, PLLC, 239 South 5th Street,
23 Louisville, Kentucky 40202. To my left is
24 Ned Pillersdorf; to his left is Clay
25 Barkley. And we all represent Southern

1 Water District, Southern Water and Sewer
2 District.

3 We are here today with Mr. Dean Hall,
4 who is the manager of the District, and the
5 five board members, as requested by the
6 Commission. And we also have present Danny
7 Stinson, Kentucky Rural Water Association,
8 and -- and Holly, who is with the -- the
9 engineer that filed the original rate
10 application.

11 I would also like to say thank you to
12 the Commission. It's partly my fault that
13 we have been delayed, and you-all have
14 accommodated my family issues, so I really
15 appreciate that.

16 CHAIRMAN SCHMITT: No. Thank you. It was
17 obviously justified and we were happy to do
18 it. It's unfortunate that we -- that not
19 only that happened, but we had to request
20 an extension because our staff has been
21 substantially reduced, and it's important
22 that we get as much information and are
23 able to dissect it or digest it prior to
24 the time that rates can be put into effect,
25 and so that was reasonable -- we're happy

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to accommodate you on that --

MR. STROBO: Thank you.

CHAIRMAN SCHMITT: -- under those circumstances.

All right. For the Attorney General?

MR. McNEIL: Yes. Justin McNeil on behalf the Attorney General's Office.

CHAIRMAN SCHMITT: Okay, thank you. And staff?

MR. BOWKER: Andrew Bowker, Ariel Miller and Eddie Beavers on behalf of the staff, Commission staff.

CHAIRMAN SCHMITT: Okay, thank you.

We had subpoenaed, I guess, Terry Fyffe, the individual who did the appraisal, but apparently he's out of state for a while, so we excused him with the understanding that we may have to take his testimony either by getting him in here sometime between now and the 12th, or making arrangements to depose him on some basis to get his evidence into the record.

Now, has -- can counsel for Southern advise as to whether or not a notice of this hearing has been published?

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MR. STROBO: It has.

CHAIRMAN SCHMITT: And if you -- have you filed it? If you have -- and are you in a position to do so now, if not?

MR. STROBO: We have copies of the notice and I believe it was filed this morning electronically. Was it?

MR. BARKLEY: It's going to be, but, yeah.

MR. STROBO: So I can bring this to you now.

CHAIRMAN SCHMITT: If you could, yeah, just give it to the reporter and she'll hold it. There's no need to mark that, but if you could just take custody of it.

All right. Before we begin, Mr. Strobo, are there any pending motions or anything you'd like to bring before the Commission before we start?

MR. STROBO: Chairman, no, we don't have any pending motions. The one concern that, you know, we've -- we've been discussing this for, you know, the past month or so, and as you know there's a previous case, the 2017 case, the asset transfer case, and we understand that the Commission needs to

1 review that for purposes of this rate case,
2 but we also wanted to, you know, put
3 forward that that case was finally
4 adjudicated. The AG's office did not
5 intervene in that case, and the PSC made a
6 decision based on what was before them at
7 that time. You know, hindsight is 20/20.
8 Maybe some things weren't the way or -- you
9 know, we didn't see things the way that we
10 see them today, but we're here today for a
11 rate case. We're here because Southern
12 District desperately needs help.

13 So to the extent that we're going to
14 go and re-adjudicate that case, I don't
15 think today is the time for that, although
16 we understand that you want to know more
17 information about it. We are here to get
18 some relief for my client and through the
19 rate case. So I know there's a fine line
20 there between being able to, you know, go
21 back and not re-adjudicate that case. I
22 don't think it's appropriate to
23 re-adjudicate that case, it's final, but at
24 the same time we understand that there's
25 some information that you need to know about

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that case. So I just wanted to make that clear before we start.

CHAIRMAN SCHMITT: Well, we don't intend to re-adjudicate that case. That case is over. However, the rates in this case, in some respects, will be based on whether or not those assets have been transferred, whether they are going to be transferred. Whether that transaction needs to be unwound, we don't know at this point and -- so, yeah, but we understand, but we don't intend to relitigate that case here today. Although, I will say I don't know what the evidence will show as to whether, you know, there will be any further proceedings, additional proceedings under a different case number arising from that. We just don't have any information.

MR. STROBO: And we would agree with that. We're here for the rate case, and Southern District is, you know, hurting right now, so we're hoping that we can get a decision quickly from this Commission to help them out.

CHAIRMAN SCHMITT: Yeah. Well, we want to

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know how bad you're hurting, too.

MR. STROBO: Right, I understand.

CHAIRMAN SCHMITT: That's one of the reasons why you're here.

MR. STROBO: Right, yeah. Understand.

CHAIRMAN SCHMITT: Right? Okay.

Now, before we start these -- these hearings, or the testimony, the public is always given an opportunity to step forward and make any comment that that person or persons may have into the record. At this time is there anyone here who would like to step forward and make a comment or a statement to the Commission about the matters that are before the Commission today, that being this rate case?

I think we got a phone call yesterday from some member of the public that indicated he or she -- I'm not sure who or which gender it was -- intended to be here perhaps and make a statement, but there doesn't appear to be anyone in the hearing room at this time. If someone later comes, we'll consider perhaps letting them -- letting them speak.

1 Okay. Mr. Strobo, how we'll handle
2 this is we'll call Mr. Campbell first. The
3 Commissioners, normally we would allow the
4 attorneys to ask questions, but because we
5 want to get to the heart of the issue, the
6 Commissioners will ask questions first of
7 Mr. Campbell, followed by staff and then the
8 AG if he wants to, and then you can -- you
9 can have the last -- the last bite at the
10 apple. Okay? After that, as we put on
11 other witnesses, your witnesses, you can
12 just -- we can basically call them, put them
13 under oath. Staff will ask questions to get
14 the information we think we need, and then
15 you'll always be able to follow up, and the
16 AG will follow -- follow staff. Is that
17 okay with you?

18 MR. McNEIL: Perfectly acceptable,
19 Chairman.

20 CHAIRMAN SCHMITT: Thank you. All right.

21 At this time, Mr. Campbell, will you
22 please take the stand.

23 Will you please raise your right hand.

24 THE WITNESS: (Witness does same.)

25 CHAIRMAN SCHMITT: Do you solemnly swear or

1 affirm under penalty of perjury that the
2 testimony you are about to give will be the
3 truth, the whole truth and nothing but the
4 truth?

5 THE WITNESS: I do, sir.

6 CHAIRMAN SCHMITT: Thank you. Please be
7 seated.

8 * * * * *

9 The witness, **TURNER E. CAMPBELL**, after
10 first being duly sworn, was examined and testified
11 as follows:

12 EXAMINATION

13 BY CHAIRMAN SCHMITT:

14 Q Okay. Would you please state
15 your name and business address for the record,
16 please?

17 A Turner E. Campbell. Business
18 address is Prestonsburg City Utilities Commission,
19 2560 South Lake Drive, Prestonsburg, Kentucky.

20 Q And, Mr. Campbell, are you here
21 today testifying pursuant to a subpoena?

22 A I am, sir.

23 Q The Prestonsburg's mayor, Less
24 Stapleton, is he here?

25 A Yes, he is.

1 Q Okay, thank you.

2 Now, Mr. Campbell, you're aware that, I
3 guess, in 2017 a joint application or petition was
4 filed, was it not, by the City of Prestonsburg
5 Utility Commission and Southern Water and Sewer
6 District asking for an order from the Commission
7 permitting the transfer of sewer assets and water
8 distribution assets to the Prestonsburg Utility
9 Commission; is that correct?

10 A That's correct, sir.

11 Q Now, without going into all of
12 the detail, but for the benefit of making a record
13 here, I know you filed a letter in that case in
14 response, I guess, in this case and in response to
15 Southern's position that it needed the funds
16 because of the acquisition of those assets, or at
17 least the water assets by Prestonsburg; is that
18 correct?

19 A That's correct, yes.

20 Q Can you tell -- tell the
21 Commission briefly what the impetus was or the
22 reason for Southern wanting to convey the sewer
23 assets and/or water assets to the City of
24 Prestonsburg?

25 A Being as brief as I can -- it's

1 kind of a long process at the time. But nearly
2 three years ago now, the judge executive at the
3 time came to our organization with -- our former
4 superintendent was still there, and he met with
5 both of us. And he basically stated that he's come
6 to us because we need to get Southern out of the
7 sewer business. I said, well, you know -- and
8 David Ellis, our former superintendent, and I both
9 agreed, well, you know, that's doable, but we would
10 need to have at least the water customers in the
11 sewer served areas for billing purposes. It's just
12 simpler process to have that arrangement.

13 At first he, you know, said, well, no way,
14 that's not what we need to do. And I said, well,
15 then we don't have a way to negotiate and no point
16 to negotiate. And after talking for probably 30
17 minutes to an hour, he came around to see that that
18 was something that would make the transaction work
19 better for Prestonsburg City Utilities and to
20 relieve Southern of the responsibility for providing
21 sewer services in the -- those areas in question.

22 Q Okay. What problems, if you
23 know, was Southern having with respect to operating
24 its sewer facilities?

25 A The biggest problem they had was

1 with the Wayland Wastewater Treatment Plant and
2 collection area. It's simply gone to the total
3 state of disrepair and was at the point where that
4 the Division of Water was very close to beginning
5 enforcement action and fines. Much more limited at
6 the Eastern system, and Harold, Betsy Layne was
7 functioning, but had some problems as well. So
8 that's where the -- that's where they were at. It
9 was at a -- kind of like looking across the Grand
10 Canyon for them. No way of getting across and
11 getting it repaired.

12 Q Did Southern have operators who
13 were qualified to run those plants?

14 A They did not, I understand.

15 Q Do you know, either from Southern
16 or from -- subsequently from taking operational
17 control of those plants, the potential fines or
18 civil penalties that were -- could possibly be
19 assessed against Southern?

20 A I don't know the exact amount,
21 but they were -- they were imminent. And we helped
22 Southern draft a letter stating that -- what we
23 were getting ready to do, step in and assume
24 operational control and hopefully bring the -- at
25 least the Wayland plant back into compliance as

1 soon as possible.

2 Q Has that been done?

3 A It has. It was done early on,
4 yes, sir.

5 Q Now, with respect to the water --
6 services of the water distribution system, exactly
7 where in Floyd County are those -- are those
8 systems? Apparently, there were, what, two? And
9 they may or may not be connected?

10 A Well, both systems, both of those
11 areas were contiguous to our system, but they were
12 in the remote part of Southern's system. The
13 Harold, Betsy Layne distribution system was across
14 the Big Sandy River from Southern's actual original
15 operating area. And the Pyramid, small system, was
16 across the mountain, Hippo Mountain, from
17 Southern's actual operating area. Much harder for
18 those two areas to be served by Southern. We
19 provided most of the water in the Harold, Betsy
20 Layne system already through wholesale agreement,
21 and then a lot of times we had to provide the water
22 in the Pyramid system as well.

23 Q And with the transfer of both the
24 sewer assets and the water assets, were apparently
25 to be accomplished through the terms and provisions

1 of an asset purchase agreement which has been filed
2 in the record in one or both of these cases --

3 A Yes, sir.

4 Q -- is that correct?

5 A That's correct.

6 Q And what was the original
7 purchase price that was agreed on between Southern
8 and Prestonsburg?

9 A The original purchase agreement
10 between Southern and Prestonsburg was 2.14 million.
11 In addition to that -- I'm not sure if that's been
12 a part of the record or not, but the judge
13 executive -- early on in this I stated that I felt
14 like that the -- the asset transfer would be worth
15 between 4.1 and 4.3 million dollars.

16 And he said, well, that's -- that's okay,
17 but he said what about the loan that the fiscal
18 court owes, the bond issue the fiscal court owes on
19 behalf of Southern.

20 I said, well, that's not something that we
21 at Prestonsburg can decide on for you. I'm telling
22 you -- you know, that's while I'm speaking to him --
23 that that is what this deal is worth to Prestonsburg
24 City Utilities. The pieces of it fitting together,
25 I would rather see us pay off more debt for

1 Southern, direct debt.

2 He said -- and I'm just going to state it
3 the way he said it. He said, well, politically for
4 him it would be better for Prestonsburg City
5 Utilities to pay that bond issue that -- from funds
6 that had been spent on behalf of Southern, but was
7 actually fiscal court's liability.

8 Q And the judge executive that
9 these discussions were with, was that Judge Hale?

10 A Yes.

11 Q And was Judge Hale also the
12 person who came to you several years ago to discuss
13 a transfer of the sewer assets from Southern to
14 Prestonsburg?

15 A Those two conversations actually
16 happened the same day.

17 Q So the -- we had a copy, or were
18 furnished, I guess, a copy of a statement of
19 intent, and I don't think it was -- I don't know if
20 it was -- a lot of documents we've gotten here
21 aren't signed, so I assume that it's -- that the
22 statement of intent at some point was executed --

23 A Yes.

24 Q -- is that correct?

25 And it indicated that the -- I guess the

1 total here was \$2,139,715.08, and maybe it was a
2 little more than that. I don't know.

3 A That's correct.

4 Q But the payments to be made were,
5 one, the long-term loans and bonds; right? KIA
6 Loan A0406, another KIA Loan, two more -- three KIA
7 loans, one USDA Rural Development Bond, No. 9105.
8 And the total of those loans were \$1,478,010.20.

9 A That's correct.

10 Q Now, the consideration involved
11 Prestonsburg actually paying off these loans?

12 A Yes, sir. Paying off an
13 assumption.

14 Q Okay. Well, the payment, I
15 assume, of a million-478 or so would -- that would
16 pay off -- make payments, but if there were other
17 debts outstanding or other amounts outstanding on
18 those loans, they would be assumed by Prestonsburg;
19 is that correct?

20 A That's correct. We did, in
21 actuality, assume the two KIA loans that were
22 against the Wayland plant and the Harold plant. We
23 just assumed those loans through KIA and then we
24 paid off directly the USDA RD loan.

25 Q Okay. So the KIA loans,

1 Prestonsburg is presently making payments on those
2 loans today --

3 A Yes, sir.

4 Q -- is that correct?

5 A Absolutely.

6 Q Then there were short-term loans:
7 First Guaranty Bank, office building; First
8 Guaranty Bank, trucks; First Guaranty Bank, Dean's
9 truck; Citizens National Bank, excavator; First
10 Guaranty Bank, line of credit. All right.

11 Now, were those loans assumed by
12 Prestonsburg or paid off?

13 A Neither, sir. They were -- that
14 was the intent, of course, the statement of intent.

15 Q All right.

16 A And funds that we issued actually
17 in the transaction early on, more like earnest
18 money or down payment, or whatever, we purchased
19 some trucks and we purchased a new computer and
20 billing system, and we had to advance some funds in
21 order for Southern to have matching funds for a
22 FEMA project. And then after we assumed the
23 operating control of the assets July 1 of '17,
24 shortly thereafter we were having to advance more
25 money, some money each month, to Southern to assist

1 them in operating. So that, I guess you would say,
2 took the place of paying off those local loans that
3 was in the original statement of intent.

4 Q Okay. Well, in the statement of
5 intent the total of those local loans was
6 \$314,694.88. Do you know approximately --
7 specifically if you know, but if you don't,
8 approximately how much Prestonsburg paid for the --
9 the, I guess, computer system, the other items that
10 you mentioned, plus the advancing of additional
11 funds? What did all that amount to, about?

12 A That would amount to the
13 difference between what you see there as the payoff
14 and assumption of those loans and the 2.139 figure
15 from the original statement of intent. So you're
16 talking another, whatever that is, 750, 800,000
17 dollars probably.

18 Q That actually has been paid in
19 addition --

20 A Oh, yes, sir.

21 Q -- is that correct?

22 A Yes, sir. We at Prestonsburg
23 have -- have actually either paid out or paid off
24 loans, or assumed loans, that total 2,139,715.
25 That's -- that's history now.

1 Q Then there was capital
2 improvement purchases, a rehabilitation of Wayland
3 Wastewater Treatment Plant and lift stations,
4 145,000, and then the billing software and four
5 desktop computers, \$38,510. Was that included in
6 the amount that you --

7 A Yes, sir.

8 Q -- just mentioned?

9 And then there's the last group of items
10 called cash payments to Southern for vehicles and
11 equipment. Mini excavator \$50,000, new trailer for
12 mini excavator \$3,500, one-ton dump style four-wheel
13 drive truck \$50,000, two new four-wheel drive
14 extended-cab pickups 60,000, for a total of
15 \$163,500. Has that been paid?

16 A Not in that exact detail. There
17 was no excavator and no trailer purchased. There
18 was a dump truck, a one-ton series dump truck, and
19 a crew cab four-wheel drive heavy duty pickup, and
20 another crew cab pickup, a total about 115,000
21 actually.

22 Q So how much approximately has
23 Prestonsburg paid toward the total consideration
24 that's set out in the statement of intent of 239 --
25 \$2,139,715.08?

1 A All of that has been paid, sir.

2 Q Have you paid more than that?

3 A We have not paid to Southern more
4 than that, no. We've been out substantial hundreds
5 of thousands for, you know, rehab of the
6 infrastructure system in the water areas in
7 particular, rehab of the Wayland sewer plant,
8 Eastern plant and Harold and Betsy Layne plant.

9 Q Now, when the 2017 transfer case
10 was filed with the Public Service Commission, of
11 course, these documents were filed, the proposed
12 asset purchase agreement. I think later the
13 operation maintenance agreement. After there was
14 a -- I guess a delay or something that prohibited
15 the transaction from closing --

16 A Correct.

17 Q -- last year.

18 So I'd like for you to tell us for the
19 record, please, what was it that prohibited the
20 transaction from closing June, July of 2017.

21 A We were informed by USDA RD that
22 certain, I guess you want to call it -- the regs
23 stated that certain steps had to be taken before
24 they could release the liens that they hold on the
25 debt service, income for Southern, and officially

1 sign off on the transaction. A part of that was
2 having to -- an appraisal done that basically would
3 state the value that -- of the transaction based on
4 present value of future income being changed from
5 Southern over to Prestonsburg, and the appraisal
6 would also have to assess an opinion on the
7 viability of both concerns going forward after the
8 transaction.

9 Q Did Prestonsburg Utility
10 Commission have loans with USDA Rural Development?

11 A Yes.

12 Q So they were interested in both
13 entities?

14 A Yes, sir.

15 Q They had loaned money to
16 Prestonsburg, which was outstanding, and also to
17 Southern, obviously?

18 A That's -- that's right.

19 Q Now, this long-term -- under A in
20 the statement of intent, the USDA RD Bond No. 9105
21 for \$512,990, was there one or more other Rural
22 Development loans other than that one?

23 A Not in our transaction.

24 In the beginning, to step back to the
25 discussion that David Ellis and I had with Judge

1 Hale, I wanted to pay off another couple of million
2 of the USDA RD debt, and that quickly was put to
3 rest because he wanted to be -- the fiscal court had
4 to be paid off, okay. That just gives you a little
5 bit more details of the transaction. That was -- we
6 didn't pay off any more RD debt other than the 400
7 and some thousand.

8 Q But there is more RD debt --

9 A Yes, sir.

10 Q -- outstanding to Southern?

11 A Absolutely.

12 Q Is that correct?

13 A Yes, sir. About 4.4 million.

14 Q Now, I know from looking at the
15 asset purchase agreement, one of the conditions
16 going forward was that -- that lienholders had to
17 approve the transaction, and one of those
18 lienholders was Rural Development --

19 A Yes.

20 Q -- right?

21 A That's correct.

22 Q This appraisal, that we got a
23 copy of a week or two ago for the first time,
24 values the -- values the transaction at a little
25 more than 4 million dollars; does it not?

1 A That's correct.

2 Q And is that about what you think
3 the transaction was worth?

4 A In the beginning. I had studied
5 it quite extensively and I felt like between 4.1
6 and 4.3 should have been an appropriate figure.

7 Q Okay. But at the time the
8 agreement, initial agreement, was reached and the
9 asset purchase agreement was executed, the
10 consideration was about half of that amount; is
11 that correct?

12 A Directly to Southern or on behalf
13 of Southern, yes.

14 Q Well, I guess I mean if -- if
15 the -- if Rural Development had approved the
16 transaction, I assume Prestonsburg didn't intend to
17 pay any more than the \$2,139,000; would that be
18 fair to say?

19 A At that point in time, that's
20 correct.

21 Q Now, we got, I guess, or this
22 year a letter, maybe from Mr. Talley, who was an
23 attorney in the case. Was he Prestonsburg's
24 attorney or was he representing all parties, or can
25 you tell us?

1 A We kind of threw that out for --
2 for an opinion at the time. When we first began
3 some of the early talks, we were utilizing our own
4 corporate attorney, Kip McNally from Louisville.
5 And talks were seemingly going kind of nowhere. So
6 Mayor Stapleton and I met with Chairman Johnson,
7 Paul Johnson, to see -- you know, give us an idea
8 of what you think as -- what we should do as far as
9 an attorney. And Mr. Talley's name was mentioned,
10 and she was very encouraged by that and had known
11 him for a long time and felt like that -- he would
12 be a good attorney, because we kind of threw it out
13 there, well, who would you-all like basically, and
14 that's -- that's where it ended up with Damon
15 Talley representing both parties in this joint
16 application.

17 Q So these agreements that were
18 drafted -- well, the asset purchase agreement and
19 the operation and the maintenance agreement, all
20 were drafted by Mr. Talley --

21 A Yes, sir.

22 Q -- is that correct? Representing
23 both parties?

24 A Yes, sir.

25 Q With the consent of both parties?

1 A Yes, sir.

2 Q So I think Mr. Talley sent a
3 letter June, July, perhaps, of 2018, in the
4 transfer case indicating that the sewer assets, all
5 right, had been transferred.

6 A Yes.

7 Q All right. But I -- now, did
8 somebody have to approve the transfer of those
9 sewer assets? Did Rural Development have to --
10 have to approve that transfer?

11 A No, sir. It was -- it was
12 determined that -- that the loan covenants had not
13 addressed the sewer assets of Southern Water, so
14 they were, to put it in a short manner, free and
15 clear to be transferred. So June 28th of 2017 all
16 sewer assets, sewer-related assets were transferred
17 to Prestonsburg officially.

18 Q Okay. But from the date of --
19 the date the operation and maintenance agreement
20 was executed, I think maybe effective July 1st,
21 2017 forward, any money that was put into those
22 systems by Prestonsburg was not toward paying any
23 consideration for those assets; is that --

24 A That's correct.

25 Q -- fair to say?

1 A That's correct, sir.

2 Q That was just an expense that
3 Prestonsburg absorbed on the faith that ultimately
4 it would acquire legal title to those properties --

5 A Absolute.

6 Q -- is that correct?

7 So as of today has Rural Development
8 approved the transfer of the water distribution
9 assets from Southern to Prestonsburg?

10 A They have not.

11 Q Has Rural Development indicated
12 to you or to Southern, to your knowledge, based on
13 hearsay or anything else, when or if at all they
14 expect to approve such a transfer?

15 A No, they haven't. They have --
16 it's almost like they're -- they've not changed the
17 rules of the game, but addressed them in a
18 different manner. They're asking that we pay off
19 another huge chunk of Southern's RD debt in order
20 to make the transaction take place.

21 Q Okay.

22 A And did not give Prestonsburg
23 City Utilities credit for a substantial portion of
24 the original 2.14 million toward the purchase of
25 the water assets. So in all we would be paying off

1 probably 3.5 million of Southern's outstanding
2 4.4 million RD debt in order to satisfy RD at this
3 point in time.

4 I might add that we, with the mayor's
5 guidance, we've been able to determine that the
6 fiscal court will not get 2 million dollars in this
7 transaction. That particular \$1,865,000 is sitting
8 in the City of Prestonsburg's coffers to be paid on
9 RD debt for Southern, and that's where we stand to
10 date.

11 Q All right. Let me see if I can
12 clear this up so I can understand it. It appears
13 complicated.

14 All right. Rural Development -- is your
15 understanding Rural Development, by virtue of its
16 loan to Southern, has a lien on the assets in
17 question, or is it that basically if there's a
18 transfer without -- without approval the outstanding
19 balance becomes due and somebody's got to pay it?

20 A Well, it's technically still
21 Southern's debt, so that's -- that's the -- the
22 payor, I guess you would say, the debtor. We have
23 no problem at all with paying the million-865 to
24 complete this deal, which basically puts the deal
25 where I said it should be in the beginning and

1 where the appraiser has said the deal is worth, and
2 that's a little more than \$4,000,000.

3 Q All right. So -- all right. At
4 this point it's Prestonsburg's position that based
5 on what you believe to be the fair market value of
6 the assets, the sewer assets and the water assets
7 combined; right --

8 A Yes.

9 Q -- that being between 4.1 and
10 \$4.3 million, and that's not inconsistent with the
11 Fyffe appraisal which --

12 A That's correct.

13 Q -- report which was apparently
14 from November or something of this year?

15 A I might add that the -- not to
16 interrupt you, but I wanted to add one more little
17 item there. USDA RD has taken the position that
18 the appraisal that Mr. Fyffe has put out to
19 Southern and Prestonsburg is only on the water
20 assets.

21 Q Okay.

22 A And that, to me, is a big point
23 that, you know, should have been cleared up early
24 on that, you know, it's 4.1 whatever million for
25 the sewer and water assets. We've all known that

1 from the beginning. And the appraiser, you know,
2 based his appraisal on the loss of revenue by
3 Southern reported to your Commission. So I'm not
4 seeing where that USDA RD is coming from in saying
5 that his appraisal is only on the water assets.

6 Q So for Rural Development to
7 approve the transfer of the water assets, they tell
8 you, at least, they're going to require
9 \$3.5 million paid to them?

10 A Yes. Would substantially --

11 Q In cash --

12 A -- relieve them.

13 Q They don't want to let you assume
14 that obligation. They want their money in "coin of
15 the realm" or will they let you assume that
16 obligation?

17 A Well, I think they would if we
18 were in agreement with that. We are in total
19 agreement with paying \$1,865,000 to them on
20 Southern's RD debt. That's not a problem.

21 Q But that's \$2,000,000 less than
22 Rural Development wants --

23 A Yeah.

24 Q -- correct?

25 A Basically.

1 Q Okay. Now, before I go forward
2 there, let me digress and ask you about Floyd
3 County, because Floyd County has indicated, I
4 guess, in calls to us that somehow they think they
5 own these assets, or have some lien or title, if
6 not legal, equitable, to the water distri- -- all
7 or part of this water distribution system. What do
8 you know or think about that?

9 A I can clear that up pretty quick.
10 This has been an ongoing question for a substantial
11 number of years now in front of your body and a
12 big --

13 Q Unfortunately, we've got to try
14 to solve this problem.

15 A And that's what I hope to do
16 today -- or hope to give some assistance.

17 The -- what they're talking about there is
18 that when this -- this bond issue was set up by the
19 fiscal court several years ago on behalf of
20 Southern, the Kentucky Area Development Leasing
21 Trust, I believe is the program they went through,
22 and Southern had to deed, I think it was either nine
23 or ten tank sites and maybe some pump station sites
24 to Floyd County for Floyd County to be able to
25 borrow against some type of Southern assets because

1 the funds were going to be spent on Southern
2 infrastructure. Those are the assets they're
3 claiming that they own. And they do own them. I
4 don't mean to say claiming. But they do own those
5 -- those tank sites and pump station sites. That's
6 it. No other assets that have anything to do with
7 the transfer between Prestonsburg and Southern that
8 Floyd County owns, and as far as I can remember none
9 of these tank sites and pump station sites are
10 involved in the asset transfer that we are involved
11 in.

12 Q This is the first time I think
13 we've heard this. So there are assets, it's your
14 understanding at least -- and Ms. Johnson and
15 others, I guess, can clear this up later. But it's
16 your belief or understanding that there are
17 physical assets that are being used by Southern
18 Water District that, in fact, are owned by Floyd
19 County?

20 A Correct.

21 Q Do you know if there's a list of
22 those assets someplace?

23 A Yes, there is.

24 Q Have you seen --

25 A (Witness nods head.)

1 Q Where would such a list be in
2 your opinion?

3 A I have it in my work papers
4 from -- from all the last three years of studying
5 Southern, so that's...

6 Q Would you -- would you be kind
7 enough and willing to forward that to us by sending
8 them to the executive director --

9 A Absolutely.

10 Q -- after, within, you know, a
11 week or so after this hearing?

12 A I'd be glad to.

13 Q Do you know if any of those
14 assets have been appraised or if anybody has
15 assigned a value to them at all?

16 A In the documents that I reviewed,
17 and it's been now two and a half, three years ago,
18 there was a value placed on each one of these tank
19 sites and pump station sites, kind of like an
20 average of -- it was in the 19,5 range per site,
21 \$19,500. I may be off a little, but that's...

22 Q Do you know about how many sites
23 that was supposed to --

24 A I want to say that was nine or
25 ten of them. Possibly...

1 Q Now, what is -- we haven't had
2 somebody from Floyd County here. At some point in
3 some other proceeding maybe we're going to have to
4 try to solve this. But how much does Floyd County
5 claim, in your opinion, in terms of debt that they
6 think that Southern ought to -- ought to pay?

7 A It's -- when we talked about it,
8 when Judge Executive Hale wanted us to pay off an
9 amount, it was in the 2 million-dollar range.
10 Subsequently we have paid a little bit of money on
11 that particular bond issue, which brings it down to
12 about the million, eight or nine that we still owe.

13 Q So, what, you paid a couple
14 hundred dollars, is that what you're saying?

15 A We did.

16 Q And why would you do that?

17 A Well, in the beginning, you know,
18 that's what we had agreed to. I guess you call it
19 a gentleman's handshake with the Judge Executive.
20 A decision I regret substantially, but we did. We
21 paid the first payment -- after your body approved
22 the transfer, we paid a little, I don't know,
23 hundred-and-some-thousand-dollar payment on their
24 behalf, and then an interest payment later. And
25 then thanks to discussions between the mayor and I,

1 we decided that that money desperately needed to go
2 to help Southern Water. So we decided that was it,
3 and if we paid it, it would be paid on Southern's
4 debt.

5 Q Now, is it your understanding
6 that Floyd County government is still making a
7 claim somehow that somebody owes them that money?

8 A Not that I've heard of.

9 Q Okay. Well, I mean they got you
10 to pay it, pay \$200,000 of it.

11 A Yeah, yeah, like I say in the
12 beginning, gentlemen's handshake type stuff that I
13 highly regret. But, no, they -- they have --
14 matter of fact, their county treasurer called me
15 probably six, eight weeks ago now, because I think
16 the November payment was coming up on that
17 particular bond issue, and said are you-all going
18 to pay this, and I said, I'll let you know as soon
19 as I talk to Mayor Stapleton. Mayor Stapleton
20 said, absolutely not, and this is what I relayed to
21 the county treasurer.

22 Q But from what you're telling me,
23 and I know we're just supposing I guess, but it
24 seems to me that Floyd County is still asserting a
25 claim of some amount. I mean, they called and

1 asked Prestonsburg to make the payment. I mean,
2 and they were either doing that because they
3 thought you legally ought to, or they just -- out
4 of the goodness of your heart you'd be making that
5 payment for another governmental entity.

6 A I can't dispute what you're
7 saying. Yeah, they wouldn't have called if they
8 didn't think, you know, hey, maybe they'll still
9 make another payment. But it was almost like
10 offhandedly said by the treasurer, he said, well, I
11 didn't think you would. So that's the way it went.

12 Q Who is the treasurer?

13 A David Layne.

14 Q Now, when in -- effective July
15 1st, 2017, Prestonsburg City Utility Commission
16 undertook to begin operations of both the water
17 distribution system and the -- all of the sewer
18 assets that Southern owned; is that correct?

19 A Yes, sir.

20 Q Now, I saw in the Operation and
21 Maintenance Agreement that any upgrades,
22 infrastructure improvements, changes that were
23 made -- and I interpreted that to mean water as
24 well as sewer -- that were made by Prestonsburg
25 after July 1st, '17, up and to and through closing,

1 would be on Prestonsburg. That would be
2 Prestonsburg's expense and Prestonsburg would not
3 expect any reimbursement or indemnification from
4 Southern; is that correct?

5 A Yes, sir.

6 Q And after, from July 1st, 2017
7 until today, has City of Prestonsburg Utility
8 Commission actually made any infrastructure
9 improvements or upgrades to the water distribution
10 system and, if so, what and when?

11 A Well, we immediately -- after
12 July 1, of course, we immediately began replacing
13 all the meters in both areas.

14 Q All right. Why --

15 A We --

16 Q -- why did you -- okay, I'm
17 sorry. Why would you do that?

18 A We operate our system, our large
19 system, using radio-read meters. So that's what we
20 wanted to do in both those systems since they were
21 coming into our system, is just upgrade them to
22 brand new radio-read meters, and that was the first
23 step we took. Within about three and a half
24 months, we had replaced all 1175 meters in the two
25 areas.

1 Another item that we had to get involved in
2 fairly quickly was the rehab of the Stanville tank
3 and its pump station and the Pinhook tank for the
4 same reason. We just had to get it operationally
5 and hydraulically ready to serve that area. That
6 was substantial expense in both cases. Several
7 sizeable leaks we repaired. And since July 1 of
8 '17, we have had to rehab and -- and discover 46 or
9 47 valves that had been basically covered over, over
10 time with soil. One major valve that needed to
11 be -- because we knew there was something wrong
12 hydraulically between where our system serves that
13 area and the Pinhook tank. It -- it was just not
14 filling properly. We were having to get -- Southern
15 had been utilizing Pikeville to fill the tank. And,
16 of course, we didn't need that after we assumed
17 control of the assets. And we finally found a
18 12-inch valve that needed attention. And once we
19 had took care of that one -- and, of course, at our
20 expense, everything is flowing very well, being
21 served quite well now. But those are the types of
22 expenses. We were out hundreds of thousands of
23 expense.

24 MR. CICERO: Do you know how much that was?

25 A Off the top of my head I'm going

1 to say that, just on the water side, we are about
2 half a million to 600,000 range of --

3 MR. CICERO: In improvements?

4 A -- improvements. Meters alone
5 were -- materials only for the meters alone were
6 225 to 250,000 and -- not counting our own labor.

7 BY CHAIRMAN SCHMITT:

8 Q Were there -- did Southern have
9 any maps or plats or surveys that would indicate
10 where these valves were or where its lines were?

11 A We -- they did not directly. We
12 were able to obtain from a -- a former Sandy Valley
13 water employee some mapping that -- and his -- also
14 his expertise of helping us. He was tremendous to
15 help us where he remembered. That was the only
16 assistance we got in starting to determine where
17 these valves. Some -- some critical valves that we
18 needed to locate were in -- and our people just
19 managed to do it. With that little bit of
20 assistance and their own abilities, came up with
21 the valves and -- because you -- you know, you can
22 tell it's the areas that were weak in pressures and
23 volumes, and our people were able to determine
24 those. So in the end that's how we did it.

25 Q And what was wrong with the two

1 water tanks that you mentioned?

2 A Water tanks, you know, need
3 periodic maintenance to start with. And I think
4 that's what had happened down through the years.
5 They just hadn't had the -- the maintenance and
6 care that they needed, simply because Southern just
7 more than likely didn't have the assets -- you
8 know, the financial assets to do so. And we simply
9 drained the Stanville tank and repainted,
10 resurfaced it, and -- and like I say, improved the
11 pumping system for it. And with Pinhook, we didn't
12 have to take it completely down, but just improve
13 the pumping system and that major valve.

14 Q When you -- now, at the time of
15 the -- you began operating the water distribution
16 assets July 1 of 2017. Were the new customers that
17 you undertook to serve, how were they notified that
18 it would now be the City of Prestonsburg who would
19 be operating their water system and would be
20 billing for services?

21 A More our field personnel, word of
22 mouth situation, and then the billing itself
23 started coming from Prestonsburg. It wasn't real
24 -- no hear- -- no public notice, public hearing or
25 anything. We just -- it had been out in the

1 community that it was coming and just developed in
2 that way.

3 Q So how many billing cycles would
4 you estimate that you went through or that
5 Prestonsburg billed these new customers using the
6 old Southern meters?

7 A Of course, it was gradual
8 transition, so I would think that three billing
9 cycles would have taken care of most of the
10 customers.

11 Q Now, as you replaced -- when you
12 managed to replace the meters with the new
13 automatic AMR or something, you just drive by
14 and --

15 A Yes.

16 Q -- and record it?

17 The other -- the meters that were there in
18 place would require, I take it, a human being to go
19 and look in to the -- to the meter and actually take
20 a -- physically take a reading; would that be true?

21 A Yes.

22 Q Okay. So when -- once the meters
23 were replaced in the areas where you assumed
24 control, can you tell us how, if at all, that
25 affected water sales?

1 A Yeah. Probably an uptick of no
2 more than 15 percent. We -- we thought that --

3 Q And that would be -- the bills
4 would be increased 15 percent because the new
5 meters would be more accurate than the old meters
6 that were replaced; is that correct?

7 A That's correct. And I will say
8 that it was a little surprising, because even Dean
9 Hall and I felt like that some -- a lot of the
10 meters in those two areas was -- were quite slow
11 because they were aged. But we were quite
12 surprised at the small amount of uptick or increase
13 in revenue that the new meters generated.

14 Q You thought it would be more than
15 that?

16 A I did.

17 Q Okay. What happened to the old
18 meters that were removed? Did Prestonsburg keep
19 those or were those given to Southern?

20 A We -- we kept most of them. But
21 Dean and I had talked, that he had some areas that
22 he felt like some of those meters if they tested
23 out properly and still at least reading somewhat
24 accurate, that he could use. So I passed along
25 several of the meters to -- to Dean. Less than

1 100, you know, not a huge amount.

2 Q Do you know if those meters that
3 you passed along were tested?

4 A I think they were. I'm not sure.
5 Now, we didn't test them.

6 Q You didn't test them?

7 A No.

8 Q Did you test any of the old
9 meters that were taken out?

10 A We did not.

11 Q I noticed in the various
12 agreements that were executed between Southern and
13 Prestonsburg, Southern was required to make records
14 available to Prestonsburg that you might want or
15 need in the operation of the water distribution
16 system; is that correct?

17 A That's correct.

18 Q Did they make records available
19 to you?

20 A Billing -- you know, billing
21 registers were readily available, but past that,
22 there weren't a lot of records passed along to us
23 as far as, you know, the -- like I said while ago,
24 mapping and stuff like that, nor -- we've not had
25 an actual listing showing all the customer

1 deposits. That's something that still has to be
2 settled on before we -- I mean, when the
3 transaction is actually closed.

4 Q Yeah. You won't take possession
5 of the deposits until there's actually a closing --

6 A Exactly.

7 Q -- and you own the assets;
8 correct?

9 A Yes, sir.

10 Q Did you see any records -- any
11 meter records or records of meter testing in the
12 areas where -- areas the water distribution system
13 of Prestonsburg took over?

14 A No.

15 Q Did you ask for any such records?

16 A No, sir.

17 Q Do you know --

18 A We -- we -- you know, we were
19 going to replace the meters with radio-read
20 anyways, so it was kind of moot that we ask for any
21 kind of records of that nature.

22 Q After Prestonsburg took over the
23 operation and maintenance of the water -- the two
24 water distribution areas, did Prestonsburg
25 Utilities find or discover that there were people

1 who were using or getting water service, but had
2 not been billed for those services?

3 A We did, but not a -- not a huge
4 proportion. Here and there.

5 Q Were there people that didn't
6 have meters?

7 A Yes. And, again, it was not a
8 high volume of people.

9 Q Well, I understand. How were you
10 able to determine that those people were being --
11 or were receiving water service but didn't have --
12 but no meter had ever been installed on their
13 property?

14 A Well, our people are -- are
15 pretty good at going out into these systems and
16 examining meter boxes and stuff like that. If you
17 see a meter box, you're going to assume there's a
18 meter in it and then actually -- when we were -- as
19 we were replacing meters, we would run across
20 straight pipe, cups and stuff like that. And like
21 I say, not a high volume, but, yes, some.

22 Q Well, let me tell you what I've
23 been told, that there were about 40 customers or
24 people who were receiving water but were not
25 paying -- billed -- were not paying for it. Would

1 that be too high, too low, about right?

2 A Has to be about right, I would
3 think. Out of 1,175 customers, I would think so.
4 And I can get -- I can get you an accurate record
5 of that because --

6 Q Well, if you could, would you do
7 that?

8 A Yeah. Each time we replace
9 meters, we -- we have a work order with serial
10 numbers and everything on it. So if you'd like, I
11 can come up with that as well.

12 Q I'd appreciate it -- I'd
13 appreciate it, if you would.

14 A Okay.

15 Q Do you know of any reason why
16 Southern -- which actually used supposedly meter
17 readers to check the meters, why they wouldn't have
18 been able to have found the same -- these customers
19 or these -- not customers, people were getting
20 water but weren't being metered? Is there any
21 reason why they couldn't have found that out?

22 A I have no idea why they wouldn't
23 find them. I mean, yeah, that's something that we
24 found. But now we were going to every meter
25 replacing each -- in each meter box. Now, I

1 can't -- you know, I don't have an opinion on their
2 operational capabilities in that.

3 Q You run a water company?

4 A We do.

5 Q And you run what's generally
6 considered to be a good water company, a well-run
7 operation; would you agree with that?

8 A I agree that we've got -- in my
9 opinion. I've been in several industries. We've
10 got the best workforce that I've seen in my career
11 and they -- they're very conscientious.

12 Q At any time -- you know, I'm
13 going to ask you about this Fyffe appraisal. Who
14 selected Terry Fyffe; do you know?

15 A That was a joint selection,
16 basically, because we didn't want to just jump in
17 there and say, oh, we'll get an appraiser. We
18 first asked RD about maybe someone that had done an
19 appraisal for them in the past. We were given a
20 name; I made contact with that person. I can't
21 recall the name exactly right now. I can get that
22 for you as well. And he could not get to it very
23 quickly, on a timely basis. He then suggested
24 Mr. Fyffe as being just as -- as he said, just as
25 good as I am or better, and he would be a good

1 selection for you-all. I kept in touch with
2 Southern's folks and mayor and judge executive and
3 everybody about that selection process, but I was
4 going to stay clear and just give them the facts
5 and let them say, okay, we agree. And that's how
6 we came to agree on Terry Fyffe as the appraiser.
7 We actually paid Mr. Fyffe his -- his fee, his
8 retainer, and it went forward.

9 It seemed stalled for a little while, so I
10 finally asked him, I said, you know, What's going
11 on? I said, We'd kind of like to see this happen
12 for RD's purposes. And he said that he'd had a
13 little bit of trouble getting the records he needed.
14 And about that time is when you-all had issued your
15 order on the rate increase -- alternative rate
16 increase. And I sent -- sent it to him as a -- as
17 a, you know, favor, I guess, to let him see what was
18 going on. He then utilized those numbers that
19 Southern had submitted for their rate increase
20 request, and committed -- completed his appraisal
21 within days.

22 Q So, yeah, I was going to ask
23 you -- obviously, you agree with the appraisal.
24 You paid the appraiser; correct?

25 A Yes, sir.

1 Q So you hadn't -- Prestonsburg
2 didn't -- other than the gentleman whose name you
3 can't presently remember, you didn't contact
4 anybody else about doing the appraisal; correct?

5 A No.

6 Q What, in your view, Mr. Campbell,
7 is the end game here in terms of the transfer or
8 potential transfer of the assets of the water
9 distribution system that Prestonsburg has -- would
10 like to acquire and that Southern has agreed to
11 transfer? I mean, you say, Prestonsburg, we're
12 willing to pay 1.85 million dollars, which is what
13 we think it's worth. Rural Development wants 3.85
14 million dollars and we think that's too much money.
15 So what is the -- I mean, ultimately, you're in a
16 position here where it's been a year and a half
17 from the date when the transaction hopefully would
18 have closed. So how does this end?

19 A I think that RD is going to have
20 to realize that the appraisal is what they asked
21 for. And, yeah, it was delayed several months just
22 by bad communication, but that's what we did.
23 We -- we paid for the appraisal to be done. He
24 completed his appraisal based on numbers that
25 was -- were submitted to the Commission, and -- but

1 then in the end, they're -- they're taking the
2 opinion that that's just for the water assets and
3 not for the whole transaction. What we see as
4 should be fair is that we pay \$1,865,000 to RD on
5 behalf of Southern, reduces their Rural Development
6 debt by that much, and they sign off on this
7 transaction and we all go forward, because I think
8 that -- I know Southern and Prestonsburg have
9 forged quite a partnership and expertise in
10 communication and help each other tremendously now,
11 but this is -- that we've been doing this for three
12 years. So I think Southern is being given a chance
13 to -- to go forward in a viable state because of
14 the rate increase that should have been taking
15 place. They should have requested it three and a
16 half years ago, but they were held off by political
17 people. So I think that now that these pieces are
18 seemingly in place, that all this needs to be put
19 to rest by us paying the million-865 to RD, and the
20 rate increase being approved as far as being
21 initiated.

22 Q And then if that -- if
23 Prestonsburg paid \$1,850,000 to Rural Development,
24 this Rural Development loan -- I think you answered
25 this question earlier. Rural Development would

1 release whatever -- Prestonsburg would -- would
2 expect not to be held accountable or responsible to
3 Rural Development to pay any other debt to Rural
4 Development that Southern has --

5 A Exactly.

6 Q -- is that correct?

7 A Yes, sir.

8 Q Get Prestonsburg clean of any
9 debt that -- that Southern has to Rural
10 Development, and Southern's debt to Rural
11 Development would be reduced by --

12 A A million -- yes, sir.

13 Q -- \$1,850,000?

14 A Yes, sir. That's the way I see
15 it, and that's the way I see a fair way of doing
16 it.

17 Q Now, I guess the issue always is,
18 well, you know, how much time will it take? You're
19 actually in possession of the assets, the water
20 distribution assets?

21 A Yes, sir.

22 Q Prestonsburg is in possession.
23 Prestonsburg is upgrading and will continue to
24 upgrade, make infrastructure improvements, and is
25 continuing to build; right?

1 A And the rates were frozen at --

2 Q At three years?

3 A Yes.

4 Q Okay. And so -- so, I mean,
5 at -- at some point somebody -- somehow this thing
6 has to be resolved or the transaction has to be
7 unwound. If it were unwound, would Prestonsburg's
8 position change to the extent it would claim that
9 Southern owed it some of this money back?

10 A There's no question that we
11 would -- we would take that position, but I think
12 the agreements would definitely nullify anything
13 we've spent to upgrade the infrastructure. But the
14 monies we spent of the 2,139,715.08, those funds
15 would definitely -- we'd say, hey, we want
16 something back. We would still own the wastewater
17 assets. That's done. And, you know, if that's --
18 if that's, you know, something that comes to
19 fruition, then, yeah, we would have to have a way
20 of collecting our wastewater revenue and they'd be
21 back -- Southern would be back operating those
22 water systems that we have improved, and we would
23 need to get our wastewater revenue from them each
24 month if it was unwound, which I don't think is a
25 good decision, but that's your-all's decision.

1 Q I understand.

2 You know, the Kentucky General Assembly and
3 the statute has basically expressed the public
4 policy of Kentucky is to consolidate ownership and
5 operation of water utilities, publicly-owned water
6 utilities throughout the state.

7 A Yes.

8 Q Are you aware of that?

9 A I am, sir.

10 Q Would Prestonsburg have any
11 interest going forward in either owning all of the
12 Southern Water distribution assets or managing them
13 on a professional basis?

14 A There's no question that at this
15 point in time, I would have to say no, because it
16 would -- operationally, it would really stretch us,
17 and financially as well, to just simply own that
18 system. We are in the northern end of Floyd
19 County, as you well know. Our system is mainly the
20 top 30, 40 percent of the county there of the
21 northern section. And for us to operate that
22 system in the southern end would be a stretch for
23 us. But there's no question that if -- if Southern
24 is not given -- is not given what is basically
25 waiting on them, a rate increase, that in my

1 opinion will enable Southern to go forward in a
2 very positive manner, then no question as us being
3 the other utility in the county, we would have to
4 consider, if it came down to that point of --

5 Q Well, and as a municipal utility,
6 the rate structure would be entirely up to
7 Prestonsburg?

8 A Yes, sir.

9 Q It wouldn't be subject to Public
10 Service Commission oversight or approval for
11 anything --

12 A Exactly.

13 Q -- correct?

14 A Yes, sir. I -- it's my
15 opinion -- I want to -- I know I'm going to be
16 preaching to the choir, as the old mountain saying
17 goes. But these fiscal courts are a very negative
18 factor for these water districts. And I think now
19 that the people of Floyd County have seen fit to
20 elect a political novice but very astute
21 businessman as their judge executive, I think that,
22 really, Southern has a shot of turning things
23 around, not overnight, not real short term, but at
24 least in a certain number of years. And we want to
25 be part of that, at least an extended part of that,

1 in expertise, physical help, whatever we can do,
2 more of a partner to them. I think that would make
3 it all go in a more positive manner.

4 CHAIRMAN SCHMITT: I don't have any other
5 questions. Mr. Cicero, questions?

6 A Can I clear up one little --
7 little --

8 Q Yeah.

9 A -- thing about the RD side of it?

10 Q Sure.

11 A The difference between the
12 million-865, that we're very willing to write a
13 check to RD for, and this 3.5 million that they
14 claim we should pay, what that is, is that
15 difference of the original 2.14 million and what
16 they gave us so-called credit for, they're saying
17 that there -- since there was no lien on the sewer
18 revenue, that we -- not a problem. We own it now.
19 And that we're only going to be given credit
20 towards the water assets of the amount we paid to
21 Rural Development of a little less than half a
22 million and then the computer system that we bought
23 for Southern. So that is that difference that's --
24 they're asking us to come up with over and above
25 the million-865 that we're willing to pay.

1 Q Well, in the agreements that were
2 executed, the Asset Purchase Agreement and the
3 other related agreements, the -- there was not a
4 specific -- it was not specifically -- the value or
5 the amount paid for the water assets and the sewer
6 assets was not specifically designated. Would that
7 be fair to say?

8 A Absolutely. Yeah, the 2.14 was
9 the whole ball of wax.

10 CHAIRMAN SCHMITT: Everything, yeah.

11 Commissioner Cicero?

12 EXAMINATION

13 By Mr. Cicero:

14 Q So just to follow up on that line
15 of questioning. You paid 2.14 million, or whatever
16 it was, of which a million-five was for debt
17 reduction for Southern; is that right?

18 A That's correct.

19 Q And Southern selected who those
20 payments for debt reduction would go to. So it was
21 three KIA loans and some other loans; is that
22 right?

23 A In the end when -- when it's
24 finally settled, it was actually two KIA loans and
25 one RD loan.

1 Q Okay. And that money could have
2 gone to reduce the outstanding three-and-a-half
3 million RD loan; is that right?

4 A Well, in essence, that money went
5 to reduce RD loan, the \$485,000 deal.

6 Q But the KIA loans --

7 A Were assumed.

8 Q -- were assumed. But at that
9 point you just went forward with that and took them
10 over?

11 A Yes, absolutely.

12 Q Okay. So there was no pay-down
13 of debt; it was just you took -- you assumed the
14 loans and went forward?

15 A Yeah. I mean, we -- we paid down
16 the debt, but through assumption rather than
17 writing a check, of course.

18 Q Right. So there was -- there's
19 two agreements. An operating and maintenance
20 agreement was for the water, and an operating
21 agreement was for the sewer?

22 A Yes, sir.

23 Q And you have since taken over the
24 sewer assets, so the operating agreement for the
25 sewer is basically --

1 A It's null and void now.

2 Q Null and void.

3 But the water, since those assets haven't
4 been transferred, that's still in effect?

5 A Yes, sir.

6 Q And the copies that we've
7 received from Southern are not executed, but you
8 have an executed copy?

9 A I have them with me, if you need
10 them today.

11 Q I would like to get an executed
12 copy --

13 A Okay.

14 Q -- if you have both signatures on
15 it.

16 A I do, sir.

17 Q That would be wonderful.

18 So let's go to the appraisal that everyone
19 has talked about. In the assignment objective, it
20 says, "We were engaged by Dean Hall, President,
21 Southern Water and Sewer, to issue a detailed
22 report. Our objective was to estimate the Fair
23 Market Value of lost revenues due to a transfer of
24 customer accounts and related assets of Southern
25 Water and Sewer District's system as of June 28,

1 2018." And it doesn't say whether it's for water
2 and sewer, for water or what -- any detail beyond
3 that general statement; is that --

4 A That's correct.

5 Q That's correct.

6 The summary income statement projections
7 include \$656,122 as the revenue projections going
8 forward. And then, of course, it takes out the
9 cost of goods sold, comes up with a net income and
10 it projects it forward to give a fair market value
11 of the 1. -- 4.1 million I think that RD --

12 A Yeah, in that ballpark.

13 Q -- is claiming.

14 So is the 656,000 just -- I know the number
15 came from the PSC. Is it strictly a water revenue
16 number or a sewer and water revenue number?

17 A It's my understanding that when
18 Southern submitted it, I think that was on paper
19 water revenue. But if you've looked at it the way
20 I have over the past three years, that number
21 represents about the amount of revenue that
22 Southern gave up in this transaction for both
23 utilities. So the dollars themselves are very
24 close if you -- I'm not sure how they came up with
25 the 600 and some thousand of just water revenue,

1 but --

2 Q Well, it is a 2016 test year;
3 right? Which was before the transaction occurred?

4 A Uh-huh (affirmative).

5 Q So that's why I'm curious whether
6 the 656 is inclusive of both sewer and water or
7 just water. And either way you look at it, that
8 would have been an indicator of whether the
9 valuation was based on water and sewer or just
10 water assets for RD purposes?

11 A Absolutely.

12 Q Now, other than that, I can't
13 determine how the appraiser came up with the number
14 he came up with anyway, because he takes five years
15 of historical, which is the 2016 test year, and
16 projects that forward. I have -- we're going to
17 talk to Mr. Fyffe later on and find out --

18 A Yeah.

19 Q -- how he came up with this
20 number.

21 But at any rate, the 4.1 million has been
22 established as what RD is looking for. You agree
23 that it's somewhere between 4.1 and 4.3 million. So
24 from everybody's perspective, the value of the
25 assets is accurate; is that right?

1 transferred over. And I'm not a lawyer. So as far
2 as that contingency, no, I -- I did not think of
3 that.

4 Q So at this point -- and I think
5 the Chairman has summed it up -- there's this
6 transaction that has become much more complicated
7 than it should be because of established liens,
8 potential liens. Although, I think maybe the Floyd
9 County lien isn't as much as we might have thought
10 it might -- might have been.

11 A It's not.

12 Q But you have already made
13 improvements to the tune of \$600,000 on a system
14 that you don't know whether you're actually going
15 to receive?

16 A Yeah, that's technically the
17 bottom line. Yes, sir.

18 Q Okay.

19 A We -- we have the O&M Agreement
20 in place, operating the system that both boards
21 agreed on. It should proceed in that fashion and
22 that -- that's the legal document that is driving
23 Prestonsburg City Utilities operating those two
24 water distribution areas.

25 Q Can you viably operate the sewer

1 without the water?

2 A We have had some discussions as
3 of late, because my assistant and I have simply
4 gotten kind of tired of this whole process of just
5 here you go, take them back and all this stuff.
6 But then we got to thinking, we're going to have to
7 have some way of collecting our sewer revenue. And
8 to do that, it would have to be, in my opinion,
9 some sort of flat-fee billing, with Southern having
10 to pay that flat fee and collect the revenue the
11 best way they could from their customers as far as
12 Southern. And what we don't -- what we would do as
13 well, we would simply read the meters that we've
14 put in the ground and pass along the net water
15 revenue to Southern at the end of each month. And
16 we don't want to go through all that because we've
17 got a lot more investment in that. But this
18 process has taken much longer than it should have.

19 Q Well, I'm not going to pursue it
20 any farther because enough questions have been
21 asked. I can see that you might be back here later
22 on if this progresses into some other type of
23 hearing --

24 A Yes.

25 Q -- with regard to the transfer.

1 We're not re-litigating that or trying to go back
2 through. We're just trying to get an understanding
3 of what the value is that Southern owns at this
4 point and what's actually generating revenue and
5 what the potential revenue is, because that's the
6 only way we can make a determination of what the
7 proper rate increase is.

8 A Yes, sir.

9 MR. CICERO: So I'm going to say that I'm
10 done with my questioning and ask
11 Dr. Mathews if she has any questions.

12 THE WITNESS: Thank you, sir.

13 MR. CICERO: Thank you.

14 THE WITNESS: You're welcome.

15 EXAMINATION

16 By Dr. Mathews:

17 Q Okay. I've written a lot of
18 questions and then they get answered and then I
19 come back, so --

20 A Take your time.

21 Q What was your estimate of the --
22 you were doing your internal calculations to decide
23 whether to take over the sewer assets. What was
24 your estimate of what the liability would be if
25 they weren't taken over and, say, DOW took

1 enforcement action; do you have any idea?

2 A I'm not sure as to the level of
3 fines that DOW would -- would assess. We heard as
4 much as thousands per day or whatever. Like I say,
5 I'm not --

6 Q But it was likely substantial?

7 A Yes. Yes, absolutely.

8 Q And you made the decision that
9 you could spend some money rehab to wastewater
10 plants and --

11 A Yeah, the -- the original
12 agreement, July 1, '16, was to assume operational
13 control of the wastewater plants and collection
14 systems for a \$3,000 a month fee to be paid by
15 Southern.

16 Q Okay.

17 A And -- but we immediately
18 began -- we had to spend substantial funds at
19 Wayland to get that plant and system simply in
20 compliance. So several thousands of dollars went
21 toward that early on.

22 Q And back to the question of,
23 could you operate the sewer assets that have been
24 transferred if the water assets are not cleared by
25 RD to be transferred, could you not work out a

1 billing arrangement with Southern where they --
2 they bill for the sewer based upon gallons used --

3 A Well, no question --

4 Q -- whatever formula and then
5 they --

6 A -- that would be the --

7 Q -- they send you a notice --

8 A -- that would be the first
9 choice, but what we -- since we've put new meters
10 in the -- the one area -- and even we would put new
11 meters in Wayland and Eastern as well. It would be
12 better operationally for Prestonsburg to read the
13 meters where we have sewer service, collect all the
14 revenue and turn the net water revenue over to
15 Southern. It -- it's a cleaner transaction.

16 Q It could work one way; it could
17 work the other.

18 A It -- it --

19 Q They could read and bill you
20 or -- and they could read and then grant -- you
21 know, give you the totals and you could bill again,
22 or they could transfer the revenue to you?

23 A Not our first choice, but --

24 Q But it would be --

25 A -- works both ways.

1 Q -- you know, I mean, because it
2 seems like there's a \$1.7 million difference here.

3 A Yeah, I agree.

4 Q And we -- we did try to ask RD
5 some questions, but they are furloughed, so...

6 A That's true.

7 CHAIRMAN SCHMITT: Everybody has
8 requirements, but nobody has any money --

9 THE WITNESS: Exactly.

10 CHAIRMAN SCHMITT: -- including the federal
11 government.

12 DR. MATHEWS: That's all the questions I
13 have.

14 MR. BOWKER: No questions.

15 CHAIRMAN SCHMITT: Mr. McNeil, questions?

16 MR. McNEIL: Yes, a few, Chairman. Thank
17 you.

18 EXAMINATION

19 By Mr. McNeil:

20 Q Mr. Campbell, good morning.

21 A Good morning.

22 Q On the assets that Floyd County
23 claims ownership over, are there any other liens on
24 those assets that you know of?

25 A Not that I know of. Just that

1 large bond issue.

2 Q Okay. Are the Stanville and
3 Pinhook tanks, are those part of the tanks -- part
4 of those assets claimed by Floyd County?

5 A I do not think so.

6 Q Can you tell us, how did you --
7 how did you fund the improvements to the
8 transferred system? Were those paid through loans,
9 through cash from operations?

10 A We -- it was a mixture. We
11 were -- we spent a substantial amount of money out
12 of our own operating funds, but then we -- when we
13 took care of a bond issue funding to actually fund
14 the transfer of assets, the 2.41 million, when we
15 did that we asked for another amount of funding for
16 what we felt like would be potential infrastructure
17 improvements. So the most of the funds that were
18 spent were loan.

19 Q Was that additional amount, is
20 that a dedicated loan for this -- for that reason?

21 A Yeah, improvements to the two
22 acquired systems.

23 Q What about the cost of the new
24 meters you've installed, were those made through
25 loans?

1 A Same funding, yes, sir.

2 Q Same funding?

3 A Yes, sir.

4 Q Okay. Who's getting the revenues
5 from the transferred water customers right now?

6 A Prestonsburg.

7 The O&M Agreement, July 1, 2017, states that
8 all revenue would come to Prestonsburg City
9 Utilities for operating, maintaining, repairing
10 those two systems.

11 Q So you're billing, collecting,
12 all that? It's --

13 A Absolutely.

14 Q Absolute, okay.

15 A And essentially with that
16 agreement -- in my opinion, we're essentially
17 operating like a contractor, you know, for
18 Southern.

19 Q Right. Okay.

20 A We're performing the service, you
21 know, operating the system and collecting the
22 revenue from the system directly.

23 Q For those customers that you
24 stated had been getting free water, can you recall
25 whether any were businesses?

1 A Uh-huh (affirmative). 1,050,
2 approximately, in the Harold, Betsy Layne area and
3 125 in the Pyramid area, so...

4 Q And you made it clear in your
5 letter in the record that you did not regard the
6 customer transfer as hostile; is that right?

7 A Absolutely.

8 Q Was your impression that then
9 both sides negotiated in good faith and had equal
10 bargaining power in that transaction?

11 A I do.

12 Q Has a full takeover of Southern
13 by Prestonsburg City Utilities been discussed
14 either at that time or since then?

15 A Not at that time at all. And
16 really, only recently has that even come up with
17 anyone's discussion, is the potential that we would
18 assume control of the rest of the county, their
19 water district.

20 Q So the time the transfer was
21 discussed, did either utility do any kind of
22 internal cost base analysis on the efficiency of
23 maybe doing that or was it not discussed at all?

24 A Not discussed at all. We felt
25 like the -- in my opinion at the time, I felt like

1 once we worked things out with the judge executive,
2 it gave Southern the opportunity to shrink their
3 district to a more manageable district, back to
4 where -- I call it the old boundaries that they had
5 before 2007 when they assumed the Sandy Valley
6 Water District customers.

7 Q Do you think the transferred
8 customers are profitable for Prestonsburg at this
9 moment?

10 A No doubt they are -- they're --
11 it's -- it's paying for itself with some --
12 naturally, some contribution to debt service. So I
13 guess you can call that profit, yes.

14 Q Do you think they were profitable
15 for Southern Water before the transfer?

16 A I would assume they would have
17 had to have been profitable, you know, because it's
18 a -- it's a pretty good group of customers. Out of
19 their 67, 6800 customers, you know, I'd say those
20 1,175 customers were contributing in a positive
21 manner, no doubt. It was about 18 percent of their
22 customers is what we transferred over.

23 MR. McNEIL: Nothing further, Chairman.

24 CHAIRMAN SCHMITT: Do you have another
25 question, Mr. Cicero?

1 MR. CICERO: I do.

2 RE-EXAMINATION

3 By Mr. Cicero:

4 Q It's in regard to the transfer.
5 The assets for the sewer now transferred, you have
6 those on your books and you're depreciating those
7 assets; right?

8 A Yes, sir.

9 Q But the water assets didn't
10 officially transfer, so you were not depreciating
11 those because you don't officially have them?

12 A Yes, sir.

13 Q But the improvements you made on
14 the system, you are depreciating those?

15 A It's not in depreciation status
16 yet. They're a construction in progress.

17 Q But they will be transferred into
18 the asset complete --

19 A Yes, sir.

20 Q -- whatever asset the class of it
21 is once --

22 A Whatever the number comes down
23 to, that's what I'll -- I'll probably depreciate at
24 least 80 percent of the total transfer. The rest
25 is truly more expense related. So there's a little

1 mix there.

2 Q That's all right. So in the end
3 if the transaction becomes unwound, those assets
4 will have to be transferred back to somehow to be
5 put on Southern's books? Or you would think that
6 they would be, because you wouldn't want to be
7 depreciating assets on your books --

8 A Exactly.

9 Q -- that somebody else --

10 A We -- we would have to make a
11 substantial financial adjustment on our books for
12 the amount of money spent to improve the
13 infrastructure naturally. But, again, there would
14 have to be an accounting entry of some sort. Of
15 course, the original assets are still on Southern's
16 books that they acquired from Sandy Valley, but,
17 yes, what you're saying is correct.

18 MR. CICERO: Okay. Thank you.

19 CHAIRMAN SCHMITT: Mr. Strobo, questions?

20 MR. STROBO: Few questions.

21 EXAMINATION

22 By Mr. Strobo:

23 Q Mr. Campbell, I'm Randy Strobo.
24 I represent Southern. Thank you for --

25 A Good morning.

1 Q -- being here this morning.

2 A You're welcome.

3 Q So you previously testified that
4 one of the main reasons why this whole transfer of
5 assets took place originally is because the judge
6 executive came to you and said Southern needs to be
7 off sewers; is that accurate?

8 A Yes. They need the relief of
9 giving up the sewer.

10 Q Did Prestonsburg have any
11 infrastructure needs at that time as well?

12 A Infrastructure needs?

13 Q In the sewers, with sewer and
14 wastewater treatment.

15 A No.

16 Q Did you -- Prestonsburg's main
17 wastewater treatment plant, was it, at the time,
18 almost at capacity or past capacity?

19 A It was probably, at the time of
20 the transfer, at capacity, at or near capacity.

21 Q And did Prestonsburg switch some
22 of the wastewater flows from that wastewater
23 treatment plant to the recently built and, I think,
24 well-functioning Harold wastewater treatment plant
25 of Southern's?

1 A We have not as of yet. It's a
2 project -- a KIA-funded project. We'll make that
3 come to fruition in the next few weeks.

4 Q Did Prestonsburg, your utility,
5 ever do any type of estimates or any costs of how
6 much it would need to expand your wastewater
7 treatment plant?

8 A We expanded in '09, so we're --
9 we had that expansion. We have had some discussion
10 just recently as to increasing the capacity of the
11 Prestonsburg plant.

12 Q Do you think by acquiring these
13 properties from -- these assets from Southern, that
14 that has delayed the amount of time that you needed
15 to build out your existing wastewater treatment
16 facilities?

17 A Yeah, I think it's safe to say
18 that. I really do.

19 Q Can you put a dollar figure on
20 that?

21 A No.

22 Q Is it safe to say that the
23 transfer of assets, the sewer assets from Southern
24 to Prestonsburg was in some ways a win-win
25 situation?

1 A A big win for Southern simply
2 because of being relieved of -- of that utility.
3 For Prestonsburg, we're getting some revenue from
4 the Harold and Betsy Layne area, so naturally that
5 is somewhat of a win at some level for us there.
6 Southern has not been able to pass along the
7 revenue from Wayland and Eastern to us completely
8 yet each month, so that's definitely not a win.
9 We're operating those two systems with no revenue.

10 Q And at the time of the
11 transaction -- or, I'm sorry, at the time the
12 agreement was signed and during the previous 2017
13 case in the -- in the Public Service Commission,
14 the Public Service Commission requested
15 information, I think an appraisal was done, to
16 value the assets that were being transferred. Do
17 you recall that?

18 A I don't think we were ever asked
19 about appraisals by the Commission until the RD
20 situation came along that they required one.

21 Q Well, there was a request for
22 information. Whether or not you did one, they
23 did --

24 A Sure.

25 Q -- but -- and you -- it was a

1 combined response from representatives of your
2 utility and Mr. Hall. And you-all replied that no
3 appraisals were needed at the time, because -- and
4 you complained it was an arm's length transaction
5 and that you-all came to a mutually-agreeable
6 price?

7 A Exactly. You're right.

8 Q But no value was ever put on any
9 of these assets that you're aware of?

10 A Just by me.

11 Q Okay. And how did you base that
12 value? How did you come up with that value?

13 A The bulk of it was the debt,
14 payoff and debt assumptions. And then ways that we
15 could improve their system in place at the time
16 through -- via through vehicles, equipment, assets,
17 computer, billing system or whatever. And that is
18 basically what we utilized to come up with the
19 figure, plus the debt payoff of the fiscal court.

20 Q Would you say that you have
21 received value from the -- putting the water
22 customers aside and the water district. For just
23 the sewer infrastructure, they -- Prestonsburg has
24 received value for that?

25 A Again, the only value that we've

1 received in that transaction is the amount of
2 revenue we are collecting through our meter reading
3 in the Harold, Betsy Layne system, because the
4 Wayland and Eastern treatment plants and collection
5 systems are still a drain on the -- on the
6 financial side for Prestonsburg.

7 Q Going back to the Harold
8 wastewater treatment plant, would you say that was
9 a well-functioning plant at the time of the
10 acquisition?

11 A It had its problems, but of the
12 three, the least amount of problems, and our people
13 were able to fairly quickly get it running quite
14 well.

15 Q What capacity level is it at
16 right now?

17 A 100,000 per day.

18 Q I guess a percentage of total --
19 I can't think of the word, but, you know, the total
20 amount of wastewater sewage it can take on. What
21 percentage of the total capacity is it designed by
22 currently?

23 A I'm going to say --

24 Q (Interrupting)

25 A -- yeah, 65 percent.

1 Q Okay. So and -- and Prestonsburg
2 still has plans to transfer some of the flows to
3 that wastewater treatment plant?

4 A Absolutely.

5 Q Okay. And that will allow you to
6 divert some of the flows that are currently going
7 to -- and I'm forgetting the name, but your
8 existing water treatment plant to this Harold
9 treatment plant?

10 A Yes. We will need to spend more
11 money of our own, naturally, through either loans
12 or whatever, to increase the capacity of the
13 Harold, Betsy Layne plant to enable us to utilize
14 it to what we -- at the level we would like to.

15 Q So going back again to the 2017
16 case and the negotiations, did you ever recommend
17 to Southern to retain their own counsel in those
18 negotiations?

19 A No. I just -- like I was telling
20 them a while ago, I simply -- when -- when
21 utilizing just our corporate counsel was not going
22 very smoothly, we decided at the mayor's discussion
23 suggestion to get the chair of the Southern
24 Commission basically in a room and let's hash this
25 out. And you-all select an attorney you want to

1 use, or let's come up with one we can both use or
2 whatever. And that's how we came up with
3 Mr. Talley.

4 Q Did -- are you aware of
5 Prestonsburg Utility ever signing any kind of
6 waiver of conflict document or anything like that
7 for representation?

8 A I'm not sure.

9 Q Are you aware of anybody else
10 that ever recommended to Southern to get their own
11 counsel or their own consultants?

12 A I'm not aware of it, no.

13 Q Was it ever discussed?

14 A Not with us.

15 Q So at the time of the
16 negotiations you-all came to a mutually-agreeable
17 price of \$2.1 million or so; correct? But also at
18 the time -- and this is noted in -- and I'm going
19 to quote from Page 20 of the settle -- of the Asset
20 Transfer Agreement. This is on Page 20. "Southern
21 District acknowledges that the City, PC -- and PCUC
22 are engaged in discussions with Floyd County
23 officials to acquire these property interests. All
24 the assets are in operating condition for the
25 purposes used."

1 To your knowledge was the fiscal court
2 demanding their \$2 million that you talked about
3 previously at that time?

4 A Demanding what?

5 Q For their -- for the -- so we're
6 going back to the gentlemen's handshake. So was
7 that part of --

8 A Absolutely.

9 Q -- that was part of the
10 negotiations at the time?

11 A Absolutely.

12 Q Do you think that \$2 million --
13 that \$2 million demanded by the fiscal court
14 influenced the amount of money that was offered to
15 Southern by Prestonsburg at the time?

16 A Oh, no doubt, because I looked at
17 it as a total transaction to Floyd County as a
18 whole being they were responsible for the water
19 district and then they had this debt on behalf of
20 water district. And like I said in the beginning
21 with the judge executive, I'm looking at this as a
22 little more than a 4 million-dollar transaction no
23 matter how the pieces fit together. And, again, he
24 made the statement that politically for him, it
25 would be better to pay the 2 million that the

1 fiscal court owed on behalf of Southern.

2 Q Was that, the \$2 million
3 indicated anywhere in any of this documentation?

4 A No.

5 Q Why not?

6 A Like I say, it was -- again, I
7 don't know why he didn't want to mention it, but it
8 was just an agreement that we came up with,
9 gentlemen's handshake.

10 Q Okay. Were you -- what was your
11 position with Prestonsburg in 2012?

12 A 2012?

13 Q Uh-huh (affirmative).

14 A Chief Financial Officer.

15 Q Okay. Were you familiar with the
16 Public Service Commission Case Number -- and you
17 probably don't number the number, but I'll say,
18 2012-309, and that had to do -- this is where the
19 gentlemen's handshake was quoted in the PSC Order?

20 A In 2012?

21 Q In 2012.

22 A Not with us.

23 Q So you weren't involved in
24 that --

25 A No.

1 Q I'll tell you, it was a Southern
2 rate case. So I'm just asking if you're familiar
3 with it.

4 A I think that's the case dealing
5 with this 2 plus million dollars.

6 Q It is. So back in 2012, when the
7 Commission essentially ruled -- and I'm
8 paraphrasing -- that there was no obligation by
9 anyone to pay back the fiscal court that
10 \$2 million, there was no written settlement, no
11 written agreement, no contract, nothing, were you
12 aware of that at the time?

13 A I became aware of it shortly
14 after because it was a pretty big discussion in our
15 county and our city back there of how that
16 transaction took place, and it was -- it was
17 dealing with Southern had no obligation. I didn't
18 know if you mentioned that or not.

19 Q All right. And do you -- are you
20 aware that the Attorney General at the time
21 submitted comments agreeing with the PSC Order,
22 essentially saying that there was no obligation for
23 anybody to pay back fiscal court for that property?

24 A Absolutely.

25 Q So why, in 2017, was that part of

1 negotiations for this transfer of assets?

2 A To make the transaction happen, I
3 think that's what the judge felt like -- again, to
4 benefit he and the fiscal court politically,
5 reduce their debts by 2 million, and they saw an
6 opportunity to make that happen with the
7 transaction of Southern and Prestonsburg.

8 Q And I think it was your testimony
9 that you said that \$2.1 million that you did pay to
10 Southern, that was kind of -- it was mainly based
11 on money that was owed back -- loan money that was
12 owed, but it also sort of combined both the water
13 infrastructure -- infrastructure assets and the
14 sewer assets?

15 A Oh, yeah.

16 Q But there was no money figure, no
17 value given to those assets at that time, and there
18 still really isn't?

19 A We did not divvy it up, so to
20 speak.

21 Q And following up on the
22 Commissioner's questions regarding whether or not
23 the appraisal in 2018, the most recent appraisal,
24 there -- it's still unclear whether or not that
25 value was just for the water customers or both

1 water customers and infrastructure -- I'm sorry --
2 water customers and sewer infrastructure?

3 A I think we've established that
4 here today, but there's no question that he was
5 looking at the amount of revenue given up by
6 Southern in the transaction. I'm not even sure if
7 he had the opportunity to look at the -- how much
8 of the revenue was water and how much of it was
9 sewer. I think that they benefited from the way --
10 the approach he took as far as the evaluation,
11 because for Southern sewer has always been a losing
12 venture.

13 Q Is it your opinion that Southern
14 is still owed at least 1.86 million, around that,
15 sitting in your account right now?

16 A Absolutely.

17 Q Okay. Is it your opinion that
18 they're owed more than that?

19 A They're owed more than that?

20 Q Uh-huh (affirmative).

21 A No.

22 MR. STROBO: No further questions. Thank
23 you.

24 THE WITNESS: Okay. Thank you.

25 CHAIRMAN SCHMITT: I have a couple. Maybe

1 just one.

2 RE-EXAMINATION

3 By Chairman Schmitt:

4 Q Mr. Campbell, you -- I think you
5 said that, at least as of this time, that
6 Prestonsburg City Utility Commission was not
7 receiving any revenue from, what, Wayland and
8 Eastern?

9 A That's correct.

10 Q And why would that be?

11 A I would assume it's just
12 financial reasons. They're just -- they're not
13 able to, you know, give up any revenue.

14 Q Well, I mean, let me understand.
15 Right now Prestonsburg is the owner of the sewer
16 assets at Harold, Eastern and Wayland?

17 A That's correct.

18 Q And on Harold, Prestonsburg also
19 is operating the water system that basically
20 provides the water that the sewage -- that allows
21 the sewer system to work --

22 A That's correct.

23 Q -- correct?

24 But at Eastern and Wayland, while
25 Prestonsburg owns the sewer system, it's Southern

1 Water District that operates the water --

2 A Correct.

3 Q -- correct?

4 And so Prestonsburg then doesn't --
5 Prestonsburg is dependent on Southern to collect its
6 sewer bill and send it to -- and send the revenues?

7 A Yes.

8 Q Okay.

9 A There's been an agreement whereby
10 Southern would retain a 3 percent administrative
11 fee.

12 Q But since you took over,
13 Prestonsburg took over operation of the Eastern and
14 Wayland sewer systems, Prestonsburg has received no
15 revenue from Southern at all?

16 A We actually received probably the
17 first three months of that fiscal year, meaning
18 probably, August, September and October, the
19 revenue.

20 Q Of '17?

21 A Yes.

22 Q But you haven't received any
23 money since then?

24 A No, sir.

25 Q So Southern is running up a debt

1 to Prestonsburg for the revenue Prestonsburg ought
2 to be receiving for furnishing sewer services to --
3 to Southern's water customers --

4 A That's correct.

5 Q -- correct?

6 A Yes, sir.

7 Q Do you have any idea how much
8 that is?

9 A It's got to be pushing 90 to
10 \$100,000 at the present time.

11 MR. CICERO: How much per month?

12 THE WITNESS: I'm going to say per month it
13 should be in the 7500 to 8,000-dollar
14 range, I would think, for the two areas.

15 MR. CICERO: Is there some target date that
16 they're -- that you have reached an
17 agreement for those funds to be transferred
18 or paid down, or is it just going to be
19 open-ended?

20 THE WITNESS: Currently, we don't have a
21 target date for anything with all this
22 going on. So, yes, we -- we would like for
23 next week to start receiving the -- the --
24 not to be comical about this. It's just
25 that, no, there's not a target date for

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that to be paid down.

MR. CICERO: So if Southern received a rate increase from the Commission, would that -- is that the trigger, the event that starts generating revenue payments to Prestonsburg?

THE WITNESS: Absolutely.

MR. CICERO: So that is something that's been --

THE WITNESS: Yeah, that's -- I should have said that is a target date, because Mr. Hall and I have discussed that very subject, that, okay, you know, once your rate increase does kick in, then we will expect you to start, you know, paying us the sewer revenue for Wayland and Eastern. That has been addressed by Mr. Hall and I.

MR. CICERO: Okay. So there -- there is some date that says this liability will be satisfied and you'll be made whole and that will go off their books as a --

THE WITNESS: Absolutely.

MR. CICERO: Okay. Could be as much as 120,000 by the time the rate increase kicks in and the payment starts to be made?

1 THE WITNESS: Well, it will -- all
2 together -- you know, it's got to be the
3 amount in arrears, plus then start each
4 month turning over the sewer revenue, so
5 it's -- it's a combination of liability.

6 MR. CICERO: Yeah.

7 THE WITNESS: Future and present.

8 MR. CICERO: I don't have anything else.

9 BY CHAIRMAN SCHMITT:

10 Q This is a verbal agreement or
11 understanding?

12 A No. This -- this is in the --
13 this is in the 2017 O&M Agreement.

14 Q Oh, I understand, but the idea
15 that you're supposed to get paid once this rate
16 increase has been granted is -- is just an
17 understanding or an oral communication between you
18 and Mr. Hall; correct?

19 A Absolutely, yes, sir.

20 Q You have no written agreement?

21 A Not right now, no.

22 Q It's a gentlemen's agreement?

23 A Absolutely. It needs to be set
24 to print for sure, but that's where we're at today.

25 RE-EXAMINATION

1 BY MR. CICERO:

2 Q I think it's a bit of concern for
3 the Commission because, you know, everybody talks
4 about Martin County, and the issue that Martin
5 County has right now is a huge debt that goes back
6 on unpaid invoices to their vendors.

7 A Yes.

8 Q And --

9 CHAIRMAN SCHMITT: Of which you're one.

10 A Which we're one.

11 BY MR. CICERO:

12 Q Which you're one. Exactly.

13 A Yes.

14 Q Yes, I receive your e-mail every
15 month that tells me what the meter reading is and
16 how much the increase has been.

17 A Yes, sir.

18 Q But that's -- if we're going to
19 get Southern in a position where they are viable,
20 they can't be cash strapped in paying old debt
21 while going forward with the rate increase. It's
22 not -- you know, a rate increase, as you know, is
23 supposed to satisfy future infrastructure needs
24 and...

25 A Well, in my opinion, what we need

1 is once things do get settled -- and I know they
2 will by you-all as soon as possible -- for
3 Southern's benefit, we will desperately need to
4 come up with a legal document. And we will set
5 Southern up on a -- some sort of a payment plan on
6 the arrears amount, and then just simply be
7 collecting their revenue in the future from the
8 Wayland and Eastern customers. And I see no
9 problem with that being worked out, but that is a
10 liability right now.

11 Q You could put yourself in a
12 position where you've got Martin County owing you
13 money for water bills and Southern owing you money
14 for sewer bills and a large cash outflow that takes
15 care of capital improvements you're making. I know
16 there's -- you're talking about a loan that you
17 obtained for some of those, but...

18 A Yes. We've been paying debt
19 service on the Southern transaction for a year and
20 a half now. So, I mean, it's -- we're out the debt
21 service, plus the improvements and everything as we
22 speak, and not been able to collect the revenue
23 from Wayland and Eastern.

24 MR. CICERO: I don't have anything else.

25 CHAIRMAN SCHMITT: Commissioner Mathews?

1 RE-EXAMINATION

2 By Dr. Mathews:

3 Q I'm going to show my ignorance.
4 How many customers are in the Wayland and Eastern
5 areas?

6 A It's about 115, I would think.
7 118 possibly.

8 Q Are they included in the 1175 --

9 A No.

10 Q -- that you did meters?

11 A No.

12 Q Okay. So they're not included in
13 the water customers that you want?

14 A No. They're --

15 Q There's not a --

16 A -- they're not truly --

17 Q -- one-to-one match?

18 A -- truly contiguous to us like
19 the other two areas, simply turn on a valve and
20 serve those customers.

21 Q Okay.

22 A But Wayland and Eastern is over
23 deeper into Southern's system.

24 Q Okay. But still part of the
25 sewer assets?

1 A Oh, yes.

2 Q Are they connected --

3 A No.

4 Q -- as part of the sewer assets?

5 A Those are two separate areas.

6 Two communities up there.

7 Q My far eastern Kentucky geography

8 is -- I'm better in the southeast.

9 A I got you.

10 Q Okay. You just -- maybe you want

11 to get that in writing.

12 A No question. That's our intent.

13 DR. MATHEWS: Just -- just thinking.

14 CHAIRMAN SCHMITT: Is Floyd Central High

15 School a sewer customer?

16 THE WITNESS: Yes.

17 CHAIRMAN SCHMITT: And that -- that has how

18 many people in it? It's 6, 700 people?

19 THE WITNESS: Oh, at least, I would think.

20 I've not been up there much to that school,

21 but it's a big consolidated school. That

22 also includes the Duff Elementary School

23 there too nearby, sewer customer as well.

24 CHAIRMAN SCHMITT: Yeah. So you have two

25 fairly large --

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THE WITNESS: Yeah.

CHAIRMAN SCHMITT: -- customers?

THE WITNESS: They're treating them now at the Eastern sewer plant, both those schools.

CHAIRMAN SCHMITT: Okay. Mr. McNeil, questions?

MR. McNEIL: No further questions.

CHAIRMAN SCHMITT: May this witness be excused? Okay. Thank you. You may step down. You may be excused.

THE WITNESS: Okay. Thank you-all.

CHAIRMAN SCHMITT: Why don't we take a -- I think that Mayor Stapleton will be real short, so why don't we take him now and then we'll take a 10 or 15-minute break. Is that okay? I know he hopes it's short; right?

No. I thought we'd ask the mayor basically -- if he had anything else to add, and rather than -- and then maybe that would be better. Then you could leave before you had to stay here --

THE WITNESS: Oh, okay. I misunderstood. I thought you --

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CHAIRMAN SCHMITT: That's okay. Please raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do, sir.

CHAIRMAN SCHMITT: Please be seated.

* * * * *

The witness, LLOYD LESLIE STAPLETON, after first being duly sworn, was examined and testified as follows:

EXAMINATION

By Chairman Schmitt:

Q Would you state your name and business address for the record, please?

A Lloyd, L-L-O-Y-D, Leslie Stapleton, 200 North Lake Drive, Prestonsburg, Kentucky.

Q And you're the mayor of Prestonsburg, Kentucky; is that correct?

A Yes, sir, I am.

Q And how long have you been mayor?

1 A I've -- I'm in my fifth year
2 right now, second term.

3 Q And what is the relationship
4 between the City of Prestonsburg and the City of
5 Prestonsburg Utility Commission?

6 A It's a -- it's complicated, as I
7 have found out throughout the years. The utilities
8 is set up as an independent component, and I -- I
9 have no authority there other than to appoint the
10 commission members.

11 Q We have the City of Prestonsburg
12 Utility Commission wants to raise rates. Do those
13 rates have to be approved by the City of
14 Prestonsburg?

15 A No, sir.

16 Q City council doesn't approve?

17 A No, sir.

18 Q If the -- if the City of
19 Prestonsburg Utility Commission needs to institute
20 a condemnation action to acquire easements for the
21 purpose of extending water and sewer lines, does
22 the City of Prestonsburg have to approve that or
23 actually be a party to the litigation or -- if you
24 know?

25 A I'm not sure. I don't know what

1 to tell you on that.

2 Q Have you been part of the -- were
3 you part of the negotiations between the City of
4 Prestonsburg Utility Commission and Southern Water
5 District that led to the Asset Purchase Agreement
6 which was to have gone into effect on July 1st,
7 2017?

8 A No, sir, I was not a part of it
9 at that time.

10 Q Okay. All right. So what is
11 your -- have you been a part of any kind of
12 negotiations or problem-solving team since that
13 date?

14 A I have helped facilitate some --
15 some negotiations. I've helped bring some people
16 together, and I've helped try to iron out some
17 issues that were involved with the transactions.

18 Q Rather than go through all of
19 this again, I'd simply ask, you've -- you've been
20 present here in the hearing room when Mr. Campbell,
21 the general manager of Prestonsburg City Utility
22 Commission has testified; is that correct?

23 A Yes.

24 Q And you've heard all of his
25 testimony?

1 A Yes, sir. I stepped out a couple
2 of times, but most of it, yes, sir.

3 Q Do you have any dispute or
4 disagree in any way with any of the testimony he
5 has given? Or do you have anything further to say
6 that might enlighten the Commission as to the City
7 of Prestonsburg Utility Commission's position?

8 A You're asking an opinion there,
9 sir, and I don't know that I can testify to
10 opinion. Or do you want me to testify to opinion?

11 Q Well, you can give us your
12 opinion.

13 A My opinion is, now that I've had
14 some meetings and I've been involved in some
15 meetings and I've gotten more information, that had
16 we done this appraisal two years ago, this deal
17 probably would have never made it this far.

18 Q What do you mean? You would not
19 have entered into the agreement --

20 A I --

21 Q -- if this appraisal had been
22 done earlier --

23 A I --

24 Q -- and the position of Rural
25 Development had been known then?

1 A It's my understanding that the
2 position of Rural Development was known then, yes,
3 sir, that the appraisal had to be done.

4 Q But if the appraisal -- I thought
5 you said if the appraisal had been done two years
6 ago and it was known that Rural Development wanted
7 more money than the appraisal would -- would, I
8 guess, justify based on their position, would
9 the -- you think the deal wouldn't have gone
10 forward?

11 A I think there would have been
12 some issues then that would have caused us to
13 probably not proceed with the agreement, yes, sir.

14 Q Do you have any other
15 observations or insights relative to the present
16 status of the parties and this --

17 A Let me --

18 Q -- this present situation?

19 A I think it would be easier for me
20 to briefly explain my -- what I have done in my
21 capacity.

22 Q Sure, okay. Fine.

23 A I was -- I knew there was a
24 transaction going on. I knew it was being
25 negotiated and all that. I really wasn't bought

1 on -- brought on board until I found out about this
2 2 million-dollar revenue bond that was taken out
3 that was going to be paid to the county. At that
4 point, I think I met with Paula Gail and Dean. And
5 Paula said, Look, that's not our bond. That's not
6 our problem. That's the whole handshake deal. And
7 then when I found out about it, I told them I
8 wasn't going to pay it. Just fortunately the money
9 was dropped into our general fund. And I told them
10 I wasn't going to pay it to the county, that I
11 didn't feel like it was a part of the
12 transaction -- should have been part of the
13 transaction.

14 From then, I got involved with some
15 transaction, trying to make things happen. I also
16 tried to contact R&D and see what R&D really
17 required. And that's when we found out about the --
18 the appraisal that they had asked for for quite some
19 time. I've been in subsequent meetings then with
20 R&D, Southern and our -- and Eddie and myself and
21 one of our account- -- commission members. And
22 that's about all I've done.

23 Q And so what's your impression of
24 R&D's position? Do they basically intend to hold
25 firm to -- at least is that the impression you

1 get -- have at the present time?

2 A In my opinion, I feel comfortable
3 in saying that R&D, until this appraisal is worked
4 out and all of their debt service is taken care of
5 that involves that particular -- that particular
6 water system, that they will not sign off on the
7 transaction.

8 CHAIRMAN SCHMITT: Okay.

9 Commissioner Cicero, anything?

10 EXAMINATION

11 By Mr. Cicero:

12 Q So not to throw any lawyers under
13 the bus, but going through this whole -- this is a
14 gentlemen's handshake, these are the operating
15 agreements, this is the asset transfer -- do you
16 think that the legal advice that Prestonsburg
17 received was adequate given that there's so many
18 loose ends and areas that probably could have been
19 covered that weren't?

20 A You're asking me to go back
21 and -- and look at something that happened without
22 my knowledge, without my interest. But what I will
23 say is, had I been involved early on from the first
24 time the county judge come up, there wouldn't have
25 been a handshake deal. The diligence would have

1 been done on the bond issue to see if that would
2 have been effective and we would have done an
3 appraisal with R&D early on.

4 Q So I'm going to ask, after the
5 fact and the process you weren't included in but
6 now have been enjoined in, was the legal advice
7 that was received, do you think was it adequate for
8 the transaction that was entered into?

9 A I don't think that's an opinion I
10 could make unless I was involved in the discussions
11 at that time.

12 Q That's all right. I won't -- I
13 won't pin you down. I think I made my point, is
14 the fact that there's many things in these
15 agreements that I would have thought would have
16 been covered and are not.

17 A Yes, sir. I will say that prior
18 experience in my life, it ain't on paper -- if it's
19 not on paper, it didn't happen.

20 MR. CICERO: That's exactly right.

21 THE WITNESS: Okay.

22 MR. CICERO: Thank you.

23 CHAIRMAN SCHMITT: Commissioner Mathews?

24 DR. MATHEWS: I don't have anything.

25 MR. BOWKER: No questions, Mr. Chairman.

1 CHAIRMAN SCHMITT: Mr. McNeil?

2 MR. McNEIL: No questions, Mr. Chairman.

3 MR. STROBO: Mr. Pillersdorf has a few.

4 THE WITNESS: Oh, no.

5 EXAMINATION

6 By Mr. Pillersdorf:

7 Q Let me ask you, Mayor, so to be
8 clear, you mentioned there's a 2 million-dollar
9 revenue bond, which I guess is a source of
10 consternation; correct?

11 A It was a bond that was taken out
12 by PCUC that was supposed to go to pay the county
13 bond off, yes, sir.

14 Q I guess, historically what
15 happened in Floyd County, I guess when Judge
16 Executive Thompson was in office prior to Judge
17 Hale, he kind of went on a spending spree and
18 caused city water to get 99 percent of the county;
19 is that true?

20 A I'm sorry, I -- I'm not sure I
21 understand your question.

22 Q A reason we have been talking
23 about that Southern Water was asked to pay an
24 indebtedness owed by the fiscal court; correct?

25 A Yes, sir.

1 Q And the history of that was, that
2 all started when Judge Thompson was in office and
3 he had incurred this debt. And, basically, the
4 debt he incurred was that basically make available
5 city water to 99 percent of the county; correct?

6 A To make good -- yes. You talking
7 about city utilities water or just good water?

8 Q City water --

9 A Good -- good water.

10 Q Good water.

11 A Yes, sir. From what I
12 understand, yes, sir, but I can't -- I don't know
13 any of that to be a fact, but, yes, sir.

14 Q Well, what is true and what's
15 unusual about Floyd County is 99 percent of our
16 citizens have access to good water; correct?

17 A Yes, sir.

18 Q And that's unusual for Eastern
19 Kentucky?

20 A It's -- yes, sir. It's unusual
21 in a lot of different areas, not just Eastern
22 Kentucky.

23 Q And the decision to extend water
24 lines to geographically difficult areas has put a
25 financial strain on everybody involved in this;

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correct?

A Yes, sir.

MR. PILLERSDORF: That's all.

CHAIRMAN SCHMITT: I have no further questions. Anyone else? May Mayor Stapleton be excused?

MR. BOWKER: Yes, sir.

CHAIRMAN SCHMITT: Thank you, Mayor. You may stand down. You may be excused.

THE WITNESS: Thank you.

CHAIRMAN SCHMITT: Let's take a break until -- we'll be in recess until 11:25.

(THEREUPON, A BREAK WAS TAKEN.)

CHAIRMAN SCHMITT: Back on the record. And I think counsel -- staff counsel has requested that Paula Johnson be the first witness. We may not finish by noon. We'll take a break and then come back and try to expedite things.

THE WITNESS: I'm slow.

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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THE WITNESS: Yes, sir.

CHAIRMAN SCHMITT: Thank you. Please be seated.

* * * * *

The witness, PAULA GAIL JOHNSON, after first being duly sworn, was examined and testified as follows:

EXAMINATION

By Mr. Bowker:

Q Good morning.

A Hi. Good morning.

Q I'm Andrew Bowker. I'm with the Commission staff. I just have a few questions for you.

When were you first appointed to the Southern District Water Commissioners?

A I was originally appointed in approximately '95 to be their Elkhorn, and we merged around 2000 into Southern Water.

Q And when did you become the chairperson of the Board?

A Approximately 10 years ago.

Q Okay. And which county judge executive appointed you?

A Bob Meyers, Judge Meyers did,

1 originally in '95.

2 Q Okay. And when does your term
3 end?

4 A Let's see, 2023.

5 Q Are the terms of Southern
6 District's Board of Commissioners, are they
7 staggered?

8 A Yes.

9 Q And how is that arranged?

10 A When we merged with Mud Creek
11 Water District, we staggered the districts so we
12 would have -- the judge did at that time, so
13 someone would be on the Board that was -- had
14 knowledge of the operation when a new one come on,
15 so we -- he staggered the terms at that time.

16 Q Which county judge executive, I'm
17 sorry?

18 A That was Judge Thompson when he
19 merged Beaver-Elkhorn, which we were, with Mud
20 Creek Water District in 2000, the terms were
21 staggered.

22 Q Okay. And have they been
23 readjusted since then of the terms the
24 Commissioners -- has any other county judge
25 executive since that time created different

1 staggered terms since then?

2 A No.

3 Q And I assume you live within
4 Southern's service area currently?

5 A Yes. I live in the southern part
6 of it.

7 Q Okay. Is Joe Jacobs still on the
8 Southern District's Water Board of Commissioners?

9 A He's not been reappointed to my
10 knowledge.

11 Q Okay. Is his -- has his seat
12 been declared vacant?

13 A I'm not sure of Joe Jacob's
14 status. To my knowledge, he's not been
15 reappointed, because technically he won't be in the
16 water district. When the water assets have been
17 transferred, Joe will not be in our district.

18 Q And has any -- who will be
19 appointed to Mr. Jacobs' term?

20 A It's my understanding, Eula Hall
21 will be, or has been. I'm not sure the status of
22 that. I haven't seen no paperwork.

23 Q And when was that -- when was
24 that done?

25 A It was discussed in December in

1 the fiscal court meeting.

2 Q Is Hayes Hamilton, is he on the
3 Board currently?

4 A Yes, he is.

5 Q Okay. Do you know when his term
6 ends?

7 A No, I'm not sure. They've done
8 the others in December and I haven't seen the
9 documentation as to their terms.

10 Q Does Southern District currently
11 have an ethics policy?

12 A Yes, we do.

13 Q And when was that ethics policy
14 instituted, first put in -- when was it first put
15 into place?

16 A When Southern was originally
17 organized, we adopted the county ethics.

18 Q Has it ever been revised?

19 A Not to my knowledge.

20 Q How much does a -- a
21 commissioner, how much do they get paid?

22 A Five hundred (500) a month.

23 Q And any benefits?

24 A No.

25 Q So you've been on the Board, I'm

1 sorry, since what year?

2 A '95.

3 Q '95. So you were on the Board
4 when -- back in 2012, the 2012 Case, Case No.
5 2012-309 was in front of the Commission; is that
6 correct?

7 A I'm not sure of the case.

8 Q You were -- you were on the Board
9 in 2012; is that --

10 A Yes.

11 MR. BOWKER: Okay. I'm going to ask to
12 approach and show you a letter. May I
13 approach?

14 CHAIRMAN SCHMITT: Yes, you may.

15 BY MR. BOWKER:

16 Q Ask you to review briefly,
17 Ms. Johnson, a letter. This letter was sent in.
18 It was received as part of the post case files in
19 Case No. 2012-309. It's a letter to the PSC from
20 Hubert Halbert. Do you know who Mr. Halbert is?

21 A He was our former chair.

22 Q Former chair?

23 A Yes.

24 Q And throughout the letter, it
25 mentions some different -- different actions that

1 the Commissioners were trying to take to improve
2 water line loss. I'm going to ask to direct you to
3 the -- to the letter. In the second paragraph,
4 Mr. Halbert states that, "Southern District is
5 currently working on funding through USDA Rural
6 Development to replace its main distribution line
7 from the Water plant to the main storage tank at
8 Martin."

9 Was Southern District able to replace its
10 main distribution line?

11 A Yes.

12 Q That has occurred?

13 A Yes.

14 Q And has Southern seen benefits
15 from that project?

16 A I can't answer that truly. I
17 would assume dramatically, yes, but I can't answer
18 that.

19 Q Okay. In that same letter, in
20 the next paragraph down, Mr. Halbert explains that
21 Kentucky Rural Water has been helping Southern
22 District to identify unaccounted for water loss and
23 that the master meter at the water treatment
24 plant -- at the water treatment plant showed that
25 it was inaccurate and approximately 11 percent to

1 13 percent fast. He stated that this would be
2 corrected with the Rural Development project.

3 Do you know if that's occurred?

4 A Yes, it has.

5 Q It has?

6 A Yes.

7 Q And when was -- when was that
8 done?

9 A We done improvements to the
10 plant -- I don't have my paperwork with me as to
11 what year we done that, but we completed the main
12 master meter when we done the water plant
13 improvements, which I'm trying to recall if that
14 was not the same time we done the main water line.

15 Q Okay. And that's also shown
16 improvement?

17 A Yes.

18 Q In the next paragraph down in the
19 same letter, Mr. Halbert states that, "A leak
20 detection crew was formed and will be working no
21 less than three nights a week to help identify
22 water leaks." Was this done and, if so, what were
23 the results of that project?

24 A We still have that in -- in
25 position. We have a leak detection team now that

1 three -- three crew member work five days a week on
2 nothing but leak detection.

3 Q And has that also been a
4 successful project?

5 A Yes. We find leaks daily.

6 Q Mr. Halbert then states that
7 Southern District is now replacing small service
8 lines to fix leaks by using a second work crew.
9 Was this also done and what were the results of
10 that?

11 A Leak -- all leaks are being
12 addressed as we find them. But now what I'd like
13 to say is, our leaks, we have a leak detection plan
14 in process right now that I'm sure Mr. Hall can
15 elaborate on, but leak detection in our area is
16 very difficult. Geographically, we are very
17 strapped as -- when we find them and where they're
18 at. You're talking about the heart of the
19 Appalachia. And to find a leak there is not like
20 going down the road and saying, oh, there's a leak.
21 You know, it may leak in the river for weeks before
22 we can detect it or in the mountainside coming up
23 through there. So leaks are very difficult in our
24 area. And we are addressing that as a Board. And
25 Dean is addressing that at every Board meeting.

1 And daily he has a team out looking for leaks. And
2 every leak you find is a plus, and he's finding
3 them.

4 Q What is the current -- what am I
5 looking for -- the current percentage of line loss
6 right now?

7 A Leak loss?

8 Q Yes.

9 A Sixty (60) percent.

10 Q Okay. And do you know what it
11 was back in 2013 when the letter was written?

12 A Not right offhand, no, sir.

13 Q But is it fair to say that water
14 line loss has increased since 2012, 2013?

15 A I don't know that it's increased
16 or just a more accurate way of recording it.

17 Q So it may have actually been
18 higher, just not actually recorded back in 2012?

19 A A possibility.

20 MR. CICERO: May I ask a quick question?

21 MR. BOWKER: Yes.

22 MR. CICERO: When you say it's a
23 possibility, is it something that you're
24 familiar with? I mean, I'm looking at
25 water loss back in 2009 was somewhere --

1 was reported around 20 percent, and now
2 it's 60 percent after doing all these
3 improvements. So are you attributing that,
4 what is basically a 300 percent increase,
5 to reporting or what --

6 THE WITNESS: I just -- you know, I'm sure
7 Dean can answer that better. But what I'm
8 saying is, a true leak loss is hard to
9 detect in the area. For one thing, we've
10 got volunteer fire departments that may tap
11 into the system and we have no way of
12 knowing what they're using. Fire -- you
13 know, fire attendant, they go, they use
14 water. We have no way of recording. So to
15 get an accurate read -- even saying
16 60 percent, I'm not so sure we're losing
17 60 percent. It's just unaccounted water.
18 So you're doing a formula of water
19 purchase, water sold, and I think that
20 doesn't allow other factors to intercede in
21 that.

22 MR. CICERO: Actually, the water loss does
23 allow for system use and fire department
24 usage. And I know that they're estimated
25 numbers, because, obviously, nobody puts a

1 meter on a fire truck and says they pumped
2 this much out of the hydrant, so this is
3 what we consumed. But usually on an annual
4 basis you can -- you can be plus or minus
5 within some range. So that -- that number
6 does come out of there and it's such a
7 drastic increase that I'm -- I didn't know
8 if there was something that you were
9 specifically familiar with or not --

10 THE WITNESS: No, I'm not.

11 MR. CICERO: -- when you said possible.

12 THE WITNESS: I'm -- I'm not familiar with
13 that.

14 MR. CICERO: So Dean Hall would be a better
15 one to pursue as far as the water lines?

16 THE WITNESS: Yes.

17 MR. CICERO: Okay. I'm sorry. Please
18 continue, Mr. Bowker.

19 BY MR. BOWKER:

20 Q In that same letter he states
21 that "master meters throughout the system are
22 having comparisons done through flow rates." Was
23 this also done?

24 A Yes, it was.

25 Q With good results?

1 A Yes.

2 Q Okay. And then, lastly,
3 Mr. Halbert states that Southern District has "been
4 in contact with multiple professional leak
5 detection experts and are currently pursuing ways
6 to find funding to use them."

7 Was that also done?

8 A Yes, it was.

9 Q In the Final Order for Case
10 No. 2012-309, that was issued on July 12, 2013, the
11 Commission ordered Southern District to file with
12 the Commission, "A comprehensive unaccounted for
13 water loss reduction plan that identifies the
14 sources of unaccounted for water loss, the amount
15 of water loss from each source and establishes
16 priorities and a time schedule for eliminating each
17 source of unaccounted for water loss."

18 Was this done to your knowledge?

19 A I can't answer that right
20 offhand.

21 Q You're not aware of it?

22 A No, I can't -- no, I'm not.

23 Q And has the Board made a request
24 to Kentucky Rural Water Association to conduct a
25 water meter audit?

1 A Yes.

2 Q And that's to determine whether
3 District's line loss is within the system?

4 A Yes.

5 Q That's the purpose of that? And
6 to see if there are any meter issues?

7 A Yes.

8 Q So that was also -- when was that
9 done?

10 A I'm -- roughly, this issue, we
11 had Rural Water come in and -- and go through the
12 system and help with the crew, trying to find the
13 leaks. And we met with Dean recently since and
14 he -- we have a new system that they're
15 implementing with the crew out, the leak detection
16 crew out, plus Rural Water is assisting us right
17 now with -- with the new policy to go out and check
18 this.

19 Q Okay. In your opinion, what is
20 Southern Water District's -- and Sewer District,
21 what is the -- well, Water District. What is
22 Southern Water District's number one problem as of
23 now, in your opinion?

24 A Finances.

25 Q Excuse me?

1 A Finances. Money.

2 Q And can you expand on that?

3 A Well, it's --

4 Q Is it -- is that partially due to
5 water line loss?

6 A Well, I'm sure that plays a role
7 also, but, no, I don't believe that's our financial
8 situation problem. It's -- it's a long process.
9 You know, it's complicated. We're trying to deal
10 with a lot of issues in a rural area. We have
11 customers that don't pay, water theft. I've heard
12 them mention about 40-some customers with free
13 water. No. You know, we may have 40-some
14 customers stealing water. Not that they'd do that
15 in our county, but, anyhow, I'm just saying there's
16 a lot of issues to address in a water system. And
17 money is a big issue with Southern Water now.
18 We've lost customers. Willingly or unwillingly,
19 they're not there, and that has put a financial
20 strap on Southern Water.

21 Q You mentioned that you have an
22 issue with theft in the area. To your knowledge,
23 what has the Board of Commissioners done to
24 specifically address that problem to account for
25 people that are stealing water?

1 A We've prosecuted. Been very
2 successful with that. When the crew finds it, we
3 do dig-outs. You know, they'll pull the meters and
4 they'll backtrack a couple of days, find out if
5 they managed to do a new way of getting water, so
6 you dig it out. And, finally, you have to take a
7 backhoe over there and dig the whole hole out. So
8 they address it constantly.

9 Q When you say prosecuted, is there
10 a procedure in place that when you find a theft to
11 take it to the local county attorney?

12 A Yes. We go to the county
13 attorney, file charges, and pursue it through the
14 court system.

15 Q And to your knowledge do you know
16 approximately how many times that's been done?

17 A I don't have a total figure.

18 Q But that's a regular -- regular
19 occurrence?

20 A Yes. If it's found, we find
21 them, we -- we definitely prosecute.

22 Q Any other projects that -- that
23 you've been involved in as a -- as a Commissioner
24 during your time that the water district has taken
25 on to reduce the amount of line loss that has not

1 years old. You know, we've combined three
2 districts. And some of the district is newer than
3 the older, and we've got some areas that are 40 to
4 45, 50-year-old lines. And they're just getting
5 old and deteriorating.

6 Q Has the water district had any
7 issues regarding the hydraulics or the pressure of
8 the line within the distribution area, such as when
9 the water district fixes one leak at a certain
10 location, does that cause pressure to build and
11 cause line breaks somewhere else down the line?

12 A Well, it's possible, but we don't
13 have customers without water. Is that what you're
14 asking?

15 Q Well, it just -- to your
16 knowledge, is there problems with the hydraulics in
17 the area?

18 A None to my knowledge. I -- I
19 can't answer that.

20 Q Would that be a better question
21 for Mr. Hall?

22 A Yes, it would.

23 Q Okay. Is it fair to say that the
24 district is experiencing a significant loss of
25 revenue because of the line loss?

1 A No, I don't think line loss is
2 our financial issues. It is -- it attributes --
3 everything attributes to finances, from customers
4 not paying, to water loss, to customer loss, to --
5 so everything contributes, so it's -- it's just one
6 piece of the puzzle.

7 Q In your approximation, how
8 much -- how much does the district lose in
9 revenue -- in lost revenues due to water line loss,
10 an approximation?

11 A I don't think I could answer
12 that.

13 Q Moving on to another topic. Does
14 the Board have a policy in place to direct its
15 Commissioners to attend the Commission's or the
16 Commission's approved Water District Commissioner
17 Training Programs?

18 A We come to the annual training
19 every year and have since we've been on the Boards.

20 Q But do you have a specific policy
21 in place, like a written policy to direct to -- to
22 make sure it gets done?

23 A Other than a Public Service
24 policy that requires us to come, no, that's -- not
25 to my knowledge.

1 Q Okay. And are the Commissioners
2 to attend at least six hours every year?

3 A Yes.

4 Q And to your knowledge they --
5 they do so?

6 A Yes, we do.

7 Q Is there any way that you keep up
8 with who has gone to training and who hasn't gone
9 to training?

10 A Yes, we do.

11 Q And how is that done, just on a
12 computer program or...

13 A We receive -- we register, come
14 to our training, and the Public Service issues our
15 training certificates and we keep them on file at
16 the water office.

17 Q And did you, yourself obtain the
18 additional training requirement of 12 hours within
19 the first 12 months that you were on the Board of
20 Commissioners?

21 A Yes, I did.

22 Q Okay. And you attend every year,
23 you stated?

24 A Yes, I have.

25 MR. BOWKER: I have no further questions of

1 Ms. Johnson.

2 CHAIRMAN SCHMITT: Mr. McNeil, any
3 questions?

4 MR. McNEIL: Was the Chairman to go --
5 Direct after that or --

6 CHAIRMAN SCHMITT: Well, I was going to ask
7 you if you wanted to and then --

8 MR. McNEIL: I have questions, Your Honor,
9 yes.

10 CHAIRMAN SCHMITT: Then I'll let counsel
11 ask at the end since he -- clear up any
12 issue.

13 MR. McNEIL: That would be fine. Thank
14 you.

15 EXAMINATION

16 By Mr. McNeil:

17 Q Ms. Johnson, good morning.

18 A Good morning.

19 Q So you are not personally aware
20 of Southern providing water for free to any number
21 of customers?

22 A No.

23 Q You're not aware that something
24 like 40 people might not have meters?

25 A No.

1 Q Okay. Can you identify or
2 provide documentation of the last prosecution for
3 water theft?

4 A I don't have that with me, but
5 I'm sure that's attainable through the courts. I
6 could -- you know, I'm sure we could get that. I
7 just don't have that with us today.

8 Q Do you have any idea when the
9 last one might have occurred?

10 A Not right off the top of my head,
11 no, I can't answer that.

12 Q Okay. As a post-hearing data
13 request, could you provide record of the last
14 prosecution that Southern performed for water
15 theft?

16 A Yes, we could.

17 MR. McNEIL: Okay. Thank you.

18 MR. STROBO: We have no questions, Chair.
19 No questions.

20 MR. CICERO: Were you done?

21 MR. McNEIL: Oh, I'm sorry, I had a few
22 more.

23 CHAIRMAN SCHMITT: Oh, no, he's not.

24 MR. STROBO: Oh, I thought you were done.
25 I'm sorry.

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MR. McNEIL: No, no. Sorry.

CHAIRMAN SCHMITT: Okay. Normally, he would basically let us know when he was finished.

MR. STROBO: I'm hearing things, I think.

CHAIRMAN SCHMITT: And then we'd probably go to the Commissioners and then to you so you could -- you know, you'd have the last say.

BY MR. McNEIL:

Q Does Southern have any procedure other than just discussion at a Board meeting to take on new debt?

A I'm not sure what you're asking me. Ask that --

Q So I'm thinking about the loans obtained from First Guaranty Bank and Citizens National Bank for the trucks, the other --

A Uh-huh (affirmative).

Q -- I think the excavator?

A Yes.

Q Could you describe the process you would go through to obtain that kind of financing?

A We advertise for low bid,

1 advertise for bids. We open the bids sealed and --
2 and take the low bid. We have erred. In our last
3 training we picked up -- I'm not sure who was doing
4 the instructing that day -- that anything over two
5 years, we were to ask for permission. And one of
6 our notes, we come out and said, well, I think we
7 goofed up there. We did a five-year note on a
8 pickup, a truck. I said pickup. I'm sorry. We
9 knew then at that point, after our training, that
10 we should have asked for permission at that time.

11 Q Does a -- does the Board usually
12 obtain legal assistance in obtaining financing like
13 that or is that --

14 A We have a CPA that we rely on.
15 And we dropped the ball. We have to own that
16 mistake.

17 Q As to the transfer of customers,
18 did the Southern Board ever perform an internal
19 cost-benefit analysis of that transfer? Did you go
20 through how it would affect the utility?

21 A This transfer of customers and
22 the assets and all that, that issue was kind of
23 brought to us by our judge and our fiscal court.
24 And it was -- we did need out of the sewer
25 business. It -- to find a certified paper person

1 to do that work, we could not find. We had one.
2 We had to dismiss him. And that was the reason one
3 of the sewer plants was in the condition it was in,
4 is we had to dismiss him for lack of duty.

5 So at that point, we outsourced our sewer
6 overseers with -- so they would have the
7 certification. However, that became so expensive.
8 And when this deal came up about the sewer business,
9 we talked about it and thought that was a good idea.
10 We needed out of the sewer business. We did.
11 Qualifications for someone we did not have and have
12 to hire them to come in, that is a hard person for
13 us to locate in our area.

14 Q So at the time the financials
15 didn't make sense to -- to perform the transfer?

16 A This -- yes, at that time, the
17 way it was presented, yes, we -- it was a win-win
18 according to everybody at that time.

19 Q Do you feel the same today?

20 A No, I do not.

21 Q Do you know if the District has
22 submitted contracts for its three wholesale
23 customers into the record?

24 A Are you talking about our
25 Pikeville and Prestonsburg that -- yes, that's part

1 of our application on our rate increase.

2 Q I believe staff had mentioned
3 that the actual contracts were not in the record
4 before. I didn't know if you had submitted -- if
5 you knew if the District had submitted those
6 contracts.

7 A I don't know. I'd have to refer
8 to Holly. She's doing our rate increase.

9 Q Okay. If not, could you provide
10 them in a post-hearing data request?

11 A Yes.

12 MR. McNEIL: Okay. No further questions.

13 CHAIRMAN SCHMITT: Commissioner Cicero,
14 questions?

15 EXAMINATION

16 By Mr. Cicero:

17 Q In following up on the line of
18 questioning that the Attorney General was just
19 asking, at the time that they brought this transfer
20 deal to you, you thought it was a good idea because
21 of the difficulty to obtain operators to run the
22 sewer plants; is that correct?

23 A Yes.

24 Q At that time was the water asset
25 transfer also presented or was it just presented as

1 a sewer trans- --

2 A We first initially started
3 talking about the sewage. And then as the
4 negotiations went on, Prestonsburg wanted the
5 water, and I could see what they were saying at
6 that time. And we were saying we wanted to keep
7 the water customers. And, finally, through a push
8 and shove -- and I must say, we were persuaded
9 heavily by our fiscal court to go ahead with the --
10 as it was, so...

11 Q So you would -- I'm going to put
12 words in your mouth and you can correct me if I'm
13 wrong.

14 A Okay.

15 Q You were persuaded to do this
16 transfer, not on the basis of a cost-benefit
17 analysis, but because of political pressure? You
18 can say yes or no.

19 A I'm trying to be as delicate as I
20 can, but, yes, we were -- we -- we wanted rid of
21 the sewage. We did not want rid of our water. But
22 as time passed and things become more complicated,
23 and the money issue they -- you know, Mr. Campbell
24 referred to the 2 million here and the 2 million
25 this account, it -- it got so complicated that

1 finally it was just a matter of we were persuaded
2 strongly to go with -- go ahead and complete it.

3 Q So was the fiscal court or the
4 Commission the primary negotiators in this
5 transaction for sewer and water assets?

6 A On -- I think our judge and
7 fiscal court was the primary negotiator.

8 Q That makes it more interesting.

9 A It was on our part, too.

10 Q I'll switch out that line of
11 questioning for a second.

12 You said that customers that don't pay is
13 one of the financial difficulties being experienced.
14 Do you know how much bad debt the District writes
15 off annually?

16 A Well, we've not -- we've -- we
17 did on our -- the CPA done a -- he's not completed
18 the writeoffs. I don't have that figure. But
19 that's just a part of it, you know -- part of our
20 financial issues, the bad debt. You know, we have
21 people leave the area. They just pack up and move,
22 go from one place to the other and come in and get
23 water in another area under another name. It's --
24 it's a difficult rundown, if -- you know, to keep
25 up with that part of it.

1 Q And I think everybody understands
2 that theft is a problem, bad debt is a problem.
3 But I understand when the staff asks you if you
4 thought that water loss was significant, and you
5 indicated you weren't sure how much it was a
6 problem. But would you be surprised if I told you
7 that the value was about \$386,000 annually over and
8 above 15 percent, which is the standard permitted
9 by the PSC --

10 A No.

11 Q -- for unaccounted water loss
12 that the District is losing because of the rate of
13 loss?

14 A No, I would not.

15 Q And I think this is what the
16 concerning part is, is that when you look at that
17 \$386,000 -- and I think I mentioned to you before,
18 that in 2009 the water loss rate was somewhere
19 around 20 percent. And I know that maybe how it's
20 accounted for or reported or whether it's plant
21 usage or fire department usage, for it to go to
22 60 percent at the same time that all of these leak
23 detection processes have been put in place and this
24 concerted effort, we're -- we're trying to
25 reconcile how this increase in water loss has

1 occurred, because I can't imagine what it would be
2 like if you weren't going through all of this
3 process of leak detection.

4 A I think it's a better
5 accountability now than it was when it was
6 reported. I think we have a better accountability
7 of our water loss now due to the implementation of
8 leak detection. I think we have a better
9 accountability of our loss.

10 Q Well, I will give you credit, it
11 has stayed relatively constant, unfortunately, at
12 the wrong level since this letter was written. It
13 just means that there's really been no progress
14 made. If anything, it's trended slightly upward.

15 When staff referred to this letter and he
16 went down through all of the different items in it,
17 one of the questions he didn't ask, and I was hoping
18 that he would was, it says that "Southern Water and
19 Sewer District will keep the PSC updated in any and
20 all progress made in respect to lowering our monthly
21 water loss."

22 Do you know if any reports have been
23 generated or any communication made as to water loss
24 progress?

25 A I'm not -- I don't -- I can't

1 answer that.

2 Q In another line of questioning
3 that was -- you were asked about staggered terms
4 and the Commission members' different terms and
5 when they expired or whatever. And you said there
6 was a lot of activity that occurred in the December
7 fiscal court meeting. Can you provide fiscal court
8 minutes as a post-hearing data request, just so
9 that we can get an idea of who's being considered
10 for appointment and what the fiscal court is doing
11 in terms of filling the expired or transferred
12 Commissioners, so that we -- we have an idea?

13 A Yes.

14 Q I'm going to ask one more line of
15 questioning on the loans. And I know you said
16 that -- and the pickup truck loan that you did
17 mea culpa that you went more than the two years.
18 And so, therefore, you learned at the training that
19 that was statutorily outside of what you were able
20 to do without contacting the PSC for CPCN.

21 I'm also looking at a loan here for an
22 excavator and the amortization schedule for this
23 41,355-dollar loan through Citizens National Bank
24 was set up on a five-year plan. And then the
25 initial amortization was done with 23 payments and a

1 balloon payment, then rolled over to finish out the
2 portion of the remaining balance, unfortunately, at
3 a higher interest rate. It almost looks like the
4 Commission was looking to avoid coming to the Public
5 Service Commission for that debt. Can you comment
6 on that?

7 A No, I don't -- I wouldn't think
8 we would avoid anything to the Public Service. As
9 a consumer and a Board member, I think Public
10 Service would be the way -- we depend on the Public
11 Service to advise us. It's a -- to advise us as
12 Board members or to help us as a consumer. I don't
13 think we dance around the Commission in no way. We
14 depend on the CPA to set that up. I'm not -- that
15 would be a question I probably would go back and
16 ask him. You know, at a higher rate, I don't
17 understand that. But I'm sure he learned at that
18 point about that also. So I would have to ask him
19 why that would be at a higher rate. I can't answer
20 that.

21 Q Well, 23 payments were made at
22 \$939.61 and a balloon payment at 22,425.98. Then
23 the loan was reestablished at 40 -- at 22,000 --
24 approximately the same amount, plus a loan
25 initiation fee, and then it was extended out to

1 continue the payments. So, I mean, I understand
2 that loans can be rolled over for certain debt, but
3 this is almost a -- it looks like an intentional
4 trying to beat the statute.

5 A I would do nothing intentional to
6 violate any statute of anything. I have spent my
7 career in law enforcement. And there is no way I
8 would do anything illegal or immoral to jeopardize
9 myself as a person or the water district as a
10 representation.

11 Q Well, as I said, I understand the
12 training became a bigger issue for the Public
13 Service Commission over the last 18 months to two
14 years in trying to make sure the Commissioners
15 understood the importance of following all the
16 statutory guidelines. By guidelines would mean the
17 law, and so we're trying to enforce those. And it
18 just -- we're just trying to make a point here that
19 when loans are entered into, whether it's for
20 equipment or whatever it happens to be, that if
21 it's going to exceed the two-year duration, you
22 need to come to the Public Service Commission for a
23 CPCN.

24 A I appreciate that. Thank you.

25 MR. CICERO: I don't really have any other

1 questions.

2 CHAIRMAN SCHMITT: Commissioner Mathews?

3 DR. MATHEWS: I don't have any questions.

4 CHAIRMAN SCHMITT: I'm going to have a few
5 questions, so it's going to take some time,
6 so -- but at this time it's five after
7 12:00. Let's go into recess until
8 1:05 p.m.

9 (THEREUPON, A BREAK WAS TAKEN.)

10 CHAIRMAN SCHMITT: We are now back on the
11 record and it's approximately eight minutes
12 after 1:00 in the afternoon. And
13 Ms. Johnson is on the stand and ready for
14 additional questions.

15 EXAMINATION

16 By Chairman Schmitt:

17 Q Ms. Johnson, you have been on, I
18 guess, the -- you've been a member of the
19 Commission, Southern Water -- Southern Water and
20 Sewer District's Commission since it was formed in
21 about 2000; correct?

22 A Yes.

23 Q And prior to that you were on one
24 of its predecessors?

25 A Beaver-Elkhorn.

1 Q Beaver-Elkhorn?

2 A Uh-huh (affirmative).

3 Q Sounds like a coal company or
4 something, doesn't it?

5 A It does. Well, it isn't.

6 Q Anyway, now, I don't understand.
7 I don't know -- we've gone back to try to see
8 when -- what everybody's terms were and that's not
9 always an easy thing to do, because during the
10 course of serving on boards and commissions, it
11 seems as if many times when someone leaves early,
12 maybe wants to resign or dies --

13 A Uh-huh (affirmative).

14 Q -- and the vacancy is filled,
15 whoever appoints that person, appoints them and
16 they think it's for four years and they stay on.
17 And then all of the terms get out of -- I guess out
18 of whack or something, how you say it. But there
19 was a complaint, I guess, registered, maybe one or
20 more here, telephonically about the terms of the
21 present Commissioners and -- not so much that as
22 much as the, I guess, Judge Executive Hale and the
23 fiscal court taking some kind of action in
24 December. And before I get -- well, let me just
25 say we -- the records we have here, of course, are

1 based upon annual reports that are filed.

2 A Uh-huh (affirmative).

3 Q And if we go back to 2000 or
4 close to it -- I just pulled some at random. 2003,
5 it had -- the chairperson was Hubert Halbert and it
6 had Bert Layne as treasurer. You were the
7 secretary. Palmer Frazier was a Commissioner and
8 so was Eula Hall.

9 A Uh-huh (affirmative).

10 Q Because that's the same Eula Hall
11 that apparently was appointed in December; correct?

12 A Yes.

13 Q And it had everybody on the
14 report. Over on the far right-hand side, it has
15 term expires. And it had everybody's term expiring
16 on December the 16th, 2004. Okay?

17 So if that were the case and these terms are
18 for four years, then those terms would have expired.
19 Yours, for instance, 2004, 2008, 2012, 2016 and
20 2020. Okay? And that would have been the same for
21 these other people, none of whom is on the Board now
22 apparently other than you; right?

23 Then if we go to 2006 -- I just pulled 2006.
24 And here the terms have changed, because it has
25 Chairperson Paula G. Johnson, has your term expiring

1 on December 15th, 2010, okay. I don't know how
2 that -- you know, obviously, there's a discrepancy.
3 Then it had Bert Layne treasurer and his term
4 expires December 15, 2010. Palmer Frazier:
5 December 15, 2010. Then it has Scarlet Stumbo:
6 Term expires January 1st, 2011. And Cleveland
7 Tackett's term: June 1st, 2011.

8 A Mr. Frazier passed away and so
9 did Clee, Clee Tackett, his -- he passed away. He
10 become ill and had to resign. Scarlet was not
11 reappointed. I don't recall the exact years,
12 Mr. Schmitt. I -- you know, but --

13 Q Oh, I know. I understand.

14 A Yeah.

15 Q I'm just saying that -- that if
16 we have somebody -- if you tried to sort it out, if
17 you looked at the 2003 Annual Report, it has five
18 commissioners, all of whom's terms expires on
19 December 16, 2004. Now that's probably not correct
20 because the terms ought to be staggered. But here
21 it had every term expired December 16, 2004. And
22 then three years later, it has three of the terms
23 expiring on December 15th, not 16th, 2010, which
24 couldn't be correct, if these other terms are --
25 terms are for four years. Then it has Scarlet

1 Stumbo January 1st, 2011, starts a different month.
2 And Mr. Tackett's term expiring June the 1st, 2011.

3 And the only reason I say that is, I've gone
4 through here over several years. And we get to
5 2015, and in 2015 it has your term, Paula Johnson,
6 expiring December the 1st, not the 16th, but the 1st
7 of 2017, which couldn't be at any possibly correct
8 order. Larry Joe Osborne: December 1st, 2017.
9 Barry Hall, the same date. Hayes Hamilton, the same
10 date. And Joe Jacobs, the same date, January 1st,
11 2017. But then -- now, that's 2015 Annual Report.
12 In 2017 Annual Report, it has your term expiring
13 January -- December 16th, '18. All right? Larry
14 Joe Osborne: December 16th, 2018. Joe Jacobs:
15 December 16, 2018. Barry Hall: December 14th,
16 2019. And Hayes Hamilton: December 14, 2019.
17 Well, you see the --

18 A I see --

19 Q -- issue?

20 A I know in the November fiscal
21 court of this year, I was reappointed and so was
22 Larry Joe -- Larry Osborne, I'm sorry. We were
23 just reappointed in the November fiscal court
24 meeting --

25 Q Okay.

1 A -- because they was not sure they
2 were having one in December due to the Christmas
3 holidays, whatever, but --

4 Q Okay.

5 A -- they did have one. I can
6 speak for November, because they called. Other
7 than that, I'm not sure how -- I'm thinking -- and
8 I'm not -- I'm not sure on the other terms. I can
9 only speak for mine and Larry Joe's. We were done
10 together that day in fiscal court in November. The
11 exact date, I don't know.

12 Q Well, if nobody else was
13 appointed on that day in November of '18 -- you
14 were at the fiscal court meeting?

15 A No.

16 Q Were you there?

17 A I was called.

18 Q Okay. But you don't know if
19 Mr. Jacobs -- I don't know what happened, whether
20 any -- was anybody appointed in December?

21 A Eula Hall was appointed in Joe
22 Jacobs' position.

23 Q In December --

24 A In December.

25 Q -- 2018? Was anybody else

1 appointed?

2 A I'm not sure.

3 Q I mean, I guess it all depends on
4 when somebody's term was actually up, if we know.

5 A Yeah.

6 Q Now, Eula Hall is -- is Eula Hall
7 Dean Hall's mother?

8 A Yes.

9 Q And he's the general manager?

10 A Yes.

11 Q Has she attended a meeting yet or
12 have you had a meeting yet?

13 A We haven't had a meeting yet.

14 Q Now, someone said that what
15 happened at the meeting was, is that Mr. Jacobs', I
16 don't know, term expired or whatever. But
17 Mr. Jacobs was not reappointed, but that
18 Commissioner Hamilton was appointed to fill Mr. --
19 it's too convoluted for me. Commissioner Hamilton
20 was -- who was on the Board, was appointed to fill
21 Joe Jacobs' position, and that Eula Hall was then
22 appointed to fill Mr. Hamilton's. Do you know
23 anything about that?

24 A No. I was not there.

25 Q It's better. It's too confusing

1 to --

2 A Yeah.

3 Q I just wondered if -- if anyone
4 knew.

5 And these appointments were made by Ben
6 Hale; correct?

7 A Yeah, Ben and the fiscal court,
8 yes.

9 Q And confirmed by the fiscal court
10 at their last meeting before their terms expired;
11 correct?

12 A Mine was in November, yes.

13 Q Yeah, yours was in November.

14 A Yeah.

15 Q Assuming the other actually
16 happened was in December.

17 Now, Judge Executive Hale was defeated in
18 the Democratic primary in May of 2018; correct?

19 A Yes.

20 Q And with three of the fiscal
21 court members, there was a change. I don't know if
22 they didn't run or if they ran or were defeated,
23 but three fiscal court -- three of the five fiscal
24 court members are not the same in January of 2019
25 as they were in December of 2018 --

1 A Correct.

2 Q -- is that correct?

3 Now, annual reports -- water districts are
4 required to file annual reports that have a lot of
5 different information in them every year. And I
6 don't have -- I've got them somewhere, but I didn't
7 bring them down. But usually somebody signs
8 those -- back of those annual reports. And some of
9 them have your signature, I think, and some of them
10 have Dean Hall's signature. And most of those
11 times, there's a jurat, or there's an affidavit that
12 swears that the information contained in those
13 annual reports is correct. And I'm -- what I'd like
14 to ask you is, is do you -- when any of these
15 reports that you may have signed, who prepared the
16 information that went into the annual report?

17 A I'm not -- I don't -- I can't
18 answer that.

19 Q Okay. I mean, I assume you
20 didn't as a Commissioner?

21 A I would assume that CPA Dean and
22 the Board together reviewed and prepared the annual
23 report. But an exact answer, I'm not sure.

24 Q When you say the Board, do you
25 mean you and the other Commissioners?

1 non-revenue water loss could amount to that kind of
2 money?

3 A No.

4 Q And that's not included in like
5 what the fire department used or what you used.
6 That's just water that went out in the ground or
7 spilled over the top of the tank or something.

8 A Uh-huh (affirmative).

9 Q If you had that water loss down
10 to 15 percent, your money troubles would be over,
11 wouldn't they?

12 A I can't answer that.

13 Q If you had an extra 380,
14 \$400,000, wouldn't that help out?

15 A That would be ideal.

16 Q One of the things that I -- well,
17 I think I understand it, but that's inconsistent in
18 Southern's position is, is that over the years,
19 despite all of the statements that Southern is
20 taking action to -- to repair lines, fix leaks and
21 have extra crews on to discover leaks to eliminate
22 water loss, the water loss hasn't gotten any
23 better. I mean, do you discuss these things at
24 your -- at any of your meetings with --

25 A We discuss --

1 Q -- Mr. Hall or --
2 A Yes.
3 Q Okay.
4 A We discuss them. Dean prepares a
5 report that he submits, along with our agenda, on
6 the leak detection, number of leaks, where they're
7 at, what the pipe was to repair it, how many hours
8 the guys worked to repair it, and that goes to
9 every Board member in our packet. He addresses it
10 monthly with the -- with the Board.
11 Q When you have gone to training,
12 at least the last two years -- I know I saw you at
13 Pine Mountain.
14 A Uh-huh (affirmative).
15 Q I saw Mr. Jacobs and maybe some
16 others the first day at --
17 A Uh-huh (affirmative).
18 Q -- Prestonsburg this year, and
19 you were probably the second day?
20 A Yeah.
21 Q So -- but I know water loss --
22 and I know water loss was specifically addressed at
23 those two training sessions. I mean, and I just
24 wonder if -- not that you don't take it seriously,
25 but if you've kind of gotten the idea there's just

1 nothing we can do about it?

2 A No. No, I wouldn't take that --
3 that is a very serious issue with our company, the
4 water loss, and it does play a major role in our
5 finances. We address it constantly. It's a
6 difficult -- the structure is old and it is very --
7 it's an obstacle for us to deal with this, but we
8 deal with this. We don't -- anything that is said,
9 we take very serious.

10 You know, we go to training for a purpose to
11 retain something. When we come back out, we want to
12 know we've learned something, you know, and it's a
13 -- it's always been a great training seminar for us.
14 And we pick up something on each thing. Just like
15 the -- the two-year thing, we picked that up
16 immediately and come out and said, you know, we --
17 we made a mistake. And when you go and learn
18 something like that, you take it back.

19 Q Now, you said we learned about
20 the two year on the -- I guess financing --

21 A Uh-huh (affirmative).

22 Q -- right?

23 A (Witness nods head.)

24 Q And so when did you learn that?

25 A At one of the -- the last year

1 training seminar at Jenny Wiley, I believe it was.

2 Q Ms. Johnson, in 2012 the Public
3 Service Commission, in a Final Order, basically
4 addressed the fact that Southern Water District had
5 obtained several loans, some for a lot of money,
6 without Public Service Commission approval. And
7 the Order recited that the Commissioners had
8 understood that -- that that was in violation of
9 the law, the statutes, and that basically they
10 would see to it it didn't happen again. You don't
11 have any recollection of that?

12 A I'm sure I do if I seen it. You
13 know, I'm sitting here trying to pick my brain as
14 you're discussing these things. We relied on the
15 CPA to prepare our finances. I don't know if it
16 was an oversight on his part or an oversight on all
17 of our parts to prepare those truck loans.

18 Q Who's your CPA?

19 A Good God, I've got -- I mean --

20 Q Mr. Spears? Is it Spears?

21 A Yeah, Mike Spears and Jeff. Yes.

22 Q And Mike Spears is in Pikeville?

23 A Yes.

24 Q Is Reed -- Mr. Reed is that --

25 A Yeah.

1 Q -- is he in the same office as
2 Mr. Spears?

3 A He's in Prestonsburg -- Jeff,
4 he -- they're -- yes, it's same two in the firm.
5 Jeff comes to our meetings. And we discuss that
6 with Mike also. He knew we were upset with this.

7 Q Do you have -- does Southern have
8 a local attorney that it uses to come to the
9 meetings or to give you advice?

10 A Our assistant county attorney
11 comes.

12 Q Your assistant county attorney?

13 A Uh-huh (affirmative).

14 Q And who is that?

15 A Keith Bartley is our -- Tyler
16 Green.

17 Q And, I guess, does he do that as
18 a -- just as a public service or do you pay him for
19 his service?

20 A We pay him.

21 Q And does he come just
22 occasionally or does he come to all your meetings?

23 A He doesn't come to all of them,
24 but he comes when we have issues we feel we need to
25 discuss with legal.

1 Q So if you need legal advice, you
2 got somebody to talk to; right?

3 A Uh-huh (affirmative). Yes, sir.

4 Q Has Mr. Green or Mr. Bartley ever
5 talked to you about the requirements of the open
6 meetings law?

7 A I don't recall that as --

8 Q Well, the reason I say -- I know
9 you get that in training, too.

10 A Yeah, I was going to say --

11 Q It's always in training.

12 A -- we picked that up in Public
13 Service training.

14 Q Well, I know I've seen some of
15 your minutes.

16 A Uh-huh (affirmative).

17 Q And your minutes all show
18 violations of the Kentucky Open Meetings Act. And
19 I'm not going to get into any advice, but I suspect
20 if you took those minutes by your lawyer, they
21 could probably tell you in a few minutes what you
22 needed to do so you didn't run into those issues
23 again. Because what might happen to you is, you
24 might come out of executive session, you might take
25 some action. And in the infamous case of *Tommy*

1 *Thompson, et al vs. Floyd County Board of*
2 *Education*, your -- you might -- your actions you
3 took might be invalidated and you might never be
4 able to fix the problems. That's just a
5 suggestion, okay. You might --

6 A Thank you.

7 Q -- you might think about it.

8 Now, you heard, I guess, Mr. Campbell
9 discuss the fact that the City of Prestonsburg
10 Utility Commission replaced the -- all of the water
11 meters on the areas where the water distribution
12 system was transferred to Southern to Prestonsburg;
13 correct?

14 A Yes. Yes.

15 Q And that the meters that -- the
16 meters that Southern owned were mechanical meters,
17 meters that required a human being to go --

18 A Uh-huh (affirmative).

19 Q -- look down in the hole or
20 whatever and read the meter and report on it;
21 correct?

22 A Yes.

23 Q You don't have, I assume, any
24 so-called smart meters or meters that would --

25 A No.

1 Q -- allow them to be -- somebody
2 drives up the road in a truck, and the computer
3 sends a signal and it automatically gets the
4 reading without the driver having to go out and
5 look at the meter --

6 A No, we do not.

7 Q -- personally?

8 Okay. Have you ever considered buying such
9 meters?

10 A Yes, we have. And we have talked
11 to some vendors about that, but we have not been
12 able financially to invest in that.

13 Q Well, see, this is what I don't
14 understand. I think you can. I don't see how you
15 can afford not to. All you got to do is come to
16 the Public Service Commission and file a case and
17 ask, and I can't think of a time we've turned down
18 anybody that had meters -- 5,000 meters, according
19 to our latest inspection report, that were 13 to 15
20 years old and had never been tested. And, I mean,
21 you might say, I don't want to charge my customers
22 for this, but by the same token, how can you afford
23 to operate with your meters running at 15 percent
24 slow. So in addition to the -- to the 60 percent
25 water loss -- I guess that's all part of it -- your

1 water is going through the meter that you're not
2 really billing for. So for whatever, I -- I notice
3 that in the inspection report that was done by our
4 water inspector in May of this year, May the 16th,
5 the question came up about meters.

6 And let me -- let me just give you -- might
7 be easier if I do it this way. I don't know, we may
8 not have enough for everybody. Counsel, would you
9 give your -- give your client, give Ms. Johnson one
10 of these, and here's one for you and -- would you
11 like one, Mr. McNeil? You may or may not. It may
12 not make any difference.

13 MR. McNEIL: Sure, if it's...

14 CHAIRMAN SCHMITT: Would you like one? I
15 just have one left, so...

16 MR. McNEIL: Thank you. I appreciate it.

17 BY CHAIRMAN SCHMITT:

18 Q Let me see, Ms. Johnson, if I can
19 get the right page. Page 17. We look at -- do you
20 see additional inspector comments?

21 A Uh-huh (affirmative).

22 Q It has "Utility" -- that's
23 Southern -- "stated they have 5,000 meters that are
24 13 to 15 years old that have never been tested, and
25 500 meters that are less than two years old." I

1 mean -- and I know you're not the operational
2 person.

3 A No.

4 Q But did you understand that
5 meters are supposed to be tested at least every 10
6 years? And that before a meter is installed, if
7 it's taken out or put back into service, it's
8 supposed to be tested before it goes on the
9 customer's line? Did you know that?

10 A I can't -- no.

11 Q Then the third one out of that
12 says, "Utility stated the average distribution of
13 the service line in the system is 50 years old.
14 This along with pressure zones and terrain have
15 contributed to the Utility's water loss issues."

16 And I think you said something earlier that
17 the lines were at 40 to 50 years?

18 A Yes.

19 Q Do you have any idea as to what
20 the expected life of a water line is, or your water
21 lines are?

22 A No, sir, not -- not to say that
23 outright, no.

24 Q Well, if they're 50 years, you're
25 going to be --

1 A Thirty (30), I'm thinking.

2 Q -- under the PSC's depreciation
3 schedule. You know, you're probably looking at the
4 average of 12 1/2 years and -- they may last longer
5 than that and they may -- they may not. But does
6 Southern Water District have a capital improvement
7 plan, a plan in place that would provide a schedule
8 of replacing all of your water mains and service
9 lines?

10 A I don't know that we have a
11 written plan, but this is discussed also with Holly
12 and Dean and the Board about the lines being older,
13 what we need to do, we're trying to figure out
14 funding and get something more concrete put down on
15 paper. But, yeah, we -- we definitely discuss
16 that, because that's -- we know that's part of our
17 water loss is these old lines. When you're 50 year
18 old and they're like they are, they definitely need
19 replaced. But the funding for it is -- we've tried
20 funding at several sources, you know, and we know
21 the road.

22 Q Is funding hard to come by?

23 A Yes, it is. There's no more AML.
24 That's wasted out. Coal is not running, so there's
25 no AML money flowing like it did. The grants are

1 harder to get ahold of. You have to do loans. We
2 don't want to incur debt at this point. We
3 can't -- can't, so our funding sources are
4 difficult to obtain.

5 Q It's hard to get debt because
6 people don't want to loan you money; is that fair
7 to say?

8 A That -- yes, that's fair to say.

9 Q And on the same report, our --
10 our deputy executive director is also our director
11 of our inspection services for water, gas and
12 electricity. I had asked our inspector, here's --
13 here's what he noted. And this was May 21st, 2018
14 from John Lyons. And he says to the inspector, "In
15 the previous inspection response in 2017, the
16 District stated their plan was to get a KIA loan
17 to --

18 A Uh-huh (affirmative).

19 Q -- or loans to replace aging
20 infrastructure." Okay? "And acquire AMR" --
21 that's those advanced meters; right -- "AMR meters.
22 A check of the WRIS database reveals they've been
23 approved for an infrastructure project that would
24 replace the existing water line from Lackey along
25 Route 7 to Wayland, Kentucky. This project will

1 replace approximately 20,000 linear feet of
2 existing 8 to 10-inch PVC asbestos concrete lines
3 with 6 and 8-inch PVC water line along Route 7 to
4 the City of Wayland. Aaron" -- that's the
5 inspector. "Aaron, please check on the status of
6 this project and if PSC granted approval." Of
7 course, nobody ever applied to the PSC for
8 approval, but her response was, "After speaking to
9 Mr. Dean" -- I guess that's Mr. Hall. That sounds
10 like an Indian doctor. They always get -- you
11 know, the first name.

12 A Yeah, Doctor. Dr. Don.

13 Q Yeah. Yeah, Dr. Chandler or
14 somebody.

15 "After speaking to Mr. Dean at Southern
16 Water and Sewer District, he stated that funding for
17 the Mink Branch tank replacement and the Lackey
18 Route 7 to Wayland project was pulled" --

19 A Uh-huh (affirmative).

20 Q -- "by KIA due to fear of
21 Southern not being able to pay the loan back." Is
22 that -- was that what happened?

23 A Yes.

24 Q So I think some of the problem,
25 Ms. Johnson, is maybe Southern not understanding

1 that if you're willing to do the work, you could
2 probably come to the PSC and maybe get some
3 relief -- get some relief.

4 Were you present whenever I spoke to one of
5 the training sessions about our intent to have an
6 infrastructure program to replace old pipelines and
7 water mains and service lines?

8 A I think you done that at Pine- --

9 Q And I think Mr. --

10 A Yeah.

11 Q -- Mr. Jacobs asked me about it?

12 A He did.

13 Q But you got to come in, you know,
14 and -- and then have a plan, which would be like a
15 chart where, you know, we'd like to between this
16 date and that date, replace lines between Point A
17 and Point B. I mean, that other utilities do that,
18 is what I'm saying. Large gas companies, Atmos,
19 Columbia, they actually have a schedule. And I
20 know you say, well, somebody in your organization
21 could do it or maybe Kentucky Rural Water
22 Association could help you. But we can't help you
23 unless you know that we're available and try to use
24 what resources we have to help you keep your system
25 up and running.

1 maintain meter standards and test facilities as
2 more specifically established in 807 KAR 5:066?

3 No.

4 "Before being installed for use by a
5 customer, are all meters tested and in good working
6 order and adjusted as close to the optimum operating
7 tolerance as possible as more specifically required
8 by in the section cited? No.

9 "Does the utility have all or part of its
10 testing meters performed by another utility or
11 agency? No.

12 "Does the utility or agency doing meter
13 testing for a utility have in its employ meter
14 testers certified by the commission? No.

15 "Does the utility or agency employ
16 apprentices in training for certification as meter
17 testers? No.

18 "Are all tests performed during this period
19 by an apprentice witnessed by a certified meter
20 tester? No.

21 "Meter test records. Does the utility
22 maintain a complete record of all meter tests and
23 adjustments and data sufficient to allow checking of
24 test calculations? No.

25 "Do records include the following:

1 Information to identify the unit and its location?
2 No.

3 "Date of test? No.
4 "Reason for test? No.
5 "Reading before and after the test? No.
6 "Statement of 'as failed' and 'as left'
7 accurate -- accuracy sufficiently complete to
8 permit testing of calculations employed? No.
9 "Statement of repairs made, if any? No.
10 "Identifying number of meter? No.
11 "Type and capacity of meter? No.
12 "Does the utility maintain a complete record
13 of tests of each meter continuous for at least two
14 test periods and shall in no case be less than two
15 years? No."

16 And it goes on for pages. But they're all
17 no. And if you don't keep -- if you don't test
18 meters, I mean, as you're legally required to do,
19 and you don't keep any -- well, I guess you don't
20 have any records. I don't know how you -- how you
21 operate, I guess. And I know your -- your job isn't
22 operations, but the Commissioners' job -- isn't it
23 the Commissioners' duty to see that the manager is
24 doing his or her job?
25 A Yes, that's our job.

1 "Does the utility tariff state that the
2 penalty to be assessed for failure to submit water
3 usage reports?" And it says yes. So, presumably,
4 there's a penalty that can be assessed against these
5 fire departments if they don't provide it. But for
6 years, somebody -- not the fire department
7 presumably -- somebody has been putting 60 million
8 gallon of water use by fire departments every single
9 year when there's no evidence to support what that
10 usage was, but it's easy -- it can be calculated.
11 It can be calculated, what's used in flushing by
12 Southern and used by fire departments. That's not a
13 -- that's not an impossible concept.

14 I just wondered did you know that none of
15 that -- those things weren't being done, but those
16 figures were being used?

17 A Well, I know we have attempted to
18 get some kind of water use by the fire department.
19 Of course, you're talking about a lot of volunteer
20 fire departments that don't give that information.

21 Q Well, you know what, of course,
22 part of it's like, I try to get Johnny to, you
23 know, go to school and, or to do this or to do
24 that, do his homework, but he just won't do it.
25 Sometimes you have to exact a price of people that

1 don't -- don't do what you need to do; isn't that
2 right?

3 A It's true.

4 Q I mean, you -- why don't you
5 start charging for the water? I wouldn't let them
6 have the water. I mean, it's -- all I'm saying
7 is -- and I'm not addressing this to you
8 personally, but it's the Commissioners' job to see
9 that this District is properly run and that the
10 manager is running it. And the manager, for all I
11 know, he may come to the Commission and say, I told
12 them we had these problems, but nobody did anything
13 and I work for them. In any event, it's no excuse,
14 is all I -- just no -- it's no excuse.

15 Because, ultimately, when somebody says,
16 well, this is all okay, what you don't realize is
17 all your pipes in the ground are rotting. And at
18 some point in time, it's like your roof, you say,
19 well, I ain't going to fix the shingles. I'll just
20 put a bucket all over the kitchen and the bedroom.
21 But at some point your whole house rots down. And
22 that's what's happening, not just to Floyd -- not
23 just to Southern in Floyd County, but to Martin
24 County and dozens of other rural water districts
25 across the state.

1 And if -- it's a hard job, is what I'm
2 saying. And I don't know, you know, with local
3 politicians involved, whether that problem can ever
4 be solved absent just total regionalization of water
5 district management. But, I guess, one of our -- I
6 asked one of our people to see what the fire
7 department usage would normally be expected to be,
8 and I was told about 3 million gallons a year. I
9 don't know if that's accurate, but I throw it out
10 for what it's worth. But, obviously, it's not
11 60 million every --

12 A Well --

13 Q -- every year.

14 A -- that will be something we'll
15 address definitely when we go back. But I'd like
16 to say one thing, we keep -- you know, you refer to
17 Martin County. I can understand that because they
18 are very public. But I want to say one thing about
19 our system. We may have debt and we may be here
20 for -- on the hot seat, I call it, but I can say
21 one thing about our water: We've got it to
22 99 percent in a rural area and it's clean, it's
23 drinkable and it's serviceable and we're getting it
24 there. It's been at a great cost, but the people
25 in Floyd County have decent running, drinkable,

1 useable water. I'd like to just add that.

2 CHAIRMAN SCHMITT: Okay.

3 MR. CICERO: So can I just add one thing?
4 And that's -- you're to be commended for
5 that statistic, but on the other hand, as
6 with Martin County, if your water loss is
7 60 percent, at what cost to your rate
8 payers are you delivering that? Because
9 the 60 million gallons that he refers to
10 for the water department or the system
11 usage, your loss of 1,160 customers to
12 Prestonsburg, their consumption was
13 approximately 60,744,000. So each of those
14 figures for the fire department usage and
15 for the system usage is equivalent to the
16 loss of those customers that were -- we
17 don't know whether they're transferred yet
18 or not to Prestonsburg. But that gives you
19 an idea the magnitude of what's been
20 reported as that type of consumption.

21 And, yes, your delivering clean water,
22 which is -- we're not certain where
23 Martin County is on that, but there's a cost
24 for that. And, yes, AML money is drying up,
25 grant money is drying up, but a system is

1 supposed to support itself on the revenues
2 generated from its ratepayers, not operating
3 and maintenance money that's obtained from
4 grants or loans or whatever. It should
5 sustain itself on its own operations and
6 that's not occurring right now with
7 Southern. And I don't really know how it
8 can at that level of water loss. I think
9 that's why the Commission has been focusing
10 so much recently -- recently over the last
11 12 to 18 months on the level of water loss,
12 because it is a disaster for rural water and
13 has to be addressed and we have to find a
14 way to put that infrastructure to a level
15 where it's at least delivering without
16 losing the majority of the water before it
17 reaches the end user. And I think that's
18 the big concern.

19 THE WITNESS: I understand that.

20 BY CHAIRMAN SCHMITT:

21 Q I guess we got some information
22 in the rate case, a schedule somewhere of lack of
23 salaries for Southern water employees and they were
24 all on an hourly basis. Are all employees paid by
25 the hour?

1 A They are -- no. I'd have to ask
2 Dean that. The girls aren't, are they? I will let
3 Mr. Hall address that part to be sure.

4 Q Okay. There wasn't anybody here
5 to make a public comment. Somebody -- I didn't
6 talk to them, but somebody said a call had been
7 made yesterday that somebody was supposed to be
8 here. The only reason that was an issue, because I
9 noted in a meeting we had about 4:00 yesterday that
10 the notice hadn't been filed and you'd probably
11 bring it today. And somebody said, well, they must
12 have filed it -- they just must have published it
13 because somebody called, but we -- we do get -- I
14 guess when it was published in the newspaper that a
15 rate increase had been requested, some customers
16 wrote in, okay, but -- but some of the customers
17 were upset, not just because of the rate increase,
18 but they claim that your meter readers don't ever
19 read the meters. Have you heard that? Have you
20 heard that before?

21 A That's the first complaint you
22 get when someone's water is a little higher than
23 normal. Well, they're not reading my meter, you
24 know. That is a big issue that Dean -- Mr. Hall.
25 I keep saying Dean. I'll say Dean. Dean, that is

1 something that he stresses with them meter --
2 that's our livelihood. They don't read them
3 meters, they're not going to stay. And Dean has
4 backtracked to make sure the meter readers are
5 doing their job. And they switch them off to where
6 they're not going to the same area to where they
7 get comfortable with someone. He'll rotate them to
8 keep them from -- from that issue.

9 Q Right.

10 A That's a normal complaint.

11 Q Well, let me just read one.

12 A Yeah.

13 Q I'll just read one.

14 A Yeah.

15 Q Just one, from a Rosetta Tackett,
16 okay. Rosetta Tackett. And she says -- says --

17 A I don't know Rosetta.

18 Q -- "My concern is about the
19 upcoming rate increase. We, as Southern Water
20 customers, already pay a large amount for our water
21 and garbage. Hundreds of customers have watched
22 the meter readers pass our homes without stopping
23 to read the meter, and then later send us a bill
24 that is estimated. We went as far as covering our
25 meter with brush and dirt to show they hadn't read

1 it. This company is a joke and needs deeply
2 investigated. They need the increase to keep the
3 doors open, they said. Well, they need to stop
4 neglecting money and the funds and stop
5 punishing" -- doesn't make any sense -- "punishing
6 the customers for their overspending on their
7 personal things that don't pertain to the company.
8 This place is a joke, to say the least. And we, as
9 customers who barely can pay the bill now, will
10 have to pay for it." And then it says, she's
11 contacted -- that question: "Have you contacted
12 the utility about the problem?" And she said yes.
13 I don't know if she did. But there were several
14 that say that the meters weren't being read. But
15 if you had the AMR meters, you would never have to
16 worry about -- you could save the cost of some
17 meter -- meter readers maybe. But, anyway, I just
18 wondered if you -- if you had had any complaints of
19 people saying that the meter readers never really
20 read the meters?

21 A I think the girls in the office
22 get a complaint every time a bill goes out. That's
23 not right, you know, they didn't read my meter, you
24 know. That -- that to me is not -- that's an
25 everyday complaint at the water company. Dean

1 knows that and that's the reason he switched them
2 around. And the meters, to be honest, they're in
3 the ground. Even water -- you can wipe it off and
4 go back out there the next day and you'll still
5 have dirt on there. I mean, the meters are on the
6 side of their properties. Even mine does that.
7 And I know they read them because I go out and
8 holler at them when I see them in the yard, so...

9 Q If I figured if they weren't
10 going to read a meter, it would be yours; right?

11 A No. I holler at mine all the
12 time: What are you doing out there? Yeah. No,
13 mine -- I pay my bill, and my bill is above
14 average.

15 Q You indicated that -- you
16 mentioned the transfer and testified about the
17 transfer of the sewer assets and the water
18 distribution assets to Prestonsburg Utilities. And
19 you seemed to indicate that it was the county judge
20 executive and the fiscal court which were the prime
21 movers in pushing that transaction; is that
22 correct?

23 A At first it was presented by a
24 Judge Hale, Ben, and -- and Eddie. We all
25 worked -- Eddie presented it, and Ben, to our

1 Board. And after lengthy, lengthy discussions, we
2 knew we didn't need the sewer. We could not find
3 qualified people. There was no question about it.
4 We tried. Rural Water tried to help us find them.
5 We could not find the necessary qualifications. At
6 the time we agreed to this transaction, the Board
7 decided this was the best measure at the time for
8 us.

9 Q That's your Board; right?

10 A Yes, Southern's Board.

11 Q And so then explain to me why --
12 why the water, these two water assets were
13 transferred. I assume Prestonsburg wanted those
14 water assets?

15 A They wanted it. I could see
16 their point, too. I could see Eddie's point,
17 collecting the water, collecting the sewage, trying
18 to separate. It become a difficult situation all
19 the way around. And at the time it was
20 presented -- I think I'm like the mayor, later on
21 it did not -- things did not work out as we
22 expected with the loss of the revenue. They -- the
23 judge kept insisting this would work out, we're not
24 giving it time, but it just -- financially, those
25 customers become a greater loss than we

1 anticipated.

2 Q I assume, at the time you
3 expected that if when the water assets were
4 transferred to Prestonsburg, that you would no
5 longer have those expenses and it would be a wash,
6 that you wouldn't lose -- you actually wouldn't
7 lose money as a result of transferring those assets
8 to Prestonsburg?

9 A Yes. We thought we would be --
10 with the debt payoff, that we would be more
11 financially stable.

12 Q Did your accountant or anything
13 run any numbers or give you any advice about --
14 about the economics of that?

15 A I don't -- there was so much
16 discussion going on at the time between all of us.
17 I just don't recall specific numbers. I -- you
18 know, I don't recall that.

19 Q Was the impetus or the reason
20 behind trying to get rid of the sewer assets
21 because you were incurring numerous violations and
22 possible civil penalties?

23 A That was part of it, yes.

24 Q I mean, I think in one of these
25 filings -- maybe it was in the 2017 case -- it was

1 suggested that maybe it might go into the hundreds
2 of thousands of dollars?

3 A Well, we didn't -- you know, they
4 suggested -- what we became -- you know, trying to
5 find someone to help us with it, and the plant
6 going down, the Wayland plant especially, we
7 decided that the sewage was not feasible for
8 Southern to maintain. We just could not maintain
9 it.

10 Q How were your sewer fees or your
11 sewer rates compared to your water rates in
12 Wayland, for instance?

13 A At least 50 percent, wasn't it,
14 Dean? I'd have -- can I ask him?

15 CHAIRMAN SCHMITT: Yeah, sure. I don't
16 care.

17 THE WITNESS: Dean --

18 CHAIRMAN SCHMITT: Just to get a general
19 idea.

20 THE WITNESS: -- what was the sewage rate
21 in Wayland?

22 MR. HALL: Rate?

23 THE WITNESS: Yeah.

24 CHAIRMAN SCHMITT: What, was it 50 percent
25 of the water rate, or the same as the water

1 rate?

2 MR. HALL: Hundred (100) percent. I mean,
3 the sewer -- the sewer --

4 THE WITNESS: I thought it was a match,
5 like --

6 MR. HALL: -- like, 100 percent of the
7 water bill.

8 BY CHAIRMAN SCHMITT:

9 Q All right. That's the way
10 most --

11 A Yeah. I know we were --

12 Q Water bill was --

13 A Yeah.

14 Q -- water bill was \$40 dollars,
15 the sewer bill might be 40; right?

16 A Yeah. I was -- I was thinking
17 50, but it's 100 percent rate -- match, 100 percent
18 match.

19 Q Now, when -- until Mr. Campbell
20 testified this morning that Prestonsburg was not
21 being paid --

22 A Uh-huh (affirmative).

23 Q -- its sewer rates in Wayland and
24 Eastern --

25 A Uh-huh (affirmative).

1 Q -- were you aware of that?

2 A Yes.

3 Q Can you explain to the Commission
4 why Southern has not been paying Prestonsburg the
5 rate for sewage use that it's entitled to?

6 A Well, we became financially
7 strapped with the loss of the customers on the
8 23 Route. And they have not been that persistent
9 on collecting and we have been negligent on paying.
10 So it -- and we have also been in negotiations
11 about the money, the -- the remaining 1.9. So
12 we've kind of all been on a Chinamen standoff, to
13 be polite, as to this and that. It -- Mike, it's
14 been a disaster.

15 Q That's --

16 A It's hard to explain.

17 Q We had an idea, but we had no
18 idea it was this convoluted until --

19 A It -- it --

20 Q -- we started this this morning.
21 So I understand. You say we have been
22 negotiating --

23 A Well --

24 Q -- this. Tell me about the
25 negotiations.

1 A Well, Less will call. Dean and I
2 will go down. And we don't really get a lot of
3 answers. And I'll -- we'll say, we want our money,
4 and he'll say, well, I'm not doing nothing now.
5 We'll come back, we'll -- it's...

6 Q So you're saying -- do you think
7 Prestonsburg still owes you money?

8 A Yes.

9 Q What do they owe you money for --

10 A One --

11 Q -- this additional 1.85 --

12 A Yes.

13 Q -- million --

14 A Yes.

15 Q -- or something?

16 And you're thinking, well, I can -- we need
17 the money, and I can kind of hold their sewer rates
18 as an offset --

19 A No, we're not --

20 Q -- against what they owe us?

21 A -- we're not playing a --

22 Q Is that what --

23 A We're not playing hostage. We
24 just have not financially been able to pay that
25 part of it. And they have been gracious. And

1 Eddie's been great to work with as to not insist on
2 that at this present time. I -- I really feel that
3 RD's holding us at some points. We -- we have to
4 work something out.

5 Q Have you-all had any -- you or
6 any of your group, as opposed to Mr. Campbell and
7 Prestonsburg, have you had any direct conversations
8 with Hilda Legg or anybody at --

9 A We've met with Hilda --

10 Q -- Rural Development?

11 A -- and we've met with Doug Hall.
12 And, you know, Doug said, well, you're due more
13 money. They didn't know about the 1.9 million that
14 Eddie had holding over here. So I'm not sure if
15 they've come back to work. We could go back and
16 say, hey, they're going to do this, will you sign
17 off.

18 Q Well, we tried -- I tried to call
19 them yesterday and they were -- all it said was
20 we're furloughed --

21 A I know.

22 Q -- until the budget crisis is
23 over.

24 A That would be all right if they'd
25 pay them.

1 Q Well, according to the president,
2 it may be years.

3 A I know. This may be going -- I
4 know.

5 CHAIRMAN SCHMITT: So --

6 MR. CICERO: I have a couple questions.

7 CHAIRMAN SCHMITT: Go ahead.

8 MR. CICERO: So I have to be a little
9 critical here, because you've talked about
10 consistently that the loss of the water
11 revenue has caused your problems and --

12 THE WITNESS: I said it contributed, sir.

13 MR. CICERO: It contributed to your
14 problems. But I can't believe that there
15 was never a due diligence done that said,
16 when I lose these customers, this is my
17 water -- my loss of revenue and this is
18 what I expect my income statement to look
19 like once I lose those, and that this
20 wasn't done before this deal was entered
21 into, and it doesn't appear that that
22 happened.

23 THE WITNESS: Yes, it was discussed a lot.
24 That was the --

25 MR. CICERO: But a make-good analysis done

1 by somebody that looked at the numbers and
2 prepared a pro forma income statement, it
3 doesn't appear that ever occurred, because
4 now you're saying after those customers
5 were transferred, this loss of revenue has
6 caused your financial problem. It's no
7 different now than it was before the
8 transaction occurred. If you had done the
9 numbers, you would have said, oh, my
10 goodness, the revenue loss is too great.
11 But it appears that never happened.

12 THE WITNESS: It was discussed at great
13 lengths.

14 MR. CICERO: It was discussed, but never
15 done in a format that allowed people to
16 make a decision based on actual numbers.
17 That's the problem right now. And the
18 \$1.9 million that now is contended to be
19 owed to Southern, that number was never
20 even discussed. But now it comes up
21 because RD has a problem. What's the
22 monthly payment that goes to pay that loan?
23 What's the cash flow impact of that loan
24 repayment?

25 THE WITNESS: On what loan? I'm not

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understanding what loan you're --

MR. CICERO: The RD, the three and a half million dollars, of which they're still looking for 1.9 million contribution from Prestonsburg to pay that down.

THE WITNESS: I don't have that spreadsheet. I need a spreadsheet. You're asking numbers that I don't have access to. I'm sorry.

MR. CICERO: Well, my only point is, the amount associated with the cash flow on that loan on an annual basis is not causing the problems that Southern is experiencing. And I think one of the things that's being overlooked here is, you would have had a major outflow had you had to pay for the sewer problems that were coming up with Department of Water at the Cabinet, because those were going to be penalties you were going to have to pay. This -- this problem -- I think we found out today this problem is way worse than we ever thought that it could possibly be. And I'm a little concerned because from a management perspective, I'm not sure you -- that you

1 Q -- from them?

2 Okay. Let me ask you and your counsel if
3 you would supply us later -- we'll have a formal
4 data request -- with copies of those two contracts,
5 okay?

6 A Yes.

7 Q I notice that Pikeville
8 apparently raised its rate in maybe September.

9 A Yes.

10 Q And you don't object to that
11 raise. You know the Public Service Commission can
12 control those things after a hearing. But you
13 didn't object. You -- I'm not saying it's unfair
14 or fair. But as far as you're concerned, that rate
15 increase is not too high; right?

16 A Yes.

17 Q Okay. Now, during the course of
18 this proceeding, you -- Southern has asked for an
19 increase in rates for its own residential and
20 business customers; correct?

21 A Yes.

22 Q But Southern also sells water at
23 wholesale to the City of Hindman, to Knott County
24 Water District, and to the town of Wheelwright;
25 correct?

1 A Wheelwright was only an emergency
2 situation. We do not sell water to Wheelwright.
3 They went totally dry and we sold them water,
4 roughly, a month maybe.

5 Q Do they get water from a mine or
6 something?

7 A From abandoned mine in
8 Wheelwright.

9 Q That's what I thought.

10 A That was an emergency situation
11 only that we supplied them.

12 Q The water in their mine went dry?

13 A Went dry --

14 Q Right.

15 A -- for about three to four weeks.

16 Q I understand.

17 A Then it come back.

18 Q I was thinking that Wheelwright
19 did get their water --

20 A Yeah.

21 Q -- from a mine.

22 Well, you don't -- you don't have a contract
23 with Wheelwright? They just --

24 A No.

25 Q -- they just paid what you

1 thought was a fair rate or what you charged others?

2 A Yes, compared to that. Dean
3 walked out on me. I'm trying to think. We put a
4 meter down at Burton and the -- registered it that
5 way.

6 Q Do you have a contract with the
7 City of Hindman and with the Knott County Water
8 District?

9 A Yes.

10 Q And we ask that you file copies
11 of those --

12 A Yes.

13 Q -- contracts as well.

14 And the last question I have is, when --
15 when you sought the rate increase on the residents
16 in your service territory, why did you not seek a
17 rate increase for -- on the wholesale water rates to
18 Hindman and Knott County, do you know?

19 A No, I do not.

20 CHAIRMAN SCHMITT: I don't have anything
21 else. Do you have any other questions?

22 Dr. Mathews?

23 DR. MATHEWS: I don't have.

24 CHAIRMAN SCHMITT: Any questions --

25 MR. BOWKER: Just briefly, Mr. Chairman.

1 them be marked and filed as what --
2 MR. BOWKER: I hadn't moved to --
3 CHAIRMAN SCHMITT: -- Staff Exhibit 1 and
4 2?
5 MR. BOWKER: This will be 2.
6 THE WITNESS: This is Mr. Mike's. Does he
7 want it back? Do I take it? Okay.
8 MR. BOWKER: I have no further questions.
9 CHAIRMAN SCHMITT: Mr. McNeil, any
10 questions?
11 MR. McNEIL: No questions, Your Honor.
12 CHAIRMAN SCHMITT: Any Direct of your
13 witness?
14 MR. STROBO: No questions, Your Honor.
15 CHAIRMAN SCHMITT: Is there any reason why
16 Ms. Johnson should not be permitted to step
17 down and be excused?
18 MR. BOWKER: No, sir.
19 CHAIRMAN SCHMITT: You may step down,
20 Ms. Johnson.
21 THE WITNESS: Thank you.
22 CHAIRMAN SCHMITT: You're excused.
23 Anyone -- your next witness, who would
24 you like to --
25 MR. BOWKER: Mr. Chairman, if we could call

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Mr. Dean Hall, please.

(DISCUSSION OFF THE RECORD)

CHAIRMAN SCHMITT: What we could do, why don't we just call Mr. Jacobs or something for a second. He won't take very long, and that will take up some time. Mr. Jacobs, would you -- would you take the stand? Please raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do, sir.

CHAIRMAN SCHMITT: Please be seated.

* * * * *

The witness, JOSEPH JACOBS, after first being duly sworn, was examined and testified as follows:

EXAMINATION

BY CHAIRMAN SCHMITT:

Q Would you state your name and business address for the record, please.

A My name is Joseph G. Jacobs. My

1 business address is 29 Porter Hill, Post Office Box
2 249, Stanville, Kentucky.

3 Q And are you now or have you been
4 a member or a Commissioner for the Southern Water
5 and Sewer District?

6 A Well, I guess I learned today
7 that I have been.

8 Q Well, I -- well, let me ask it.
9 Let's just cut to the chase. Before you got here
10 today, did you -- when you walked in here this
11 morning, did you still believe that you were a
12 member of this Commission?

13 A If I had known I was not a member
14 of this Commission, I would not have been here
15 today, sir.

16 Q All right. So from --
17 DR. MATHEWS: You get an honest answer.

18 Q From whom -- from whom did you
19 learn that you apparently were no longer a
20 Commissioner?

21 A When you-all were talking about
22 the -- about the changes in who the Board members
23 were. And I -- I heard something that -- and then
24 I went to Mr. Hall and I asked him, what's --
25 what's the deal, and he said, well, your term was

1 to expire. And -- and, really, I knew all along
2 that when the transfer occurred, that I would be
3 living outside -- because I was in those 1,125
4 customers, I would be living outside the water
5 district, so it would be wrong for me to continue
6 on the Board and I would need to step aside. And
7 I -- I was fine with that, and so that -- that's
8 fine. That's fine with me.

9 Q Well, just to give you the other
10 side of it, when -- when we understood that the
11 transfer was going to -- this was going on, that
12 you'd probably be then within -- you'd be a
13 customer of Prestonsburg?

14 A Yes, sir.

15 Q And that at such time -- in fact,
16 we even had some of our lawyers do a little work on
17 it, and they said, well, you'd still be eligible to
18 be a Commissioner until there was actually a legal
19 transfer.

20 A That --

21 Q And so we --

22 A That was --

23 Q -- had no idea until somebody
24 called in here with a complaint and said that you
25 had been replaced or you hadn't been reappointed or

1 something. And we didn't know that until two or
2 three days ago.

3 A Yeah. Well, I --

4 Q We knew it before you did,
5 unfortunately.

6 A Yeah, apparently so. But that's
7 fine. I mean, you know, it's not anything that's
8 going to cause me to have a heart attack or
9 anything like that, but...

10 Q So how long did you serve as a
11 Commissioner?

12 A Well, I think I was appointed
13 about a month or so after Ben became the county
14 judge, and I guess my term expired sometime in
15 December.

16 Q Okay. And that's Ben Hale;
17 right?

18 A Yes.

19 Q Did you replace someone else
20 whose term had expired or who died or quit, or do
21 you know?

22 A I don't know, sir.

23 Q So, I mean, you've heard some of
24 these questions --

25 A Uh-huh (affirmative).

1 Q -- of Ms. Johnson about who
2 served what term and when --

3 A Yeah.

4 Q -- they were actually up?

5 A Yeah.

6 Q And right now we don't know. And
7 all you know is you were appointed in December of
8 probably, what, 2014; right?

9 A Somewhere around there. Mr. --
10 Mr. Hale called me and said, I want you to serve on
11 my water board. You need to come to the office and
12 I'll administer the oath. I did that and I started
13 serving.

14 Q But Mr. Hale didn't call you and
15 tell you --

16 A No, he didn't.

17 Q -- that you were no longer on the
18 water board?

19 A No, sir.

20 Q And neither did anybody else?

21 A No.

22 Q Were you a part or present for
23 any negotiations with the City of Prestonsburg
24 Utility with respect to the transfer of the water
25 assets and sewer assets for --

1 Q You understand that the duty of a
2 water district commissioner is to the water
3 district as if he was a member of the board of
4 directors of a corporation?

5 A Absolutely, yes. Yeah.

6 Q Was there -- do you have an
7 opinion or an observation or impression as to
8 whether there was pressure from the county judge
9 executive and fiscal court to facilitate this
10 transaction as soon as possible?

11 A To my -- my personal opinion is
12 that there was, because there was a lot of
13 animosity because of a previous loan that was
14 acquired by a previous administration.

15 Q Is that the bond --

16 A Yes, it is.

17 Q -- issue or something where the
18 money --

19 A Yes.

20 Q -- went to a Southern -- a water
21 district -- water and sewer district project where
22 apparently there was nothing in writing, and that
23 basically Southern was not to be responsible for
24 the -- paying part of the debt?

25 A That's -- that's my

1 understanding. I have -- you know, but -- but that
2 was -- that was always brought up at a fiscal court
3 meeting that you would see on TV, you know. And
4 the newspaper accounts were that, you know, they
5 owe us a lot of money and we're paying their bills.
6 And I asked that question at a Board meeting, and I
7 was told that we had an Attorney General's opinion,
8 we had a Public Service Commission opinion that we
9 didn't owe that money. And I felt better about it,
10 so that was...

11 Q In the 2012 rate case, the Public
12 Service Commission, the Southern Water District
13 apparently had been paid sporadically money to the
14 fiscal court, and apparently had paid in one year
15 \$100,000 and had asked the Commission to include
16 that in their rates for the ratepayers to pay, and
17 the Commission refused to do it on the basis that
18 there was nothing in writing which would obligate
19 the Southern Water and Sewer District to pay that
20 money and that it was never intended for -- because
21 it was the county had donated the money and it was
22 never intended for the water district to pay it
23 back. So the holding was, is that the money
24 couldn't be included and any money paid to Floyd
25 County Fiscal Court couldn't be recovered in rates.

1 chairman and the secretary or the treasurer. We do
2 have -- we do have minutes and we do have --
3 there's minutes and those minutes are read and
4 approved. And we do have -- we do have financial
5 reports that is presented to the Board members and
6 the -- and the minutes are presented. And then
7 there is a report that we started asking the -- the
8 administrator to start preparing for us as to how
9 many leaks he had found and how many he -- they had
10 fixed and those kind of things, because in -- in
11 the training that we took we learned some things
12 that we didn't know, every one of us. And -- and I
13 will say this for the training that the Public
14 Service Commission requires, you can learn
15 something at every one of these and you can't --
16 you cannot digress (verbatim) every bit of it at
17 one time. But over time you do pick up a little
18 more and then you exchange ideas with other
19 individuals that also serve on other boards in
20 other parts of the country.

21 And one of the things that -- that we
22 learned was, is that we're not the only ones that
23 were having problems with water loss situations.
24 We're not the only ones that were having problems
25 with antiquated water lines in the ground. And when

1 the Chairman made his remarks at the last meeting,
2 he talked about a temporary rate increase for if you
3 wanted to replace a certain branch line or trunk
4 line, that we could come in and apply for a rate
5 increase to offset the cost of that and put that
6 line in place. Then we would -- we would be able to
7 apply for a rate increase to do that.

8 I was always taught that the best thing for
9 water companies to do, like ours, is to have a
10 smaller rate increase periodically instead of asking
11 for a larger rate increase all at one time. And
12 these water lines have really been in the ground for
13 over 50 years. And some of them are very
14 antiquated. Some of them are buried deeper than
15 what they really should be, because there's been
16 road construction, there's been -- there's been
17 fills by various things of the road construction
18 that have covered the water lines. Some of them we
19 have -- we have raised through the help of when the
20 state came through to build the roads, we got to
21 replace some of the water lines, but not all of
22 them. And -- and so those are the kind of things
23 that we were starting to work on.

24 Now, we came in here and -- and what we did
25 is we -- we got our numbers together. And when we

1 got our numbers together, it was alarming, I'll tell
2 you that, that this rate increase was going to be
3 large. Always before we tried to hold our rates to
4 where the common mom and pop who were retired would
5 not be adversely affected, because you got to take
6 into consideration the demographics of your -- of
7 your public. And we did not want to adversely
8 affect those people, because here we had a rate
9 increase that was coming along that's -- that's
10 going to disturb everybody and -- and on top of that
11 it's going to -- it's going to affect whether they
12 can buy groceries or whether they can buy medicine.
13 Those are the kind of things that we've got to look
14 at.

15 And here we -- here we had this rate study
16 done, and it looked like we were, you know -- and we
17 were really "behind the eight ball." We know that.
18 And in doing that, we need -- we need this money so
19 that we can start -- and it's going to be a hard
20 pill -- pill to swallow, but this rate increase is
21 needed. And this rate increase is needed primarily
22 because there's got to be some new lines put in and
23 there's got to be -- and you're going to demand
24 accountability. There's nothing wrong with that.
25 And -- and as to the water loss that we're talking

1 about here, it's astronomical. We all know that.
2 We, every one, know that. And this -- this water
3 loss is gigantic.

4 So what my ten cents worth is, is that we
5 ought to start making these replacements. And then
6 as we make these replacements, we ought to be
7 reporting to you on how our water loss is dropping,
8 and that we ought to be keeping up with that. And I
9 won't be around anymore, but, I mean, there's still
10 quality people that can be there to do this, that
11 this stuff needs to be looked after. And I think
12 after this hearing, that you're going to find that
13 these people will -- this is a good board. Now,
14 this -- this water company may have been run loose.
15 I don't know, because I wasn't there.

16 But -- but for the time I've been there,
17 they have done the best they could with what they've
18 had. And, yes, we have people that call and -- and
19 they call and they say they didn't read my meter. I
20 can tell you that I'm on the Prestonsburg system.
21 They send me -- they send me a bill. There is not
22 that much difference between my bill today and my
23 bill when -- when it was serviced by Southern Water,
24 even before I was on the Board. It's just not
25 there.

1 Q So I'm going to respond to a
2 little bit of your commentary and then I'll go back
3 to the original question I asked. And I appreciate
4 the fact that you gave us that, at least your
5 outlook on what you believe, you know, the problem
6 is and how it needs to be addressed. And,
7 obviously, the Commission is taking a more
8 favorable approach to -- they're called pipeline
9 replacement programs.

10 A Yes.

11 Q It's a surcharge. It's not a
12 rate that goes in -- it's not an increase that goes
13 into the base rate.

14 A It's a surcharge.

15 Q You do the project, it goes away.

16 A Yes.

17 Q It's not a continuous, I did it
18 this time and now I get to keep this money for
19 forever.

20 A Right.

21 Q And there is accountability,
22 because if you're going to do one of these
23 projects, then -- and the Commission is going to
24 grant the extra, then, obviously, you're going to
25 have to show that you did what you said you were

1 going to do. So, you know, in regards to that, I
2 understand economics. And the comment is,
3 sometimes when you try to address the short-term
4 economics of people's problems, everybody becomes
5 impacted because now you've got a situation -- and
6 I'm going to go and make a statement that I think
7 while you probably have a lot of good people that
8 are trying to do their best on the Board, I think
9 it's been a management failure in terms of doing
10 those types of activities that show where the state
11 of the water district, what its future is, and how
12 those activities are impacted by the decisions that
13 are made. I would say that's probably, in my
14 opinion, the biggest downfall, because, again, as I
15 told the Chairman of the Commission, the water loss
16 revenue was there before the deal and after the
17 deal, you know. If you would have looked at it and
18 said that's going to cause us to have a
19 catastrophic failure, then you knew that before as
20 well as afterwards, not -- not after it occurred.
21 That's -- that's a known activity. So giving
22 you -- I'm just giving you a little feedback.

23 And I asked you the question about whether
24 you had ran the -- the Commission according to
25 Robert's Rules of Orders, and you answered that,

1 yes, you do keep minutes. So I presume that the
2 secretary is responsible for preparing and
3 publishing the minutes and then it's voted on. So
4 we can probably obtain a copy of those minutes;
5 right?

6 A Yes, sir.

7 Q I would like to see the minutes
8 that are associated with this transaction when it
9 was going on and the Commission was making a
10 determination of whether to proceed with it or not.
11 And I would also like to know if there was a vote
12 taken by the Commission that said, yes, I am in
13 agreement or, no, I oppose it, or whether the deal
14 was done with the fiscal court and the Commission
15 was stuck with it. Does that exist? Does -- was
16 there a vote taken that says --

17 A There absolutely was.

18 Q Okay. So those minutes do exist?

19 A Those minutes exist.

20 Q Okay. So I'm going to -- I'll
21 request that your counsel -- it will be put in a
22 written form --

23 A That's fine.

24 Q -- and we'll -- we'll ask for
25 that.

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A That's fine.

MR. CICERO: I don't have anything else.
Thank you.

CHAIRMAN SCHMITT: Before I pass you off to
Dr. Mathews, I need to ask you this.

I guess you were here when
Mr. Campbell testified this morning, and I
had asked him questions because we had
gotten calls in here that the fiscal court
claimed they own some of your assets. And I
know if you were appointed four years ago by
Judge Executive Hale, and I think Judge
Executive Hale indicated something like that
to me when he called before this rate
case was filed. At least it was the loan, I
think, that he was primarily concerned with.

But do you -- do you as a
Commissioner, have you been told or has the
fiscal court ever indicated to you that they
actually have title to or own some of the
assets --

THE WITNESS: No, no, no.

CHAIRMAN SCHMITT: -- of the Southern Water
and Sewer District?

THE WITNESS: No, sir. Now, that's not to

1 say they don't, but they have not indicated
2 to me that.
3 CHAIRMAN SCHMITT: Okay. Commissioner
4 Mathews?
5 DR. MATHEWS: I don't have any questions.
6 CHAIRMAN SCHMITT: Mr. Bowker, questions?
7 MR. BOWKER: Nothing further. No.
8 CHAIRMAN SCHMITT: Mr. McNeil --
9 MR. McNEIL: No questions, Your Honor.
10 CHAIRMAN SCHMITT: -- questions?
11 May Mr. Jacobs stand down and may he
12 be excused?
13 MR. BOWKER: Yes.
14 CHAIRMAN SCHMITT: Thank you, Mr. Jacobs.
15 I'm sorry you made this trip for nothing.
16 As they say, you learn something new every
17 day.
18 THE WITNESS: Yeah, it's been --
19 CHAIRMAN SCHMITT: You came along way
20 unfortunately to learn that.
21 THE WITNESS: That's fine. That's fine.
22 No problem.
23 CHAIRMAN SCHMITT: I'm sorry for that.
24 THE WITNESS: Thank you.
25 CHAIRMAN SCHMITT: Mr. Hall, please raise

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your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

CHAIRMAN SCHMITT: Please be seated.

Mr. Bowker?

MR. BOWKER: Thank you, sir. May I approach the witness? May I approach?

CHAIRMAN SCHMITT: Yes, you may.

* * * * *

The witness, DEAN HALL, after first being duly sworn, was examined and testified as follows:

EXAMINATION

By Mr. Bowker:

Q Mr. Hall, will you please state your full name and work address for the record, please?

A My name is Dean M. Hall and I'm -- I'm the general manager of Southern Water, P.O. Box 610, McDowell, Kentucky.

1 Q And how long have you been at
2 that same job?

3 A I've been the general manager for
4 about four years.

5 Q I'm sorry, how long?

6 A About four years I've been the
7 general manager, but I have -- I've been working
8 with this utility for 25 plus years. Southern
9 Water makes up what used to be three different
10 water districts. I was the manager at Mud Creek.
11 Mud Creek and Beaver-Elkhorn Water District merged
12 together in around March of 2000 to form Southern
13 Water. I continued to work with Southern Water
14 until now. Then Southern Water, due to
15 consolidation, absorbed the Floyd County part of
16 Sandy Valley Water District, and the City of
17 Pikeville received the Pike County portions of
18 Sandy Valley. So for 25 plus years I've been, I
19 guess, involved with these -- with Mud Creek
20 portions, and 18 years with the Beaver-Elkhorn, Mud
21 Creek, and probably 10 years with all of it, so...

22 Q Okay. Thank you for that.

23 Were you in the hearing room when I was
24 asking questions to Ms. Johnson regarding water line
25 loss -- regarding the letter that I just gave to you

1 that we received? It was written October 7, 2013.
2 We received it October 9, 2013, from Hubert Halbert,
3 then manager of the Southern Water District. Were
4 you in the hearing room when I was asking those
5 questions?

6 A I was in here for the biggest
7 part of her testimony, yes.

8 Q Okay. Did you specifically hear
9 what I was -- the questions that I was asking her
10 regarding -- regarding this letter?

11 A Yes, I think I was.

12 Q Okay. I'll give you just a few
13 moments to look over that, if you don't mind, and
14 then I'm going to ask you a few questions about it.

15 A Okay. (Witness reads document.)

16 Q The projects and the efforts of
17 reducing Southern District's water line loss as
18 described in this letter, did you become a part of
19 those efforts when you came on Board or were you
20 made aware of these efforts to reduce water line
21 loss?

22 A When I became the general
23 manager, are you asking --

24 Q Yes.

25 A -- did I know of this?

1 Q Yes.

2 A This is the first time I've seen
3 this letter. But when I become general manager of
4 Southern Water, I knew then and as well -- well,
5 before then that we had a high water loss and we've
6 always had a high water loss. And if I could --

7 Q Sure, go ahead.

8 A -- I mean, I would like to
9 explain a little of that and I --

10 Q Please, go ahead.

11 A -- I think a couple of the
12 Commissioners has explained it to -- excuse me --
13 as well.

14 I would ask any of you to take a look at
15 Southern Water's boundaries, its district
16 boundaries, and look and see where you think a water
17 line should be, and then take a look at where
18 Southern Water's water lines are located. Our lines
19 are not located in pasture fields, tobacco fields.
20 They're not located in the ditch lines of most
21 places. Our water lines are laid on the slope side
22 of the highway with the guardrail barely holding
23 them intact. And if the road breaks or the creek
24 breaks, our water line breaks, goes into the creek.
25 And that explains about 50 or 60 percent of our

1 water line placements.

2 So we're dealing -- we deal with tough
3 terrain. We -- we deal with high pressures. And
4 that in itself makes it tough to keep the water loss
5 down, and as far as that goes, even to keep the
6 water on. It's a constant, daily battle to keep our
7 tanks full and service uninterrupted.

8 And as I have worked with rural water for
9 several years, Southern Water and Mud Creek as well,
10 become comfortable with a 50 plus percent water
11 loss. If -- if we had water in our tanks and the
12 water on, we were -- we thought we had done a pretty
13 good job that night, because it's basically a
14 day-to-day operation. You never know from the first
15 day you -- when you go in there every morning,
16 what's broke. You don't know where your troubles
17 are. So you assess the situation daily, and you
18 work on it as much as you can to keep the water on.

19 Q And regarding the hydraulics
20 issue you just touched on, Southern District also
21 has that -- that issue where you fix a leak one
22 point in a line and then that causes it to break
23 somewhere else down the line?

24 A Sir, I believe that. I believe
25 if -- we've had lines leak and then when we find a

1 leak and repair it, we don't know how long it's
2 leaked. It could have leaked -- been leaking a
3 day; it could have been leaking a month. So if we
4 patch up two or three lines in one certain area, I
5 believe that the pressure in that system in that
6 area will climb to 3 pounds. And if it does, it's
7 very possible to move on down the line to the next
8 weakest point. I do believe that.

9 Q What are the -- what are, in your
10 opinion, the worst areas regarding water line loss?

11 A The worst area that I feel like
12 is the -- the area where we applied for the KIA
13 loan, the Lackey, Wayland area. We fix -- and I'm
14 going to guess to say 25 or 30 leaks a month in
15 Lackey to Wayland on the service lines alone. We
16 average probably 50 leaks a month total, but Lackey
17 to Wayland is my first -- is always -- well, not
18 always, but it's been my concern for the last few
19 years, is to where we need to start replacing the
20 infrastructure.

21 Q What kind of assistance have you
22 requested and received from Kentucky Rural Water
23 regarding trying to fix water line loss?

24 A We have a, I would guess -- I
25 want to call it a yearly contract. We have a -- a

1 contract with rural water and we -- every year
2 we -- we rely on them to help us with leak
3 detection or finding leaks, and also with
4 paperwork, necessary things to keep us in
5 compliance with the Division of Water and PSC. So
6 we rely on them heavily. And it's a year -- I'm
7 pretty sure it's a yearly contract that we pay at
8 the beginning of January or February.

9 Q And have you found their systems
10 to be helpful, fruitful?

11 A Absolutely.

12 Q Are there any other projects that
13 are not mentioned in this -- in the letter that
14 we're referring to, any other specific projects
15 that you've been involved in that you've consulted
16 with the Board of Commissioners with that you've
17 taken on in order to reduce water line loss,
18 specific -- specific projects that come to mind,
19 other than just going out and trying to find and
20 fix leaks? I understand that that's happening, but
21 is there any -- any projects you've been directed
22 to do by the Water District Commissioners, or you
23 have discussed with and said we're going to focus
24 on this -- this area and this issue to solve a
25 problem?

1 A We've also -- I would address my
2 Board several times probably for the last two or
3 three years that we needed to work on our meters.
4 I -- I let them know that we were out of compliance
5 as far as testing. I have been asking for
6 radio-read meters for quite some time. We have --

7 Q Let me stop you there. When
8 you -- when you told the Commissioners that you're
9 out of compliance with the testing of the meters,
10 did you get a response?

11 A I don't remember exactly what
12 their response was, but it always goes back to
13 money and having enough money to pull X amount of
14 meters from an area and send it off to be tested
15 and then what do we have to replace it with. I
16 don't think they ever -- never denied it, but --
17 denied me of doing -- for doing that, but the money
18 has always been the issue of testing. That's the
19 reason why it's never been done. So it's -- it's
20 always been a money issue and...

21 Q When did you bring that issue up
22 with the Commissioners?

23 A I couldn't --

24 Q Just approximately.

25 A -- I couldn't give you a date.

1 It's been going on for a couple of years that I've
2 addressed meters needing to be retested or needing
3 to be tested, meters that needed to be replaced. I
4 have -- I filed, applied with ARC for grant money
5 to replace our meters with radio-read meters. I
6 was denied, I think, in '17 and we reapplied in
7 '18. But I've addressed with the Board that we
8 needed meters replaced. We needed accurate meters.
9 I was under the impression or belief that our
10 meters are slow. I mean, anything with age
11 eventually wears out. And I -- I would have
12 guessed in my head that I was figuring 10 percent
13 water loss in the meters themselves. So we -- I
14 wanted to start trying to get meters in the system.

15 And our meters being 15 plus years old,
16 didn't think it was feasible to re- -- start testing
17 those meters. And if they're testing bad and not
18 having the money to replace them, I figured it would
19 be better to save that money and buy new radio-read
20 meters with. So that's what I -- that's kind of
21 been my plan the whole time, is to replace my
22 existing meters with new radio-read meters and
23 not -- even though it's not what I'm supposed to be
24 doing -- as far as the testing the meters, I felt
25 like it was better off to get new radio-read meters

1 into my system instead of wasting money on testing
2 the meters I thought that was already bad.

3 Q So essentially the Commission --

4 A Or slow. Not bad, but slow.

5 Q -- so essentially the Commission
6 would state we just don't have the funds, when
7 you'd bring this up, and funds are not available at
8 the time?

9 A Commission could have said the
10 funds are not available, and we could have said --
11 we could have raised rates. Raising rates is never
12 a popular discussion to have with your board or
13 with anybody in the county. No one wants to pay a
14 higher bill for anything. So that's always a
15 sensitive area, is to raise rates. And it would
16 probably -- I mean, we would discuss it and that
17 could very well have been the end of it until the
18 next meeting or a couple meetings down the road.

19 Q You were probably in the hearing
20 room when it was mentioned there's been some public
21 comments to the effect that the -- not all the
22 customers' meters have been being read. Do you
23 have a response to that? Or how -- how do you go
24 about -- what is the process that you go about for
25 reading all of your meters?

1 water again. They can easily call here and say,
2 hey, they never read my meter, but that may not be
3 the case.

4 Q And do you have your employees
5 come back to you and state that they just -- they
6 couldn't get to all the meters because of the
7 geography of the county? They're -- the customers
8 are so spread out that they just -- they ever tell
9 you that they couldn't get to reading all the
10 meters they were supposed to read?

11 A I've never had a conversation
12 that I can recall of them coming back and telling
13 me they could not read all the meters in that route
14 that day. I -- I'm pretty sure that has happened.
15 I'm sure due to accidents or someone moving a
16 mobile home or tractor going up the highway, that
17 they got delayed and couldn't read all their
18 meters. If for any reason that they could not
19 actually read that meter and write it on a piece of
20 paper, then they would have been estimate -- it
21 would say on that bill, that that customer got,
22 that that reading for that particular time was
23 estimated. But that very seldom happens as far as
24 I know. But now that is a possibility that it
25 could -- it may happen a couple of times a month,

1 but I think it happens very few times.

2 Q Do you have -- or does Southern
3 have a complete mapping of the system? Do you know
4 where all the service lines -- where all your lines
5 are in the ground?

6 A No, sir.

7 Q Has that ever --

8 A We have a -- we have a map. We
9 have -- excuse me. We have a fairly accurate
10 up-to-date -- we have an updated map that's been
11 provided to us by Big Sandy Area Development. And
12 we also have maps that was produced to us by our
13 engineering group, Kentucky Engineering. It does
14 not -- neither do I know where all of our service
15 lines are in the county because of the simple fact
16 that when these systems were being built in the
17 late '60s and early '70s, they went through
18 transitional periods where some of the offices
19 burnt. The records were burnt, the maps were
20 burnt. All the taps that were put in in certain
21 areas, there's no documentation. So I don't know
22 where every meter in my system is. I'm sure
23 there's a bunch buried. And I don't know where
24 every service line is in the area. I have a pretty
25 good idea. I know where most of the main lines are

1 and where a lot of the gate valves are, but I
2 don't -- I can honestly say I don't know where
3 everything is because of the way our system has
4 been hodgepodged together with little bit of
5 information here, a little bit of information
6 there, transition of employees in and out with --
7 not documented any of the changes that took place.
8 No, I don't know where everything is.

9 Q In going back to this letter
10 again from Mr. Hubert Halbert, Ms. Johnson was
11 stating on the stand that she believed that these
12 projects had been completed. Is that -- is that
13 accurate? Do you know if these projects were
14 also -- were all completed?

15 A If you would be more specific,
16 yeah, most of these projects that I see on here,
17 the water line from Allen, the five miles of water
18 line from the water plant to Martin, most of
19 that's -- I mean, that project is done. I don't
20 know that we did five miles. We did as much as we
21 could with the type -- with the pipe and everything
22 that we had, because I think there was a time --
23 maybe a delay when the project was bid -- or not
24 bid, but priced. And then when we actually done
25 the work, the cost of material could have went up.

1 But I don't think we did the full five
2 miles, but we did do at least two-thirds of it.
3 I'm -- I mean, that I know. And it did have an
4 impact on our system. We were having daily -- not
5 daily. We were having monthly leaks on this certain
6 portion of pipe, which is a -- it was a 12-inch
7 plastic pipe that fed from the water plant to the
8 main tank in Martin, which is a million gallons. It
9 fed that tank, which -- and that tank feeds both
10 left and right Beaver, the two branches of our
11 system that our plant mostly serves.

12 So when that 12-inch line would break, it
13 would take any -- from the time we found it, rolled
14 up on the scene, anywhere from 12 hours plus to
15 repair. And it was draining our Martin tank,
16 causing outages up left and right Beaver because of
17 the amount of time it took to replace it, or to
18 repair it. So that particular project, replacing
19 that much of that line, has been a major help to our
20 system.

21 Q As far as the -- there's a flow
22 test that was done on the master meter at the water
23 treatment plant that showed it was inaccurate,
24 possibly running 11 to 13 percent fast; will be
25 corrected with the Rural Development project. Was

1 that done?

2 A Yes, sir. The meters -- the
3 meter didn't -- the meter which was perceived to be
4 running fast, sir, was installed in the wrong
5 place. It was -- it was installed when the plant
6 was built. It was -- it was not given the proper
7 pipe diameters. It required to be in front of the
8 pumps to register accurately. So it did need to be
9 replaced and it was replaced.

10 Q And these -- the work crews that
11 are to go out and find -- find and fix lines, leaky
12 lines, are those -- do you still have those crews
13 working to do that?

14 A Since this --

15 Q It makes it sound like there's
16 maybe two different crews that go out and look for
17 broken lines; is that -- is that right?

18 A Sir, we have not followed this to
19 the extent to the letter of the -- to the letter to
20 which it is written. It was originally followed as
21 much as possible, then -- and then when certain
22 emergencies would happen, you would have to pull
23 men and personnel from these particular duties to
24 do other things. I imagine through time, over
25 time, that this policy had been relaxed a little.

1 And there probably was not daily leak detection,
2 per se, strictly going meter to meter looking for
3 leaks, but we fixed and found leaks daily. But we
4 probably never followed this to the letter that
5 it's written.

6 Q But you still have a crew of
7 employees that go out and find leaks?

8 A Absolutely. Started last month.
9 After we had much conversations with this case here
10 and water loss being an issue and I had been
11 questioned on several of my reporting numbers and
12 water loss being as high as it was, I have a
13 three-men crew that works every day -- or five days
14 a week, eight hours a day in areas where we have
15 verified through our water plant. And they're
16 using their telemetry and their tank draw-downs and
17 their pump station run times to determine where we
18 have a higher loss that night. So I will send my
19 guys into that area and we will work there as long
20 as it takes. And sometimes you can find it in a
21 day, sometimes it's a week. Sometimes you may not
22 even find it. You may have to move on to the next
23 one. But, yes, I have a leak detection crew
24 working eight hours a day or more for at least --
25 at least the last month.

1 Q And do you have to pay those
2 employees overtime on a regular basis?

3 A Absolutely.

4 Q And is that due to just the
5 emergency nature of getting it fixed, getting the
6 lines fixed?

7 A That's due to there's just not
8 enough hours in the day to do what we have to do.
9 We have -- our guys work their regular eight-hour
10 shifts. And I'm fortunate enough to have a crew of
11 men that does not care to double back and work the
12 extra six, eight, 10 hours it takes to fix these
13 water line breaks and to keep the water on. But,
14 yes, overtime is an issue and it would be cut
15 drastically if we could get lines replaced and slow
16 the leaks down.

17 MR. BOWKER: I have no further questions,
18 Mr. Chairman.

19 CHAIRMAN SCHMITT: Mr. McNeil, questions?

20 MR. McNEIL: Yes, a few. Thank you.

21 EXAMINATION

22 By Mr. McNeil:

23 Q Mr. Hall, good afternoon. Give
24 you a second.

25 A Good afternoon, sir.

1 Q Can you tell me, are you
2 personally aware of Southern providing free water
3 to any customers without meters?

4 A No, sir, I'm not.

5 Q Okay. Are you personally aware
6 of Southern providing free water to customers that
7 might have a meter in exchange for services?

8 A No, sir, I'm not. Could I ask
9 what kind of service you're referring?

10 Q Any goods -- exchange of goods in
11 exchange for water service.

12 A Free -- your question is free
13 water for services. That's ridiculous.

14 Q Okay. And do you currently have
15 a written water loss management plan?

16 A I have -- last month I've --
17 along with the aid of Kentucky Rural Water, I have
18 a couple of water loss prevention plan, leak
19 detection plans. I think -- I think I do, yes.

20 Q Do you know if those have been
21 entered into the record in this case yet?

22 A I think I may have provided them
23 to my attorney. I don't know. He -- I'm not sure
24 if they have or not.

25 Q I'll just ask if they have not

1 been, could you provide those in a post-hearing
2 data request, please. Thank you.

3 Do you have any idea of any timelines in
4 those prevention plans for reducing leaks? Any
5 ballpark?

6 A I think it would be -- I don't
7 think it would be fair. I don't think it would --
8 I don't think there's no way I would, or anyone
9 else could possibly tell you how long it would take
10 to fix these leaks and repair this broken system.
11 I can assure you we will work every day as hard as
12 we can. Realistically, our water loss being --
13 well, if you want to call it 60 or 65 percent, I
14 realistically believe 30 percent would almost be a
15 miracle. If we could get Southern's loss to
16 30 percent, it would be nothing short of a miracle
17 due to the pressures and the terrain and everything
18 I've -- I've known and experienced through time.
19 I --

20 MR. CICERO: Thirty (30) percent is worth
21 about \$126,000 dollars or so -- actually,
22 no, about \$250,000. It was 386,000 that
23 was being lost.

24 A I assure you from last month
25 forward, we will do everything in our power to

1 reduce the water loss -- the water loss percentage.
2 I still believe that I'm -- there's mistakes being
3 made in my paperwork that I'm submitting. I think
4 the PSC had noticed some numbers that had been put
5 in. That was the numbers that have been used
6 forever. There's no documents for that. And it's
7 well-known. You know that.

8 Still yet based on meter reading cycles and
9 in the way the -- our wholesale -- our wholesalers
10 sell to us, the dates that they read, the dates that
11 I read my meters, I don't know if they're getting
12 applied from month to month the way they should be.
13 I'm -- and I've asked the Rural Water to help me to
14 straighten my documents up.

15 Historically, no matter what has been turned
16 in for our water loss for the last 10 years, I think
17 if you look at bought and sold, that number is going
18 to be high. If you look at what we sell every month
19 compared to what we produce or buy, that number is
20 going to be pretty consistent. Now, the water loss
21 over the years is going to be up and down, but
22 that's just based on the numbers that's plugged in
23 and those are estimates, so -- but I can assure you
24 moving forward the -- we will work diligently to
25 improve that water loss, but I can't give you -- I

1 cannot give you a time frame. I don't think it
2 would be -- I don't think -- I just think we would
3 be doing ourself an injustice trying to say, hey,
4 we'll get it down to 30 percent in six months. I
5 don't think that's going to happen. And we'll just
6 do the best we can.

7 MR. McNEIL: Understood. Thank you.

8 That's all I have, Chairman.

9 CHAIRMAN SCHMITT: Commissioner Cicero,
10 questions?

11 EXAMINATION

12 By Mr. Cicero:

13 Q I guess, in your opinion there's
14 really nothing the District can do to reduce water
15 loss beyond some range at the top? 30 percent
16 would be the best you can do in a --

17 A Sir, I believe if we relay our
18 complete entire water lines with ductile iron pipe
19 and all of our copper -- all of our service tubing
20 from that ductile iron pipe to the meter was
21 copper, I'd say we could meet that 15 -- 10 to
22 15 percent water loss or maybe less. But short of
23 replacing the vast majority of my water system, I
24 don't think -- I think -- well, I've -- I've told
25 you.

1 Q So you have some kind of a
2 capital plan that approaches this on a five-year
3 plan, a 10-year plan that says I'm going to do this
4 much this year or whatever? You put together some
5 kind of a plan that says where I'm going to attack
6 the issue?

7 A I don't think we have a written
8 plan of attack. I usually identify these areas
9 just based on the amount of time spent in those
10 fixing leaks. I would ask my engineers to help
11 develop a plan to -- to relay lines and stuff like
12 that, so -- but as far as I know, we do not -- we
13 do not have a written capital improvement plan. We
14 may have, I may be missing it, but we do not have
15 nothing in place to attack this problem.

16 Q When you went to KIA for a loan,
17 did they not require some kind of a plan for the
18 project that the money was going to be spent on?

19 A Sir, I would imagine so. I -- I
20 rely probably 100 percent on my engineers to put
21 together that profile and send it to KIA, and I
22 would -- I would answer -- I mean, I would help
23 them with questions they may have to help get that
24 project together. But the projects are usually put
25 together by our engineers and submitted to the

1 various agencies.

2 And KIA was on board with us originally to
3 replace the Lackey to Wayland lines, and also to
4 replace a potential failing water tank called Mink
5 Branch. And after they realized or seen that
6 Southern was in the process of transferring water
7 customers and the immediate cash flow deficit that
8 it caused, felt like Southern may not be able to pay
9 that loan back -- those loans back. So they put it
10 kindly -- they put it on hold until Southern could
11 get a rate increase. But we were on track for that
12 until KIA found out about the transfer of our
13 customers.

14 Q So there might be a capital plan.
15 As the general manager, I would think that you
16 would have some input into that and would know
17 whether it exists or not. But going to the other
18 side, KIA did the make-good analysis that I've
19 referred to before and decided that the revenue
20 loss was so great that you wouldn't qualify for a
21 loan. So someone did a make-good analysis, but,
22 apparently, it was after the fact because your loan
23 was denied because of revenue loss?

24 A I guess.

25 Q Which the District should have

1 done before this deal was entered into. I guess
2 that's beside the fact. Have you done any type of
3 an estimate of what it would cost to replace your
4 meters? Have you presented the Board with that?

5 A Yes.

6 Q So you have a number?

7 A Yes.

8 Q And you gave that to the Board
9 and the Board has told you, no, that we can't
10 afford it?

11 A In a roundabout way, I would
12 guess that's correct.

13 Q So has there been an analysis
14 done of your meters to say if I eliminate three
15 meter readers and I improve my water revenue by 10
16 to 15 percent because my meters are reading low,
17 this is the benefit that I receive that offsets the
18 cost of the meters?

19 A There's not been an analysis to
20 that extent presented to the -- to my water board.

21 Q I just don't know how Southern
22 operates. There's a lot of discussion that goes on
23 and good intentions. But without some kind of a
24 management direction that says, here's my plan or
25 this is how I'm going to attack it or here's -- and

1 I know it's a small district, don't get me wrong.
2 It's hard to afford professional services or to pay
3 somebody on an ongoing basis for that to happen.
4 But there still has to be some -- when a decision
5 is made of the magnitude of some of these
6 decisions, there should be something that occurs
7 where the decision is based on numbers on a piece
8 of paper, not on a discussion of the end result as
9 I feel good about this, so I'm going to do it,
10 because we all have good gut feelings. You know,
11 if they work, there would be a lot of rich people
12 at the horse track and wherever else that good gut
13 feelings work out.

14 But it does seem to be an issue that there's
15 not this next step after the problem is identified
16 on what the decision is based on for the end result.
17 And that's where things seem to be lacking in my
18 opinion. It's -- I mean, I think you've got a great
19 idea with the meters, but I'm not sure it's been
20 presented in a manner that the Board could say, yes,
21 hey, wait, I can save this much money by putting in
22 the meters and letting you know that the Public
23 Service Commission is more interested in trying to
24 help out with infrastructure problems and pipe line
25 replacement, whatever, maybe there's some

1 possibility there. But I would encourage an
2 analysis to find out where that program could go to
3 if you looked at all the benefits versus the cost,
4 because it may be -- it may be financially viable.

5 I know that didn't require an answer, but
6 that was...

7 THE WITNESS: Thank you.

8 MR. CICERO: I don't have anything else,
9 Chairman.

10 CHAIRMAN SCHMITT: Commissioner Mathews,
11 any questions?

12 EXAMINATION

13 By Dr. Mathews:

14 Q Just for my own sake, if a rate
15 increase is granted as a result of this, you will
16 apply for the KIA loan, or it will go back in the
17 hopper?

18 A It will go back into the hopper.

19 Q And I don't know if you said how
20 much of the water loss you think might be
21 attributed to -- how much might be fixed if you
22 replaced that Lackey to Wayland line.

23 A Again, I've been chastised with
24 my estimate numbers that I've been providing --

25 Q Well, I'm allowing you to do an

1 estimate. I'm asking you for an estimate. How's
2 that?

3 A I would guess to say 10 to
4 15 percent water loss in that area. Could be
5 higher, but it's pretty significant.

6 Q It's significant enough that you
7 said you spent an inordinate amount of time in that
8 particular area?

9 A Yes. I know that. I mean, I
10 know how much time we spend there and what we do
11 over there on a daily basis, so, yeah, I spend as
12 much or more time there than I do anywhere.

13 DR. MATHEWS: Okay. That's all I have.

14 EXAMINATION

15 BY CHAIRMAN SCHMITT:

16 Q Mr. Hall, I guess you were here
17 when Mr. Campbell testified earlier today that in
18 the two water distribution areas that Prestonsburg
19 took over from Southern, that they found about 40
20 people who had -- were taking water or receiving
21 water, but apparently had no meter. Do you recall
22 that -- that testimony?

23 A Yes.

24 Q How can you explain that in three
25 or four, five months Prestonsburg found these

1 people who were getting water, but were never --
2 water was never being metered, and Southern for
3 years had allowed -- apparently allowed this to
4 happen and never found the same thing?

5 A Sir, we don't allow anyone to
6 steal water. It happens on a daily basis. I'm
7 sure -- I don't know this, but I'm fairly
8 confident, due to what I -- we've found in the
9 past.

10 Back to the area that Prestonsburg assumed
11 from Southern, I would imagine they had five to ten
12 people -- they had more boots on the ground in that
13 area finding meters that we probably didn't know
14 about, fixing leaks, finding valves that we didn't
15 know about. When Southern was managing that
16 particular area, we were hardly ever -- we were
17 never in the Sandy Valley Water area unless we were
18 doing leak detection at night or reading the meters
19 or fixing a leak during the day. So it would be
20 understandable to me that if they're over there with
21 a whole host of employees that I don't have the
22 luxury of, over there going meter to meter hollow --
23 every hollow, that they can uncover things that I
24 just didn't have -- or my men, we didn't have the
25 ability to do.

1 you -- do you watch any of the Martin County cases
2 where the --

3 A Unfortunately, I did watch some
4 of it trying to get ready for this one. I wish I
5 hadn't.

6 Q They had -- well, the second
7 largest creditor was the hardware company. Also
8 was supplying all of the material for somebody else
9 to -- to circumvent the meter.

10 A That's true. That's correct.

11 Q That's pretty good -- that's
12 pretty good position to be in as a business if you
13 can --

14 A Yes, it is.

15 Q -- get away with it.

16 A And there's no doubt, if you know
17 the right people, you can go to certain flea
18 market -- you can go -- you can go in certain areas
19 of about any county in Eastern Kentucky and find
20 something to put in a meter setting to steal water
21 with.

22 Q Now, I guess, Mr. McNeil, from
23 the Attorney General's Office, asked you if you
24 knew about anybody was getting water in exchange
25 for something else, food or something. Have you

1 personally ever been interviewed by a police
2 officer or somebody at the Attorney General's
3 Office investigating a complaint that you were
4 allowing people to receive water free in exchange
5 for some benefit for you or your family?

6 A I am not.

7 Q You didn't -- you ever hear that
8 before I just told you today?

9 A I heard it about 10 minutes -- I
10 heard it today when I got here. I don't know --
11 it -- it was this afternoon, that apparently I've
12 been -- or I'm being investigated for providing
13 free water to businesses for services that's -- but
14 I've never been -- I've never been -- I've never
15 spoken with a police officer or anyone of that
16 nature. That's -- that's crazy. I mean...

17 Q You were never notified a
18 complaint had been made or anything like that, to
19 the Attorney's General's Office, apparently? We
20 got a copy of it --

21 A To my knowledge --

22 Q -- our investigation.

23 A I -- today is the first time I
24 have heard of that. I'm not surprised with that
25 comment. I'm not surprised with the public

1 comments that was made in the rate hearing. I
2 mean, there is several -- there's a lot of
3 disgruntled customers everywhere, not just in
4 Southern, but there's people that don't want to pay
5 their bills. And if you have to cause them to pay
6 their bill -- if you make them pay their bill, if
7 they have a higher reading and you won't budge with
8 an adjustment, which they're allowed one a year if
9 it meets the criteria, leak adjustment. But if we
10 don't bend over backwards and -- and do exactly
11 what our customers want sometimes, and we have to
12 draw the hard line and be firm with them, it
13 doesn't surprise me that there's people out there
14 that's going to have negative comments toward me or
15 my family or anything else. I mean, that's the
16 nature of the business. I'm -- but I'm not
17 surprised, but there's no truth to them
18 allegations.

19 Q During the ordinary course of
20 business, does Southern Water District ever
21 contract with third parties for services like
22 excavation services, you know, laying lines, doing
23 leak repairs?

24 A Not that I'm -- no, no.

25 Q So all the work done by Southern

1 or for -- by or for Southern Water District would
2 be done by Southern's employees; is that correct?

3 A On a daily -- on a daily basis,
4 yeah, we do all of our work in-house. If there is
5 special projects, like laying of the line from
6 Allen to Martin and big projects, it is -- it's bid
7 out. We don't contract anybody to fix our daily
8 stuff.

9 Q Do you contract with anybody to
10 do work for or on behalf of Southern Water District
11 for sums less than \$20,000, which would be, you
12 know, over \$20,000 presumably you got to bid those
13 projects out?

14 A Yeah.

15 Q Do you ever work with somebody
16 under \$20,000?

17 A To my knowledge, sir, we have
18 not. We have not worked with any contractor on any
19 project at all. And under \$20,000 -- and anything
20 over \$20,000, big projects, is properly procured
21 and bid out.

22 Q Okay. And is someone in
23 Southern, your engineer or you, responsible for
24 seeing that the projects are bid, advertised in the
25 newspaper, and so forth?

1 A Yes. Usually, my engineers do 80
2 or 90 percent of the legwork, and I -- I advise or
3 aid them in the process, but, yes.

4 Q Do you know whether or not the
5 Southern Water -- Water and Sewer District operates
6 under the Kentucky Model Procurement Code?

7 A I honestly don't know what the
8 Kentucky Model Procurement Code is, so --

9 Q I assume you don't -- you're not
10 operating under it then.

11 The -- I guess when Ms. Johnson was on the
12 stand, I asked her about these issues or some of
13 these statements that apparently appear in the most
14 recent Public Service Commission inspection of
15 Southern Water District such as, "Utility stated
16 they have 5,000 meters that are 13 to 15 years old,
17 have never been tested, and 500 meters that are less
18 than two years old." Would that be essentially
19 accurate or not?

20 A I -- I think it's fairly
21 accurate, yes.

22 Q And that's why, because of those
23 older meters, you'd rather have new meters, radio
24 AMR meters, than you would testing all of these
25 others that are probably toward the end of their

1 useful life?

2 A Yes, sir.

3 Q "Utility stated the average
4 distribution of service line in the system is 50
5 years old." Is that about right, too?

6 A 60 to -- 60 or 75 percent of our
7 original lines are that old, yes, sir.

8 Q And I guess being in the utility
9 business for years, you'd acknowledge that they're
10 approaching the end of their useful life; right?

11 A Yes, sir.

12 Q And that good business practice
13 would involve having some kind of a plan moving
14 forward to identify the areas that needed to be
15 replaced sooner rather than later, and if no money
16 was available, start thinking about where the money
17 would come from --

18 A Yes.

19 Q -- correct?

20 A Yes.

21 Q Of course, if you could borrow
22 money from Rural Development or -- or Kentucky
23 Infrastructure Authority, you might be able just to
24 tell them what you were going to use it for, but
25 they probably would never monitor you to see that

1 you actually used it for that purpose, would they?

2 A I don't know what Rural
3 Development or KI -- I don't know how they would
4 monitor me on how I spent the money. I mean, if I
5 borrow money for a particular project, I would
6 imagine -- I can't speak for them, but I would
7 imagine they would monitor how I spend it.

8 Q But if you came before the Public
9 Service Commission and had to account for a
10 pipeline replacement program, like the largest
11 utilities in this state do, like Atmos does, like
12 Columbia Gas, they come in and they have a plan.
13 And every year or so, they come in and we know what
14 they have done. They produce receipts and we have
15 to -- we approve their true-ups for what they've --
16 you know, what money they've spent. Is there any
17 reason why a small utility like Southern Water and
18 Sewer District couldn't do that, too? I mean, you
19 could do that, couldn't you?

20 A Sir, I don't know. I think I
21 would be willing to try. I won't guarantee you
22 that I can. Sorry to say that we're not as big or
23 as professional as some of the larger utilities
24 are. We don't have the -- the money or probably
25 the expertise --

1 Q Here's -- here's --

2 A -- they have.

3 Q -- the issue. I mean, get down
4 to it, and it kind of startled me. One time many
5 years ago I -- the first -- one of the first few
6 medical malpractice cases I had, I had -- I got a
7 summary judgment in a case for the old Paintsville
8 Hospital Company. And it was just an old building
9 and they even had some beds propped up on pop cases
10 and things, and they didn't have a -- didn't have a
11 doctor manning the emergency room. And at night
12 the cleaning woman kind of did that and called it
13 in and -- so in any event, I was arguing in support
14 of my position before the Court of Appeals and I
15 said the same thing. I said, well, we're just kind
16 of a little rural hospital and we can't afford to,
17 you know, provide the same things they can at
18 St. Joseph's Hospital or -- or Central Baptist.
19 And the Court of Appeals judge said, well, maybe
20 you ought to close your hospital down so somebody
21 can come in there and provide the care that's
22 necessary.

23 And I tell you that people in Floyd County,
24 in rural Floyd County have the same right to good,
25 clean water at a reasonable price that people do in

1 Lexington, Louisville or Frankfort. And at some
2 point in time, you know, the fact is, we don't have
3 the money -- you may say, well, that may be a fact,
4 but then it becomes time to try to do something
5 about that and get it fixed.

6 Has Southern been negotiating at all with
7 any, a private company or anyone else with respect
8 to either managing the District or selling the
9 assets to somebody?

10 A Sir, we was contacted -- I don't
11 know, the -- it was probably in the middle of last
12 year. Someone from Kentucky American Water, I
13 think, had picked up through the papers or through
14 the rate cases that Southern Water had applied for
15 this rate increase. And they had reached out to a
16 few of my Board members and they had come to the
17 water meetings and expressed an interest in
18 managing Southern Water. So the answer would be
19 yes.

20 Q Do you -- have you been involved
21 in any of that? Do you know if there are any
22 ongoing negotiations or plans?

23 A I have -- I guess I've been
24 involved with it as much as any of the others.
25 There's no ongoing -- it's kindly frozen. We've

1 never really -- we never asked for them to come in
2 and -- and want to manage us. And we were waiting
3 until after this PSC -- until this hearing was over
4 to see how the PSC addressed our issues and what --
5 was going to take the PSC directions.

6 Q Do you ever get to see any of the
7 orders that come out of the PSC, or any things like
8 the comments to the staff report that the Attorney
9 General's Office filed?

10 A I saw those.

11 Q Okay. And the Attorney -- one of
12 his suggestions the Attorney General's Office made
13 was that maybe the Commission ought to consider
14 trying to merge Southern Water with somebody else?

15 A I saw that.

16 Q I take it that you and maybe the
17 Commissioners of your district wouldn't be in favor
18 of that?

19 A I don't think so. I don't think
20 it would be -- I don't think it would be fair to
21 our customers.

22 Q Why would that be?

23 A I just think that we know our
24 customers better than any large utility would. And
25 I think just on the personal level and community --

1 a community system knowing its customers would
2 provide a better service than a company outside of
3 the region that has no connections to our -- our
4 people in our area.

5 Q You don't think that a company
6 that with the managerial expertise and resources
7 that was able to spread the unit cost of operating
8 the system over thousands of customers, 25, 30, 40,
9 50, 60,000 customers as opposed to 5,000 customers,
10 would be better able to serve -- serve the people
11 of Floyd County?

12 A I think what you're saying is
13 correct. I mean, if you've got money to spend on
14 the system and you can spread your rates out over
15 the whole state, over four or five utilities that
16 they run, yeah, I mean, I can see that benefit.

17 Q Well, that's what they do.
18 Somebody -- I'm not advocating for Kentucky
19 American Water Company, but that's what -- that's
20 why Lexington criticizes them, is because when they
21 buy other systems, they spread the cost over the
22 entire -- the entire -- the system wide as opposed
23 to basically letting one area have to bear all the
24 costs.

25 A Yeah. What you're saying is a

1 fair assessment. Southern Water had previously
2 been under contract management and -- for probably
3 five, six years. And it had little to no effect on
4 the water loss of Southern Water. It -- it never
5 really improved the situation. It did -- did help
6 get water lines on out into the system that was not
7 served. But we've been down that road before and,
8 honestly, I can't sit here and tell you with a
9 straight face that I know they did much better than
10 we're doing right now.

11 Q Mr. Hall, how long did you say
12 you've been with Southern Water and Sewer District
13 and its predecessor?

14 A Twenty --

15 Q Twenty-five (25), 30 years?

16 A Twenty-five (25) plus years,
17 25 1/2.

18 Q And now you hold a position, I
19 guess, as administrator or general manager or
20 whatever. So what -- what are the various
21 positions you've actually held -- when you first
22 came on to work in a water district, was it Big
23 Sandy or Mud Creek?

24 A Mud Creek Water District. I was
25 hired, sir, as a -- as a meter reader and general

1 laborer.

2 Q How long did you work in that
3 position?

4 A It took two years. At that time
5 Southern Water -- shoot. Mud Creek Water never had
6 a licensed operator. They were borrowing a
7 operator from another utility, so I worked two
8 years as a meter reader, general laborer. Got
9 enough time in to go to take a test with the
10 Division of Water Compliance. I obtained my
11 distribution license and become the manager of Mud
12 Creek Water in about '95, two -- two years from the
13 time I was hired, two and a half years. And I
14 managed Mud Creek Water up until 2000. And then
15 we -- the merger came about, made Southern Water.
16 Southern Water's Board at that time hired a private
17 contractor to manage Southern Water. I worked for
18 that private contractor. And when that contract
19 was dissolved, went back to work for Southern
20 Water.

21 Q And at one time Mr. Halbert was
22 the general manager. And when he was, what was
23 your position?

24 A I was -- I don't know if I had a
25 particular title. I would have been a area boss, a

1 field supervisor, overseer of -- I done leaks,
2 fixing leaks, setting meters.

3 Q Other than the work you've done
4 at Southern Water and Sewer District, have you had
5 any formal education or training in, like, business
6 management? Do you have a college degree in
7 business management or accounting?

8 A Sir, I have a Bachelor's degree
9 from Morehead State University, but it is not in
10 business nor finance.

11 Q What is it in?

12 A It's in social studies. It was
13 in geography and history.

14 Q I noticed in the -- I guess the
15 information that you-all sent, there was a list of
16 employees and it had, I guess -- I thought it would
17 be salaries, but it had hourly rates and it had
18 your -- I guess 2018 -- it had your pay rate at
19 \$32.76 an hour; is that correct?

20 A I believe so.

21 Q Are you an hourly employee?

22 A No, sir. I'm salary. Me and my
23 plant manager -- there's only two people that works
24 for Southern that are salaried, and that is myself
25 and my water plant manager.

1 Q Well, I thought it was unusual
2 for the general manager to be an hourly employee.
3 I take it that there are times when you have to
4 work more than 40 hours a week?

5 A Yes, sir.

6 Q And do you get paid overtime?

7 A No, sir.

8 Q In your job as general manager or
9 administrator, are you eligible for a bonus of any
10 kind?

11 A I'm not eligible for anything --
12 any more than the rest of my employees are.

13 Q Well, are you eligible for -- do
14 you ever get a bonus?

15 A No, sir.

16 Q Any of your employees ever get a
17 bonus, Christmas or for, you know, great service or
18 anything like that?

19 A If you want to specify a bonus,
20 we do not get a bonus per se. But our employees at
21 Christmas and Thanksgiving do receive -- all of us
22 receive the same thing and, you know, if that's a
23 bonus, then I guess we get that.

24 Q Well, what is that same thing?
25 What is it that you get?

1 A Okay. For Thanksgiving our Board
2 gives each employee \$50 for Thanksgiving. And for
3 Christmas, each employee gets \$100 gift card. \$50
4 gift card for Thanksgiving, \$100 gift card for
5 Christmas.

6 Q Do they withhold from that or is
7 that something that's outside the --

8 A There's no with withholdings.
9 There's --

10 Q There's no withholding?

11 A No.

12 Q As part of the -- of your job, do
13 you have a company vehicle to drive?

14 A Yes.

15 Q And do you drive that home?

16 A Yes.

17 Q Are you allowed to drive that
18 for, like, your personal benefit, if you had to go
19 to grocery store or something?

20 A No.

21 Q So you don't use it at any time
22 for any kind of personal --

23 A If --

24 Q -- personal use at all?

25 A If I have to go -- yeah, I do use

1 it for personal use. If I have to go out and
2 monitor or visit anything in our system, look at a
3 pump station, look at a tank, check on my work
4 crew, various things that I might be called out to
5 do, if I need something along the way, I mean, I
6 would stop at a store. I wouldn't...

7 Q Other than you, are there other
8 employees of Southern who -- who are provided a
9 company vehicle that they take home at night?

10 A Yes.

11 Q Okay. And how many of those
12 people are there?

13 A There's about four different
14 vehicles that are used. My two field supervisors,
15 as we'll -- we'll call them, are provided a truck
16 to take home because -- because if they get called
17 out, they'll need it. And then my on-call guy -- I
18 have two guys on call. One is an operator,
19 excavator operator, and one is a general laborer.
20 So probably five vehicles that are used that are
21 taken home.

22 Q Who are the -- can you tell me
23 the names of those people who are entitled to five
24 vehicles?

25 A My two field supervisors are

1 Chris Robinson and Reece Salyer.

2 Q What about the other two?

3 A Those vary depending on who is on
4 call.

5 Q Could be anybody? They just get
6 assigned?

7 A Yes.

8 Q And only at those times are they
9 permitted to take the vehicles home at night;
10 correct?

11 A Yes.

12 Q And, basically, your total salary
13 would be, what, 65 to \$70,000 a year?

14 A It's never been 70, but 65 plus,
15 a little over 65.

16 MR. CICERO: Sixty-eight (68) maybe?

17 Sixty-eight (68), I think that was the
18 last...

19 A I'll agree -- confer to that.

20 BY CHAIRMAN SCHMITT:

21 Q In the annual reports and in
22 these water loss statements, I guess, since at
23 least 2012, '11 or '12, there's been a calculation
24 put in that local fire departments use
25 60 million gallons of water a year. Do you know

1 where that figure came from or who it is that's
2 responsible for plugging that figure in?

3 A Sir, I'm the one that plugs that
4 in. It's already plugged in. I have a Excel
5 spreadsheet on my computer that has the PSC water
6 loss report monitor on it. That number, 5 million
7 gallons per flushing and fire department has always
8 been in there. I can't say that we -- I can't
9 prove that they do that much, but I can't say that
10 they do or don't. But that number has always been
11 in my spreadsheet and I allowed it to stay.

12 Q Well, I wondered because it
13 hadn't always been on -- in the annual report.
14 It's only been in the annual report since the
15 Public Service Commission started expressing a
16 heightened interest back seven, eight years ago in
17 water loss. And, of course, with that 120 million
18 gallons of water in there, it's always kept your
19 water loss at 39 to 44 percent as opposed to what
20 we got now, about 60 percent, okay.

21 A Sir, I don't know where that
22 number come from. Back in 2012, I wasn't doing
23 that report.

24 Q You weren't the general manager
25 then. I understand that. Mr. Halbert was.

1 A And I wasn't doing that report,
2 but somewhere along the line, some of our -- I'm
3 assuming some of our employees, some of -- so
4 whoever was doing that report had come up with that
5 number and felt like that was a fair number to put
6 in there. And I had no reason to change it. I
7 can't document -- I can't prove it. But since it's
8 been called into question and I can't prove it, I
9 have reduced it to what I think is the best
10 estimate that I can provide to you. But it's an
11 estimate nonetheless.

12 Q And what is that estimate?

13 A On fire department usage?

14 Q Yeah.

15 A Fire department usage is -- is a
16 percentage based, I think, on .03 times my monthly
17 sales. And I got that number from talking with
18 Kentucky Rural Water. They felt like that might be
19 an accurate number to use. But it's .03 times
20 monthly sales to give me my fire department usage.
21 My flushing usage that I'm currently listing is
22 based on flushing eight different hydrants every
23 day that we must flush every day to keep in
24 compliance with our -- with the DBP Rule and try to
25 stay in compliance on that. So we're flushing

1 eight different hydrants in certain areas of our
2 system for at least 10 minutes at what we feel
3 like, I think, is 25 to 50 gallons per --
4 25 gallons a minute, I think. That's how I'm
5 getting that number, based on -- we don't have a
6 meter, but it's based on what I feel like is --
7 what's coming out of that hydrant for the amount of
8 time that it's coming out of that hydrant. And
9 but --

10 Q You know the size of the opening
11 of the hydrant?

12 A Yes.

13 Q In fact, your annual reports
14 actually show the size -- they show the meter,
15 because you have so many 100 meters of this and --
16 and a different size. And so I suppose if you knew
17 the flow rate and the -- and the diameter of the
18 pipe or opening, you -- and you knew the time, you
19 could compute the amount of the water that
20 supposedly came out of -- it would be close,
21 relatively close; right?

22 A Yes, sir.

23 CHAIRMAN SCHMITT: Okay. I have no further
24 questions. You have any questions?

25 MR. STROBO: Yeah.

1 EXAMINATION

2 By Mr. Strobo:

3 Q Mr. Hall, going back to your
4 relationship with other outside entities. So you
5 list some of those you said you worked with to help
6 you solve and address your water loss and
7 infrastructure issues. For example, your engineer?

8 A Okay. Yeah. I'm -- I'm lost
9 there, Randy.

10 Q Do you work with Kentucky
11 Engineers?

12 A Yes.

13 Q Who do you work with at Kentucky
14 Engineers?

15 A I work -- I work mainly with Troy
16 Hogg. He's our -- he's our -- he's what Kentucky
17 Engineering -- he serves our -- I mean, our utility
18 from there -- for them. I also work with Holly
19 Nicholas, but I've also worked in times -- I've
20 worked with just about all of them. I mean, Bob
21 Taylor, Jim Thompson.

22 Q And what do they help you with?

23 A They help us with a lot of the
24 paperwork that needs to be filed to get projects
25 moving with KIA or RD. They help us in a lot of

1 ways with projects and making sure that we file
2 them properly and do the procurement.

3 Q Do they help you prioritize what
4 projects you need to have done?

5 A They help, but they -- I guess,
6 they leave that up to us, to me and the Board, to
7 determine the areas that we want to go into and
8 work. And we identify that and then they help us
9 get it together.

10 Q So Kentucky Engineering, do they
11 do some of the design work for the projects as
12 well?

13 A I think they do it all.

14 Q And this KIA loan that we've been
15 talking about all day that is currently on hold,
16 did Kentucky Engineering assist you with that?

17 A Yes.

18 Q Okay. And have they assisted you
19 with any other projects that are currently on hold?

20 A They have assisted us in trying
21 to replace the Mink Branch tank.

22 Q Describe that to us -- for us, if
23 you don't mind.

24 A The Mink Branch water tank is 50
25 plus years old. It's 150,000 gallon tank.

1 Somewhere around in the mid '80s there was a
2 landslide near it or under it. And since then I
3 think the tank structure itself has been
4 jeopardized, because the tank walls, especially on
5 the lower level, is starting to bulge out and
6 showing stress. And that particular tank serves
7 close to -- we'll say over 500 customers. There's
8 four different pump stations that pull directly
9 from that tank. If we lose that tank, I'm going to
10 have people out of water for a long period of time.

11 Q And is it your understanding if
12 you get a rate increase, as you have requested,
13 would that allow those loans to move forward?

14 A Yes, sir. The rate increase
15 would help with the Lackey to Wayland project, and
16 the water tank project as well.

17 Q Now, going back, way back to 2017
18 and the Asset Purchase Agreement, were you
19 assisting with the negotiations?

20 A No, I -- no, I was not. First
21 time that Southern Water was made aware of this
22 Asset Purchase Agreement, there was already
23 conversation that had taken place between then
24 county judge executive and, I think, Mr. Eddie
25 Campbell. The county judge came to our Board

1 meeting saying he was going to help Southern get
2 out of the sewer business. Basically everything
3 you've heard up to date. He was going to help us
4 get out of the sewer business and this was what --
5 this was what was going to happen. This is what
6 needed to happen to expedite that.

7 Q Did you have an opinion on
8 whether or not Southern should follow through with
9 the --

10 A Yes. When -- when that was first
11 presented to our Board, the first time I heard
12 about it, I objected, I told -- I expressed to the
13 Board, I expressed to the judge and his -- the
14 people that was with him, that I didn't feel like
15 that was a good plan for Southern Water. Basically
16 transferring 1,100 of our water customers would
17 hurt us financially. We'd basically be left with
18 5,500 customers or 5,400 customers trying to pay
19 the bills that 6,500 customers were paying. I felt
20 like that was not a good plan. I objected. My
21 Board objected as well, but we were -- later, after
22 much conversations with them, I felt like I was not
23 in a position -- as being the general manager, I
24 was not -- I could not vote yes or no on it, but I
25 expressed my concerns and I left it at that.

1 Q So you expressed your concerns at
2 Board meetings?

3 A Yeah.

4 Q And did you have -- at the time
5 of the Asset Transfer Agreement going through, did
6 you have any opinion on how that may impact future
7 loans?

8 A I didn't know how it would impact
9 anything, but I'd -- I had a good -- which we've
10 talked about earlier, gut feelings won't always
11 help you, but I had a feeling. And not being a
12 financial -- not having a business degree or
13 financial background, I had a pretty good idea that
14 losing those customers would hurt us in the future.
15 And as soon as the customers were transferred, we
16 noticed a little over a 40,000-dollar decrease in
17 our operating expenses, in our cash flow.

18 Q I'm going to switch a little bit
19 to Kentucky Rural Water Association. How long have
20 you been, have you personally been, working with
21 them at Southern?

22 A Twenty (20) -- 20 -- 20-some
23 years. I mean, I started with Barry Back -- that's
24 no longer with them -- when I was working at Mud
25 Creek Water.

1 Q And it's your understanding that
2 Southern is a member of the Kentucky River Water
3 Association -- or Kentucky River Water Association?

4 A Yes.

5 Q And through that membership you
6 get services from --

7 A Yes.

8 Q -- the water company?

9 And up until recently, your point person was
10 who, as of two years ago, for the most part?

11 A Danny and Tim -- Tim for a long
12 time, and Danny Stinson has been carrying out and
13 been doing a very good job. It could have -- it
14 could have been two years. Yeah, I've been working
15 with both.

16 Q But more recently you've been
17 working with Danny, Mr. Stinson?

18 A More recently, Danny.

19 Q And today?

20 A Yes.

21 Q I'm going to hand you a document.
22 And we have copies for everybody.

23 For the record, can you identify it?

24 A (Witness reviews document.)

25 Q You got them all? Thanks.

1 Are you familiar with the -- are you
2 familiar with the document I just handed you?

3 A Yes.

4 Q And what is it?

5 A Leak Detection Standard Operating
6 Procedure.

7 Q And did you work on this document
8 yourself?

9 A Mr. Danny Stinson prepared
10 95 percent of this. I think I had some input. But
11 for the most part, this was prepared by him. I
12 probably had a little -- I don't know exactly how,
13 but it was a little bit much, but I would credit
14 Danny for the -- for the -- for this.

15 Q Okay. And if you turn on the
16 second page, it says at the bottom, would you just
17 read that for us? Who is -- who is it prepared by?

18 A Prepared by Danny Stinson,
19 Kentucky Rural Water Circuit Rider.

20 Q Okay. I'm not going to ask you
21 to go through this in detail, but, generally, can
22 you tell us how this procedure works?

23 A Well, I touched on it earlier.
24 We want to use our -- our tanks. Our tank draw --
25 excuse me -- draw-down records -- our water plant

1 is going to monitor our tank draw-downs and our
2 pump productions. And we're going to follow this
3 to try to determine where we are losing the most
4 water at that particular moment. And then we will
5 send our three guys that we have set aside to that
6 area to try to find the problem.

7 Q Is this written policy different
8 from what you were doing prior to having this
9 written policy?

10 A It's more detailed. We were
11 going to certain areas already based on what our
12 plant -- but this is definitely a more detailed
13 document than what I had or what I was doing.

14 Q Do you think this plan helps you
15 prioritize the problem areas on your system?

16 A I think it's a start. I do think
17 it is.

18 Q And have you seen any successes
19 so far with following this policy?

20 A I have. We -- we've developed --
21 I mean, we have 22 tank sites and we have 27 pump
22 stations, I believe, but we broke down our system
23 into 20 -- 22 leak zones. Each tank is a leak
24 zone. So we're developing putting pits in the
25 ground so we can strap our flow meter onto the --

1 onto the pipe and start to monitor how many gallons
2 per minute we are -- is going through that pipe at
3 that moment. We base that upon -- there's a
4 formula based upon the amount of customers in that
5 area, and there's a percentage we use to figure out
6 what's the -- what they should be using. And
7 anything over that's a leak. We start going valve
8 to valve to try to -- to pinch it down into a
9 certain location, then we go meter to meter. And
10 then we -- if we can't find it, we'll walk the
11 highway, we'll wade the creeks. We'll do -- we do
12 whatever it takes to -- to find this particular
13 leak that we're looking that's in question.

14 Q And do you know if this is --
15 it's probably -- do you know if this is a procedure
16 that Kentucky Rural Water Association -- probably
17 some -- specific district that they use in other
18 districts as well?

19 A I would imagine that they use
20 this in other districts.

21 Q So this is probably a procedure
22 that has shown to work for them?

23 A Yeah. I think it works, yes.

24 Q Okay. Have you-all -- have you
25 with Kentucky Rural Water Association been able to

1 estimate what you think you can do to reduce water
2 loss pursuant to this policy, procedure?

3 A I can't speak for what Kentucky
4 Rural Water will say, but I -- I -- as I said
5 earlier, I think if -- that we can get to a
6 30 percent water loss with what I currently have in
7 place, with the age of my pipes and my lines, with
8 what I have, I think if I can get to 30 percent,
9 that that's -- that's pretty good -- pretty --
10 that's -- that's a lot of work right there to get
11 to that.

12 Q Do you have -- have you or
13 Kentucky Rural Water Association tried to do a
14 timeline on how long that would take you to get to
15 30 percent?

16 A We have not worked on a timeline.
17 I don't think that's realistic.

18 Q Can you -- what do you think --
19 sitting here today, can you estimate, perhaps, a
20 timeline on how long it would take you --

21 A If you --

22 Q -- to get to 30 percent?

23 A If you're asking me to get to
24 30 percent and maintain and hold it, I would say
25 five years minimum.

1 Q Have you had any discussions with
2 your Board to possibly hire somebody else to help
3 with water loss and infrastructure needs?

4 A We -- I -- we mentioned to the
5 Board about Mr. -- I think it's Greg Heintzelman.
6 I'm not good with his last name. If -- if Southern
7 Water and Kentucky Rural Water can't pull it
8 together, then we were going to seek him for advice
9 and his exper- -- and use his expertise to see if
10 we can do more.

11 Q But you have discussed that with
12 your Board in this?

13 A Yes, sir. He does not come
14 cheap. And, again, it goes back to the money, and
15 money seems to be our issue.

16 Q I'm going to switch again to
17 another subject and that is the October 2018
18 appraisal.

19 A Yes, sir.

20 Q And this is the appraisal that
21 was done to help try to find the fair market value
22 of the assets that were -- that was purchased.

23 A Okay.

24 Q And we've been talking about this
25 figure \$656,122. Do you recall that figure?

1 A Yes. I seen it in his report.

2 Q Yeah.

3 A Yeah.

4 Q And what is your opinion of what
5 that figure -- where that figure comes from?

6 A I don't know.

7 Q Oh, you don't know?

8 A I don't know. Unless you can ask
9 me more specifically, I...

10 Q Do you think that this figure
11 attempts to value, or was taken from your rate case
12 application that was prepared by your engineer,
13 Holly?

14 A Yes.

15 Q And do you know where she got
16 that number from?

17 A I don't know. I can't answer
18 that.

19 Q Okay. If I told you that number
20 came just from the water customers, would you agree
21 with me?

22 A Yes.

23 CHAIRMAN SCHMITT: Would you agree with
24 about anything your lawyer says?

25 THE WITNESS: Yes, sir. Yes, sir.

1 CHAIRMAN SCHMITT: Any other questions?

2 MR. STROBO: No, sir.

3 MR. BOWKER: No further questions.

4 MR. CICERO: I do. I have just a couple of
5 last comments.

6 EXAMINATION

7 BY MR. CICERO:

8 Q So the Chairman asked you
9 questions about your payroll and then people that
10 had vehicles and whatever. That was
11 post-hearing -- not post-hearing. It was Staff
12 Data Request No. 2, and the request was for
13 information to Southern to provide a detailed list
14 of identifying all compensation and all other
15 payments made by Southern District to each of its
16 employees and any contract personnel for the years
17 2016, '17 and '18. For each item provide a
18 detailed description of the purpose of the
19 compensation and payment.

20 You filed an affidavit that said I can't do
21 the contract employees, because it would take me too
22 long and I'm preparing for this hearing. Do you
23 have contract employees?

24 A No.

25 Q No. So the answer would be, we

1 don't have any contract employees, wouldn't it?

2 A Yes, but do -- I mean, honestly,
3 I didn't know exactly what you were asking, and I
4 didn't want to throw something together that would
5 not be --

6 Q Okay. So clarifying that, if
7 there's no contract employees, then all you need to
8 do is send a response that says, there's no
9 contract employees?

10 A Yeah.

11 Q And, conversely, you sent
12 documents that show the payroll records, which is
13 great, that's a form of compensation. But the
14 request was for all payments, which would include
15 transportation, expense account checks, any
16 compensation or pay- -- or payments -- not payments
17 just for compensation, but payments to employees,
18 which means you still have work to do that will be
19 followed up in a post-hearing data request to
20 confirm that, that we're looking for that
21 information, okay?

22 A Okay. I guess we misunderstood
23 the question, sir.

24 MR. CICERO: I mean, and that's okay.

25 MR. STROBO: I think that was Request for

1 Information 4.

2 MR. CICERO: That was the second request.

3 Second -- Staff Second Request, I believe,
4 Ariel, isn't that right?

5 MR. STROBO: Well, we'll get it.

6 BY MR. CICERO:

7 Q And then I would like you to
8 provide us a post-hearing data request, the fourth
9 quarter monthly calculations using your formula
10 that you describe for water loss, the 3 percent
11 that you said was for fire department usage and
12 whatever the formula is that you're using to
13 determine the internal flushing use for system
14 usage, just those three months actual -- I know we
15 get a report, but I would like you to describe, in
16 other words, the 3 percent came from Kentucky Rural
17 Water Association, and then what the other pieces
18 of the formula are, okay?

19 A Okay. And are you going to
20 present that question to --

21 Q Yeah, it will come in -- it will
22 come in writing.

23 A Okay.

24 Q A comment about the -- the
25 exhibit or paper that you handed out. I don't know

1 if you're going to offer it into an exhibit or not,
2 but I've been harping on this doing an analysis to
3 determine whether it's viable or not viable rather
4 than gut feeling. And it's interesting that this
5 leak detection procedure talks about it would be
6 advantageous to consider the source of the water.
7 For example, let's say you're purchasing water for
8 \$3.50 per 1,000 gallons to supply a zone that has
9 been determined to have a 40-gallon-per-minute
10 excess flow. You are also producing water at a
11 \$1.75 per 1,000 gallons to a zone that has been
12 determined to have 60-gallons-per-minute excess
13 flow. Initially, you may think the
14 60-gallons-per-minute loss should be assessed
15 first. However, when analyzing the direct loss in
16 monetary form, a 40-gallons-per-minute loss is
17 costing 201.60 per day, while the zone with 60-
18 gallons-per-minute loss is costing 151.20. That's
19 the type of analytical -- analysis that I'm talking
20 about that helps you decide what the best decisions
21 that you can make. That's exactly what this paper
22 does. It helps you out --

23 A Yes.

24 Q -- to do that.

25 A And -- and you're correct, sir,

1 and I want -- we'll have to work with Rural Water
2 and my plant to work -- I mean, this is new to me
3 and this is -- we're definitely -- that's the plan
4 we're going to follow, but it's going to take some
5 time for me and my guys to real -- you know, to --
6 to make this work the way it's on that paper.
7 We're going to do our best, but it -- it's going to
8 take some time.

9 Q I have one last curiosity
10 question. I'm looking at the Board minutes from
11 October 23, 2014, and it says, "Mr. Hall informed
12 the Board that the bids were open and awarded for
13 the three surplus vehicles. As of today, two of
14 the vehicles have already been paid for and one has
15 not. Mr. Hall stated that Harpo was awarded the
16 bid on one of the trucks and is refusing to pay due
17 to the back bill he is saying the District owes for
18 storage of the truck. While the truck was in his
19 care, the truck has been stripped of parts. We
20 have tried numerous times to bring the truck to our
21 lot, but it has -- it has been fenced in and we
22 were unable to get to the truck." What was the --
23 what was the outcome of that?

24 A Sir, the best I can answer that,
25 that problem has been resolved. We -- we had a --

1 we had a truck to go down. The motor expired on
2 it. And I think he was the one that eventually had
3 hauled it in. It was on his lot. He was applying,
4 I guess, storage toward the -- or rent toward him
5 holding it, and it was just a -- it was just a mess
6 and it -- but it has -- it's been resolved.

7 Q That's okay. I thought it was --

8 A Yeah, I --

9 Q -- I thought it was funny to hear
10 that the guy fenced it in, stripped it of parts,
11 and told you that you owed it to him for fencing it
12 in and not being able to get to it.

13 A Well, I know, I -- I read those
14 notes as well and I was kindly embarrassed, so to
15 speak, for it to be written and presented that way,
16 but it was -- that was the minutes and that's...

17 CHAIRMAN SCHMITT: Commissioner Cicero
18 doesn't know Harpo.

19 MR. STROBO: Mr. Schmitt, to the extent
20 that I didn't -- I thought I introduced
21 this and made it part of the record, but I
22 guess I didn't. I just --

23 CHAIRMAN SCHMITT: Yeah, let that be
24 introduced as Southern Exhibit 1.

25 MR. STROBO: Thank you.

1 DR. MATHEWS: I do have -- just to clarify.

2 EXAMINATION

3 BY DR. MATHEWS:

4 Q The Chairman had a pretty lengthy
5 discussion with you about, you know, the concept of
6 another entity purchasing the water district or the
7 assets of the water district. And you kept
8 referring to the management contract that, I guess,
9 you -- that Southern was under when it first
10 formed. Those would be two sort of different
11 things; right? Was the private entity that has
12 been talking to the Board, talking about a purchase
13 or talking about a management contract?

14 A It was talking about management.
15 And that's what Southern had before, was a
16 management contract with U.S. Filter at the time.
17 And I -- I guess, I feel like that the
18 conversations that I have had with Kentucky
19 American is a similar contract with the contract
20 management.

21 Q I just -- I wasn't -- I was
22 confused, I think.

23 How many people do you prosecute for water
24 theft? Because you said we can turn them off, but
25 you can go to the hardware store and buy a jumper

1 bar and...

2 A Honest -- well, I have not
3 prosecuted anyone since I've been general manager,
4 but my previous manager had me to take anywhere
5 from five to ten different people for -- for theft
6 of service. And I was spending more time in court
7 than I was working for the water. So when I become
8 the manager, general manager, my -- my approach now
9 to theft of service is, if I find one illegal
10 meter, straight pipe, I -- we take -- we send our
11 excavator and men out there and we remove the
12 entire service from the property. And if the
13 customer wants water back, they must pay a new tack
14 fee plus whatever they owed us at the time that
15 they were either disconnected, if there's a record
16 of that.

17 But at the least, if we find any illegal, we
18 dig it out and we shut it at the curb stop and we
19 don't have to go back to it unless they pay for
20 service again. That has worked. It doesn't stop
21 the -- there -- there's a lot of people in desperate
22 needs. And we find four or five a month that's
23 illegal that we have to dig out like that. And we
24 can't work it out with them and we dig them out.
25 But we don't -- oh, go ahead.

1 Q Bad debt expense, has that been
2 increasing? I mean, have you --

3 A Bad debt expense --

4 Q Are you seeing people not paying
5 their bills more often as the --

6 A Yes, as --

7 Q -- the climate has gotten worse
8 in the area?

9 A Yes. On an average -- I don't
10 deal -- I don't work every day in our billing --
11 with our billing. I'm in the office with -- around
12 the billing department, but I don't have hands on.
13 But monthly we average sending out 1,500 -- 1,000,
14 1,500 disconnect notices a month. We wind up
15 disconnecting 150 to 200 a month. All those people
16 don't come back to pay. Most of them do, but
17 it's -- it's -- our area is -- it's tough. It's
18 tough. And a lot of our population has been noted
19 by the Attorney General's Office that it's one of
20 the poorest in the country.

21 And being a small utility like we are, I
22 think that benefits them because we're willing to
23 try to work with them and be understanding to their
24 situation and needs, and we try to help as much as
25 possible. But I don't think you'd find that with a

1 large company. They wouldn't -- I don't think
2 they'd necessarily take into account the address --
3 I mean, the -- the necessities and the conditions
4 that our people are in. So we do the best we can.

5 We know we make mistakes. We -- there's
6 a -- we have a big water system. From my water
7 plant to my last meter up left Beaver is 35 miles.
8 It goes through six tanks, pump stations. And our
9 system is set up like a branch -- it's called a
10 branch system. It's not -- it doesn't have a grid.
11 You don't have backup supplies here or there. And
12 if you have a problem at the beginning of your
13 system or in the middle, the people on the end of
14 your line are going to suffer if it takes any amount
15 of time to repair it.

16 So we -- we have a lot of -- a lot of
17 conditions that are -- Eastern Kentucky, just about
18 all the mountain district -- all our districts there
19 are in a different situation than most water
20 districts or utilities west of 75. We don't -- I
21 mean, I think we have a tougher -- we just have a
22 rougher terrain and area to work.

23 CHAIRMAN SCHMITT: Anything further from
24 this witness? Any other questions?

25 MR. BOWKER: Just one follow-up.

1 Did you state that you use deposits to
2 offset disconnects -- disconnect debt? Is
3 that what you stated earlier?
4 THE WITNESS: I never stated -- I don't
5 think I stated that.
6 MR. BOWKER: Okay. I'm sorry. I must have
7 misheard. No -- no questions.
8 CHAIRMAN SCHMITT: Anything further? Any
9 reason why Mr. Hall can't be excused?
10 MR. BOWKER: No, sir.
11 CHAIRMAN SCHMITT: You may step down and be
12 excused, Mr. Hall. Thank you.
13 THE WITNESS: Thank you, sir.
14 CHAIRMAN SCHMITT: Let's take a 10-minute
15 break 'til 20 after 4:00, and come back and
16 then talk about what we're going to do,
17 okay? We'll be in recess until 4:20.
18 (THEREUPON, A BREAK WAS TAKEN.)
19 CHAIRMAN SCHMITT: Back on the record.
20 Before we -- before we call any other
21 witnesses, let's think about where we are.
22 For our purposes, I guess, or the
23 Commission's purposes to get information,
24 we probably want to get the next, the
25 remainder of the Commissioners first and

1 that may take us, what, an hour? It may be
2 less, but at least they're finished. At
3 that point, we probably will leave it up to
4 you if you wanted to call somebody else now
5 or -- at some point we're probably going to
6 have to get the appraiser in here. And so,
7 you know, you might want to come back. If
8 your Kentucky Rural Water people are in
9 this area anyway -- it doesn't matter to
10 us. We're willing to go -- we went 'til,
11 what, 25 'til 1:00 in the morning here on
12 a -- on one time. So we're -- it doesn't
13 matter anymore. We're -- we're used to it,
14 but, anyway, we probably need to talk about
15 how you might want to do this.

16 MR. STROBO: Well, I think the Kentucky
17 Rural American Water folks are going to
18 want to -- you want to call them; is that
19 correct, or --

20 MR. BOWKER: Maybe. We don't have to
21 today. I think the Board members, we're
22 wanting to do those first today.

23 CHAIRMAN SCHMITT: Well, I don't want to
24 inconvenience the Board members anymore.

25 MR. STROBO: Right. Right.

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CHAIRMAN SCHMITT: I mean, they have further to come.

MR. STROBO: And I would just say, since they're already here, may want to go ahead and do Kentucky Rural Water Association folks? I think you-all would probably prefer that so you don't have to come back? And I know that's going to add a little bit more time, but, hopefully, we'll be out of here before 2:00 a.m.

CHAIRMAN SCHMITT: Okay. When all this is over, Mr. McNeil, will you want to file a brief, a short brief, or some kind of memo?

MR. McNEIL: I think in light of new evidence I would want to file something short, Your Honor.

CHAIRMAN SCHMITT: Okay. And you would want to -- I mean, I don't know -- you know, the thing that always bothered me about Kentucky Public Service Commission is they always wanted to have briefs that were filed simultaneous, and of course then that raises the problem if somebody says -- makes an argument that someone else doesn't get to address. So I never want to do that

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unless counsel wants to agree to it.

One -- one time Mr. McNeil's
colleague, Mr. Chandler, who we all think
highly of, but he agreed to simultaneous
briefing. And then when the other side had
an argument he couldn't address, he pulled a
due process card. You know, rather than
stick him with waiver, we allowed him to
file his brief. But -- but I would assume
that when this is over, I don't know who --
maybe we would get -- I'm trying to think
how -- how the burden ought to go here. I
guess it's your rate increase. You would
brief, you could respond, and you could
reply, or you could do it -- you know, I'm
sure you'd want to reply if he had something
that you hadn't seen. I would if I were
you.

MR. STROBO: I agree it's our burden.

MR. BARKLEY: Do a brief.

MR. STROBO: Yeah, we should do the brief
in chief and let them respond, and then WE
can reply to that. That's --

CHAIRMAN SCHMITT: I mean, and we could --
we could do that. If we get to the point

1 where all we have is the appraiser, I mean,
2 it's hard to see how all that's going to be
3 an argument that would be -- amount to a
4 lot. I mean, we're facing the February 12
5 deadline, which we could go beyond that as
6 long as you're not going to put the rates
7 in effect. If you are, then, you know,
8 then we need to get this --

9 MR. STROBO: We can have expedited briefing
10 schedule, that's fine, as long as --

11 CHAIRMAN SCHMITT: All right. Well,
12 we'll --

13 MR. McNEIL: That sounds fine.

14 CHAIRMAN SCHMITT: We'll get to that before
15 the end.

16 All right. Let's call a -- I guess a
17 Commissioner, anyone that --

18 DR. MATHEWS: Short straw.

19 CHAIRMAN SCHMITT: Yeah, you get to -- you
20 get to pick them. You want to call
21 Mr. Osborne, Mr. Hamilton? Whoever --
22 whoever you can.

23 Will you raise your right hand,
24 please.

25 THE WITNESS: (Witness does same.)

1 CHAIRMAN SCHMITT: Do you solemnly swear or
2 affirm under penalty of perjury that the
3 testimony you are about to give is the
4 truth, the whole truth and nothing but the
5 truth?

6 THE WITNESS: I do.

7 CHAIRMAN SCHMITT: Please be seated.

8 * * * * *

9 The witness, LARRY JOE OSBORNE, after first
10 being duly sworn, was examined and testified as
11 follows:

12 EXAMINATION

13 BY CHAIRMAN SCHMITT:

14 Q Would you state your name and
15 address, please, for the record?

16 A My name's Larry Joe Osborne. I
17 reside at 320 Reed Branch, Hueysville, Kentucky
18 41640.

19 Q Mr. Osborne, are you employed?
20 Are you retired? How -- do you --

21 A I'm retired. I -- I do some
22 other contract work. I was in the insurance
23 business for several years. Still doing that part
24 time.

25 Q So what, you're retired from

1 what, insurance or --

2 A Yes.

3 Q How long have you been on the --
4 how long have you been a Commissioner of Southern
5 Water and Sewer District?

6 A It was in February of '15 or '16,
7 I -- I do believe.

8 Q Did you -- the slot that you went
9 into when you were appointed, was the person -- did
10 somebody hold -- somebody in that position before
11 you were appointed that died or retired or -- or
12 whose term expired, or do you know?

13 A I don't know. It was Bert Layne.
14 And I'm not sure. I think he had personal
15 problems.

16 Q Okay. So you think he may have
17 resigned --

18 A Right.

19 Q -- and you may have filled his
20 unexpired term?

21 A Maybe.

22 Q We're not going to hold you to
23 that. We're just trying to --

24 A Right.

25 Q -- get some idea of what these

1 terms are. At some point that might be important.

2 So do you know when your term is supposed to
3 end?

4 A I was just reappointed. I'm
5 assuming four years.

6 Q You were appointed --

7 A In November.

8 Q -- like Ms. Johnson in
9 November --

10 A Right.

11 Q -- for, I guess -- I don't know
12 if the term ended in December or what, but...

13 A Yeah.

14 Q Okay. So were you -- were you
15 involved, and if so, to what extent, in the
16 negotiations with the City of Prestonsburg Utility
17 for the sale of the sewer and water distribution
18 assets?

19 A Me and Joe Jacobs, I met with him
20 a time or -- with the judge and Eddie Campbell.

21 Q Did you-all meet in any kind of
22 joint session, the fiscal court and the Southern
23 Water and Sewer District? You know, sometimes
24 public boards will meet in joint session. You
25 didn't --

1 A No.

2 Q -- there was none of that?

3 They just come to your meeting or you meet
4 at the local restaurant or some place or...

5 A Well, we met at the courthouse
6 one time.

7 Q Courthouse, okay.

8 So at some point you voted to, I guess,
9 transfer the assets of -- the water and the sewer
10 assets to Prestonsburg for about, what, 2. --

11 A That was \$2.1 million --

12 Q -- a little over 2 million
13 dollars; right?

14 A -- plus the 2 million. It was
15 about 4.1.

16 Q Yeah, okay. All right.

17 So at this point in time, are you satisfied
18 with that transaction?

19 A No.

20 Q Why not?

21 A I think that we did not get paid
22 right or the appraisal is still not right. I think
23 the infrastructure is much more than what they're
24 saying it is.

25 Q You think it's worth more than

1 the 4.1 or --

2 A Uh-huh (affirmative).

3 Q -- whatever million dollars?

4 A Right.

5 Q But Southern has been paid in
6 cash, kind and -- and paid off some of your loans.
7 You recognize -- you concede that Prestonsburg has
8 paid something?

9 A Yes, yes.

10 Q Okay. But do you -- what do
11 you -- do you think that the amount ought to be
12 more than what Prestonsburg now says it is; is that
13 correct?

14 A I -- I always thought that.

15 Q Well, apparently, we find out
16 today that U.S. Department of Agriculture Rural
17 Development says that they want an extra, what,
18 1.85 million or something?

19 A Uh-huh (affirmative).

20 Q Is that within the ballpark of
21 what you think the value is or ought to be or --

22 A Personally, yes.

23 Q -- or do you believe you're
24 entitled to more than that?

25 A Maybe that or just a little bit

1 more.

2 Q Have you ever suggested to your
3 fellow Commissioners that maybe you ought to see
4 about another appraisal?

5 A We have talked about it, but we
6 were assured that -- that this appraisal would be
7 fair.

8 Q But in your opinion is it fair?

9 A In the way that they come about
10 it, maybe it is. I'm not sure about that.

11 Q You know, as a lawyer -- and I
12 know Mr. Pillersdorf would probably agree. You
13 know, appraisers, they're like what -- what's that
14 horse worth? You know how that -- what's that
15 piece of ground worth?

16 A Yeah.

17 Q It all depends on -- it's all in
18 the eye of the beholder; right?

19 A Exactly.

20 Q What if -- what if this -- I
21 mean, at some point, and some reasonable period of
22 time, this transaction either has to be concluded
23 or it has to be unwound. How would -- have you
24 thought about how that could be done?

25 A Well, with --

1 Q You said we want our -- want
2 our -- we can't go through with it. They got the
3 sewer system, but we want our water system back.
4 But you've gotten some money, you know --

5 A Tied up in it.

6 Q -- payments from them. Have you
7 thought about how that might work out?

8 A I've give it some thought and I
9 really haven't come up with no solution on it. I
10 think if we had a solution, we wouldn't be here.

11 Q Yeah. Yeah. I -- I think
12 you're -- I think you're right.

13 Anything else you'd like to tell the
14 Commission about the -- about the transaction or
15 about Southern Water and Sewer District, your water
16 loss problems, management issues? Anything you'd
17 care to relate to us?

18 A No. Other than being talked to
19 by the judge in the beginning and meeting with
20 Mr. Campbell, you know, we were led to believe that
21 everything was a win-win situation, that it's going
22 to get better. In the first month we saw the
23 difference, in July of '17, and it's gotten no
24 better. So, you know, yeah, I know that we should
25 have done more due diligence. I do, hindsight.

1 But we were -- we were depending on Mr. Campbell's
2 figures, too.

3 Q You just didn't have the cash
4 flow that was necessary after the -- the water
5 assets were transferred and Prestonsburg began
6 receiving the payment for it; is that --

7 A No. It was -- it was immediate.

8 CHAIRMAN SCHMITT: Commissioner Cicero, any
9 questions of this witness?

10 EXAMINATION

11 BY MR. CICERO:

12 Q So how did you vote when the
13 transaction came up for a vote?

14 A If I remember right, I may have
15 voted for it, but it was very reluctant.

16 Q So you indicated that 1.9 million
17 or more is what you believe Prestonsburg owes to
18 finish the deal?

19 A Well, I just -- I think that the
20 appraisal may not be accurate. I feel, in my mind,
21 that the infrastructure is worth more, because that
22 was the best part of our whole system.

23 Q So have you done -- I'm going to
24 go back to this -- done any analysis for that
25 number?

1 A No.

2 Q Consulted an expert?

3 A No.

4 Q Reviewed any documents?

5 A No.

6 Q So you know when they talk about
7 due diligence --

8 A Uh-huh (affirmative).

9 Q -- due diligence is not depending
10 on somebody other -- somebody else's organization,
11 but --

12 A Your own.

13 Q -- your own organization?

14 MR. CICERO: I don't have any other
15 questions.

16 CHAIRMAN SCHMITT: Commissioner Mathews?

17 EXAMINATION

18 BY DR. MATHEWS:

19 Q So the section of the system, the
20 water customers, you believe that was the best part
21 of the system in that it had fewer leaks?

22 A It had fewer leaks and probably
23 the best paying customers.

24 Q That would be maybe the schools,
25 the commercial --

1 A Well, that -- that --
2 Q -- not just all residential?
3 A -- that stretch of U.S. 23 is
4 about all that's growing in our county, so, yes.
5 Q So you could have foreseen that
6 you would be losing revenue and really not reducing
7 cost by a similar amount, that it wouldn't be a
8 wash?
9 A Right.
10 DR. MATHEWS: That's all.
11 CHAIRMAN SCHMITT: From Mare Creek there
12 where Blackburn is --
13 THE WITNESS: Uh-huh (affirmative).
14 CHAIRMAN SCHMITT: -- up to the Pike County
15 line is pretty densely populated when
16 compared to the rest of your system; would
17 you agree with that?
18 THE WITNESS: Oh, yes.
19 CHAIRMAN SCHMITT: And like you say,
20 that's -- it's between -- well, Betsy
21 Layne, Stanville, and the City of
22 Pikeville; correct?
23 THE WITNESS: Exactly.
24 CHAIRMAN SCHMITT: Which is just a stone's
25 through across --

1 THE WITNESS: Well, it's --

2 CHAIRMAN SCHMITT: -- the Floyd/Pike County
3 line?

4 THE WITNESS: -- six -- six miles to Coal
5 Run. And then you don't know when you
6 leave Coal Run to get to Pikeville.

7 CHAIRMAN SCHMITT: Mr. Bowker, any
8 questions?

9 MR. BOWKER: Just very briefly.

10 EXAMINATION

11 BY MR. BOWKER:

12 Q Just making sure. Do you go to
13 Water District Commissioner Training ever year and
14 get your six hours every year?

15 A Yes.

16 Q Okay. And did you get your
17 initial 12 hours when you --

18 A Yes.

19 MR. BOWKER: Okay. That's all I have.
20 Thank you.

21 CHAIRMAN SCHMITT: Mr. McNeil?

22 MR. McNEIL: No questions, Your Honor.

23 MR. STROBO: No questions, Your Honor.

24 CHAIRMAN SCHMITT: No questions? May this
25 witness be excused?

1 MR. BOWKER: Yes, sir.

2 CHAIRMAN SCHMITT: You may step down and
3 you may be excused. Thank you.

4 THE WITNESS: Thank you.

5 MR. STROBO: Mr. Chair?

6 CHAIRMAN SCHMITT: Just call another.

7 MR. STROBO: Well, can I address one issue?
8 I think I may have misspoke before.
9 Pursuant to the order on December 17th from
10 PSC, the deadline was extended to -- we
11 agreed to a deadline of February 1st.

12 CHAIRMAN SCHMITT: Oh, I was thinking it
13 was the 12th. Is it the 1st?

14 MR. STROBO: Yeah.

15 MS. MILLER: February the 1st is the day --

16 MR. STROBO: Right.

17 MR. BOWKER: Yes, yes.

18 MR. STROBO: So and -- and Mr. Hall
19 informed me while Mr. -- when the testimony
20 was going on, that they really need to know
21 whether or not they're getting this
22 increase by February 1st, because they need
23 to put it on their February bill. So
24 that's the -- the time crunch we have. I
25 don't know how that impacts your decision,

1 I think, but we do need that decision
2 pretty quickly.

3 CHAIRMAN SCHMITT: Well, of course, you
4 know, if -- the decision could be this: If
5 you implement the rate increase, you may
6 have to give some of it back --

7 MR. STROBO: Uh-huh (affirmative).

8 CHAIRMAN SCHMITT: -- or credit customers.
9 I mean, that's just kind of how it is.

10 MR. STROBO: Okay. But I don't know if we
11 can -- if it's agreeable to maybe expedite
12 our briefing even more.

13 CHAIRMAN SCHMITT: Oh, we could do that. I
14 just don't -- I think Vice Chairman Cicero
15 may remember more about the appraiser, but
16 isn't he gone for the entire month of
17 January?

18 MR. CICERO: He's gone until January 11th,
19 or something like that, on a trip to
20 Florida --

21 MR. STROBO: Uh-huh (affirmative). Yeah.

22 MR. CICERO: -- I believe. Isn't that
23 right?

24 MR. STROBO: I think that's accurate.

25 MR. CICERO: He left on December 26th and

1 comes back on January 11th. So he's not
2 even -- I can't image what his backlog is
3 going to be after being gone for two full
4 weeks. But I think our questions for him
5 could be brief, because I think I know
6 exactly how he used his numbers. I don't
7 agree with the way he used his numbers, but
8 I think I know how he used his numbers. We
9 just have to have confirmation -- we have
10 to have a brief time to sit down with him
11 and have him confirm what we think he did.

12 MR. STROBO: Okay.

13 MR. CICERO: So if you can get in contact
14 with Mr. Fyffe, I guess it is --

15 MR. STROBO: Uh-huh (affirmative).

16 MR. CICERO: -- find out when he's
17 available and we can -- we can really
18 quickly depose him or --

19 CHAIRMAN SCHMITT: We could -- yeah, or we
20 could, you know, subpoena him again. I
21 mean, he agreed to come; right? Well, if
22 it's February 1st, we've still got time.
23 We'll take -- we'll find some way to take
24 care of it.

25 MR. STROBO: I appreciate it. Thank you.

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MR. BOWKER: He also stated that he could provide an affidavit as well in his letter --

CHAIRMAN SCHMITT: Of course, you can't ask a question of an affidavit, is the problem.

Please raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

CHAIRMAN SCHMITT: Please be seated.

* * * * *

The witness, HAYES HAMILTON, after first being duly sworn, was examined and testified as follows:

EXAMINATION

BY CHAIRMAN SCHMITT:

Q Will you state your name and address for the record, please?

A My name is Hayes Hamilton. I live at 47 Reynolds Road, Beaver, Kentucky 41604.

Q Commissioner Hamilton, are you

1 employed at this time, are you self- --

2 A I'm a retired schoolteacher.

3 Q And where did you teach?

4 A I coached basketball at Betsy
5 Layne. I started out at Johnson Central.

6 Q And when did you retire?

7 A Twenty (20) years ago.

8 Q Twenty (20) years ago.

9 So you -- how long have you been a
10 Commissioner on the Board of Southern Water and
11 Sewer District?

12 A Ten (10) years.

13 Q And so, I guess, that would be
14 2008 or so; right? '7, '8 or '9?

15 A I believe it was about 2010 I
16 came in.

17 Q 2010. Do you know when -- when
18 you were appointed -- there was somebody that held
19 this seat prior to your appointment. Do you know
20 who it was?

21 A Yes.

22 Q Who was it?

23 A Palmers Frazier.

24 Q Do you know if Mr. Frazier's term
25 expired or if he resigned or he passed away or --

1 A He passed away.

2 Q So you would have filled his
3 unexpired term presumably?

4 A Yes.

5 Q Do you know -- when you came on
6 board, did you -- were you told or did you figure
7 out when that -- when his unexpired term would
8 expire?

9 A I don't remember what -- how many
10 years I had on that. I really don't.

11 Q Well, I don't know either. I
12 mean, that's not an uncommon thing unfortunately,
13 but to try to put it together and figure it out,
14 sometimes becomes a problem.

15 A I was thinking he had one year
16 left. I was thinking he had one year. I'm not
17 sure.

18 Q Okay. All right. So have you
19 been reappointed?

20 A Yes.

21 Q When were you reappointed?

22 A I think I was reappointed in
23 December.

24 Q Of this year?

25 A Yes.

1 Q December of 2018?

2 A Yeah.

3 Q And you were appointed by Judge
4 Executive Ben Hale?

5 A Right.

6 Q And that appointment was
7 confirmed by the fiscal court?

8 A Right.

9 Q And were you there at the meeting
10 where this was done?

11 A No.

12 Q So how did you learn about it?

13 A One of the magistrates.

14 Q Can you tell me who? Somebody
15 called you, I guess, and said you were reappointed?

16 A Ronnie Akers. That was one of
17 the magistrates.

18 Q Is Mr. Akers, will he be serving
19 on the fiscal court for the next four years?

20 A Yes.

21 Q Now, do you know if any other --
22 any other people were appointed to serve as
23 commissioners of Southern Water and Sewer District
24 at the December court meeting other than you?

25 A You know, I'm not sure whether I

1 got appointed in November or December.

2 Q Okay. Fair enough.

3 A I really don't.

4 Q Well, the reason I ask is, is
5 that when -- the complaint that was raised here,
6 somebody said that you -- Mr. Jacobs -- because we
7 were told Mr. Jacobs had resigned. So anyway, Mr.
8 -- and that although you were serving in your term,
9 that somehow you were appointed to fill Mr. Jacobs'
10 vacancy, and then Eula Hall was appointed to fill
11 yours. Now why that is, I don't know. And I don't
12 even know if it's accurate, but that -- that was
13 the complaint. Do you know if any of that's true
14 or --

15 A Yes. I was going to resign.

16 Q -- have you heard anything about
17 it? I'm sorry?

18 A I was going to resign my -- I did
19 resign my position.

20 Q Okay. When did you resign?

21 A I don't remember if it was
22 October, November -- October.

23 Q October, November of 2018?

24 A Yeah.

25 Q Okay. Now, why did you resign in

1 October or November of 2018?

2 A I don't know. I guess I was just
3 getting tired of it, the hassle.

4 Q Well, if you were getting tired
5 of it, why did you accept a reappointment from
6 Judge Hale and the outgoing fiscal court?

7 A Well, I have some people that
8 advised me to come back. They claimed I was needed
9 on the Board, so...

10 Q Would that have been Judge Hale.

11 A That was one of them, yes.

12 Q See, one could look at that
13 transaction and conclude that you resigned
14 basically so that Ms. Hall could then be appointed
15 and fill your unexpired term, and you could --
16 unbeknownst to Mr. Jacobs, you would succeed him in
17 a full four-year term. Was that ever discussed
18 with you at all?

19 A No.

20 Q So did you have any -- were you
21 involved at all in the negotiations with -- with
22 Mr. Campbell or the Prestonsburg City Utility
23 Commission?

24 A Just when they came to our
25 meeting, our Board meeting.

1 Q You never met with anybody --

2 A No.

3 Q -- privately or at the Floyd
4 County courthouse or anything like that?

5 A No.

6 Q So were you -- were you for this
7 sale of the water distribution assets and the sewer
8 assets?

9 A No.

10 Q Well, did you vote for it?

11 A Yes.

12 Q Well, why did you vote for it?

13 A Well, when the fiscal court and
14 the judge came up there, and they suggested we did
15 do that. And they convinced us that what a great
16 job it was, you know, for the Southern Water and
17 Sewer. It was -- I voted against my good judgment.

18 Q Well, why did they care one way
19 or the other? If they told you obviously that --
20 everybody says they were pushing this, why did --
21 why were they pushing it? Did they say?

22 A They never actually said, but the
23 reading between the line that -- I figured it was
24 that 2 million dollar debt, you know.

25 Q That they hoped that in doing

1 that, somehow Prestonsburg would come up with
2 whatever money you received, would go to the Floyd
3 County Fiscal Court; is that what you're saying?

4 A Probably. I don't know for sure.

5 Q I mean, that's just your
6 assumption?

7 A When I got on the Board here, I
8 know Mr. Halbert, he advised me, he said that -- I
9 guess the county judge preceding that had borrowed
10 2 million dollars against the Board. And they
11 never got any of the stuff out of it, you know,
12 money-wise. And we actually shouldn't have to pay
13 for that. And I guess they sent it to the -- to
14 Public Service Commission and the Attorney General.
15 They ruled that we didn't have to pay for that. So
16 I don't know.

17 Q Yeah. Well, it's pretty nice if
18 you get the benefit of 2 million dollars and you
19 don't have to pay it back. I mean, I don't blame
20 you.

21 A Oh, yeah. You know, it's all
22 right, too, if you get something out of it, but
23 they said -- I don't know. I just -- this is
24 hearsay, that said the water -- the water system
25 never got any money out of it. I don't know. I

1 wasn't there.

2 Q Okay. Well, I don't either. I
3 thought the purpose of the bonds that were sold was
4 to raise money for the water district for Southern,
5 but you don't know one way or the other?

6 A I don't know. I wasn't there, so
7 I just -- it was just hearsay, what I had. But
8 they said -- they told me at the time, they never
9 got any parts or anything out of it.

10 Q Did you feel any -- any loyalty
11 to Judge Hale, Judge Executive Hale of the fiscal
12 court, to kind of go along with what they wanted
13 you-all to do?

14 A Not really, but I guess he did
15 convince me, you know, that that was the best
16 interest.

17 Q Were any members of your
18 Commission, Ms. Johnson or Mr. Jacobs or
19 Mr. Osborne or anybody else, that expressed any
20 misgivings about doing this before the vote was
21 taken?

22 A Basically, the group did not want
23 to accept that, because I think they felt we would
24 get shafted, you know. Because we had been
25 keeping -- we had been balancing budget pretty good

1 up to that time. We didn't have any trouble.

2 Q But now you got a problem; right?

3 A We got a problem, yeah.

4 Q And in your rate case you wanted

5 over \$900,000 or so, and our staff said it was more

6 than a million that you needed.

7 A Right.

8 Q You agreed to take it? I mean,

9 you knew that; right? We -- that the staff

10 recommended more than a million dollars, and -- and

11 Chairperson Johnson wrote a letter saying, we

12 basically will accept what's in the staff report?

13 Did you know that?

14 A Yes, I read that.

15 Q You don't want to give the money

16 back? You don't --

17 A Well, no, I don't want to give it

18 back.

19 Q The reason I tell you this is

20 sometimes -- you know, the strange thing is, is

21 that investor-owned utilities, the deal is always

22 to try to cut out the fat. And in -- in

23 government-owned water districts you can't give --

24 you can't give them money. They don't want to take

25 it.

1 A Right.

2 Q It tells you something about
3 management, I think, but in any event -- in any
4 event, this deal with Prestonsburg, right now if
5 you had to vote to either keep the deal or try to
6 rescind it, what would you do if you thought about
7 it?

8 A I'd rescind it.

9 Q You'd rescind it?

10 A Yes.

11 Q Have you given any thought to if
12 the deal was rescinded, how it could be unwound? I
13 mean, you know, a lot of people have traded
14 money --

15 A Well, I --

16 Q -- things have been upgraded.
17 How would that -- have you given any idea, any
18 thought to the idea of how that would work?

19 A Well, yeah, I thought about that.
20 I'd try to work out some deal with Prestonsburg,
21 you know, to pay that money back that they have
22 spent as we -- as we got our revenue in, you know.

23 Q Now, Mr. Campbell says that
24 Southern owes Prestonsburg maybe over \$90,000 in
25 sewer rates for Eastern -- for the Eastern and the

1 Wayland customers. Were you aware of that?

2 A Yes.

3 Q That would be part of the deal,
4 too?

5 A Right.

6 Q They'd get paid going forward;
7 right?

8 A Yeah. I've always believed in
9 paying my debt and I'd pay that, too. I'd figure
10 out some way to pay that debt, and I'd work out a
11 plan with them.

12 CHAIRMAN SCHMITT: Commissioner Cicero, any
13 questions?

14 MR. CICERO: I do.

15 EXAMINATION

16 BY MR. CICERO

17 Q So what do you believe the value
18 of the transaction is?

19 A Well, I'm going to say it's a lot
20 more than what we got.

21 Q The appraiser's number, 4.1, more
22 than that or what --

23 A I figured it would be about 4.3
24 or something myself.

25 Q I'm going to ask the same

1 question. Did you consult with an expert or -- to
2 come up with your 4.3? Was there somebody you
3 consulted with?

4 A Well, I've looked at the value of
5 our infrastructure, you know, before now and that's
6 what I -- that's my idea. I don't know whether I'm
7 right or not.

8 Q So if it's not based on an
9 analysis, but this is the number that -- just as a
10 gut feeling, your part, that it's worth about 4.3?

11 A Yeah.

12 Q So when the vote was taken for
13 this transaction, was it a unanimous vote, all yes,
14 some nos, if you remember?

15 A I think it was unanimous. I'm --
16 I'm not sure, but I believe it was.

17 Q So unanimous vote. Everybody on
18 the Southern Water Board was convinced that this
19 was a great deal and they were able to obtain a
20 unanimous vote on a transaction that everyone now
21 believes is a bad deal?

22 A Yes.

23 Q You think that the Board did
24 their due diligence in this transaction?

25 A No.

1 Q You said that you had a balanced
2 budget and everything was going well. If you still
3 had the sewer assets -- and at the time of the
4 transaction it was the sewer assets that were --
5 what was really trying to be moved because of the
6 potential thousands of dollars in fines that you
7 were -- Southern was facing for that plant. Did
8 that play some kind of a role in this whole idea of
9 whether you should do the deal or not? Because I
10 know it's great now in hindsight, 20/20, to say the
11 assets are worth X number of dollars. But at the
12 time, I would think that the sewer problems
13 probably played some kind of role; is that true or
14 not?

15 A I think that we would have tried
16 to work this problem out with the sewer if we
17 hadn't got the advice from the fiscal court, you
18 know. If they hadn't come up with that plan, I
19 think we would have tried to work that plan out. I
20 think we could have.

21 Q Okay. So you're -- it's just
22 undue influence from the fiscal court convincing
23 the entire Board that it was a good deal when it
24 was really -- everybody on the Board thought it was
25 a bad deal, but you --

1 A Right.

2 MR. CICERO: -- went forward?

3 Okay. I don't have any other
4 questions.

5 CHAIRMAN SCHMITT: Commissioner Mathews?

6 EXAMINATION

7 BY DR. MATHEWS:

8 Q Just to clarify for me. When you
9 say you think it's a bad deal, is it the sale of
10 both or the -- yeah, the water and sewer, or is it
11 the water part that makes you think it's a bad
12 deal?

13 A Well, you know, looking at it in
14 hindsight there, I would say maybe it's the -- the
15 sewer would have been a good tradeoff. But I think
16 we could have corrected it. But the water system
17 was a terrible deal. I know that area pretty good
18 there where the water system is. And I coached
19 basketball at Betsy Layne High School, you know,
20 and I know how much water those people use down in
21 there. And they were good paying customers, too.
22 And we lost a lot there.

23 DR. MATHEWS: I don't have anything else.

24 CHAIRMAN SCHMITT: Mr. Bowker, any
25 questions?

1 EXAMINATION

2 BY MR. BOWKER:

3 Q I've been asking everybody, so
4 I'll ask you as well. Are you up to date on your
5 Commissioner training? Do you --

6 A Yes.

7 Q -- get your six hours every year?

8 A Yes.

9 Q And did you get your initial 12
10 hours when you're with -- within the first 12
11 months you were a Commissioner?

12 A Yes.

13 MR. BOWKER: I have nothing further.

14 CHAIRMAN SCHMITT: Mr. McNeil?

15 MR. McNEIL: No questions, Your Honor.

16 MR. STROBO: No questions.

17 CHAIRMAN SCHMITT: Let me ask you one, just
18 personal information.

19 When did you last coach at Betsy Layne
20 High School?

21 THE WITNESS: I was assistant there in
22 about '87 or something.

23 CHAIRMAN SCHMITT: That's the last time?
24 You weren't head coach there; right?

25 THE WITNESS: No. I was assistant coach.

1 CHAIRMAN SCHMITT: You were head coach at
2 Johnson Central?
3 THE WITNESS: I did my practice teaching at
4 Johnson Central. Mr. Hazelett?
5 CHAIRMAN SCHMITT: Yeah.
6 THE WITNESS: You know Ed?
7 CHAIRMAN SCHMITT: Ed Hazelett, yeah.
8 Okay. Well, thank you. May this
9 witness be excused?
10 MR. BOWKER: Yes.
11 CHAIRMAN SCHMITT: You may step down --
12 THE WITNESS: Thank you.
13 CHAIRMAN SCHMITT: -- Mr. Hamilton. Thank
14 you.
15 Wow, we have one more Commissioner
16 now; right?
17 Please raise your right hand.
18 THE WITNESS: (Witness does same.)
19 CHAIRMAN SCHMITT: Do you solemnly swear or
20 affirm under penalty of perjury that the
21 testimony you are about to give will be the
22 truth, the whole truth and nothing but the
23 truth?
24 THE WITNESS: I do.
25 CHAIRMAN SCHMITT: Please be seated.

1 * * * * *

2 The witness, BARRY HALL, after first
3 being duly sworn, was examined and testified as
4 follows:

5 EXAMINATION

6 BY CHAIRMAN SCHMITT:

7 Q Can you state your -- please
8 state your name and address for the record, please.

9 A Barry Hall. I live at 112 Glen
10 Ward Layne, McDowell, Kentucky 41647. I've had my
11 12 hours and my six hours.

12 MR. BOWKER: Thank you. I appreciate that.
13 Very efficient. Thank you, sir.

14 Q Are you employed or self-employed
15 or retired?

16 A I am a retired schoolteacher and
17 basketball coach.

18 Q Okay. And where did you teach
19 and coach?

20 A South Fork High School.

21 Q When did you last teach and coach
22 there? They may not have been the same dates.

23 A Yeah.

24 Q Were you there -- you were there
25 before Henry Webb or after?

1 A I was there before Henry. And
2 then he took over for me, and then I took back over
3 for him. And I think the last year I coached was
4 2012.

5 Q How long have you been a member
6 of the -- of the Commission, I guess, the Board of
7 Commissioners of Southern Water and Sewer District?

8 A I believe that's three years.

9 Q Do you know who -- someone held
10 this position or this slot before you did. Do you
11 know who that was?

12 A It's my understanding it was
13 Scarlet Stumbo.

14 Q And had Ms. Stumbo's term expired
15 or did she resign?

16 A That I do not know.

17 Q We know she's still alive; right?

18 A I know her husband.

19 Q Scarlet Stumbo's husband was the
20 chairman of the school board --

21 A Jeff.

22 Q -- during this time period.

23 Okay. So do you know when your term
24 expires?

25 A I believe it expires in December

1 of '19, 2019.

2 Q You were the only person known to
3 anybody who wasn't reappointed in November, or
4 December, and that's because your term hadn't
5 expired; right?

6 A If you want to speed that up,
7 that's fine.

8 Q You haven't found out so far that
9 your term ended --

10 A Well, no.

11 Q All right. To what extent, if at
12 all, were you involved in negotiations with
13 Prestonsburg City Utilities with respect to the
14 transfer or sale of the sewer and the water assets?

15 A We were in the meeting -- or I
16 was in the meeting when we met up with the water
17 company and -- then that was with -- we had met, I
18 think, with Judge Hale up there and a couple of
19 guys from -- the magistrates of the fiscal court
20 and Mr. Campbell.

21 Q Was this at a regular scheduled
22 meeting or just an impromptu meeting where you just
23 got together?

24 A It was just we got together
25 impromptu.

1 Q Who was there from Southern?

2 A I --

3 Q Was Mr. -- Mr. Hall, the manager,
4 was he there?

5 A Yes.

6 Q General manager?

7 A Yes.

8 Q You were there?

9 A Yes.

10 Q Okay. What about Mr. Osborne,
11 Mr. Hamilton?

12 A I can't remember. I couldn't say
13 for sure.

14 Q What about Ms. Johnson, was she
15 there?

16 A I believe Ms. Johnson was there.

17 Q So what was -- what was your take
18 on -- is that the only meeting you attended where
19 this discussion took place?

20 A That's the only meeting that I
21 can recollect, yes.

22 Q And so what was the position --
23 did you have a position going into this meeting?

24 A I was openminded. And I believe
25 at one meeting that -- that we had had a regular

1 scheduled meeting, we had an engineer had -- not
2 Troy's outfit, but an engineer told us that the
3 sewer plant at Wayland and everything, how much it
4 was going to cost, the expense and everything. And
5 we were encouraged, to my belief, to get rid of the
6 sewer any way we could like that.

7 Q Okay. Do you have any
8 recollection as to the approximate cost of
9 basically rehabilitating the Wayland sewer plant as
10 what the engineer told you?

11 A The best I can recollect, it
12 was -- it was in the 100s of thousands. Over 100,
13 right at it, maybe.

14 Q And so, I mean, others have said
15 that basically Judge Executive Hale and fiscal
16 court members were basically encouraging the Water
17 Commission to basically work out some deal with
18 Prestonsburg?

19 A Exactly. They --

20 Q Is that --

21 A -- they were encouraging that.
22 And I believe the rhetoric they used, it was a
23 win-win for both -- both Prestonsburg and Southern.

24 Q And before the transaction took
25 place, before any agreements were signed, what did

1 you think about it yourself?

2 A I knew that we would probably
3 have trouble with the sewer. And I wasn't that
4 familiar with the -- at that time, with the water
5 that Prestonsburg obtained. So I -- I guess saying
6 reluctantly that, you know, I went with what --
7 what the rhetoric that I was told, that we were
8 hearing, that it was a win-win for both.

9 Q So how has it turned out in your
10 opinion? Has it turned out to be a win-win?

11 A No, it has not.

12 Q What is there about it in your
13 view that makes it not a win-win?

14 A Well, we're going -- losing
15 40-some thousand, I believe, a month, is what it
16 was. And I know Prestonsburg has done a lot of
17 improvements, Eddie's company has, with -- with the
18 water that -- that we gave up. It's just -- it's
19 put us in a -- well, in just a bad spot.

20 Q If this transaction had never
21 taken place and we take the sewer systems out of
22 it, do you think Southern would have made the
23 improvements Prestonsburg has to these parts of the
24 system?

25 A No.

1 Q By putting in new smart meters
2 and --

3 A Oh, if we --

4 Q -- doing these upgrades?

5 A Yeah, if we could have done that,
6 yeah.

7 Q You think you would have done
8 that?

9 A If we could have done that, yeah.
10 If -- if we would have put in -- if we could have
11 put in those meters and done it, yeah.

12 Q Yeah, but you couldn't -- you
13 couldn't have done it. Prestonsburg could do it
14 because they had the money; right?

15 A That's right.

16 Q But Southern didn't have the
17 money?

18 A At that time, no. And not at
19 this time.

20 Q I mean, Prestonsburg had,
21 according to this appraiser, 4 million dollars in
22 the bank. They had money; right?

23 A Uh-huh (affirmative).

24 Q But Southern didn't have
25 4 million dollars?

1 A Exactly.

2 Q But you'd expect them to keep the
3 sewer system?

4 A Yeah.

5 Q And you-all would bill -- do
6 their billing for them; right?

7 A Yeah.

8 Q For a fee, 3 percent or whatever?

9 A Three (3) percent, yeah.

10 CHAIRMAN SCHMITT: I have no further
11 questions.

12 Commissioner Cicero?

13 EXAMINATION

14 BY MR. CICERO:

15 Q So who initiated the contact?
16 Was it Judge Hale or Mr. Campbell from Prestonsburg
17 that said we need to make a deal?

18 A It was Judge Hale.

19 Q So he went to Mr. Campbell and
20 said, we need to make a deal because we need to get
21 rid of this sewer system, so Mr. Campbell said
22 okay?

23 A I wasn't in on that conversation,
24 so I don't -- I just know that Judge Hale initiated
25 the contact.

1 Q You indicated that you're losing
2 40,000 a month?

3 A Approximately.

4 Q Which happens to be 480,000 a
5 year?

6 A Yeah.

7 Q Which the test year says your net
8 income from the appraiser is 482,906, would be
9 basically breaking even right now if you had all
10 your water revenue customers, but you'd still have
11 your sewer problem?

12 A That's a problem.

13 Q So you'd still be in the -- you'd
14 still be in the red?

15 A Well, then what we have to do is
16 shore up a little bit on our water leaks and...

17 Q Yeah, your water leaks are --
18 they said are worth \$386,000 a year. That's --
19 that's just the amount over 15 percent that's
20 allowed.

21 A But we're working on it.

22 Q I know. And we like to see -- we
23 like to see better progress, because you've been
24 pretty steady at the 60 percent, and I don't -- I
25 don't know how that's going to happen without

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capital improvement.

A We're not perfect, but we got perfect intentions. That don't work all the time.

MR. CICERO: Well, the comment to you -- I went to school, too, and I can't find -- I've never had a teacher that let me get by on good intentions, I got to admit. Just wouldn't allow that to happen. So from your past profession, I got to believe you wouldn't allow that either.

I don't have any other questions.

CHAIRMAN SCHMITT: Commissioner Mathews?

DR. MATHEWS: I don't have any.

CHAIRMAN SCHMITT: I have nothing.

Mr. Bowker?

MR. BOWKER: No, sir.

CHAIRMAN SCHMITT: Mr. McNeil?

MR. McNEIL: No questions, Your Honor.

CHAIRMAN SCHMITT: Any Redirect?

MR. STROBO: No questions.

CHAIRMAN SCHMITT: May this witness be excused?

MR. BOWKER: Yes, sir.

THE WITNESS: Thank you.

CHAIRMAN SCHMITT: You may step down.

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Thank you.

DR. MATHEWS: Tell them if they go outside, they can't get back in.

CHAIRMAN SCHMITT: Oh, I forgot to tell you if anybody goes outside -- our receptionist, at 5:00, leaves. And we're not into overtime either, given our budget constraints. So if you go outside, you may not be able to get back in.

MR. CICERO: Unless somebody opens the door for you.

CHAIRMAN SCHMITT: I didn't want to say that before all the Commissioners testified, because I thought there would be a run on the front door. But anyway. Okay. I guess, Mr. Bowker, do you want to call some people from Kentucky Rural Water?

MR. BOWKER: Yes. We can call Mr. -- Mr. Blanton or Mr. Stinson, any order. Mr. Blanton would be fine.

CHAIRMAN SCHMITT: Please raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the

1 testimony you are about to give will be the
2 truth, the whole truth and nothing but the
3 truth?

4 THE WITNESS: Yes, sir.

5 CHAIRMAN SCHMITT: Please be seated.

6 Mr. Bowker, you may ask.

7 MR. BOWKER: Thank you, sir.

8 * * * * *

9 The witness, TIMOTHY BLANTON, after first
10 being duly sworn, was examined and testified as
11 follows:

12 EXAMINATION

13 BY MR. BOWKER:

14 Q Please state your full name for
15 the record.

16 A Timothy Greg Blanton.

17 Q And where do you work, sir?

18 A Kentucky Rural Water Association.

19 Q And how long have you been
20 working there?

21 A This is my 13th year.

22 Q And what is your position there?

23 A I'm currently the Appalachian
24 Regional Commission's Circuit Rider for water and
25 wastewater.

1 Q I'm sorry, I didn't hear that
2 last part.

3 A Appalachian Regional Center's
4 Circuit Rider for water and wastewater.

5 Q Have you developed a relationship
6 over the years with Southern Water District?

7 A Yes, sir.

8 Q And when did that relationship
9 begin?

10 A About 11 years ago.

11 Q You have been in the hearing room
12 here all day; correct?

13 A Uh-huh (affirmative).

14 Q Heard a lot of testimony here
15 today. Can you give us a -- give the Commission a
16 history, a brief history of what you've been doing
17 with Southern District throughout the years to --
18 to help them?

19 A We've done meter testing, leak
20 detection, distribution optimization, worked in
21 pump stations, a few managerial concepts, water
22 auditing, policies and procedures.

23 Q Any specific projects with
24 Southern District that -- that you've been involved
25 with to help their percentage of water line loss?

1 A Yeah. I've worked with several
2 of the staffs on the -- who are no longer there, to
3 develop systems and means for water auditing
4 specifically, and how to break down the utility
5 into a smaller manageable sections so that leak
6 detection can be performed more exponentially.

7 Q And do you go out in the field
8 with employees of Southern District to try to show
9 them different techniques?

10 A Yes, we do.

11 Q And you do that fairly regularly
12 or --

13 A Yes, everywhere.

14 Q Have they -- have those employees
15 been receptive to what you've tried to teach them?
16 Have they caught on as far as the methods that you
17 try to teach them to find leaks?

18 A Yes, generally speaking, when we
19 have.

20 Q How would you gauge the progress
21 that they have made with your -- with your
22 assistance over the -- over the decades you have
23 been working with them?

24 A When given the time and the tools
25 and the funding, manpower, we've been able to do

1 quite well. Those things don't seem to have been
2 able to be consistent over the years due to
3 budgetary reasons, staffing reasons, disasters,
4 emergencies. Majority of my time, the longest
5 periods of time at Southern Water and Sewer, have
6 been spent following natural disasters.

7 Q Have been after natural
8 disasters?

9 A Yes, sir.

10 Q And do you still currently have a
11 relationship with them ongoing or has Mr. Stinson
12 taken over sort of what -- what you were doing with
13 Southern?

14 A We generally, as the Circuit
15 Riders for Kentucky Rural Water, we have assigned
16 areas. We're not specific to them implicitly. We
17 can go anywhere we need to go or are needed. But
18 Danny took over, Mr. Stinson took over my normal
19 operating area, and I now operate in a different
20 zone that also includes that area. So, yeah, next
21 week I'm planning on being in Southern Water and
22 Sewer to start some studies on hydraulic capacity.

23 Q And when do you expect that to
24 occur?

25 A Next week. I'm going over next

1 week.

2 Q Okay. And do they have
3 substantial issues regarding hydraulics in their
4 geographic area?

5 A Absolutely. All of -- all of the
6 utilities in the mountain area east of 75 generally
7 suffer some considerable hydraulic issues.

8 Q That are different to other parts
9 of the state; correct?

10 A Yes.

11 Q Were you part of putting together
12 the Leak Detection Standard Operating Procedure
13 that's been handed out as an exhibit today?

14 A I reviewed parts of it when it
15 was initiated. As I understand it, that is a draft
16 or a working copy that we are developing further.
17 We have to customize every leak detection plan to
18 the utility itself based on what infrastructure
19 they already own, what they have and what we might
20 be able to acquire to make the process more quick.

21 Q And I guess, lastly, does
22 Mr. Hall -- does Dean Hall reach out to you on a
23 fairly frequent basis for -- for your advice, for
24 assistance in ongoing matters?

25 A Yes.

1 Q Do you know about how -- how
2 often you get a call from Mr. Hall for assistance?
3 And you also have to -- other areas that you deal
4 with as well. You don't just work with Southern
5 District, I assume?

6 A Yeah. I work currently in 52
7 counties and anywhere else I might be needed on a
8 spur of the moment. I've been acquainted since
9 Hubert was in charge. And I receive calls numerous
10 times, almost every year, from Dean.

11 Since Mr. Stinson has taken over that area,
12 it's considerably less. But even in the last year
13 and a half or so, I believe I've had calls from Dean
14 four or five different occasions and had occasion to
15 go down to the district twice now in the last two
16 years.

17 Q And the different projects we've
18 been mentioning here today that Mr. -- Mr. Halbert
19 wrote -- wrote back in October of 2013 that they
20 were going to try to -- try to institute, were you
21 part of those projects as well with Mr. Halbert?

22 A I'm not familiar with what he's
23 written up or turned in to the Division or anyone
24 else. I know that at the time we were advising,
25 Rural Water, that is, common practices for leak --

1 leak detection, water management and water
2 controls. And I know during that time period, I
3 had been involved with a couple of smaller
4 disasters that had happened, and a lot of
5 suggestions come out as to how to improve things
6 and maybe develop means to not be affected by
7 disasters quite so drastically as they have been.
8 But I -- I know that I gave him quite a bit of
9 information at the time to include in these reports
10 and things he needed to write.

11 MR. BOWKER: I have no further questions.

12 Thank you.

13 CHAIRMAN SCHMITT: Mr. McNeil, questions?

14 MR. McNEIL: Just one, Your Honor.

15 EXAMINATION

16 BY MR. McNEIL:

17 Q In your opinion, do you have an
18 estimate -- can you estimate how long it would take
19 Southern to get down to a water loss of about
20 30 percent?

21 A I don't believe anyone ever
22 could. The -- all the utilities are so distinct
23 and so unique, and their needs and processes, that
24 we would have to continue with the in-depth
25 optimization of the utility before we could put a

1 time frame. And it would have to be, for lack of a
2 better term, very elastic.

3 Q So even with a process in place,
4 you couldn't have a good estimate for a long, long
5 while; is that right?

6 A It would take a considerable
7 amount of time.

8 Q Okay.

9 A I've been working on a
10 neighboring utility for four years now. Your-all's
11 favorite.

12 MR. McNEIL: Nothing further.

13 CHAIRMAN SCHMITT: Don't mention that one.

14 THE WITNESS: I didn't want to curse in
15 front of the stand.

16 MR. McNEIL: Nothing further, Judge.

17 CHAIRMAN SCHMITT: Commissioner Cicero?

18 MR. CICERO: You mean I can't mention --
19 that was my next question.

20 EXAMINATION

21 BY MR. CICERO:

22 Q How quickly -- how would Southern
23 compare to other water districts that you have
24 helped out?

25 A Oh, no worse, no better than

1 most. Better than many.

2 Q Better than many?

3 A Staffing wise and equipment and
4 warehousing, having the materials on hand to do the
5 job necessary. The majority of the utilities I go
6 to can't say that. They can.

7 Q So I'm curious, are you the
8 source of the 3 percent for fire usage?

9 A No. That's actually by rule. I
10 know it mostly because on our water loss management
11 spreadsheet sets, when it comes to calculating fire
12 department usage through our spreadsheet, the rules
13 are written right in it. And the last sentence is
14 that, if you are not receiving reports from your
15 fire department, .3 percent of total sales may be
16 accounted for as fire department use.

17 Q That's a Kentucky Rural Water
18 Association number?

19 A No. It's got a KRS number to it.
20 I just don't happen to know it right now. I can
21 find it for you.

22 Q You know more about that one than
23 I do.

24 How about the system usage formula, were you
25 the source for that?

1 A No. Our spreadsheet package was
2 developed by Clem Wethington. It uses basic
3 engineering formulas. If we enter a size and
4 dimensions of an opening in the pipe, whether it be
5 a crack or a hole, the pressure that was involved
6 at the time of the leak, and we allow it to do its
7 job with a little bit of encouragement, we can get
8 a very accurate reading, or use master meter
9 readings as we can for a more accurate estimate.

10 Q Well, I think Mr. Hall referenced
11 fire hydrants and the openings of fire hydrants and
12 how many were completed on a -- I thought he said
13 daily basis. That seems pretty frequent, but
14 whatever that is, that formula use that's used to
15 develop the flushing of the hydrants. Did you come
16 up with that or is that part of the software you're
17 talking about?

18 A No. That's part of the software.

19 MR. CICERO: Okay. Well, I'll see what it
20 is when we get our response back to our --
21 THE WITNESS: Be happy to provide it for
22 you.

23 MR. CICERO: -- post-hearing data request.

24 That's all I have.

25 THE WITNESS: It's also readily available

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on our web page.

CHAIRMAN SCHMITT: Commissioner Mathews?

DR. MATHEWS: I don't have anything.

CHAIRMAN SCHMITT: I don't have any questions.

Counsel?

May Mr. Blanton be excused?

MR. BOWKER: Yes, sir.

THE WITNESS: Thank you.

CHAIRMAN SCHMITT: You may be excused. Thank you. You may step down.

Call your next.

MR. BOWKER: Mr. Chairman, we call Danny Stinson, please, Kentucky Rural Water.

CHAIRMAN SCHMITT: Please you raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes, sir.

CHAIRMAN SCHMITT: Please be seated.

Mr. Bowker?

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MR. BOWKER: Thank you, sir.

* * * * *

The witness, DANNY STINSON, after first being duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BOWKER:

Q Can you please state your -- your name for the record?

A Danny Joe Stinson.

Q And same work address as Mr. Blanton?

A Yes. Kentucky Rural Water Association.

Q And what is your position there?

A I am a Circuit Rider.

Q And how long have you had that position?

A I've been employed with Kentucky Rural Water for two years.

Q And how long have you had a relationship with Southern Water and Sewer District?

A For approximately a year now. I visited -- actually, I have a timetable, if you --

1 Q Sure. Yeah, please.

2 A I know I initially met Dean and
3 the guys from Southern during the Wheelwright water
4 crisis. They came over and provided assistance for
5 them.

6 Let's see, I wrote down a timetable
7 somewhere. On January 10th of 2018, I was called
8 out on an emergency to Southern. They had a leak
9 that they couldn't locate, as well as a time on
10 July 16th. That's when we really began talking
11 about their historical water loss. So I set up a
12 time to return in August. And looks like I came
13 back on the 21st, 22nd and 23rd. And we were trying
14 to gather that up to develop this plan that we're
15 talking about now. Then I later returned on the
16 23rd and 24th of October. And since then I have not
17 been able to make another visit, but we've kept in
18 contact by phone.

19 Q And was it your -- and I'm trying
20 to remember from earlier today, but was it your
21 idea to come up with the Leak Detection Standard
22 Operating Procedure? Were you asked -- or were you
23 asked by Southern District to come up with that, or
24 did you think that that was something that they
25 just needed to have?

1 A Well, I thought if they had a
2 written plan where they could, you know, refer to
3 it at later times, that it would be real helpful to
4 them. Because having 22 tank zones, you really
5 need to have a plan where you can assess your whole
6 system on a daily basis, rather than waiting a
7 whole month and potentially losing water due to
8 a -- due to a leak for 30 days, when you could
9 lessen the amount of time it's leaking.

10 Q So you saw some issues with that
11 and -- and then asked Mr. Hall, or someone at
12 Southern District, whether they had a plan in place
13 or not, a written plan?

14 A Yeah.

15 Q And then when they said no, you
16 suggested you-all might want to go ahead and have a
17 standard operating procedure --

18 A Yeah.

19 Q -- for leak detection?
20 Can you -- can you go into a little bit of
21 detail regarding how you-all came up with the plan,
22 with the procedure?

23 A Yeah, no problem. The 22 tank
24 zones, I'm always thinking -- yeah, that will help
25 if I had it. Each one of these -- I've done these

1 for a few systems and I try to make it the most
2 efficient for each system. That way they can get
3 more out of it.

4 With 22 tank zones, the most efficient way I
5 think that a utility could assess their system on a
6 daily basis is by their tank draw-down. And just to
7 define that for people that haven't run a utility,
8 say normal circumstances, you would have a pump that
9 feeds the tank and then a pump that pulls water from
10 the tank. When those pumps are off you can measure
11 the flow or the demand for that area based on your
12 number of customers.

13 And so your number of customers is kind of
14 like the speed limit. And if you measure how fast
15 your -- your tank falls, that's your miles per hour
16 on your car. Sort of a little analogy I came up
17 with. But, yeah, say you have 100 customers to a
18 tank zone, it should roughly come to about
19 10 gallons a minute per flow. If your tank draw
20 shows you have 100 gallons a minute per flow, well,
21 that's -- you can readily see a 90-gallon-a-minute
22 excess water flow in that zone. So it's just kind
23 of like a tool to make better decisions about where
24 you spend your resources.

25 Q Okay. Thank you.

1 A Yes, sir.

2 Q Any other insights as far as how
3 Southern District could -- could reduce their water
4 line loss in a shorter amount of time than what
5 we've been discussing here today, as far as since
6 you know the geography of the area? Anything else
7 that we've left out that you have been -- you've
8 been sitting here listening to the hearing and
9 thought of?

10 A The other side to -- there's two
11 sides to water loss. You have the -- the water
12 actually lost, but you also have your -- your
13 sales, is the other side of it. Dean and I were
14 talking about a -- their sales to the residential
15 customers. And I was trying to determine the
16 demand factor by dividing the total water sold by
17 their number of customers. And it usually averages
18 out about everywhere I go to a .09 to .1 gallons
19 per minute per customer. And when I was -- when I
20 broke it on down by each month, I noticed an
21 anomaly that some months it was as low as .06,
22 which that could -- that could tell you that
23 there's possibly some meters not being read
24 consistently. Perhaps they're skipping a month and
25 then catching up a month later, so...

1 MR. BOWKER: Okay. Well, thank you for
2 that. I have no further questions for you
3 at this time.

4 THE WITNESS: Thank you.

5 CHAIRMAN SCHMITT: Mr. McNeil?

6 MR. McNEIL: No questions, Your Honor.

7 CHAIRMAN SCHMITT: Commissioner Cicero?

8 EXAMINATION

9 BY MR. CICERO:

10 Q So your analysis kind of confirms
11 that there could be meters that are being not read
12 and estimated?

13 A That is -- that's what it shows
14 potentially. I couldn't -- I can't think of any
15 other reason why one month you would sell
16 27 million gallons of water and the next month you
17 would sell 17, residentially.

18 MR. CICERO: Thank you for that
19 confirmation. I don't have anything else.

20 CHAIRMAN SCHMITT: Commissioner Mathews?

21 DR. MATHEWS: Nothing.

22 EXAMINATION

23 BY CHAIRMAN SCHMITT:

24 Q You were here when I talked about
25 one of these people said -- I don't know if I went

1 to the letter -- that her meter wasn't being read,
2 and that in order to test it out they covered the
3 meter with dirt and brush and it was never
4 uncovered and yet they got the same bill every
5 month. And when they called in, supposedly someone
6 in the office said, well, you -- you use the same
7 amount of water every month. But you suspect there
8 is that -- that's more than a possibility. It's a
9 probability, isn't it?

10 A In my opinion, that's --

11 Q More likely than not?

12 A Well, I -- I can't think of any
13 other explanation for the results of my numbers.

14 CHAIRMAN SCHMITT: Okay, thank you. No
15 further questions.

16 Anything?

17 EXAMINATION

18 BY MR. STROBO:

19 Q So in light of what you just
20 disclosed, have you been working with Dean? You
21 said you just -- you just noticed this problem or
22 you just noticed this anomaly?

23 A Yes. This was actually last
24 Friday.

25 Q Okay. Have you talked to Dean

1 about it?

2 A Yes. We was on the phone when
3 we -- yeah.

4 Q So is there a way that Southern
5 can kind of isolate and try to figure out where
6 this issue is within the system?

7 A Yeah, potentially, you could --
8 if you broke your -- your meter sales into zones.
9 You know, besides having a route that covers five
10 tank zones, you could break your routes down into
11 specific tank zones and then divide your sales by
12 your number of customers per that tank zone. It
13 might bring some results.

14 Q Have you gotten that far into
15 discussions with Dean, Mr. Hall?

16 A Potentially. I -- we've talked
17 about so much.

18 Q So this is a new problem that you
19 just discovered?

20 A Yeah.

21 Q And Mr. Hall, is he open to
22 working with you to try to --

23 A Oh, absolutely. Anything that
24 I've recommended, or just any kind of crazy thought
25 I've had, Dean has been open to it.

1 Q I don't know some of your crazy
2 thoughts probably.

3 But going back to the leak detection plan,
4 have you seen improvements since the -- in the short
5 time that that plan has been put into --

6 A Yeah. You know, it takes a
7 little time for people to get used to operating
8 differently. But I can tell you there's one tank
9 zone in particular, the Spurlock Tank Zone, which
10 was initially -- a tank draw showed that it had
11 approximately 150-gallons-a-minute excess flow. So
12 we went out and verified that with the flow meter,
13 and it wasn't far off, but it was -- you know, it
14 was still 140 gallons a minute too much.

15 I trained Reece Salyer on how to operate the
16 flow meter so he could, you know, validate what we
17 was seeing at the plant on the telemetry. And then
18 his guys were trained on how to make sure that a
19 valve was shut off when they shut it off and
20 interpret the results back at the flow meter. So
21 say if it's flowing 150 gallons a minute and you
22 turn this valve off, well, if you have -- goes back
23 to the whole same thinking. If you have 10
24 customers past that valve, or 100, says 100, you
25 should see a 10-gallon-per-minute decrease on your

1 flow meter.

2 Well, that was the next step of it. They
3 done that and they were able to isolate all of the
4 excess flow. And then the next step was to actually
5 pinpoint the leaks with their acoustic devices,
6 which they were successful at doing that as well.
7 So they -- I figured it up, of the total water loss,
8 the water they recovered just in that zone was -- I
9 believe it was 14 percent of their total water loss.
10 Yeah. And they were able to sustain that for three
11 weeks until -- you know, just the nature of the
12 beast, it's hard to keep it there. That's why we
13 all have a job. There's always something to do.

14 Q Is it your expectation that if
15 they continue to follow this plan, that they will
16 see substantial improvements in water loss?

17 A Oh, yeah, I have no doubt.

18 MR. STROBO: No further questions.

19 CHAIRMAN SCHMITT: Commissioner Mathews?

20 DR. MATHEWS: I just have one question.

21 EXAMINATION

22 BY DR. MATHEWS:

23 Q Your assumption that your anomaly
24 was theft, could that also be aged meters that are
25 reading slow?

1 A Yes, it could, but if you --

2 Q Or a combination of the two?

3 A If it was an aged meter problem,

4 it would be more consistent, I would think.

5 Q Maybe that's the baseline and the

6 other anomalies are --

7 A Could be.

8 Q -- are leaks?

9 A Could be. I'm basing everything

10 off of, you know, assumptions and estimates and...

11 Q I'm an economist. I am the queen

12 of assumptions. I just -- I was just trying to

13 think about, you know --

14 A Uh-huh (affirmative).

15 Q -- because the net effect on the

16 utility for an underperforming meter and theft is

17 the same. I mean, it shows up as water loss.

18 A Yeah. If you take the -- the 40

19 meters that Prestonsburg found out of the 1,100,

20 that's 3.4 percent of those meters.

21 Q And if you take that to the 5,000

22 that are left --

23 A It's a very large number.

24 Q Yeah.

25 A Yeah.

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CHAIRMAN SCHMITT: Anything further?

DR. MATHEWS: I got nothing.

CHAIRMAN SCHMITT: May this witness be excused?

MR. BOWKER: Yes.

CHAIRMAN SCHMITT: Thank you. You may step down and you're excused.

We have one more potential witness left.

MR. BOWKER: Holly Nicholas.

CHAIRMAN SCHMITT: Ms. Nicholas.

MR. STROBO: You seem surprised.

CHAIRMAN SCHMITT: Please raise your right hand.

THE WITNESS: (Witness does same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

CHAIRMAN SCHMITT: Please be seated.

Mr. Bowker?

* * * * *

1 on Page 6 that -- I'm just going to read it to you.
2 It says, "Reduction in water sales during the test
3 year Southern District transferred its sewer
4 operations and a portion of their water customer
5 base of the PCUC for financial consideration,
6 Southern District provided a billing analysis that
7 accounts for the loss -- for the lost revenues of
8 \$656,122 and the loss of 60,744,000 gallons sold to
9 these 1,160 customers. Commission staff finds that
10 the billing analysis shows that these adjustments
11 are reasonable and should be accepted by the
12 Commission."

13 I believe we are -- the staff is basing the
14 \$656,122 in lost revenues based on a figure that you
15 had provided. How did you come up with 656,122?

16 A It was in the initial application
17 filing. Attachment No. 6 was the billing analysis.
18 And I did a separate one for the customers that
19 were turned over to Prestonsburg. And I basically
20 asked Southern Water to give me a billing printout,
21 a billing journal printout, of those customers for
22 the test year, which was 2016. So they gave me a
23 listing of all those customers and their usage for
24 that test period. And I calculated -- based on
25 their rate structure, based on that usage, that's

1 where I came up with the 656,000-dollar figure.

2 Q So it was entirely historical in
3 nature from what Southern District provided, that
4 number?

5 A Yes.

6 MR. BOWKER: That's actually all I have for
7 you, ma'am. Thank you.

8 CHAIRMAN SCHMITT: Commissioner McNeil?

9 MR. McNEIL: Just a few, Your Honor.

10 EXAMINATION

11 BY MR. McNEIL:

12 Q Just to clarify, are you an
13 engineer?

14 A No, I am not.

15 Q What is your title at Kentucky
16 Engineering?

17 A I'm a project administrator. I
18 prepare government documents for Rural Development
19 projects, KIA. I do -- try not to do too many rate
20 studies, but I seem to be doing more and more of
21 them. I help our clients secure funding for
22 projects. I work with Rural Development and KIA
23 particularly to -- to get funding.

24 Q Is it correct you also helped
25 prepare Southern's application in this matter?

1 A I did their application, yes.

2 Q Did the application? Did you
3 have any legal assistance in preparing it?

4 A No. Well, I take that back.
5 There were -- there were a couple of questions I
6 might have run past Damon Talley, because I was
7 working with Damon on another rate application at
8 the time. But they were general questions, they
9 weren't specific, because I knew of his
10 relationship with Prestonsburg.

11 MR. McNEIL: That's all I have, Your Honor.

12 CHAIRMAN SCHMITT: Commissioner Cicero, any
13 questions?

14 EXAMINATION

15 BY MR. CICERO:

16 Q So has anyone ever come back and
17 questioned your number of \$656,122?

18 A No.

19 Q It's never been re-audited or
20 verified?

21 A No.

22 Q I'm only curious because this
23 whole appraisal seems to be based on this one
24 number and yet nobody has gone back and --

25 A Well, I assume the PSC staff

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looked at it.

Q I'm sure they did.

A And if they had --

MR. CICERO: They're basing it on the -- they're basing it on the billing information that you're providing, but I don't -- are you running the calculation that she's run or are you accepting her number? (Directed to Staff.) She's accepting your number. Your number is golden because -- it's not been verified and it's what a \$4.1 million appraisal is based on. The appraiser never went back and did any other calculation. He accepted this number and backdated it five years, and then projected it out to come up with \$4.1 million. I guess at some point there will be an audit of your number.

I don't have any further questions.

CHAIRMAN SCHMITT: Commissioner Mathews, questions?

DR. MATHEWS: I don't have any.

CHAIRMAN SCHMITT: I have none.

Counsel?

MR. STROBO: Just a few.

1 CHAIRMAN SCHMITT: You may be excused
2 Ms. Nicholas. Thank you.

3 Are there any other witnesses here
4 that haven't testified? Anybody else just
5 want to come forward and say their peace?

6 All right. Let's talk about time.
7 The first is kind of -- puts a crunch on it.
8 On post-hearing data requests, can those
9 be -- can those be filed electronically, of
10 course, so you'll get them by the end of the
11 day on January 10th? That's two days;
12 right?

13 MR. BOWKER: Yes.

14 CHAIRMAN SCHMITT: Tomorrow. And then --

15 MR. BOWKER: Yes.

16 CHAIRMAN SCHMITT: -- would you be able to
17 file responses by the 16th, end of the day
18 on the 16th?

19 MR. STROBO: Yeah. Sure.

20 CHAIRMAN SCHMITT: Of course, what's going
21 to happen is, is you know the answers to
22 these --

23 MR. STROBO: Right.

24 CHAIRMAN SCHMITT: -- and they don't know.

25 So, I mean, you're going to have to work on

1 your brief during this time period,
2 whatever you want to file.
3 MR. STROBO: I'm trying to get it down a
4 little bit --
5 CHAIRMAN SCHMITT: Okay.
6 MR. STROBO: -- so maybe three days. And
7 if we need another day --
8 CHAIRMAN SCHMITT: Well, that would -- I
9 mean, that would get you -- on business
10 days, get you to the 15th. That would give
11 you the -- that's Tuesday, Monday -- I
12 guess that's right. If you -- they went
13 out on the 10th, and then you had -- the
14 11th is Friday. The 12th, 14th, that would
15 be -- the 15th would be Tuesday, if that's
16 enough. I mean, if you need more time.
17 MR. STROBO: Let's do that.
18 CHAIRMAN SCHMITT: Is that okay?
19 MR. STROBO: Yeah, let's do that.
20 CHAIRMAN SCHMITT: The 15th? And then -- I
21 mean, during this time period, you know
22 what you're going to say. You're going to
23 write something --
24 MR. STROBO: Uh-huh (affirmative).
25 CHAIRMAN SCHMITT: -- in favor of the -- of

1 the increase and whatever -- any of this
2 other testimony, whatever the effect of it
3 has been, if anything, you'll probably, may
4 want to comment on it. So can you have
5 something to us by the 17th?

6 MR. STROBO: Yes.

7 CHAIRMAN SCHMITT: I mean, your client will
8 be doing that. And then if the Attorney
9 General's Office could get their
10 intervenor's brief in by the 23rd; right?

11 MR. McNEIL: That will be fine.

12 CHAIRMAN SCHMITT: And then that would give
13 the applicant until Wednesday, the 23rd, or
14 you could even have Wednesday, the 24th,
15 because we got to have some of that time --
16 it's --

17 MR. STROBO: Let's do the 23rd.

18 CHAIRMAN SCHMITT: You wouldn't believe how
19 long it takes to get an order, especially a
20 rate order through the process here, of all
21 the people that have to read it and review
22 it --

23 MR. STROBO: No. I understand.

24 CHAIRMAN SCHMITT: -- make changes on it.

25 MR. STROBO: The 23rd is fine for us.

1 CHAIRMAN SCHMITT: Okay. And then -- well,
2 if that's the 23rd for them --
3 MR. STROBO: I'm sorry, the --
4 CHAIRMAN SCHMITT: -- your reply, could do
5 the 26th?
6 MR. STROBO: Okay. Are you-all okay with
7 the 23rd?
8 MR. McNEIL: 23rd is fine. Overfine.
9 CHAIRMAN SCHMITT: You can go to the 23rd.
10 Can you go the 26th?
11 MR. STROBO: Yes.
12 CHAIRMAN SCHMITT: All right. And then
13 we'll have it out, one way or the other, by
14 February 1st.
15 MR. STROBO: I appreciate that. Thank you.
16 CHAIRMAN SCHMITT: Okay. Is there anything
17 else?
18 DR. MATHEWS: 26th is a Saturday.
19 CHAIRMAN SCHMITT: Well, wait a minute.
20 No, the 20- -- oh, well, if the 26th is a
21 Saturday -- no, that's -- this calendar has
22 Saturday and Sunday.
23 MR. STROBO: Well, then the --
24 CHAIRMAN SCHMITT: Anyway, do you want to
25 go the -- well, if you could do it on

1 the -- if you do it on Saturday is fine
2 with me. I don't care. Or -- or the 25th.
3 You don't have as much time on the 25th.
4 You just got two days.

5 MR. STROBO: We'll do 25th.

6 CHAIRMAN SCHMITT: You'll do the 25th? All
7 right.

8 MR. STROBO: Our office will be very happy.

9 DR. MATHEWS: When are we going to talk to
10 the appraiser?

11 CHAIRMAN SCHMITT: Well, we're going to
12 talk to the appraiser sometime between now
13 and then, and counsel will just have to
14 work with us on that. I'm not clear how --
15 whatever changes in some -- I don't think
16 there will be any change in anybody's
17 position. It will just be the nuances of
18 the -- of the appraisal.

19 So is there anything else that counsel
20 would like to bring before the Commission?

21 MR. STROBO: As far as getting Mr. Fyffe
22 here, do you want us to reach out and try
23 to get him here, or how do you want that to
24 work?

25 CHAIRMAN SCHMITT: Well, you might -- you

1 might -- I mean, it would probably be
2 better if you spoke to him. I mean, we --
3 he wrote a letter or something here, didn't
4 he --

5 MR. STROBO: Right. Yeah.

6 CHAIRMAN SCHMITT: -- after we -- after he
7 got the subpoena. Apparently, it was --

8 MR. STROBO: Uh-huh (affirmative). Yeah.

9 CHAIRMAN SCHMITT: Yeah, if you would. And
10 then you could contact Mr. Bowker -- you
11 can exchange phone numbers or something --
12 maybe try to get in touch with him and he
13 could set it up, because they know our
14 schedule. And then we could just take it
15 and -- you-all are, what, in Louisville?

16 MR. STROBO: Yes.

17 CHAIRMAN SCHMITT: Is that where you are?
18 So we could just do it here and --

19 MR. STROBO: Right. That's fine.

20 CHAIRMAN SCHMITT: -- and get it done.

21 Mr. Pillersdorf, it's good to see you
22 again after all this time.

23 MR. PILLERSDORF: Good to be here, Judge,
24 or Chairman, whatever you are.

25 CHAIRMAN SCHMITT: Anything, Mr. McNeil?

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MR. McNEIL: I have nothing further.

CHAIRMAN SCHMITT: All right. If there's nothing else, then this hearing is in recess, rather than adjourned, because we're going to, I guess, get Mr. Fyffe at some point.

* * * * *

THEREUPON, the Hearing was in recess at 5:45 p.m.

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STATE OF KENTUCKY)
COUNTY OF FAYETTE)

I, JOLINDA S. TODD, Registered
Professional Reporter and Notary Public in and for
the State of Kentucky at Large, certify that this
transcript is a true and accurate record of the
provided audio/visual media.

My commission expires: August 24, 2019.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and seal of office on this the 19th day of
March 2019.

JOLINDA S. TODD, RPR, CCR(KY)
NOTARY PUBLIC, STATE AT LARGE

<p>CHAIRMAN SCHMITT: [212] 2/19 10/15 11/2 11/7 11/12 12/1 12/10 14/2 14/24 15/2 15/5 16/19 16/24 17/5 62/3 63/9 74/6 74/9 74/14 79/23 81/18 93/24 99/8 100/24 102/13 102/16 102/23 103/1 103/5 103/8 103/12 103/25 104/3 104/9 110/7 111/22 111/25 114/3 114/7 114/10 114/13 114/20 115/1 119/13 134/1 134/5 134/9 135/22 136/1 136/5 139/12 147/1 147/3 147/9 165/13 178/1 186/14 186/17 186/23 191/4 191/6 197/19 197/23 198/5 198/24 199/2 199/8 199/11 199/14 199/18 199/21 200/2 200/9 200/15 208/8 216/3 216/22 217/2 217/5 217/7 217/9 217/13 217/18 217/22 217/24 218/2 218/8 218/12 235/18 239/8 244/9 268/22 280/22 280/25 286/16 286/22 290/22 291/7 291/10 291/13 291/18 292/22 292/25 293/10 293/16 294/23 295/10 295/13 295/18 295/25 296/6 303/7 304/15 305/10 305/13 305/18 305/23 306/1 306/6 306/20 306/23 307/1 307/5 307/11 308/2 308/7 308/12 309/18 310/3 310/7 310/13 321/11 324/4 324/23 325/13 325/16 325/22 325/25 326/4 326/6 326/10 326/12 326/18 326/24 335/9 337/11 337/13 337/16 337/18 337/20 337/24 338/3 338/11 338/20 338/23 339/4 345/12 346/12 346/16 349/1 349/3 349/9 349/14 349/17 349/23 355/4 355/6 355/19 356/13 359/18 360/25 361/2 361/5 361/10 361/12 361/15 361/21 364/7 365/11 366/19 366/22 367/22 367/25 368/13 368/15 368/19 368/23 369/4 369/7 369/17 369/19 369/24 370/6 370/11 370/17 370/23 370/25 371/3 371/8 371/11 371/15 371/18 371/23 372/5 372/10 372/24 373/5 373/8 373/16 373/19 373/24 374/1</p>	<p>79/22 103/7 112/1 134/3 134/7 134/12 135/16 135/20 135/25 139/11 165/12 165/15 199/10 217/8 235/19 239/6 293/13 295/12 306/21 325/14 337/17 345/13 346/11 346/15 355/5 364/8 365/10 370/10 371/7 373/25 MR. PILLERSDORF: [2] 114/2 373/22 MR. STROBO: [70] 9/19 11/1 11/25 12/4 12/8 12/18 14/18 15/1 15/4 81/19 93/21 112/2 135/17 135/23 136/4 199/13 268/24 281/1 282/24 283/4 286/18 286/24 292/15 292/24 293/2 294/18 294/20 295/8 306/22 307/4 307/6 307/13 307/15 307/17 308/6 308/9 308/20 308/23 309/11 309/14 309/24 325/15 337/19 359/17 361/11 366/24 367/21 368/18 368/22 369/2 369/5 369/16 369/18 369/23 370/5 370/16 370/22 370/24 371/2 371/5 371/10 371/14 371/22 372/4 372/7 372/20 373/4 373/7 373/15 373/18 MS. MILLER: [1] 307/14 THE WITNESS: [88] 16/23 17/4 71/11 71/13 74/8 93/23 96/11 96/19 97/6 97/9 97/21 97/25 98/6 102/15 102/18 102/25 103/2 103/11 103/23 104/2 104/8 111/20 112/3 114/9 114/19 114/25 124/5 125/9 125/11 125/15 179/18 186/16 186/19 186/22 187/3 191/11 191/22 192/11 192/24 193/5 198/7 198/9 198/13 198/21 199/5 199/20 200/8 200/14 216/21 216/24 217/17 217/20 217/23 218/1 218/7 244/6 280/24 291/3 291/12 295/24 296/5 305/12 305/17 305/22 305/25 306/3 307/3 310/6 310/12 325/20 325/24 326/2 326/5 326/11 326/17 326/23 337/23 338/22 339/3 346/13 348/20 348/24 349/8 349/16 349/22 355/3 361/14 361/20</p>	<p>\$3.50 [1] 284/8 \$314,694.88 [1] 26/6 \$32.76 [1] 261/19 \$38,510 [1] 27/5 \$386,000 [3] 142/7 142/17 336/18 \$387,000 [1] 156/24 \$4,000,000 [1] 36/2 \$4.1 [2] 366/12 366/17 \$4.1 million [2] 366/12 366/17 \$4.3 [1] 36/10 \$4.3 million [1] 36/10 \$4.4 [1] 68/11 \$4.4 million [1] 68/11 \$40 [1] 187/14 \$400,000 [1] 157/14 \$485,000 [1] 64/5 \$50 [3] 77/6 263/2 263/3 \$50,000 [2] 27/11 27/13 \$512,990 [1] 29/21 \$52 [1] 77/6 \$600,000 [1] 69/13 \$656,122 [5] 66/7 279/25 363/8 363/14 365/17 \$70,000 [1] 265/13 \$90,000 [1] 320/24 \$900,000 [1] 319/5 \$939.61 [1] 145/22</p>
<p>DR. MATHEWS: [21] 74/11 102/12 111/23 147/2 197/22 201/16 217/4 245/12 286/25 295/17 305/9 324/22 337/12 338/1 349/2 355/20 359/19 361/1 366/21 371/17 372/8 MR. BARKLEY: [2] 12/7 294/19 MR. BOWKER: [50] 11/9 74/13 111/24 114/6 119/10 123/20 133/24 197/24 198/6 198/8 198/10 198/16 198/22 199/1 199/4 199/7 199/17 199/24 217/6 217/12 218/10 235/16 281/2 290/24 291/5 291/9 292/19 306/8 306/18 306/25 307/16 309/25 325/12 326/9 327/11 337/15 337/22 338/17 339/6 345/10 349/7 349/12 349/25 354/25 361/4 361/9 364/5 367/24 368/12 368/14 MR. CICERO: [55] 45/23 46/2 71/8 71/12 79/25 81/17 96/10 96/14 97/1 97/7 97/17 97/22 98/5 98/7 100/23 111/19 111/21 123/19 123/21 124/21 125/10 125/13 125/16 135/19 146/24 178/2 191/5 191/7 191/12 191/24 192/13 193/1 193/9 216/1 237/19 244/7 265/15 281/3 282/23 283/1 304/13 308/17 308/21 308/24 309/12 309/15 321/13 324/1 337/3 338/9 346/17 348/18 348/22 355/17 366/3 MR. HALL: [3] 186/21 187/1 187/5 MR. McNEIL: [33] 11/5 16/17 74/15</p>	<p>\$ \$1,478,010.20 [1] 24/8 \$1,850,000 [2] 57/23 58/13 \$1,865,000 [3] 35/7 37/19 57/4 \$1.7 [1] 74/2 \$1.7 million [1] 74/2 \$1.75 [1] 284/11 \$1.9 [1] 192/18 \$1.9 million [1] 192/18 \$100 [2] 263/3 263/4 \$100,000 [2] 96/10 207/15 \$126,000 [1] 237/21 \$163,500 [1] 27/15 \$19,500 [1] 40/21 \$2 [5] 89/2 89/12 89/13 90/2 91/10 \$2 million [5] 89/2 89/12 89/13 90/2 91/10 \$2,000,000 [1] 37/21 \$2,000,000 less [1] 37/21 \$2,139,000 [1] 31/17 \$2,139,715.08 [2] 24/1 27/25 \$2.1 [3] 88/17 92/9 299/11 \$2.1 million [3] 88/17 92/9 299/11 \$20,000 [6] 77/16 251/11 251/12 251/16 251/19 251/20 \$200,000 [1] 42/10 \$250,000 [1] 237/22 \$3,000 [1] 72/14 \$3,500 [1] 27/12 \$3.5 [1] 37/9 \$3.5 million [1] 37/9</p>	<p>' '09 [1] 83/8 '11 [1] 265/23 '12 [1] 265/23 '15 [1] 297/6 '16 [2] 72/12 297/6 '17 [7] 25/23 43/25 45/8 95/20 226/6 281/17 302/23 '18 [4] 151/13 152/13 226/7 281/17 '19 [1] 329/1 '60s [1] 230/17 '7 [1] 311/14 '70s [1] 230/17 '8 [1] 311/14 '80s [1] 271/1 '87 [1] 325/22 '9 [1] 311/14 '95 [5] 115/18 116/1 119/2 119/3 260/12 'as [2] 173/6 173/6 'til [3] 291/15 292/10 292/11</p> <p>. .03 [2] 267/16 267/19 .06 [1] 354/21 .09 [1] 354/18 .1 [1] 354/18 .3 [1] 347/15 .3 percent [1] 347/15</p> <p>0 0022 [1] 3/8 00230 [2] 1/3 3/8</p> <p>1 1,000 [3] 284/8 284/11 289/13 1,050 [1] 78/1 1,100 [2] 272/16 360/19 1,125 [1] 202/3 1,160 [2] 178/11 363/9 1,175 [2] 53/3 79/20</p>

1	369/20 16 [3] 150/19 150/21 151/15 16th [9] 149/16 150/23 151/6 151/13 151/14 165/4 351/10 368/17 368/18 17 [3] 165/19 171/25 355/17 17th [2] 307/9 370/5 18 [4] 79/21 146/13 179/11 219/20 18th [1] 174/19 19,5 [1] 40/20 199 [1] 2/9 19th [1] 375/14 1:00 [2] 147/12 292/11 1:05 p.m [1] 147/8 1st [18] 33/20 43/15 43/25 44/6 106/6 150/6 150/7 151/1 151/2 151/6 151/6 151/8 151/10 307/11 307/13 307/22 309/22 371/14 1st is [1] 307/15	375/12 375/15 2020 [1] 149/20 2023 [1] 116/4 217 [1] 2/10 21st [2] 168/13 351/13 22 [5] 276/21 276/23 352/4 352/23 353/4 22,000 [1] 145/23 22,425.98 [1] 145/22 225 [1] 46/6 22nd [1] 351/13 23 [3] 145/21 285/11 305/3 23 payments [1] 144/25 23 Route [1] 188/8 230 [1] 362/24 239 [2] 9/22 27/24 23rd [10] 351/13 351/16 370/10 370/13 370/17 370/25 371/2 371/7 371/8 371/9 24 [1] 375/12 249 [1] 201/2 24th [2] 351/16 370/14 25 [8] 219/8 219/18 223/14 258/8 259/15 259/16 268/3 292/11 25 1/2 [1] 259/17 25 gallons [1] 268/4 250,000 [1] 46/6 2560 [1] 17/19 25th [4] 372/2 372/3 372/5 372/6 26th [5] 308/25 371/5 371/10 371/18 371/20 27 [1] 276/21 27 million gallons [1] 355/16 28 [1] 65/25 28th [1] 33/15 29 [1] 201/1 294 [1] 2/11 2:00 a.m [1] 293/10
100 gallons [1] 353/20 100 percent [1] 240/20 100,000 [1] 86/17 100s [1] 331/12 103 [1] 2/7 10th [3] 351/7 368/11 369/13 11 [3] 120/25 232/24 340/10 112 [1] 327/9 114 [1] 2/8 115 [1] 101/6 115,000 [1] 27/20 1175 [2] 44/24 101/8 118 [1] 101/7 11:25 [1] 114/12 11th [3] 308/18 309/1 369/14 12 [8] 126/10 133/19 179/11 228/8 232/14 295/4 325/9 325/10 12 1/2 [1] 167/4 12 hours [3] 133/18 306/17 327/11 12-day [1] 228/11 12-inch [3] 45/18 232/6 232/12 120 [1] 266/17 120,000 [1] 97/24 125 [1] 78/3 12:00 [1] 147/7 12th [4] 7/16 11/20 307/13 369/14 13 [3] 164/19 165/24 252/16 13 percent [2] 121/1 232/24 13th [1] 339/21 14 [1] 151/16 14 percent [1] 359/9 140 [1] 358/14 145,000 [1] 27/4 14th [2] 151/15 369/14 15 [8] 49/2 150/4 150/5 164/19 165/24 226/15 239/21 252/16 15 percent [8] 49/4 142/8 157/10 164/23 239/22 242/16 245/4 336/19 15-minute [1] 103/16 150 [1] 289/15 150 gallons [1] 358/21 150,000 [1] 270/25 150-gallons-a-minute [1] 358/11 151.20 [1] 284/18 15th [5] 150/1 150/23 369/10 369/15	2 2 million [4] 35/6 89/25 92/5 299/14 2 million-dollar [2] 41/9 109/2 2,139,715 [1] 26/24 2,139,715.08 [1] 59/14 2.139 [1] 26/14 2.14 [2] 63/8 63/15 2.14 million [3] 22/10 34/24 62/15 2.41 million [1] 75/14 20 [11] 13/7 88/19 88/20 273/22 273/22 276/23 291/15 311/7 311/8 323/10 371/20 20 percent [2] 124/1 142/19 20,000 [1] 169/1 20-some [1] 273/22 20/20 [2] 13/7 323/10 200 [3] 104/20 228/10 289/15 2000 [6] 115/19 116/20 147/21 149/3 219/12 260/14 2003 [2] 149/4 150/17 2004 [4] 149/16 149/19 150/19 150/21 2006 [2] 149/23 149/23 2007 [1] 79/5 2008 [2] 149/19 311/14 2009 [2] 123/25 142/18 201.60 [1] 284/17 2010 [6] 150/1 150/4 150/5 150/23 311/15 311/17 2011 [5] 150/6 150/7 151/1 151/2 174/6 2012 [17] 90/11 90/12 90/20 90/21 91/6 119/4 119/4 119/9 123/14 123/18 149/19 160/2 174/6 207/11 265/23 266/22 328/4 2012-309 [4] 90/18 119/5 119/19 126/10 2013 [6] 123/11 123/14 126/10 220/1 220/2 344/19 2014 [2] 204/8 285/11 2015 [3] 151/5 151/5 151/11 2016 [5] 67/2 67/15 149/19 281/17 363/22 2017 [23] 6/17 12/24 18/3 28/9 28/20 33/15 33/21 43/15 44/6 47/16 76/7 84/12 87/15 91/25 98/13 106/7 151/7 151/8 151/11 151/12 168/15 185/25 271/17 2018 [18] 3/15 33/3 66/1 92/23 151/14 151/15 152/25 154/18 154/25 168/13 174/19 261/18 279/17 313/1 314/23 315/1 351/7 367/7 2018-0022 [1] 3/8 2018-00230 [1] 1/3 2018-230 [1] 362/24 2019 [7] 1/18 151/16 151/16 154/24 329/1	
		3 3 million [1] 177/8 3 percent [2] 95/10 335/8 3 pounds [1] 223/6 3.4 percent [1] 360/20 3.5 million [2] 35/1 62/13 3.85 [1] 56/13 30 [8] 19/16 60/20 167/1 223/14 237/20 258/8 259/15 352/8 30 percent [10] 237/14 237/16 239/4 239/15 278/6 278/8 278/15 278/22 278/24 345/20 300 percent [1] 124/4 309 [5] 2/12 90/18 119/5 119/19 126/10 320 [1] 296/17 326 [1] 2/13 338 [1] 2/14 349 [1] 2/15 35 [1] 290/7 361 [1] 2/16 368 [1] 2/17 380 [1] 157/13 385 [1] 156/24 386,000 [1] 237/22 39 [1] 266/19 3rd [1] 3/15
		4 4 million [3] 30/25 333/21 333/25 4 million-dollar [1] 89/22 4.1 [10] 22/15 31/5 36/9 36/24 67/23 68/6

<p>4</p> <p>4.1... [4] 68/7 299/15 300/1 321/21 4.1 million [2] 66/11 67/21 4.3 [4] 31/6 321/23 322/2 322/10 4.3 million [2] 22/15 67/23 4.4 million [2] 30/13 35/2 40 [13] 52/23 77/15 130/25 131/3 134/24 145/23 166/17 187/15 245/19 247/11 258/8 262/4 360/18 40 percent [1] 60/20 40,000 [1] 336/2 40,000-dollar [1] 273/16 40-gallon-per-minute [1] 284/9 40-gallons-per-minute [1] 284/16 40-some [3] 128/12 128/13 332/15 400 [1] 30/6 40202 [1] 9/23 41,355-dollar [1] 144/23 41604 [1] 310/24 41640 [1] 296/18 41647 [1] 327/10 42 [2] 77/8 77/15 422 [1] 2/19 44 percent [1] 266/19 45 [1] 131/4 46 [1] 45/8 47 [2] 45/9 310/24 478 [1] 24/15 480,000 [1] 336/4 482,906 [1] 336/8 4:00 [2] 180/9 291/15 4:20 [1] 291/17</p>	<p>610 [1] 218/25 65 [4] 156/6 265/13 265/14 265/15 65 percent [2] 86/25 237/13 656 [1] 67/6 656,000 [1] 66/14 656,000-dollar [2] 364/1 367/10 656,122 [1] 363/15 67 [1] 79/19 68 [2] 265/16 265/17 6800 [1] 79/19</p>	<p>204/1 205/8 205/14 207/9 210/2 212/1 214/23 218/5 219/4 219/6 220/14 221/25 227/24 227/24 228/6 228/8 237/21 237/22 241/12 243/9 245/19 246/14 246/15 247/13 247/14 248/19 248/24 249/9 252/12 253/5 253/16 256/5 260/12 260/15 264/13 265/2 266/20 269/20 270/15 272/12 273/10 279/5 279/24 280/24 281/9 283/24 284/5 284/20 287/5 287/12 287/13 287/14 290/17 291/16 291/21 292/14 293/20 296/3 299/10 299/15 301/4 301/5 301/9 301/10 301/24 302/7 302/14 302/14 302/15 304/6 305/4 308/15 310/10 311/15 313/12 314/16 318/20 320/2 320/6 320/19 321/23 322/10 325/22 326/21 330/10 330/14 332/1 332/12 339/1 340/10 344/1 345/19 347/22 347/24 348/17 349/20 351/11 351/15 353/18 353/23 354/14 354/18 355/24 357/1 357/17 360/13 361/18 362/19 367/10 368/6</p>
<p>5</p> <p>5 million [1] 266/6 5,000 [5] 164/18 165/23 252/16 258/9 360/21 5,400 [2] 228/6 272/18 5,500 [1] 272/18 50 [12] 77/6 166/13 166/17 166/24 167/17 187/17 221/25 223/16 253/4 258/9 268/3 270/24 50 percent [2] 186/13 186/24 50 plus [1] 222/10 50 years [1] 210/13 50-year-old [1] 131/4 500 [4] 118/22 165/25 252/17 271/7 52 [1] 344/6 5:00 [1] 338/6 5:066 [1] 172/2 5:45 [1] 374/9 5th [1] 9/22</p>	<p>7</p> <p>7 to [1] 168/25 70 [2] 156/6 265/14 700 [1] 102/18 75 [2] 290/20 343/6 75 percent [1] 253/6 750 [1] 26/16 7500 [1] 96/13</p>	<p>292/14 293/20 296/3 299/10 299/15 301/4 301/5 301/9 301/10 301/24 302/7 302/14 302/14 302/15 304/6 305/4 308/15 310/10 311/15 313/12 314/16 318/20 320/2 320/6 320/19 321/23 322/10 325/22 326/21 330/10 330/14 332/1 332/12 339/1 340/10 344/1 345/19 347/22 347/24 348/17 349/20 351/11 351/15 353/18 353/23 354/14 354/18 355/24 357/1 357/17 360/13 361/18 362/19 367/10 368/6</p>
<p>6</p> <p>6,500 [1] 272/19 60 [5] 123/9 237/13 253/6 253/6 284/17 60 million [3] 175/7 177/11 178/9 60 million gallons [3] 174/10 174/12 265/25 60 percent [10] 124/2 124/16 124/17 142/22 156/23 164/24 178/7 221/25 266/20 336/24 60,000 [2] 27/14 258/9 60,744,000 [2] 178/13 363/8 60-gallons-per-minute [2] 284/12 284/14 600 [1] 66/25 600,000 [1] 46/2</p>	<p>8</p> <p>8,000-dollar [1] 96/13 8-inch [1] 169/3 80 [1] 252/1 80 percent [1] 80/24 800,000 [1] 26/16 807 [1] 172/2 865 [4] 35/23 57/19 62/12 62/25</p>	<p>above [3] 62/24 142/8 183/13 absent [1] 177/4 Absolute [2] 34/5 76/14 absolutely [27] 25/5 30/11 40/9 42/20 63/8 64/11 67/11 68/14 72/7 76/13 78/7 87/4 89/8 89/11 91/24 93/16 97/7 97/22 98/19 98/23 206/5 215/17 224/11 234/8 235/3 343/5 357/23</p>
	<p>9</p> <p>90 [1] 96/9 90 percent [1] 252/2 90-gallon-a-minute [1] 353/21 9105 [2] 24/7 29/20 95 percent [1] 275/10 99 percent [4] 112/18 113/5 113/15 177/22</p>	<p>absorbed [2] 34/3 219/15 accept [4] 3/23 315/5 318/23 319/12 acceptable [1] 16/18 accepted [3] 3/21 363/11 366/14 accepting [2] 366/8 366/10 access [2] 113/16 193/8 accidents [1] 229/15 accommodate [1] 11/1 accommodated [1] 10/14 accomplished [1] 21/25</p>
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COMMONWEALTH OF KENTUCKY
KENTUCKY PUBLIC SERVICE COMMISSION

CASE NO. 2018-00230

IN RE:

APPLICATION OF SOUTHERN WATER AND SEWER
DISTRICT FOR AN ALTERNATIVE RATE ADJUSTMENT

* * * * *

HEARING HELD ON:
JANUARY 24, 2019

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1 CHAIRMAN SCHMITT: We are now on the
2 record. This is the Kentucky Public
3 Service Commission. My name is Michael
4 Schmitt. I'm Chairman of the Commission.
5 Seated to my right is Vice-Chairman Robert
6 Cicero, and to my left Commissioner
7 Dr. Talina Mathews.

8 We are here this morning to complete a
9 hearing in Case No. 2018-00230, Application
10 of Southern Water and Sewer District for an
11 Alternative Rate Adjustment.

12 We began our hearing a few weeks ago
13 in this case, but one of the witnesses,
14 Mr. Terry Fyffe, who apparently performed an
15 appraisal for assets that were subject to a
16 previous transfer case and which are
17 involved, to one degree or another, in this
18 rate case was unable to be here. And
19 Mr. Fyffe indicated that he could be here at
20 a later date and I think was subpoenaed to
21 be here today. I think, perhaps, Mr. Fyffe
22 is in the back of the hearing room today.

23 So once we introduce counsel of record
24 in the case and the clients they represent,
25 we'll try to proceed with the testimony of

1 Mr. Fyffe. And how that will go, I guess,
2 is that Mr. Fyffe will take the stand. I'll
3 put him under oath. The Commissioners will
4 question as if on Cross-Examination, just to
5 get some -- try to get some information on
6 the appraisal, how it was done and what it
7 pertains to, followed up by staff counsel,
8 Mr. McNeil for the Attorney General's
9 Office, and then Mr. Strobo can come on
10 Redirect and so you can -- that gives you
11 the last chance to clean up whatever
12 everybody else has missed or stumbled into
13 or over. Okay?

14 All right. Mr. Strobo, would you
15 please identify yourself for the record,
16 along with the client you represent.

17 MR. STROBO: I'm Randy Strobo and my firm
18 represents Southern Water and Sewer
19 District.

20 CHAIRMAN SCHMITT: Okay. Mr. McNeil?

21 MR. McNEIL: Justin McNeil on behalf of the
22 Kentucky Attorney General.

23 CHAIRMAN SCHMITT: Mr. Bowker?

24 MR. BOWKER: Andrew Bowker and Ariel Miller
25 for Commission staff.

1 CHAIRMAN SCHMITT: All right. I don't
2 think there's -- nothing else has happened
3 since the last hearing. I know there were
4 some data requests and responses. And I
5 think probably briefs haven't been filed
6 yet. I haven't looked at the order, but
7 they're due this or next week or something.

8 MR. BOWKER: They have, Mr. Chairman. And
9 we got the Attorney General's Office
10 response yesterday. And I believe that we
11 just have the reply brief to go. And if
12 I'm correct, that's tomorrow, due tomorrow,
13 and then 27th and -- 26th it will be ready,
14 submitted to the Commission.

15 CHAIRMAN SCHMITT: That's a long weekend
16 for you guys.

17 All right. And I want to note for the
18 record I guess Mr. Eddie Campbell, Turner E.
19 Campbell, from Prestonsburg Utilities is
20 here in the hearing room. Mr. Campbell has
21 been good enough, he's been with us on
22 this -- not only in this case, but
23 Mr. Campbell has been involved in more than
24 one -- more than one water district issue or
25 case that we've -- we've held here.

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All right. Mr. Fyffe, if you're ready, could you please come forward?

Would you please raise your right hand.

THE WITNESS: (Witness Does Same.)

CHAIRMAN SCHMITT: Do you solemnly swear or affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

CHAIRMAN SCHMITT: Please be seated.

* * * * *

The witness, TERRY FYFFE, after first being duly sworn, was examined and testified as follows:

EXAMINATION

BY CHAIRMAN SCHMITT:

Q Would you state your name and business address for the record, please?

A My name is Terry Fyffe. And our business address -- I'm in Ashland, Kentucky, and it's on Carter Avenue, 2155 Carter Avenue. I've also got offices in Huntington, West Virginia and Portsmouth, Ohio.

1 Q And you're testifying here today
2 pursuant to a subpoena; is that correct?

3 A That's correct.

4 Q And on a previous occasion when
5 this case was first heard, or when the hearing
6 began, I think you were subpoenaed, but you
7 contacted Public Service Commission staff and
8 advised that you had other plans and asked to be
9 excused, subject to testifying at a later date; is
10 that also correct?

11 A That's correct.

12 Q Thank you.

13 Let me -- let me give you some background
14 information as to what we're doing here. I know
15 that you made an appraisal that we'll be talking
16 about. And that is involved to some extent in this
17 rate case, which is what the primary focus of this
18 hearing, except to the extent of your appraisal of
19 certain assets. These assets that were -- some
20 were -- that were transferred, and others that
21 apparently are part of a contractual agreement, but
22 the transfer hasn't actually been finalized as of
23 this date, was the subject of a -- of a case that
24 was concluded in 2017 and the Commission approved
25 that transfer. All right? But we're now in the --

1 I guess trying to sort everything out since the one
2 party, the United States Department of Agriculture
3 Rural Development people have loans outstanding and
4 have a lien, apparently, on some of the assets of
5 Southern and have not consented to the transfer free
6 of those liens. Were you aware of any of that?

7 A Somewhat.

8 Q Okay. All right. Well, I just
9 wanted to -- so some of the questioning, especially
10 questioning that I'm going to be doing from the
11 beginning is -- is probably more background
12 information to try to lay a foundation for what you
13 have done, where we are here, and what ultimately
14 needs to be done going forward to ultimately
15 complete the transaction one way or the other.

16 A Okay.

17 Q Okay. Fair enough?

18 A Yes, sir.

19 Q And if you have any questions or
20 issues, then don't -- don't hesitate to ask me.

21 Have you been deposed, have you been subject
22 to a deposition on an appraisal in other -- in other
23 cases?

24 A In other cases, yes.

25 Q Okay. Well, so you'll understand

1 when I ask you some of the questions about who you
2 talked to, what information did you consider and so
3 forth. Okay.

4 Okay, Mr. Fyffe, can you, for the record --
5 and I know we've seen your appraisal report. This
6 proceeding is being streamed live over the Internet.
7 So we're doing it, one, to make a record here
8 permanently going forward in the case. And, also,
9 because there are other people who presumably may be
10 watching this and they probably appreciate having
11 some understanding of who you are and what we're
12 doing. So it may seem redundant or unnecessary to
13 you in some respects, but I wanted to give you -- I
14 wanted to give you a heads up of why we're doing it,
15 all right?

16 All right. Mr. Fyffe, can you tell us, for
17 the record, something about the education, training
18 and experience you've had which would qualify you to
19 have performed an appraisal on certain assets of
20 Southern Water and Sewer District?

21 A Yes, sir. I -- I've been in a
22 public accounting practice for 40 years. I started
23 my first business valuation appraisal in 1979, so
24 I've been doing it for quite some time. I've done
25 over 100 appraisals. I've been in court over 100

1 times. And I actually got started -- I was working
2 for a firm that had -- the two partners were CPA
3 attorneys and they were doing a lot of estate work.
4 And in order to do estate, if there's a company or
5 an individual that has businesses, then they would
6 have to have the business valued in order to
7 complete the estate work. So I kind of started off
8 on the estate side. And then that kind of morphed
9 into kind of -- divorces kind of took off. And if
10 you get a divorce and you got a business, you have
11 to have a business valuation done, so -- and then,
12 you know, basically, doesn't matter whether it's an
13 estate or a divorce, a business valuation is a
14 business valuation is a business valuation.

15 So I think that's how I got called in on
16 this case is -- as you might suspect, there's not a
17 lot of us that perform business valuations in
18 Eastern Kentucky. And so that was my understanding,
19 is they called me. They actually had a referral
20 from a Lexington -- Mr. Cranfield had referred me
21 also.

22 Q Okay. Mr. Cranfield was, what, a
23 CPA, a business valuation expert, apparently in
24 Lexington?

25 A That's correct.

1 Q And I think Mr. Campbell
2 previously testified that -- he didn't say who it
3 was, but that -- that someone he contacted, or who
4 he had been advised could do it, apparently
5 couldn't, but then referred him to you; is that --

6 A That is correct.

7 Q -- what you understood?

8 Okay. Now in terms of -- I know in your
9 report you've told us about your education. You're
10 a Certified Public Accountant; is that correct?

11 A That's correct.

12 Q And then there are I guess three
13 initials that indicate you're -- you're a qualified
14 Business Valuation Appraiser as well, and that
15 would be ABV. What does that stand for
16 specifically?

17 A Accredited in Business
18 Valuations. The AICPA that accredits us as CPAs,
19 Certified Public Accountants, they also have a
20 designation accredited business valuation. Have to
21 take a test similar to the CPA exam and so forth to
22 prove that you have the knowledge. And you have to
23 prove that you have experience in order to get that
24 designation.

25 Q And I think I understood from

1 your -- looking at your Curriculum Vitae, you
2 worked with and, for a few years, managed Kelley &
3 Galloway in Ashland?

4 A Yeah, that's the firm I was --

5 Q Is that Harold Kelley? Was he
6 alive then?

7 A He was. He was. That was one of
8 the CPA attorneys that I was referring to.

9 Q There are a lot of pictures back
10 there, but I think Harold Kelley's picture may be
11 on the back wall.

12 A He was on the Commission.

13 Q Yeah. All right.

14 Can you tell us when you were first
15 contacted? I know one of the things that occurred
16 to me this morning that I -- that we probably should
17 have done is included in the subpoena maybe you
18 would bring some notes or documents, something so
19 you could refer to. But your best estimate, please,
20 on when you were contacted about doing an appraisal
21 and who contacted you.

22 A I'm going to estimate the date to
23 be maybe August of '18.

24 Q Okay.

25 A And I was contacted by the

1 gentleman sitting back here.

2 Q Mr. Campbell?

3 A Mr. Campbell.

4 Q Prestonsburg Utilities?

5 A Yes. He -- he contacted me and
6 had told me that Mr. Cranfield couldn't perform the
7 services. It's not that he couldn't. He told me
8 that he just didn't want to travel to Eastern
9 Kentucky anymore. He had, you know, work there in
10 Lexington. And he had done a -- a case previously,
11 and I also got his report from that case before I
12 accepted engagement.

13 And then I had an actual interview. We have
14 to do what we call a site visit, and so I went down
15 and -- and interviewed Mr. Campbell. And then he
16 took me on a tour to show me what -- the area that
17 we were talking about and what was involved in terms
18 of the assets, so to speak. And then I later I
19 talked to Mr. Hall and the Judge Executive of Floyd
20 County and interviewed -- interviewed them by phone.

21 Q Okay. When you were -- you were
22 contacted, you believe, your best estimate, in
23 August of 2018 by Mr. Campbell, who was basically a
24 general manager or president of Prestonsburg City
25 Utility Commission; correct?

1 A That's correct.

2 Q I mean, at that point in time
3 were you engaged to perform these services or did
4 you have to meet with Mr. Campbell or an attorney
5 or something in order to work out the arrangements
6 of your appraisal and what you were going to do?

7 A The first thing that we do is, I
8 told him I had to meet with him and I had to make
9 sure I had an understanding of what the engagement
10 was going to be. And so when I went down and
11 interviewed with him and so forth, that was the
12 purpose of that, is to try to determine -- to make
13 sure I had the ability to actually perform what
14 they were needing done.

15 Q And you met with him in
16 Prestonsburg; is that correct?

17 A Uh-huh (affirmative). That's
18 correct.

19 Q I know Prestonsburg Utilities, in
20 the preceding case -- you know, because we're
21 dealing with a public body here, public entity, the
22 Southern Water and Sewer District, which is subject
23 to Public Service Commission jurisdiction, Public
24 Service Commission had to approve the sale; right?
25 I mean, you probably know that. And that was the

1 subject of a previous -- of a previous case that I
2 mentioned earlier and I may ask you about a little
3 later.

4 So when -- but Mr. Damon Talley, who is an
5 attorney, utility-focused attorney specialist,
6 apparently filed the original joint application for
7 transfer of those assets. And he was employed by or
8 paid by Prestonsburg City Utilities, but may have
9 been representing both parties or one party decided
10 not to have counsel, I'm not sure. Did you meet
11 with Mr. Talley at all to get an understanding of
12 what your appraisal entailed?

13 A No, sir.

14 Q All right. So when -- when you
15 met with Mr. Campbell, that was in Prestonsburg.
16 Was that also in August, August of 2018?

17 A It would have been shortly after
18 he contacted me to --

19 Q And what did Mr. Campbell tell
20 you that the scope of the work that you were asked
21 to do would include?

22 A Well, first of all, he
23 established that I would actually be performing
24 this service on behalf of both entities, that --

25 Q Both Prestonsburg Utilities and

1 Southern?

2 A And Southern.

3 Q Okay.

4 A And, basically, it was my
5 understanding and -- and if I remember correctly,
6 even though I was going to be working on behalf of
7 both entities, Prestonsburg was charged with the
8 cost of that study. And so that was why I was
9 meeting with him. And my engagement letter is
10 actually with Prestonsburg from an economic
11 standpoint, but I was to actually perform the
12 service -- not for Prestonsburg, but on behalf of
13 both entities.

14 And what he told me was, is that they
15 were -- basically, three things that I was being
16 charged with. One was the fair market value of the
17 transfer of the assets from the Southern District to
18 Prestonsburg. The second thing was after the
19 transfer, I was to opine on the stability of
20 Southern after the transfer. And the third thing
21 was to opine on the stability economically of
22 Prestonsburg Utilities after the transfer.

23 Q All right. So when -- at the
24 time that you met with Mr. Campbell, the first
25 time, to discuss the scope of the work that he or

1 the parties would like for you to do, is that when
2 you basically were taken on a visit to some or all
3 of the assets that were subject to the transfer, or
4 was that a different occasion?

5 A I think you're saying that right,
6 but let me say it to make sure. In other words, I
7 was down there first to make sure that I had an
8 understanding of what I was being asked to do. And
9 then once I understood it, I felt like I could do
10 that.

11 So then on that same visit, I told him I
12 needed to do a site visit of what, you know, the
13 assets were and where they were located and what was
14 involved. And we basically started at a point where
15 the Prestonsburg Utilities stopped at the -- you
16 know, prior to this transaction. So that, okay,
17 from this point on we're going to be driving and I'm
18 going to be showing you the -- the assets of what's
19 being transferred, or what had been proposed to be
20 transferred. And we drove and looked at the various
21 subdivisions -- most of it was businesses, if I
22 remember correctly.

23 And we drove to the Pike County line,
24 because it was my understanding is that's when it
25 ended. So that was the scope of, you know, what we

1 were talking about. And then we went back to the
2 office to get -- I was laying out what information I
3 was going to need in order to perform the service.
4 And so we were making out that list. And I did
5 that -- Mr. Hall wasn't available that day, but I
6 did that by -- he gave me his e-mail address and I
7 provided the same list to Mr. Hall for the same
8 information. And then I had to wait to get the
9 information.

10 And I think it would be fair to say I was
11 having a difficult time getting the information from
12 Mr. Hall. And what I was asking for is when you do
13 a valuation of this type, there are two methods
14 that -- to actually be able to go in and determine
15 the fair market value of the actual pipe that's in
16 the ground and that type of thing, I don't have the
17 ability to do that. I don't know how anybody would
18 really have the ability to do that. But there's two
19 methods of business valuation that encompasses
20 the -- the value process, that it also includes the
21 value of any assets that you have.

22 And so what I was looking for is what the
23 income stream was, the net income stream of what
24 those particular customer accounts consisted of so
25 that I could utilize those two methods, because that

1 way when I got done, I had the value of the tangible
2 assets already included in my value. And the
3 concept is, is that those assets, the value of them,
4 is based on the revenue stream that they generate.
5 And so the -- the value that's in the report, the
6 methodology, is the present value of the actual
7 income stream. And then the sanity check that I
8 used was the Capitalization of Earnings Method,
9 which produced the same value within \$4,000. And
10 the -- it just kind of happened that the discounted
11 cash flow method was higher by \$4,000. So that's
12 the method I put in the report. And then my sanity
13 check had the Capitalization of Earnings Method that
14 kind of supported that value.

15 So that was the methodology that I was
16 using. And I was asking for what that income stream
17 for those customer bases were, the water customers
18 were. And, you know, I was, just to be honest with
19 you, having a terrible time getting that from
20 Mr. Hall. Now, Mr. Campbell provided me a
21 calculation on his part. And at that point I was
22 waiting for Mr. Hall's so I could compare it. And
23 then I would have to actually go and, you know, do
24 probably a significant amount of work, tell you the
25 truth, to try to determine you know what the real

1 number is.

2 What I was looking for was the gross
3 revenues from those customers that they had and then
4 the associated cost to those -- those revenues.
5 Now, what ended up happening is I never actually got
6 one from Mr. Hall. What I did is, I knew that he
7 had filed for a rate increase and the information
8 was embedded in that rate increase. But then
9 when -- when you-all did your work, you-all actually
10 sent staff to the Southern District and did -- I'll
11 be honest with you, the stuff that I would have
12 normally -- would have had to have done. And to be
13 honest with you, you-all probably did it in a whole
14 lot more detail than -- than probably what I could
15 have done.

16 But when I got your-all's final report, the
17 information that I needed, being the net revenue
18 stream from those customers, was embedded in
19 your-all's report. And so I think if you were
20 looking at dates, what you would be seeing is -- and
21 I'm doing this off the top of my head, but
22 your-all's report, October the 18th, let's say.

23 The audit report, I also got a copy of
24 Southern's audit. And their 2017 audit, the audit
25 report was like October the 22nd. And in the audit

1 report what I was looking for is, one, the -- the
2 fund balance of the Southern District was
3 18 million dollars. And the second thing I was
4 looking for -- which means it's decently healthy.
5 And then the second thing I was looking for was the
6 auditor has to -- if he's following standards, he
7 has to do analysis of the going concern.

8 What going concern means is if he thought
9 that this loss of revenue to the Southern District
10 was going to create a situation where the Southern
11 District was going to struggle, you know,
12 financially, he has to footnote that there's a going
13 concern issue with that audit. And so I went
14 through the audit report. No indication of a going
15 concern issue, which -- which means again if he
16 followed standards -- which I did talk to him and
17 it's clear to me that that's -- that he did follow
18 standards. So the third thing I looked at in the
19 audit is the -- the profit and loss, that you have
20 the revenues, expenses, and then you've got either
21 income or loss. It did have a loss of 100 and -- I
22 want to say 147,000, some -- somewhere in that
23 ballpark, but depreciation was over a million bucks.

24 And, normally, what we do is when we look at
25 a financial statement like that, you know,

1 depreciation is a non-cash transaction. And so in
2 terms of just looking at their operations -- now
3 there again, you got to have -- you wouldn't -- you
4 wouldn't be able to sustain a loss every year for a
5 great amount of time. You've got to figure out how
6 to fix that, which the two things that -- that I
7 perceived was why I was doing this project was, one,
8 they were going to get, you know, close to 4 million
9 dollars in either cash or paid off debts or, you
10 know, whatever, which would improve their financial
11 position; and, two, a rate increase.

12 And so the combination of all that -- and my
13 report was dated October the 31st, because you can
14 see how it was coming down in terms of when I got
15 the information and when I was able to actually
16 perform, you know, the service that -- that I did
17 do.

18 Q Now, let me digress a second.
19 You spoke to the auditor; correct?

20 A That's correct.

21 Q And did you understand or come to
22 understand that he had done -- he had audit -- he
23 had been the person who had audited Southern Water
24 District for six, seven, eight, nine years?

25 A I had five years worth, so I know

1 at least those five years.

2 Q He provided you with five years
3 worth of audits?

4 A That's correct.

5 Q Did he ever -- the last audit
6 that you saw would have been, what, 2017?

7 A That's correct.

8 Q In 2016 or 2015 audit, did the
9 auditor ever indicate that he had any concern about
10 the financial strength or viability of Southern
11 Water District?

12 A I don't -- I don't really
13 remember seeing anything. I focused on '17,
14 because if he had it in '16 and it was still in
15 existence in '17, it -- it required to be
16 disclosed. And so I was looking at '17 to see what
17 the most current status was, and it wasn't in '17.
18 So I don't know if -- if he posted that in '16, I
19 didn't see it. And if it was, I don't know how he
20 kept it out of '17. Well, unless he fixed it.
21 Unless they -- he thought that they fixed it.

22 Q Well, in any event, if he had --
23 when Southern filed this rate increase, and -- and
24 in the year before when the transfer, or the
25 proposed transfer, was submitted in a separate case

1 for this Commission's consideration, we were, I
2 think, led to believe that Southern Water District
3 was in a state of almost financial extremis, to say
4 that it -- basically, its survival from a financial
5 standpoint was six months to a year away at best.
6 Did you see anything in any of the audit records
7 that would indicate that to you?

8 A In the audit itself, that's
9 not -- like I say, it did show a loss. And I think
10 the way that would have worked if I -- I'm
11 following the dates right, I think the agreement
12 was in June of '17, and so the audit for '17 would
13 have only included six months of that loss of
14 revenue. So it would be hard for me to project out
15 what that would be. But there's no question if
16 you're looking at the audit, that if you have a
17 loss, you know, to start off with and that only
18 represents six months of the loss of those customer
19 base, then '18 would seemly be worse.

20 And so I think he didn't -- he didn't
21 disclose anything in a footnote to that effect.
22 He -- he mentioned in a footnote that there was a
23 transaction and that it was pending an appraisal.
24 And I'm trying to remember if it even mentioned the
25 rate increase part of it. I think it just mentioned

1 that there was a transaction and there was pending
2 that for an appraisal. Now, I was looking for that
3 going concern footnote and there was none.

4 Q Thank you. I guess to get back
5 to what you initially reviewed and requested. So
6 when you went, accompanied by Mr. Campbell, to look
7 at certain assets, is it fair to say that what you
8 reviewed were water distribution assets from some
9 point, Stanville, Kentucky, somewhere on U.S. 23,
10 to the Pike County line?

11 A That's -- that's correct.

12 Q All right. Did you review or
13 look at assets, hard assets, at any other location
14 other than that?

15 A You mean along that corridor?

16 Q Well, along -- or any other --

17 A Because there's two --

18 Q -- any other place in Floyd
19 County?

20 A Well -- but what happened is some
21 of the customer base were -- like I remember there
22 was a fairly large -- so many miles. And then over
23 here there was -- not -- not quite like this one
24 here, but there was some off of the road on the
25 right-hand side also. So it -- the area was bigger

1 than just 23.

2 Q See, and I -- we don't know
3 exactly what you know and what -- you know, what
4 all is involved in your appraisal and that's why
5 I'm asking these questions.

6 Initially, the -- there was an agreement, I
7 think, that there was to be a transfer of sewer
8 assets. And there were three sewer plants and
9 related mains and pump stations and so forth,
10 together with certain water distribution assets.
11 And so my question is, did you review for purposes
12 of your appraisal any sewer assets?

13 A Okay. Let me -- let me see if I
14 can explain that. If -- if you understand that
15 what generates value is a positive income stream,
16 okay, net of all expenses and so forth. And I
17 always -- University of Kentucky asked me to go
18 down and teach the junior class of the high school
19 there the concept of economics and so forth. And
20 this is just an example of how that works. I'd
21 always use Don Gullett. He was a local, very
22 popular baseball player. And the point is, is he
23 could throw a baseball 90 miles an hour over the
24 plate straight, and not very many people can do
25 that, so he -- he was an asset. But I'd always

1 tell them, if nobody's willing to come and pay and
2 watch him do that, how much is that asset worth?
3 And basically it's zero.

4 And so what happened to me on the sewer side
5 is, when I had the conversation with Mr. Hall and
6 the judge executive, they -- it was a conference
7 call. And how it was presented to me is that -- the
8 judge executive, by the way, was doing most of the
9 talking. He was saying that the Southern District
10 didn't have the ability, didn't have the -- maybe
11 the assets, maybe the -- he was describing it in
12 such a way that he would like to have that area
13 serviced by sewer and that Southern didn't have the
14 ability to do so. And I -- if I remember correctly,
15 was even under scrutiny, maybe subject to fines of
16 some sort that their treatment plant just wasn't up
17 to speed -- let's say it that way -- again, asking
18 for documents and support and -- and that type of
19 thing.

20 But the impression I got from the whole
21 conversation was that on the sewer side there was no
22 positive income stream. It was actually negative.
23 So in terms of the -- the sewer assets, if that's
24 true, and that was my understanding, there's no
25 value there. And if you actually combined it with

1 the water, then now we're talking about a lower
2 value than what my report said. And so we kind of
3 agreed in some sort that we would say that it was
4 zero. So it had zero impact on the water side
5 that -- you know, it was just zero.

6 MR. CICERO: So is that -- is that --

7 THE WITNESS: Net zero. I'm sorry.

8 MR. CICERO: -- is that typical to agree to
9 a zero value between the parties, knowing
10 that the assets are kind of tied together?

11 THE WITNESS: Well, the problem is, is
12 Southern -- I'm not sure why, but basically
13 produce very -- I didn't get a single thing
14 from Southern other than audits and they --
15 they sent me a depreciation schedule, okay?
16 A depreciation schedule tells me what the
17 cost of those lines are and so forth. And
18 if I remember correctly, I think the cost
19 was like 7 million dollars. But it doesn't
20 tell me anything about the value. It tells
21 me the date that they were installed. It
22 tells me what the cost was. It tells me
23 what the life that they're depreciating it
24 over and so forth, but it doesn't really
25 help me with value. And -- and if you

1 understand -- my testimony is in terms of
2 what creates value. That's why I'm kind of
3 halfway apologizing about the Don Gullett
4 example, but I thought that might have been
5 a way to help explain that the two
6 methodologies I used, since you don't know
7 the fair market value appraisal, you'd have
8 to get somebody to appraise the assets in
9 ground, and then -- then you've got a
10 problem because the other half of that was
11 the cost that Prestonsburg incurred in
12 fixing them because they weren't, you know,
13 sufficient. So that side of it was getting
14 pretty complicated. But if the income
15 stream, net income stream is -- is zero or
16 negative, then it wouldn't -- it wouldn't
17 matter. It'd still be a zero value, the
18 same type example I was using with the Don
19 Gullett thing.

20 BY CHAIRMAN SCHMITT:

21 Q So you didn't visit the so-called
22 sewer assets? You didn't see those sewer plants?
23 I'm not trying to be critical. I'm just trying --

24 A I did not.

25 Q -- to get an understanding --

1 A I did not.

2 Q -- of what you did.

3 You didn't go see the sewer systems?

4 A I did not.

5 Q And Mr. Hall, although you
6 requested the documents or information concerning
7 the sewer assets, those were never provided to you;
8 is that correct?

9 A He provided a depreciation
10 schedule. And maybe in his mind that was proof of
11 something, but no actual financial information as
12 terms of what the revenue stream from those sewer
13 assets --

14 Q What would you have wanted then?
15 What the billing -- what they billed -- you would
16 want to see if the income derived from providing
17 sewer services exceeded the expenses of -- involved
18 in providing those services?

19 A Yes.

20 Q Is that something like what you
21 were doing?

22 A Yes. In other words, picture --
23 picture taking the sewer revenue and then the
24 expenses that are affiliated with that revenue,
25 okay -- and, of course, depreciation is part of it,

1 but there are some direct expenses that will be
2 associated with that income. And none of that was
3 ever provided.

4 Q Mr. Hall never provided anything
5 to you at all; is that -- is that what you said?
6 Other than the --

7 A Other than --

8 Q -- the depreciation schedule and
9 the -- and the five or six audits?

10 A That's correct.

11 Q Okay. All right. Now, you met
12 with Mr. Campbell and he took you around and he
13 provided you with documentation. What
14 documentation did Mr. Campbell provide you with, if
15 you remember?

16 A He -- they actually had -- they
17 had -- since they had been billing the -- those
18 customers, the water customers, they were actually
19 already doing the sale of water to those customers
20 at wholesale to Southern. So, in other words,
21 Southern was doing the billing, but they were
22 actually providing the actual water. So he had the
23 ability to say, this is the water customers' gross
24 revenues and -- and here's the expenses that are
25 associated with it. But what I -- what I really,

1 really needed is what Southern's expenses related
2 to it was. I needed to know what Southern's loss
3 of revenue was.

4 Q Okay.

5 A See what I'm saying? And
6 which -- which would typically be -- their loss of
7 revenue would be greater than what his net income
8 is from them same customers, because what -- what
9 happened is -- is they had personnel, for example,
10 that was already out servicing all the other
11 customers that they have. So they could, you know,
12 lose some revenue. But, you know, personnel-wise
13 they're still going to be incurring them because
14 they're servicing other people.

15 So to say that another way: In terms of
16 loss of revenue to Southern, they were going to have
17 a greater loss than what his calculation would be.
18 Okay. So, for example, just using numbers, the --
19 the net loss of revenue to Southern, according to
20 the PSC report, was \$482,000. Well, his calculation
21 would have been, you know, let's say 200,000. So if
22 I used his calculation, I'm going to come up with
23 the 2 million dollar number. Using the PSC's
24 revenue stream, it come up to -- to 4 million
25 dollars. So that's what I was looking for was

1 Southern's side of it, not necessarily his side of
2 it.

3 Q So -- but Southern never provided
4 you -- Dean Hall never provided you with -- that
5 was some of the information you would have
6 requested from Mr. Hall but wasn't given to you?

7 A Yeah.

8 Q But you got some of that
9 information from the Public Service Commission
10 staff report --

11 A That -- because.

12 Q -- is that correct?

13 A Yes. Because what specifically I
14 was asking for was what I just said, what was your
15 loss of revenue? Okay. That's what my valuation
16 is going to be based on. And when I got the Public
17 Service report, it was very specific. In fact,
18 there was a loss of revenue number in the report
19 from the Southern District. But your staff people
20 went out there to do a more detailed calculation
21 and actually came up with more, a higher rate than
22 what they had requested, which tells me that they
23 probably had problems before the rate increase --
24 or the request, I should say. Does that make
25 sense? In other words, they -- they had a specific

1 issue in terms of this transfer, but when your
2 staff did the work it looked like to me, from
3 reading the report, that there was a greater need
4 that --

5 Q They were losing water -- they
6 were losing money before the transfer --

7 A Yes.

8 Q -- is that in essence what you're
9 saying?

10 A Yes.

11 Q They just went from a bad
12 situation to a worse situation?

13 A Right. And just -- again, I'm
14 not a water expert. I did have two clients that
15 were subject to your-all's jurisdiction and I know
16 a little bit about the operations and so forth.
17 And the -- the lost water that they were incurring
18 was -- you know, I thought, wow. You know, I
19 don't -- I don't know how to fix that myself. I
20 just know that --

21 Q They don't either.

22 A -- that's a huge -- well, it was
23 huge. But -- but, yeah, it looked like to me in
24 the end they -- they probably needed to have done
25 that request earlier. Let me put it that way.

1 Q Now, other than you -- the one
2 meeting you had with Mr. Campbell, is that the only
3 time you met with Mr. Campbell in person prior to
4 completing your report?

5 A Yeah. Most -- most -- that was
6 the only time. Most everything was done by e-mail,
7 and I would include both Mr. Campbell and Mr. Hall
8 on the e-mails. Now, I may have, at one time
9 initially anyway, included the judge executive.
10 And at one point -- I'll be honest with you, I
11 dropped him off because I didn't really see how he
12 was really a party to what I was doing. I felt
13 like I needed to keep Mr. Campbell and Mr. Hall in
14 the loop, but I eventually dropped, you know, him
15 off. But he's the one that initiated -- initiated
16 the phone call. And, like I say, he did most of
17 the talking and -- and it was -- he was basically
18 just giving me the history of what he was trying to
19 accomplish in that he wanted those businesses and
20 individuals to have sewer service, but Southern
21 didn't have the ability to service them. That was
22 basically what he was saying. And so that's how
23 the whole transaction got initiated based on my
24 understanding.

25 Q Did Judge Executive Hale or

1 Mr. Campbell or Dean Hall, or anybody, indicate if
2 the -- if the primary concern of the judge or
3 Southern was divesting itself of the sewer assets,
4 why the water distribution assets were -- became a
5 part of the transaction?

6 A My understanding is, is that the
7 sewer is based on the water consumption. So when
8 you get your -- your bill, the water is asked
9 (phonetic) and then the sewer is added -- a
10 calculation based on that, whether it's gallons or
11 value -- or dollar, I mean. So in order to have --
12 my understanding is, in order to be able to make
13 sure that the sewer is properly billed, then
14 Prestonsburg wanted to have the ability to service
15 the water. They were already providing the water.
16 And so then it was just a matter of them actually,
17 you know, billing it, and that way they could bill
18 the sewer.

19 Q So you had one conversation with
20 Judge Hale and -- Judge Executive Hale and Dean
21 Hall by telephone. Did you ever speak to either
22 Judge Executive Hale or Dean Hall on any other
23 occasion other than that one time?

24 A Only through e-mail from that one
25 time.

1 Q Were you -- prior to the time
2 that you issued your report, were you ever told or
3 otherwise made aware that -- that there was some
4 agreement or understanding that at the time this
5 transaction was finalized that the Floyd County
6 Government, the Floyd County Fiscal Court would
7 receive about \$2 million from Prestonsburg
8 Utilities?

9 A In a roundabout way. During the
10 conversation with Mr. Hale, evidently -- and I
11 don't have a complete understanding. It's just
12 that there was -- the 2 million dollars, if I
13 remember correct, was either advanced to Southern
14 or -- I'm not sure how that debt surfaced, but I
15 guess Southern owed the fiscal court 2 million
16 dollars, and that -- again, I don't have a complete
17 understanding.

18 Q No. I understand. Right.

19 A But he -- I got the impression
20 from the conversation that he was promoting a large
21 transaction price so that that would be part of it,
22 is that that would be --

23 Q All right. Let me -- not to put
24 words in your mouth, but to try to sum up
25 accurately, and tell me if this isn't accurate.

1 Your -- your impression, based upon your
2 conversations with Judge Hale and Dean Hall, was
3 that the county judge executive was promoting this
4 transaction, was a prime mover in the transaction
5 for the purpose of transferring sewer assets and
6 these water distribution assets to Prestonsburg
7 Utilities in exchange for a couple million-dollar
8 payment that ultimately would go to the Floyd
9 County Fiscal Court? In addition to other sums
10 that would go for the benefit of the water
11 district?

12 A Yeah. I don't know that he
13 directly connected those two things. It was -- it
14 was more, he initiated it and he wanted it for the
15 betterment of his constituency and couldn't get it
16 done any other way, other than this transaction,
17 and was wanting to make sure that I was aware that
18 there was a significant amount of cost in these
19 assets, which is why I think I got the depreciation
20 schedule to support the cost. And -- and then
21 mentioned that -- you know, I think the way it was
22 said wasn't that this is what we're going to do.
23 It was more that, well, there is this 2 million
24 dollars, and if it got paid, it would improve the
25 financial position of Southern, is kind of how it

1 was done. It wasn't said in such a way that this
2 is what we're going to do. It was one of the
3 options to do.

4 Q Were you -- and this was said to
5 you by Judge Executive Hale in the phone
6 conversation you --

7 A Mr. Hale was doing all the
8 talking.

9 Q Is he the one that made the phone
10 call to you?

11 A Uh-huh (affirmative).

12 Q And then, what, you-all got Dean
13 Hall on the line after that, or was he already on
14 the --

15 A I don't know if Dean was already
16 in the office or that he had already connected him
17 prior to calling me and -- and then were all three
18 on there. I'm not sure. But Mr. Hall was on there
19 from the time I got off.

20 Q Now, did Judge Hale, Judge
21 Executive Hale or Dean Hall, or anybody else, ever
22 tell you that in 2012, the Kentucky Public Service
23 Commission had held that Southern could not --
24 Southern Water and Sewer District couldn't recover
25 any payments made to Floyd County on a -- for

1 whatever, on this 2 million dollar bond payment
2 that the Floyd Fiscal Court had previously
3 undertaken on the District's behalf because it was
4 not obligated to do so?

5 A That -- that was never mentioned.

6 Q Did Judge Hale or Dean Hall, or
7 anybody else, ever tell you that the office of the
8 Kentucky Attorney General had issued an opinion
9 stating that the Southern Water District did not
10 owe and that Floyd County Fiscal Court or
11 government was not entitled to receive money that
12 was otherwise held by or owned by the Southern
13 Water District in repayment or partial payment
14 toward a previous bond issue?

15 A No, sir.

16 Q But it's your understanding that
17 ultimately about 4 million dollars would ultimately
18 be paid by Prestonsburg City Utility Commission for
19 the assets that were transferred -- or to be
20 transferred by Southern Water and Sewer District to
21 Prestonsburg Utilities; correct?

22 A I was under the impression that
23 that was why -- that was going to be based on what
24 I did the valuation for, not -- not what -- I think
25 there was a contract, and I think there was some

1 understanding, but I was under the impression
2 that -- that ultimately it was going to be based on
3 what I concluded.

4 Q What your opinion was?

5 A Yes.

6 Q So if it -- it might be more, it
7 might be less than the 4 million dollars?

8 A That's correct.

9 Q But did you -- were you also told
10 or did you understand that at the time you were, I
11 guess, contacted, that Prestonsburg City Utility
12 Commission had already made some substantial
13 payments to Southern Water and Sewer District, or
14 on its behalf by way of paying for loan reduction
15 and providing equipment and so forth?

16 A What I remember is there was some
17 payments. I don't think there was -- I don't think
18 it was complete. I think that they had either
19 worked out to where some debt, I believe, was paid
20 off. And if I was estimating numbers, just from
21 the top of my head, it might have been somewhere in
22 the neighborhood of maybe 2 million.

23 Q And when the initial case, the
24 case involving the proposed transfer of the sewer
25 assets and the water assets that we've been

1 discussing, when that was filed in 2017 and this
2 Commission approved it -- let me -- let me make
3 this statement and then ask you a question or two
4 about it.

5 The documentation that was filed here,
6 including post-hearing data requests or what you
7 would say in a civil proceeding interrogatory
8 answers or -- what was the value? How much are --
9 is Prestonsburg City Utility Commission paying for
10 these assets? We were told in documentation that
11 the consideration paid or to be transferred was
12 \$2,140,000. Were you aware of that?

13 A What I remember was, is that
14 was -- that was a number. And then there was an
15 additional 2 million, I think -- I thought it was.
16 In other words, there were two numbers. And -- and
17 one number was 2 million and something, and then
18 the second number, I thought, was even 2 million
19 exactly.

20 Q Well, I don't know where you got
21 those numbers, but in -- when we approved the sale,
22 we understood that the -- that the total
23 consideration was going to be \$2,140,000, and were
24 told by both parties this was an arm's length
25 transaction.

1 Now, assuming that's true, that value is --
2 would not be correct? That would not represent, in
3 your opinion, as to the true value of the assets
4 transferred or to be transferred; is that correct?

5 A That would be correct.

6 Q And matter of fact, assuming that
7 what I told you is accurate, though that proposed
8 payment would be about one-half of the actual true
9 value of the assets that were to be transferred; is
10 that correct?

11 A That -- that would be correct.

12 Q You have indicated, I guess, that
13 you had at least three types of documentation so
14 far. One was the initial engagement letter between
15 you or your firm and Prestonsburg Utilities -- or
16 both, but Prestonsburg was the contact --

17 A That's correct.

18 Q -- correct?

19 And then there was the -- you, I guess,
20 provided a list of documentation or information that
21 you would like to have had from Prestonsburg and
22 Southern; correct?

23 A Correct.

24 Q And then, three, you reference
25 that you had email correspondence between

1 Mr. Campbell or Prestonsburg and also Judge
2 Executive Hale for a time, and Dean Hall; correct?

3 A That's correct.

4 Q Would you mind providing that
5 information to the Commission? And you can --
6 obviously, parties will probably want a copy.
7 Southern may have a copy; you may not. And the
8 Attorney General's Office, I assume you would like
9 copies as well; correct?

10 MR. McNEIL: Yes, sir.

11 BY CHAIRMAN SCHMITT:

12 Q We can contact you later by
13 sending, I guess, a letter with copies asking if
14 you can provide that. And whoever you're billing
15 for services here, Prestonsburg, Southern, we'll
16 see to it somebody -- that you get paid for
17 whatever your costs and expenses are.

18 A Yeah. So let me make sure I
19 understand. Somebody is going to send me a letter
20 with all the different addresses.

21 Q We're asking you specifically for
22 this -- whatever the documents are.

23 A And I'm going to have addresses
24 to send them to?

25 Q Yeah. You'll be sending here.

1 We won't know, for instance, to say, well, the
2 e-mail that you sent to Judge Executive Hale and
3 Dean Hall on February 5th, 2018, but we'll just say
4 all e-mail correspondence and, you know, that you
5 have. So I guess somebody can run it, your
6 secretary or somebody, run your outbox with them
7 and then we can just get copies to see what
8 information they were provided.

9 A Yeah, I keep a folder.

10 Q Okay. Thank you.

11 A Electronic folder.

12 Q So is it fair to say, is it
13 accurate to say that based on all the information,
14 what you saw, your conversations with the parties
15 and their representatives, that your final opinion
16 as represented by your business valuation of
17 Southern Water and Sewer District dated June 28 or
18 as of June 28, which is dated October 31st, 2018,
19 that essentially that included all of the assets
20 transferred or to be transferred, which was the
21 water distribution assets and the sewer assets;
22 correct?

23 A That's correct.

24 Q But the sewer assets were
25 essentially valued out at zero based on discussions

1 with the parties and general inability to have
2 additional information that you might have
3 wanted --

4 A That -- that's correct.

5 Q -- is that correct?

6 A That's correct.

7 Q Going into this transaction, had
8 you -- as a professional accountant and business
9 valuation expert, had you been contacted by
10 Southern Water District or the Judge Executive of
11 Floyd County -- no, I'm not saying had you. I'm
12 asking if you had been and had been asked your
13 opinion as to how to proceed with this transaction,
14 a proposed transaction, I'd like to sell water,
15 sewer, whatever, what would you have advised a
16 client exercising reasonable and prudent business
17 judgment to have done? Would you have wanted him
18 to conduct an evaluation or hire someone such as
19 yourself to basically determine what the -- what
20 the financial effect of this transfer would be and
21 how much the assets would be worth?

22 A I think it's fair to say that if
23 I was going to transfer part of my income stream, I
24 would want to know what that income stream loss was
25 going to be and how it was going to impact my

1 operations.

2 Q Why?

3 A Well --

4 Q Sounds obvious, but I want this
5 on the record. Why?

6 A Yeah, I -- I think that would be
7 the, to be honest with you, common sense thing to
8 do.

9 Q Well, in fact, it would be
10 unreasonable and show a lack of business judgment
11 and acumen to basically execute letters of intent,
12 intent documents, transfer documents to go forward
13 with this deal without having done that in advance;
14 would you agree with that?

15 A Yeah. Obviously, I wasn't around
16 during that time period, but I would have thought
17 that would have already been done. I actually
18 asked how they arrived at, you know, what they did
19 and they had some kind of formula, but I don't
20 think anybody professionally performed an
21 evaluation or anything. Because if there -- if
22 there was any other valuation done, I'm -- I'm
23 actually required to also see it to make sure I
24 have an understanding of, you know, how it might
25 have changed or whatever.

1 Q One of the things that you just
2 mentioned when you're talking about valuation or
3 something someone else may have done, I noticed in
4 your -- in your report you indicated some document
5 that had been prepared by Kentucky American Water
6 or the American Water Works or something. What was
7 that? I didn't understand what it was.

8 A In order to determine what the
9 cap rate is -- and I know that's a technical term,
10 but I have to -- what I ended up using was
11 12 percent. I don't know if anybody's paying
12 attention to it. But what -- what happens is
13 things transfer -- there's -- there's a risk that,
14 okay, I'm buying this income stream, but there's a
15 risk that income stream may not last. You know,
16 there's a concern, or should be a concern -- that's
17 if you're buying a business. Well, I don't care
18 what you did back here. I want to know what I'm
19 going to be able to go forward. And there's a risk
20 of whether that income stream is going to maintain
21 for a period of time. And they -- and we call that
22 the cap rate. It's supposed to represent what that
23 risk is.

24 If I was just giving you a little simple
25 example: If I go buy a treasury bond and it's U.S.

1 treasury, and let's say it's paying 4 percent, I'm
2 pretty comfortable that it's going to pay that 4
3 percent through the 20-year term, let's say. So
4 when we -- it's called a build-up method because you
5 start there. And -- and then you have known equity
6 premiums that a Fortune 500 company consistently
7 returns a revenue of, let's say 10 percent, okay?
8 Maybe even 12. And you keep adding the risk that --
9 that income stream may not continue.

10 Well, utility companies have a unique
11 situation. Their industry has lower cap rates than
12 most other industries. If we were doing a coal
13 company, that risk premium would probably be
14 25 percent. In other words, and the higher that
15 rate is -- let me -- let me say this. The higher
16 that rate is, the less that income stream is worth,
17 okay? Mathematically, it works out that way, okay?

18 So when you're building risk, what you're
19 really doing is saying I'm only willing to pay
20 2 million for that income stream because I'm not
21 sure it's going to last, okay. That -- that would
22 be an example. So what I was doing is -- you have
23 to go to public companies because the private
24 companies don't put that information out. So what
25 had happened is I found, I think, seven or eight or

1 nine different companies that I could see what their
2 rate, cap rate is, and it ranged from -- they all
3 ranged from, let's say, 8 to 11 percent, somewhere
4 in that ballpark, because utility companies have a
5 captive revenue stream, where other businesses
6 don't.

7 So if I was doing this for a regular
8 business, you would probably see a cap rate
9 somewhere between 18 to 20 percent, but in a utility
10 it's going to be much less. So what I was doing was
11 trying to find out what the public, the big ones,
12 are. They were at ten. So there's an adjustment I
13 made there of minus eight. That was to get me down
14 from normal companies, down to your-all's industry
15 down here. And then I added a 2 percent specific
16 company risk. What that means is, okay -- you know,
17 if -- if you were trying to compare a local company
18 here, you know, small company to a Fortune 500
19 company, that company is going to have a higher cap
20 rate, and it's because there's specific company
21 issues. It could be management. It could be --
22 when I say I added a 2 percent specific company
23 risk, I'm telling you that when I'm comparing it to
24 a public water district like that, that they've got
25 some inherent problems, whether it's management,

1 whether it's -- you know, they just don't have
2 the -- you know, the personnel, the location maybe.

3 You know, you got a customer base here that
4 based a long time on the coal industry and the coal
5 industry went south. Now, how sure am I that I'm
6 going to be able to maintain those revenue streams,
7 and that's what that 2 percent represents. So
8 that's how I got to 12 percent. And that was my cap
9 rate.

10 And I'm talking a little bit of jargon here,
11 but the method I used was discount those cash flows
12 all back to today. That's one method. The other
13 one is capitalization of earnings. You take that
14 482,000 and divide it by 12 percent, and you're
15 going to get within \$4,000 of what my report says,
16 because that was my sanity check. All sanity check
17 is, is, okay, you know, here's the methodology
18 that's more common in this situation. But when I
19 get done, I need to have some idea that I'm in the
20 ballpark. And I used the capitalization of earnings
21 rate to make sure that -- that I was. So that was
22 the purpose of mentioning that company. I had about
23 seven or eight examples of what those company cap
24 rates were so that I had a starting point and then I
25 worked from there.

1 able to get a comparable. But if you think about
2 it, we were actually taking a section or, you know,
3 a specific area. And to find a comparable, some
4 place that would be public information that I would
5 be able to arrive at, I -- there's no way that's
6 going to happen.

7 Q And let me -- just a couple more
8 and I'll finish up. Do you understand, or you
9 understood that as of today that the U.S.
10 Department of Agriculture has not approved this
11 transfer of assets clear of its liens?

12 A That's my understanding.

13 Q Have you been told why? Have you
14 spoken to anybody at U.S.D.A.?

15 A No, sir.

16 Q None of them have called you to
17 talk about your appraisal or anything you did?

18 A No, sir.

19 Q What about Kentucky
20 Infrastructure Authority? They apparently had some
21 loans that maybe were paid off. Have you had any
22 conversations with them? Have they spoken to you
23 at all.

24 A No, sir.

25 Q The reason I ask is, is that I

1 think when Mr. Hall and some others, some of the
2 Commissioners at the water district testified,
3 there were some indication -- and there was -- I
4 think I may have asked a question. We had an
5 inspector's report, and we had understood there was
6 going to be some water line improvements in
7 Wayland, Kentucky area, Lackey and Knott County
8 line into Wayland, Kentucky. And anyway, that --
9 that basically Kentucky Infrastructure Authority
10 had apparently determined not to loan money to
11 Southern Water District, Water and Sewer, on the
12 basis that they didn't believe they had the
13 financial ability to repay the loans. And I -- of
14 course, that's aside from this rate increase, all
15 right, but I just wondered if you had spoken to
16 them or they had had any contact with you at all?

17 A No, sir.

18 Q Mr. Campbell, Eddie Campbell,
19 testified, I think, at the -- at the last hearing
20 that his, I guess, initial evaluation or his -- his
21 idea about what these assets were worth was maybe,
22 correct me if I'm wrong, 4.1, 2, 3, 4 million,
23 somewhere in that range, just north of 4 million
24 dollars. We didn't ask how he arrived at that
25 figure. That may have just been based on his

1 experience. But in any event, that's not far from
2 what your estimate or your evaluation is based on
3 the work you've done; correct?

4 A Yeah, I think my value was, I
5 want to say 4,020,000, something -- something of
6 that...

7 Q Did Mr. Campbell ever tell you,
8 prior to the time that you arrived at your
9 appraisal figure, what his idea of the value was?

10 A No, sir. And I did have a very
11 frank conversation with him because it was -- when
12 you're representing both parties, but one party is
13 supposed to be paying. So the engagement letter is
14 between me and Prestonsburg. I told him that
15 whatever I come up with -- you know, I didn't have
16 any information at the time, so I wouldn't have any
17 clue.

18 But if that income stream would have been X,
19 then the mechanical part that I did, whether it's
20 the method where we discount cash flows back to
21 today or the capitalization earnings method, it is
22 what it is. And you can probably see it's a
23 mathematical calculation once you get the right
24 information and -- and so forth. So it really all
25 hinged on the -- the income stream. And that was --

1 when I got your-all's report, that was laid out very
2 specific. So that's the income stream that I used.

3 Q I guess that's right when
4 you're -- when you're put in a bit of a spot when
5 you're doing an appraisal and both parties are
6 supposedly relying on it.

7 A You know, in West Virginia when
8 you do a divorce case, that's what you're doing.
9 The judge -- you're actually working for the court.
10 You're not working for a specific client.

11 And so this situation was a little unique in
12 that I was meeting with one party, representing both
13 parties. And -- and my understanding was, it was
14 because they were charged with the cost of the
15 study, and so that's why the engagement letter was
16 with them.

17 Q When you sent the report -- I
18 mean, your report is addressed to -- addressed to
19 Dean Hall. Did you send it to Mr. Hall? It says
20 prepared for Dean Hall, President of Southern Water
21 and Sewer District. It doesn't mention
22 Prestonsburg City Utilities or Mr. Campbell.

23 A It --

24 Q Can you tell me why?

25 A -- it doesn't, because the

1 assets -- the transfer of the assets was actually
2 Southern District's assets. So I addressed it to
3 Mr. Hall. Now he got a copy of it, but the report,
4 in my mind, was for the Southern District in terms
5 of the actual report, because it was their assets
6 that were being transferred.

7 Q All right. But Mr. Campbell or
8 Prestonsburg City Utility Commission would have
9 gotten a copy of the report at the same time
10 when the -- when this went out in the mail or
11 electronically, Prestonsburg got it --

12 A Same time.

13 Q -- the same time, same day --

14 A Same time.

15 Q -- as Southern; correct?

16 A Same time, yeah.

17 Q Did anyone else -- was anyone
18 else sent a copy of the report, other than the
19 parties? Were the lawyers sent copies of the
20 reports?

21 A Not from me. I provided it to
22 them and -- and they could just, you know, disburse
23 it however they wanted to.

24 Q Just one last question or two and
25 that is this: Can you tell us -- because depending

1 on how this works out on -- maybe on rates or maybe
2 in the next case, what your total fees were, fees,
3 expenses? What did you charge for your report?

4 A That was 15,000.

5 Q And I know today you're down here
6 and you're entitled to be paid by someone. Can you
7 tell us what the basis of your -- your charge would
8 be --

9 A It's hourly.

10 Q -- for expenses and things
11 coming? Yes, sir.

12 A Yeah. It's hourly and it's \$250
13 an hour, plus the -- the travel. We take mileage.
14 And I cleared that with Mr. Campbell before I came
15 down here.

16 Q Is it your understanding
17 Prestonsburg is going to pay you for your expenses
18 and your fees for appearing here and testifying
19 today?

20 A Yeah.

21 Q Or has that been determined yet?

22 A No. Prestonsburg will be paying
23 my fees today.

24 CHAIRMAN SCHMITT: All right. See, why
25 don't we take a 10-minute break and come

1 back and then try to finish up and I'll let
2 everybody else -- I'm probably finished.
3 Okay? All right. We'll take a break here
4 until 10 minutes until 11:00. Thank you.

5 (THEREUPON, A BREAK WAS TAKEN.)

6 CHAIRMAN SCHMITT: Back on the record.
7 Commissioner Mathews had to attend a
8 telephone conference, so she -- she'll
9 review the rest of this by video after the
10 hearing is over.

11 But I have no further questions.

12 Vice-Chairman Cicero, questions?

13 MR. CICERO:

14 THE WITNESS:

15 EXAMINATION

16 BY MR. CICERO:

17 Q Good morning, Mr. Fyffe.

18 A Good morning.

19 Q I have a little bit of a
20 financial background, but I'm definitely not
21 trained in the appraisal of assets, so I have some
22 questions on how you determined some of the values
23 that you used in your report, if that's okay.

24 A Okay.

25 Q When I look at the report that

1 was issued, you suggest to Dean Hall, and you said
2 that's because Dean Hall was basically the party
3 representing the party that was selling the assets,
4 and -- but the engagement letter was with
5 Prestonsburg.

6 A That's correct.

7 Q I'm curious why there wouldn't be
8 some indication on here that there was a
9 representation to both parties or that there was
10 another party that engaged you to perform the
11 appraisal -- and not a report. I'm familiar with
12 that, that it would be addressed to the parties
13 that are involved. And I'm curious -- because it
14 misleads us in terms of who ordered the report and
15 why it was ordered.

16 A I think -- I don't know that it's
17 any -- the way I looked at it is, they had the
18 assets -- they were the owner -- Southern District
19 was the owner of the assets, and so I addressed it
20 to Mr. Hall. And then the only reason that there's
21 an engagement letter with him is he told me on the
22 front end that they were ordered, was my
23 understanding, to actually pay for the study. So I
24 have an engagement letter with him.

25 I did not ask Mr. Hall to sign one, because,

1 you know, basically, you know, the contract, so to
2 speak, was, you know, for a payment, to make sure I
3 got paid, and it -- it actually has a provision that
4 said if there was an additional services needed,
5 that it would be, you know, billed separately. So
6 that's why I called Mr. Campbell when I got
7 notice -- I didn't actually receive a subpoena in
8 the beginning. It was just like a -- I believe a
9 phone call saying that, you know, we're going to
10 have a hearing and we'd like for you to be there.
11 And I called him to see, you know, how -- how is
12 that -- is that under the same engagement letter?
13 And he said yes. So that's how -- my testimony is
14 that he's paying for today based on that
15 conversation.

16 Q So did Mr. Campbell contact you
17 and request the appraisal, or did Mr. Hall contact
18 you and request the appraisal?

19 A Actually, Mr. Campbell.

20 Q Because it says -- when you
21 address it, you said, "Dear Dean Hall, at your
22 request, we have performed valuation engagement."
23 Which leads you to believe that Mr. Hall contacted
24 you, and per his request, you're performing this
25 appraisal.

1 A I guess I looked at it that he
2 was requesting it also, because I was working for
3 both parties. I just happened to have gotten the
4 initial telephone conversation from Mr. Campbell.

5 Q Okay. Well, I mean, it's -- I'm
6 just clarifying why the appraisal report is the
7 subject of a lot of scrutiny, because we're trying
8 to determine -- to give you more of a basis for it,
9 RD, as you know, is -- or as you know now, has
10 withheld the transfer of assets because the
11 appraisal -- the amount that you provided at
12 4.1 million has been determined by them to
13 represent an appraisal of water assets only, and
14 that the \$2 million previously paid by Prestonsburg
15 was for the sewer assets.

16 And after they made that payment, that
17 anything now off this 4.1 million, if they had
18 made -- they would have made the additional
19 2 million, which I'm not sure whether they have or
20 not because of the deal with the fiscal court and
21 whether those payments went through or not, but the
22 total value of this transaction would be 6 million
23 dollars.

24 So my question to you: In this appraisal of
25 4.1 million dollars, what does it represent?

1 A That --

2 Q That's how this was -- that's the
3 basis for this appraisal; is that correct?

4 A That's correct.

5 Q So when the initial transfer was
6 requested from the Public Service Commission, I
7 questioned the value being paid for the assets and
8 requested that Southern provide a detailed asset
9 ledger that indicated what the assets were that
10 were being transferred. And I think initially they
11 were -- they -- we had the same difficulty you did
12 in obtaining information, but eventually they did
13 provide it. And I think the value was at either 30
14 or 32 cents on the dollar of the total assets with
15 the -- with the description of basically of what
16 you have said here, that it was the price of two
17 parties reaching an agreement at arm's length
18 transaction. So we understand in the initial
19 transfer at 2.12 million --

20 UNIDENTIFIED LADY: 2.14 million.

21 Q -- 2.14 million. That's what we
22 understood was being transferred initially. We
23 have not, and don't have a copy of, and there's a
24 reference by you on the last page of the report
25 that talks about in the initial agreement of

1 2 million dollars. Can you tell us if that's a
2 written document you viewed or...

3 A Yeah, there's a written document
4 that was -- was, in essence, what I understood the
5 agreement to be.

6 Q So we do not have a copy of that
7 additional agreement, that's correct. So if you
8 have a copy of it, it would be part of the request
9 for information to find out about the additional
10 2 million dollars.

11 A Yes, sir.

12 Q When you prepare your report, you
13 talk about a five-year projection of lost revenue
14 based on management's assumptions as to the
15 company's future outlook. But based on what I've
16 heard you describe previously, you weren't able to
17 determine any or obtain any assumptions from
18 Southern; is that correct?

19 A Well, the assumption was, is that
20 this loss of revenue --

21 Q Uh-huh (affirmative).

22 A -- the 482,000, was going to be,
23 you know, the amount -- it might change some, you
24 know, throughout the -- the period. But for the
25 most part, you would think that would be pretty

1 standard, that it would be the same next year, the
2 next year, the next year.

3 Q Did they indicate to you when
4 they talked about the -- and I'm pretty sure you
5 indicated that they did -- about the sewer assets
6 that -- and you reached a value, transfer value of
7 zero because it had a negative income impact;
8 correct?

9 A Yeah. My understanding was, is
10 that it wasn't doing well. And that was the whole
11 thing that was taking place here, is that they
12 didn't have the ability to service the sewer. And
13 my understanding was, is that there was something
14 going on regulatory-wise with their sewer.

15 Q So this is where I become a
16 little confused. When you have an event or a
17 projected event, in this case being that the sewer
18 assets were going to be subject to a DOW fines and
19 penalties situation of probably a pretty big
20 magnitude. I don't know whether you knew what that
21 was or not, but --

22 A It -- I just knew that it was
23 supposedly large. Never heard any dollars.

24 Q So they never provided that?

25 A No. No, sir.

1 Q So when you do an industry
2 specific or a company specific cap factor, and you
3 try to -- I know you put in the 2 percent for
4 Southern based on some variable that you felt was
5 applicable because of its size or where it was
6 located, not the sewer assets, fines and penalties
7 that were about to be applied and what that impact
8 would be, knowing that the water assets couldn't be
9 transferred without the sewer assets, it was a
10 whole package and it had to be taken together?

11 A Well, the -- I guess the ultimate
12 problem is this -- the question is, is what is the
13 income stream? If the assets value are determined
14 based on the income stream, then you have to know
15 what the income stream is for the sewer. But my
16 understanding was -- is, one, that was negative,
17 that nobody gave me specific numbers, okay, and
18 that it had problems.

19 And a lot of the conversation on the sewer
20 was coming from the judge executive, Mr. Hale. He
21 was trying to explain to me why this transaction
22 took place, you know, what he was trying to
23 accomplish when he was putting this proposed
24 agreement together. And I think it would be fair
25 that he was also trying to make sure that Southern

1 got sufficient compensation for those assets, but I
2 never got a single representation of exactly what
3 the sewer numbers were.

4 Q So being an accountant and
5 looking at debits and credits, and looking at the
6 water district as being a debit and the sewer
7 assets being an offset to that, not only was there
8 the DOW impact of fines and penalties, but there
9 was a negative revenue stream. But none of that
10 was applied -- and I understand you didn't receive
11 it. But none of that was applied looking at the
12 total appraisal to see if together what that value
13 would be. And I -- again, I don't do appraisals,
14 so I'm not certain how it works in the appraisal
15 industry, but I'd be interested to hear.

16 A Well, the assumption was that the
17 sewer was zero. The income stream for the sewer
18 was break even, okay?

19 Q And that's why I asked the
20 question when the Chairman was asking his
21 questions, because you made the statement that the
22 parties agreed that it would be zero. And I'm
23 curious how, from an accounting -- that's a --
24 that's a big assumption to make that there's a
25 goose egg there when there is really a negative

1 impact, not -- not any neutral impact.

2 A I agree. If there was -- if the
3 assumption is that it's negative something, X
4 negative, it would have reduced my number. There's
5 no question about that. But I don't know what --
6 when I say the parties agreed, it would probably be
7 more like Southern really just didn't seem to want
8 to provide the information because it was negative,
9 and Prestonsburg probably knew it was -- well, he
10 wouldn't have known, but was probably hinting that
11 it was negative.

12 And, basically, we arrived at zero kind of
13 as part of the solution so that we could move on
14 because nothing was happening. You know, we
15 couldn't get the information, no explanation why we
16 weren't getting the information, but yet my
17 understanding was is we were a little behind the
18 gun. The transaction, I think, started in June -- I
19 want to say June 30th of '17, and we're talking
20 about it in August of '18. And my understanding
21 was, is I thought it was the federal program that
22 was, you know, basically saying they needed the
23 report, but there was some urgency to what we were
24 doing.

25 So I hear what you're saying, but if

1 somebody says to me, you know, it's zero, I don't
2 know that -- I'm not sure what I was supposed to do
3 at that point, other than that was a -- sound like
4 more of a compromise answer and let's move on.

5 Q So if Prestonsburg agreed with
6 the zero valuation of the sewer assets and the fact
7 that there was no negative revenue impact for the
8 total valuation --

9 A Can I say it this way? He -- he
10 thought it was negative, but was willing to work
11 with zero so that we could move on.

12 Q In other words, to meet the
13 valuation deadline that you thought time was of the
14 essence because of the RD pressure to come up with
15 an appraisal, Rural Development's request for an
16 appraisal of the assets, because they had a lien on
17 the assets? Was that your understanding?

18 A I don't know about the lien. It
19 was just -- I thought it was a regulatory type
20 issue that they -- they wanted the valuation. I
21 thought they were dictating the valuation and they
22 wanted it, like, two months ago, and we were
23 working --

24 Q Who conveyed that to you?

25 A Pardon?

1 Q Who conveyed that message?

2 A I believe that was from my
3 conversation with Mr. Campbell.

4 Q So Mr. Campbell told you that
5 there was a government entity looking for the
6 appraisal to be completed as soon as possible. He
7 was looking to get the deal completed and requested
8 that you move as quickly as possible. I'm
9 paraphrasing here and you tell me if I'm wrong.
10 You requested Southern, Mr. Hall in particular, to
11 provide data. Mr. Hall wasn't being very
12 cooperative or was procrastinating. As a result,
13 you received most of your information from
14 Prestonsburg. Prestonsburg told you to continue to
15 move forward and -- and negotiated a couple of the
16 variables in order to make it happen?

17 A I think Southern may have
18 believed that the combination of the depreciation
19 schedule and the audit itself was maybe sufficient.
20 That's not what I was asking for, but it may be
21 that he thought that was sufficient.

22 Q Did you ever go back to Mr. Hall
23 and say what you're providing is inadequate and I
24 need more information?

25 A I believe that -- that at least

1 one of the e-mails that you're going to see is me
2 encouraging him to get me that information.

3 Q So how many water utilities, or
4 utilities in general, have you appraised in the
5 past?

6 A Actually, only two. And Bonzo
7 Water Company was back in the -- I'm going to say
8 late '70s, early '80s. And then South Shore Water
9 was probably -- I'm going to say that was probably
10 in the early '90s.

11 Q So it's been a while?

12 A Been a while.

13 Q And if I understood, you took a
14 drive around the area in question to view who the
15 customers were basically. And unless it involved
16 looking at some pumps or a water tower, but, I
17 mean, otherwise you can't really --

18 A Can't see the lines or anything.
19 But the customers on 23 -- I guess I was kind of
20 surprised at how many customers on 23 were
21 commercial. Now, obviously, they were these, you
22 know, residential customers on that seven-mile
23 track, or whatever it was this way, and then
24 another group in a subdivision over on the right --
25 right side, but quite a bit of the 23 were

1 commercial.

2 Q So when I look at National
3 Economic and Industry Conditions in your report or
4 Oil and Gas Prices or Jobs, that's just kind of a
5 filler in the report? It doesn't --

6 A Well, what I have to do is I have
7 to determine the general economic conditions, and
8 so it's not really a filler-filler. In fact, there
9 should be a two-line sentence towards the end
10 there. But, again, what you're talking about, that
11 cap rate is based on risk. And let's say we were
12 in a depression. That would change that cap rate,
13 because could the customers have the ability to --
14 you know, if the income stream is going to sustain,
15 then economic conditions have to be such to where
16 that can happen. So I'm required to at least look
17 at the economic conditions to see if I believe that
18 it is sustainable, you know, in that particular
19 area.

20 Q But you mentioned 25 percent for
21 coal; for treasury bonds, 4 percent. And somewhere
22 in between there comes everybody else. And
23 utilities are typically lower because of the fact
24 that they do have a captive customer base. So when
25 you're talking about economic conditions, there's

1 some kind of marginal impact, but people will still
2 take a bath and they're still going to drink and
3 use the facilities or whatever, so --

4 A I grew up without water --

5 Q Okay.

6 A -- literally. Had no running
7 water until I was six. And then we had a cistern
8 system because we had red water. So I can see if
9 economics got bad enough -- and we're talking about
10 the depression -- I could see people using
11 rainwater again. But the point is, is I think what
12 I was doing -- I know that's a crazy answer --

13 Q That's pretty dramatic, yes.

14 A It is. But the point is, I have
15 to determine whether I think that income stream is
16 sustainable. And so I -- you get the economic
17 report right off the government. And you can see I
18 basically -- there should be some words at the
19 bottom there.

20 Q There was. There was a sentence
21 or --

22 A Yeah.

23 Q -- something like that --

24 A That basically, yeah --

25 Q -- just talks about --

1 2013 with the same revenue stream? I mean, how
2 does that give you a good historic basis when
3 you're just taking one year and spreading the exact
4 numbers over five? What does that do?

5 A Well, again, I capture -- I
6 capture the question. But all I was trying to do
7 is, is some point in time you have to estimate what
8 that income stream has been through the years,
9 okay. And, yeah, what I'm saying is that there's
10 \$656,122 at the time the staffers did the report.
11 Then, you know, it was probably roughly the same
12 amount going back to '13. Now, I'm not trying to
13 do anything there other than establish that that
14 income stream has probably been fairly consistent
15 over the years.

16 Q Although in this case, we -- we
17 don't know. We just know that one year is 656,122.
18 Based on the fact that they have captive customers,
19 it's probably somewhere in there unless there's
20 some economic boom that took place back in -- three
21 years ago or whatever. That's basically your
22 assumption?

23 A Well, that, and really the
24 rate -- any rate increases would probably affect it
25 more than it would the economic --

1 Q I don't think they were in for
2 any rate increase, so...

3 A Yeah.

4 Q So one comment on the 656,122.
5 So the rate -- the staff goes through their process
6 of developing what they believe is the required
7 revenue in order to support covering expenses,
8 depreciation, whatever, in order to determine what
9 the rate increase was going to be. So what if I
10 told you the 656,122 that you're using for this
11 valuation is basically one month of actual
12 extrapolated out to 12 months annualized, because
13 they had difficulty with Southern's analysis of
14 billing as well?

15 A Okay. From memory -- and I've
16 got your-all's report here if I need to go pull it.
17 But, gosh, from memory, I thought that the -- that
18 Southern provided that number and that the staffers
19 decided to accept it.

20 Q Actually, Southern provided a
21 number that couldn't be substantiated because they
22 did their own billing analysis. And when they did
23 do the billing analysis, it didn't match. But I
24 believe they came up with one month that was used
25 since they couldn't validate the whole annual

1 period, and then extrapolated it out for 12 months.
2 So we have a \$4.1 million valuation being done on
3 one month of water billing from 2017.

4 A I've got that report here. Would
5 I be able to pull it real quick?

6 MR. CICERO: I have no problem.

7 MR. BOWKER: Can I approach? May I
8 approach?

9 CHAIRMAN SCHMITT: Sure.

10 A (Witness reviews document.)

11 BY MR. CICERO:

12 Q Can you go to Page 6, Billing
13 Analysis Adjustment?

14 A On Page 6, it says, "Southern
15 District provided the billing analysis that
16 accounts for lost revenues of \$656,122." That's at
17 the top of Page 6. Now, I may have read that
18 wrong, but I was under the impression that they
19 provided it. And then it says, "Commission staff
20 finds that the billing analysis shows that these
21 adjustments are reasonable and should be accepted
22 by the Commission." So I thought I was starting
23 off with the number that was provided by Southern.
24 They didn't provide it directly to me, but they
25 provided it to the staffers.

1 Q So then did you read to B?

2 A Well, the -- the B part is an
3 adjustment. But if you look over to -- let me find
4 it.

5 Q Would you read the third sentence
6 down on that B?

7 CHAIRMAN SCHMITT: What page are you on?

8 MR. CICERO: Page 6.

9 A Yeah, on Page 5, the operating
10 revenues, and you see they made the 656,122
11 adjustment.

12 Q Uh-huh.

13 A And then they made a \$54,000
14 adjustment that is the B part, but I thought that
15 was for a specific issue someplace that -- I almost
16 called it a penalty.

17 Q Can you read the sentence three
18 in B?

19 A Pardon?

20 Q Sentence three of B on Page 6.

21 A To cal- -- where it says to
22 calculate -- "to calculate the number of bills for
23 the usage blocks, Southern District multiplied the
24 number of customers in each usage block by 12."

25 Q So that was for the 12 months.

1 That was the adjustment that was -- that was the
2 extrapolation that was used; am I right?

3 A Well, I'm -- I'm the least among
4 us, but when I read that whole thing --

5 Q I'm just pointing out that the
6 number that was used -- I'm not being critical of
7 you for using the number you did given the
8 circumstances that you couldn't get a number from
9 Southern, but it's ballooned into something besides
10 just whether Southern receives a particular rate
11 increase. Now a valuation of assets being
12 transferred, which has become a part of this in
13 determining what type of rate they're going to
14 receive and it's -- a lot of it is based on your
15 report, and some of the assumptions, you know, may
16 not be the best assumptions to be used.

17 A Well, let me say this -- and,
18 again, I'm not saying I'm right --

19 Q Right.

20 A -- but here's -- when I read the
21 whole report, here's what I got from it. Their --
22 the staffers accepted the loss of revenue from
23 these customer base, okay, but then there were
24 other adjustments -- they're not -- they're not
25 getting a rate adjustment just because of the loss

1 of those customers. So there were other
2 adjustments, and you got B and you a got C. And
3 when I read those, it looked like they were then
4 looking at the overall picture and making
5 adjustments. In fact, one of the adjustments
6 I'm -- I'm looking down through there, see if I can
7 figure out which one it was. It was almost like
8 punishing them because of their lack of control of
9 the lost water. They were --

10 Q Oh, yeah, they're penalized
11 anything over 15 percent, because 15 is the
12 nationally accepted level of water loss, and
13 anything over 15 percent is not permitted to be
14 recovered through a rate increase. So they did
15 adjust for that.

16 A So see what I'm saying? I
17 thought those adjustments, they -- it says they
18 accepted that. But then these other adjustments
19 appeared to me -- and, obviously, I'm wrong if you
20 say I am -- was to look at the big picture of,
21 okay, the total rate adjustment, not just centered
22 on the loss of customers in this transaction.
23 That's -- that's how I read it.

24 Q So what I -- and I'm only
25 bringing this up because I'm looking at the

1 Historical and the Normalized Financial Statements,
2 and I know so much rests on the 2017 numbers.
3 That's what you're basing the costs on, that's what
4 you're basing the revenue on, and that's how you're
5 coming up with an income number. So if I go to --
6 so if I go to -- I don't know what page -- again,
7 there is nothing -- that would be one, two, the
8 third page after your -- after the historical and
9 financial data, which you're looking at equity
10 value comparisons. And, again, going back to this
11 482 number, I think, which is the cost number.
12 Yeah, 482,845 -- 906. Or is that the discounted
13 revenue stream that you've done here --

14 A That -- that's --

15 Q -- the enterprise level equity
16 value?

17 A Yeah, that's the discounted --
18 what you do is, is you get your income stream, you
19 know, going forward. Now, if we were -- let's say
20 we were doing the whole company. Then that would
21 be based on a projection of what the future
22 operations of that company was going to be. In
23 this case I'm saying the projection of the income
24 stream is that 482,906 number going forward. Well,
25 you can't go to -- you know, perpetually. You got

1 to stop somewhere. Typically, you go five years.
2 And then that terminal value represents a
3 calculation of what those same revenue streams
4 would continue to go. But when you present value
5 and back to today, there is a point out there where
6 the present value back to, you know, basically
7 nothing, you know, if you get far enough out.

8 Q So --

9 A But that is the discounted cash
10 flow method.

11 Q So if I look at it, the future
12 values come up to 2,280,530; right? Present
13 value --

14 A Beyond -- beyond the five-year
15 period?

16 Q -- 2017 -- huh?

17 A That -- the 2,280,530?

18 Q Right, uh-huh.

19 A That represents years six through
20 perpetual, okay. And they call it terminal value
21 because they're -- you can't just keep present
22 value year six, seven, eight, nine, ten, all the
23 way through, so there's a point where you stop.
24 But they actually have a present value table that
25 tells you what years through whatever would be

1 bringing it back to today, and that's what that
2 2,280,530 is.

3 Q So the 480 -- just so I
4 understand. The 482,906 projected equity net cash
5 flows, the first column is the 656,122 discounted
6 back?

7 A I'm sorry, repeat that?

8 Q The 482,906, which is the
9 projected equity net cash flows for years 2018
10 through 2022.

11 A That is the 656 minus the
12 expenses that are associated with it.

13 Q Right.

14 A Okay. And then you discount --
15 in year one discounted back to today, it would be
16 worth \$431,127, okay? In year two it would be
17 worth 384 and -- and so forth. And then finally
18 you get to a point where year six through perpetual
19 you do it all as one number. And there's a present
20 value schedule for that. Now, this is all
21 computerized.

22 Q Well, I understand that. I'm
23 just trying to understand from my own purposes. I
24 understand the 482,906 times five is 4,020,000;
25 right?

1 A Uh-huh (affirmative).

2 Q I mean, that's how you're getting
3 there. I just don't understand why that number
4 stays constant through all five years.

5 A Now, the 4 million, that --
6 that's not -- that shouldn't be the 482 times five.

7 Q -- total?

8 A That's -- that's how you
9 calculate the terminal value, okay. And it
10 represents the 482 going forward perpetually, okay.
11 They call it the terminal value.

12 Q So these aren't any -- they
13 aren't related, in other words, is what you're --

14 A No. There's --

15 Q -- saying. Okay.

16 A -- there's no mathematical
17 calculation there. I did mention that the
18 capitalization of earnings method is my sanity
19 check.

20 Q Uh-huh.

21 A It would take -- if you took the
22 482,906 and divided that by the cap rate, which was
23 12 percent, it comes up to 4 million, I think,
24 16,000. And it's the same -- the reason they're --
25 that's similar is it's the same concept. When you

1 cap something, you're -- you're saying you're going
2 to make that 482,906 going forward. And you're
3 capping it back to today by dividing by the cap
4 rate.

5 Q All right.

6 A So the two methods are very
7 similar in concept, but mathematically, you know,
8 different.

9 Q Well, understanding that none of
10 these numbers are going to tie together because you
11 don't have enough computer program, is what you're
12 saying.

13 A I --

14 Q I can't go down --

15 A I'm confident that if you entered
16 those numbers into a --

17 Q Yeah, your spreadsheet --

18 A -- discounted cash flow --

19 Q -- software, it'll pop out --

20 A -- program, it would come back to
21 that number. And that's why I did the
22 capitalization of earnings method as a sanity
23 check. I knew that once I calculated that and it
24 was similar, I knew, okay, I'm okay.

25 Q So then when I get back to the

1 Appendix - Projections & Assumptions, so this page
2 is just redundancy; right? You're just -- it's the
3 same numbers over and over again. You're not
4 really -- there is nothing really being done here
5 that's --

6 A Like the very next page, for
7 example?

8 Q Uh-huh. Projection --

9 A That is the calculation of the
10 cap rate that I keep quoting, this 12 percent, and
11 that's how I calculated it. That's where you see
12 that specific company premium of 2 percent. It's
13 kind of halfway --

14 Q You're talking about the page
15 before that, aren't you?

16 A Well, we -- we were on the
17 page --

18 Q I was -- I was going to the page
19 Appendix - Projections & Assumptions, which is
20 after your qualifications, which is after --

21 A Yeah, yes.

22 Q -- your engagement and which is
23 after -- I saw the cap --

24 A You are correct --

25 Q I saw your cap --

1 A -- that's the same information.

2 Q Yeah, it's the same information,
3 because if you go to the next page, revenues,
4 expense and assumptions, your average annual growth
5 rate of zero net sales revenue is estimated to grow
6 at zero, starting from a base of 656,122 and
7 growing up to 656,122 in the projected year, and
8 656,122 in projected year five. So there's really
9 nothing being done there; right?

10 A No. If -- if you were doing the
11 whole company -- and I told you we were doing
12 projections going out. Theirs were -- it would be
13 very specific information that -- of what we
14 thought sales were going to increase by or what we
15 thought this was going to be. And so in this case
16 I'm saying that the revenue is going to stay the
17 same.

18 Q So you did three -- on behalf of
19 both entities, it was three goals or objectives;
20 right?

21 A That's correct.

22 Q And the last two was -- one was
23 the stability of Southern and one was post
24 transaction and the other was stability of
25 Prestonsburg --

1 A That's correct.

2 Q -- post transaction?

3 In viewing the financials -- and I
4 understand you relied heavily on audit reports, and
5 the auditor didn't indicate there was any red flag
6 that said that there -- he expected any significant
7 issues. Do you think that this transaction affected
8 the stability of either Prestonsburg, Southern, or
9 both?

10 A Well, I think it definitely
11 impacted them.

12 Q Negatively, I meant.

13 A And the issue with Southern,
14 if -- if we were standing here and there was no
15 rate increase, there's no question in my mind that
16 Southern was going to have problems, okay. What --
17 what I was charged with is after the transaction,
18 okay, and -- and I may have took this for granted,
19 but viewing that -- that there was a rate increase
20 requested, that absent that rate increase, I would
21 tell you they probably would have had problems, but
22 I think they had problems before. And -- and in
23 terms of what I was asked to opine, by the time you
24 take -- if they got 4 million dollars on the
25 transaction, which is what my report is saying, you

1 know, what -- what the transfer was worth, and
2 looking at the rate increase and applying that to
3 the audit -- and you got to remember, the audit was
4 showing a small loss. It had a million dollars of
5 depreciation, which depreciation isn't something
6 you throw out the window, as you know. I'm not
7 saying that. But in terms of immediate cash flow,
8 you know, the real impact for that wasn't going to
9 happen until '18. That would be the first year,
10 full year of loss of revenues from this
11 transaction.

12 So what I was looking at on Southern is, I
13 had the audit. I looked at the income statement; I
14 looked at the balance sheet. It's \$18 million of
15 assets. And then I looked at the fact that they
16 were getting a rate increase to replace the lost
17 revenue, and -- and then the 4 million, however they
18 used it. I didn't care if they used it for debt
19 service or put it in the bank account. The
20 combination of all that, I believe I had enough
21 information to opine that they were -- they were
22 going to be able to remain stable based on those
23 factors.

24 Q You didn't really include that
25 statement in your report though; right, based on

1 these -- these events occurring? I mean, at least
2 I didn't see it.

3 A I think what I said -- it's on
4 the last page -- "The Kentucky Service Commission
5 issued a report on the determination of the rate
6 increase filed by the District. In addition to
7 reviewing information provided by the filing, the
8 Commission assigned staff members to do a thorough
9 examination of the District's finances." And I was
10 following your-all's report. The staffers, I
11 thought -- I don't know who wrote it, but it looked
12 like to me it was very logical in what they did and
13 how they determined -- like you started off -- of
14 what the increase needed to be, as opposed to what
15 they either initially requested or whatever.

16 "Their conclusion was to approve a rate
17 increase for both the basic and second tier rates
18 than what the District had requested." And I hope
19 this didn't offend anybody. I didn't know this was
20 actually coming here, which is very unusual by the
21 Commission. I had no idea this thing was coming
22 here. I thought I was doing a report for the Ag
23 people. So --

24 CHAIRMAN SCHMITT: There are a lot of
25 people that say we do a lot of unusual

1 things.

2 A My experience on the other side
3 of the fence was, is -- is you fought for the --
4 for -- any increase you got, you fought for it.
5 That's my side of it.

6 "The combination of these rate increases and
7 the reduction of debt/working capital provided by
8 the \$2,140,000 contract dated June 28, 2018 and the
9 additional agreement of 2,000,000, should make the
10 viability of the District positive for many years
11 based on my understanding." I did say, "I place a
12 great deal of reliance on the Commission's detailed
13 work" -- because that was the basic source I had of
14 information -- "and confidence that the rate
15 increase was sufficient to assure their success."

16 Q When did you say you found out
17 that \$2,000,000 of the transaction was to go to the
18 fiscal court rather than Southern?

19 A I don't -- I don't know. The way
20 it was proposed is what I remember, is he didn't
21 say he was going to do that. He was saying they --
22 like they owe us money and that might be one of the
23 possible things. That's the way I remember it. I
24 don't remember him saying, yeah, we're going to
25 take 2,000,000 of that and do this or, you know,

1 whatever.

2 Q So you really didn't -- you
3 didn't know?

4 A No. I just --

5 Q Because I think that's one of the
6 large negative impacts, is the fact that 2 million
7 that might have gone to pay off debt or help the
8 District financially was really going to the fiscal
9 court and not going --

10 A Wouldn't -- wouldn't help them.

11 Q -- wouldn't help them at all in
12 terms of financial stability going into the future?

13 A I guess, in my mind, I was also
14 trying it back into my 4 million number. In other
15 words, I'm saying it's really worth 4 million.
16 They had done 2,140,000. And then somewhere down
17 the line they're going to get another close to
18 2 million.

19 Q And that number was earmarked by
20 the Floyd County Fiscal Court possibly to go to
21 them rather than -- and I'm not saying that you
22 knew that. I -- it appears that you did not.

23 A I did not.

24 MR. CICERO: I think that's all I had.

25 CHAIRMAN SCHMITT: Mr. Bowker, any

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questions?

MR. BOWKER: Just two follow-up questions,
please.

How are you, sir?

THE WITNESS: Good. Good.

MR. BOWKER: Just got two quick questions
for you.

EXAMINATION

BY MR. BOWKER:

Q Did you examine at any time any
of the annual reports filed with the Public Service
Commission for the sewer assets that would have
included Southern District's revenue stream on the
sewer?

A No, sir.

Q And then my other question is,
did the audit reports you reviewed have water and
sewer operations separated?

A No, sir.

MR. BOWKER: That's all I've got for you,
sir. Thank you.

CHAIRMAN SCHMITT: Mr. McNeil, questions?

MR. McNEIL: I have no questions left.

CHAIRMAN SCHMITT: Questions?

MR. STROBO: I have a few question,

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Chairman.

EXAMINATION

By Mr. Strobo:

Q Mr. Fyffe, My name is Randy Strobo. I represent Southern Water Sewer District.

So getting back to the engagement, there's no signed engagement letter, no signed agreement with Southern Water --

A That's correct.

Q -- is that correct, with your firm?

A That's correct.

Q When did you first start -- when was the first conversation you had with Mr. Hall or anybody else at Southern?

A I'm going to say -- I got a call from Mr. Campbell first, went down and met with him to see if I could do the engagement, had to make sure that I had an understanding and -- and ability to do what he was asking. And Mr. Hall wasn't available that day, but him and Mr. Hale called me, I want to say, within days of that visit.

Q I'll get back to that call in a second. I know when I have an engagement letter with my client, I kind of list out the obligations

1 that my client needs to fulfill in order for us --
2 our agreement to -- my representation to work. And
3 often -- in every agreement I have I kind of
4 outline this is what is expected of you, client.
5 You need to return my calls, you need to provide
6 information when asked, that sort of thing. Do
7 your engagement letters say that?

8 A I think it might say that you're
9 going to provide me the information that I need.

10 Q Do you think --

11 A It's not detailed like you're --
12 you're talking about.

13 Q Do you think it's important, in
14 hindsight, that Southern probably should have
15 signed an engagement letter with you?

16 A Not really. The -- my engagement
17 letter was, to be honest with you, more how am I
18 going to get paid. And, you know, since Southern
19 wasn't going to be the one paying me, was my
20 understanding from day one, I don't know what the
21 purpose of the engagement letter would be.

22 Q So even though somebody else is
23 paying you and -- but you're doing the work for
24 another entity, the one that's not paying, you
25 never require an engagement letter from the entity

1 that's not paying you?

2 A Let me put it this way: This is
3 a fairly unusual situation.

4 Q I agree.

5 A But I mentioned that West
6 Virginia has a fairly unique divorce type system.
7 It's not like that in Kentucky. And I wouldn't get
8 an engagement letter from both of those people. At
9 that point I'm actually working for the court.

10 Q But in this case -- who do you
11 think you're working for in this case?

12 A I was told right from the very
13 beginning I would be working for both parties.

14 Q And who told you that?

15 A Mr. Campbell.

16 Q Did Mr. Hall ever tell you that?

17 A I don't guess -- I don't guess he
18 specifically did. He -- he certainly indicated
19 that from e-mails/phone call.

20 Q And about -- I know you don't
21 have it in front of you, but about when was that
22 engagement letter signed?

23 A I'm still back at August of 2018.

24 Q And when did you drive down to
25 visit with Mr. Campbell?

1 A He -- when he called me, we made
2 a -- tried to make an appointment. And I'd say
3 that was within -- fairly quickly, one or two days
4 of the phone call, I want to say.

5 Q About --

6 A August -- August of 2018.

7 Q So one or two days after you
8 signed the engagement letter?

9 A Yeah. Well, he called me. I go
10 down there, okay, and --

11 Q Let me -- when did he call you?

12 A Somewhere -- I think somewhere
13 around August of 2018.

14 Q Okay. After you signed the
15 engagement letter?

16 A No.

17 Q Okay.

18 A Okay. He called me first.

19 Q Okay.

20 A And said he needed a valuation
21 done, and that he had gotten my name from
22 Mr. Cranfield, and that would I be able to do this
23 engagement. I told him I would have to come down
24 and look it all over, make sure I understand what
25 I'm supposed to be doing before I'd be able to do

1 that. The engagement letter was after I had seen
2 the site visit, after I had talked to him. And
3 then I went back and drafted the engagement letter.

4 Q Was Mr. Hall ever involved with
5 the arrangements for you to come down for that
6 first visit?

7 A My understanding was, is he was
8 supposed to be and that he wasn't available. But
9 it wasn't like I was, you know -- at that point I
10 didn't know much about the engagement at all, tell
11 you the truth.

12 Q So you were unaware that Mr. --
13 were you aware that Mr. Hall was supposed to be
14 involved with this engagement when you went down?

15 A I'm pretty sure he was invited or
16 noted that I was coming, but he wasn't available.

17 Q And was that the only time that
18 you came down?

19 A That's the only time I came down.

20 Q When did you receive that phone
21 call from Mr. Hall and the judge executive?

22 A I want to think within days of me
23 going to Prestonsburg. He wasn't available, was my
24 understanding. He knew I was meeting with him.
25 And thought it was a little odd that the judge

1 executive was calling me, but, you know, when he
2 called I accepted the call. And Mr. Hall, I'm
3 pretty sure, was in -- he was either in the room or
4 the judge executive had already gotten him on the
5 phone prior to connecting in to me, because right
6 away when I took the call, he introduced himself,
7 and then he said, I have, you know, Mr. Hall --
8 either said here, too, or on here, too.

9 Q To the best of your knowledge,
10 was the reason for that call the lack of
11 communication with Mr. Hall from your firm?

12 A No. I'm -- I'm trying to be
13 careful here. I'm going to tell you that the phone
14 call -- Mr. Hale wanted to explain how this whole
15 thing got started, what his intent was when he
16 tried to put this thing together. And I think he
17 was also trying to impress upon me that -- of what
18 he thought maybe the dollars, you know, should be,
19 more in a -- that it should be a lot of money. And
20 that he wanted to make sure that I understood that
21 I was working for Southern as well as Prestonsburg,
22 and I said I did. And -- and Mr. Hall said very,
23 very little, tell you the truth.

24 Q Is it your understanding that
25 Mr. Hall was your client, but not the judge

1 executive?

2 A The judge executive was not my
3 client, and Mr. Hall technically wasn't. It was
4 the Southern District and the Prestonsburg
5 Utilities.

6 Q Okay. But you directed your
7 report and the cover letter to Mr. Hall?

8 A I directed it to him as President
9 of the Southern Water and Sewer.

10 Q I'm just a little confused --

11 A Okay.

12 Q -- because you directed it --

13 CHAIRMAN SCHMITT: We're all confused.

14 BY MR. STROBO:

15 Q This letter is directed -- this
16 report is directed to Southern and using Southern's
17 information to -- to formulate your report and to
18 prepare your report, but they're not the client.

19 A Southern Water is.

20 Q Southern Water -- I thought you
21 just said Southern Water was not the client.

22 A Oh, no. You said Dean Hall.

23 Q I apologize.

24 A Yeah. And I said, well, he
25 wasn't technically --

1 Q Okay.

2 A -- my client. Southern District
3 was.

4 Q That's my apologies then.

5 So Southern -- you do say Southern Water is
6 a client of yours?

7 A Yes, that's correct. I was
8 performing services equally for Prestonsburg
9 Utilities and Southern Water District, but I did
10 put the report to Dean Hall, President of the
11 Southern Water and Sewer.

12 Q Was there any discussions with
13 Mr. Hall -- with you and Mr. Hall about whether or
14 not Southern would pay for some of your services?

15 A No.

16 Q So you assumed that they wouldn't
17 pay it because Prestonsburg said they would?

18 A Well, I believe Mr. Campbell
19 represented to me that he was ordered to pay for
20 it. That's my understanding.

21 Q Who ordered Mr. Campbell to pay
22 for it?

23 A I'm not sure about that.

24 Q How many times did you talk to
25 Mr. Hall on the phone, total?

1 Can I just addendum that just a little bit?

2 Q Sure.

3 A The legal system is still maybe
4 the only, lonely system left that's not paperless.
5 And you have -- I have to have documents physically
6 in my possession for almost everything I do. So
7 I -- I capture the question, but -- but normally
8 the clients provide me the records, and that way I
9 have them as part of my file.

10 Q But typically -- just going back,
11 you don't -- did you visit Prestonsburg's office?

12 A When I went to meet with Mr. -- I
13 met in their offices.

14 Q But just to meet there and then
15 you went out?

16 A Then we went out.

17 Q But I assume that you talked
18 about this project while you were at Mr. Campbell's
19 office; right?

20 A That's correct.

21 Q And Mr. Hall was not part of
22 those conversations; correct?

23 A That is correct.

24 Q And the only time you've ever --
25 well, have you ever met Mr. Hall in person?

1 A No, I have not.

2 Q And only one phone call; correct?

3 A That's correct.

4 Q Now, going to the e-mails -- and
5 if you can approximate those for me. I know you
6 don't have them in front of you. About how many
7 times did you-all exchange e-mails?

8 A With just Mr. Hall; right?

9 Q Just Mr. Hall. Well, yeah, just
10 Mr. Hall.

11 A You got to remember most -- most
12 of the e-mails would have been to -- at one time
13 including Mr. Hale, to all three, and then I
14 dropped Mr. Hale off. And -- and then there's
15 e-mails just to Mr. Hall reminding him that I'm
16 waiting on, you know, this and -- like, he would
17 send me that depreciation schedule and I probably
18 responded with, well, "that's not really what I'm
19 asking, this is what I need" type thing. So I
20 would say the total e-mails that would have
21 Mr. Hall's name on it, probably 15, somewhere in
22 that ballpark.

23 Q And that's total with Mr. Hall's
24 name on it, even though there's other people --

25 A Right.

1 Q -- copied on the e-mail?

2 And did -- and, typically, Mr. Hall would
3 respond when you asked him for a response?

4 A He -- he's -- I'll be honest with
5 you, he was very unresponsive. He -- it's not like
6 you think you're going to get a response back real
7 soon. And I'm not even --

8 Q Mr. Hall --

9 A -- trying to be critical. I'm
10 just saying he -- he was a -- very slow. But
11 eventually, you know, I would -- like those audits,
12 you know, eventually I'd get them, but it might
13 have been a week, maybe sometimes two weeks after I
14 asked for them.

15 Q Did Mr. Hall ever express any
16 type of confusion over what you were requesting of
17 him?

18 A Not to me.

19 Q Was there -- did Mr. Hall ever
20 express any confusion about who was to give you
21 that information?

22 A He -- he didn't name any
23 individual.

24 Q Well, as far as if you -- you
25 sent an e-mail out for -- a request for some kind

1 of information from Mr. Hall or somebody else. Did
2 he ever express to you that he wasn't sure he had
3 it or he thought somebody else should provide it to
4 you?

5 A No, no. He -- he never -- I
6 assume he would go to whoever is his financial
7 person and they would provide the information. And
8 if it wasn't available, I'd assume that he would
9 have e-mailed me back and said that information is
10 not available. That didn't happen.

11 Q You submitted your report, I
12 think, was it October 31st, 2018?

13 A That's correct.

14 Q And by submitting that, I'm
15 saying that you gave it -- you sent it to Mr. Hall
16 and Mr. Campbell?

17 A Very close to that date.

18 Q Did you ever -- did you give any
19 warning to Mr. Hall that you would be submitting
20 that report on that date?

21 A No.

22 Q Was there outstanding requests
23 still from Mr. Hall that he was supposed to get to
24 you before you -- at the time you submitted this
25 report?

1 A Well, for example, one of the
2 requests would have been the -- the loss of revenue
3 and related expenses to those lost customers, and I
4 never got a response from him, but when I got the
5 PSC report -- I read it while ago where it said
6 that the request that they had submitted said that
7 the lost revenue was that \$656,000 number, so --
8 and then my understanding was, is that the PSC
9 staffers had accepted it. So to me, if he -- if it
10 was part of the rate increase request from
11 Southern -- and then my understanding was, which
12 sounds like it may not have been totally accurate,
13 was that the staffers had accepted it, then that's
14 the number I used. So the fact that he hadn't got
15 back to me at that point was kind of mute on that.

16 Q So did you ever tell Mr. Hall
17 that you were going to use that number from the PSC
18 report?

19 A Obviously, I didn't do it by
20 phone or by voice, but I'd have to look at my
21 e-mails to see if I -- I'm not sure I would have
22 specifically shot that out to him.

23 Q Would it surprise you if
24 Mr. Hall -- and I'm -- well, I don't know if I
25 should ask that question. Hang on.

1 The timing of the submittal of your report,
2 do you typically submit your report without giving
3 any warning to a client?

4 A I guess the -- the norm would be
5 that the client knew I was preparing a report, that
6 they would have some expectation that it would be
7 coming to them.

8 Q Did you tell them that -- did you
9 tell Mr. Hall that you were going to submit the
10 report on the date that you did, prior to
11 submitting the report?

12 A No.

13 Q Do you typically allow your
14 clients to take a look at the report before you
15 finalize it?

16 A What -- what I have to be careful
17 about is if it appears that I'm giving them the
18 report so that they can influence me in -- in what
19 it says, that can't happen. Now, sometimes I have
20 a lot more verbiage, history of the company, you
21 know, that type of thing. This was a little bit
22 different type of report. I will ask them to look
23 at the verbiage, and I'll be clear to them that I'm
24 not interested in your comments on my numbers. But
25 in this case I didn't have the verbiage, so, you

1 know, I don't know why I would be asking them to
2 look at the preliminary report.

3 Q After you submitted the report
4 and -- did you receive any feedback from
5 Mr. Campbell?

6 A I think Mr. Campbell just simply
7 said, you know, not in this -- these words, but
8 like, I'm okay with that or, you know, whatever.

9 Q Did you receive any feedback from
10 Mr. Hall?

11 A I did not.

12 Q If you were to receive some
13 feedback, would you go back and look at the report
14 to make sure, you know, whatever feedback they had
15 was accurate or make sure you did what you were
16 supposed to do?

17 A In this particular case the only
18 thing that he could have said to me, if he said the
19 656 was wrong, I would have just pointed out to him
20 that it came from the rate increase application.
21 But I -- I don't know how the numbers could have
22 changed no matter what he said to me.

23 Q So I run into this problem a lot
24 in my practice, and I know we're kind of apples to
25 oranges. But do you -- do clients typically

1 respond to your e-mails immediately?

2 A I don't know that e-mail is
3 designed to be immediately, but day or two or three
4 you would expect something. But I think you're
5 going to see that they were far and in between.

6 Q Do you ever have to nag your
7 clients to get them to send you things?

8 A I think you're going to see that.

9 Q Okay. Other clients besides
10 Mr. Hall and Mr. Campbell?

11 A Yes. Yes, sir.

12 Q So it happens?

13 A It happens.

14 Q I'm going to ask you a few
15 questions about the sewer infrastructure and the
16 sewer assets.

17 Well, first of all, did you review the Asset
18 Purchase Agreement that was signed back in 2017?

19 A Yes, I did.

20 Q Did you review all the exhibits
21 attached to it? There are a lot.

22 A I -- I probably -- I may have
23 perused them. I don't remember that I studied
24 them, but it was -- they were part of the
25 agreement.

1 Q But you made no independent
2 analysis on your own about the value of the sewer
3 assets; correct?

4 A I think that would be correct.

5 Q And you relied on your clients
6 for that number?

7 A That's correct.

8 Q I'm going to read you something.
9 Now, this is a from a resolution adopted by the
10 City of Prestonsburg, and it's attached to that
11 Purchase Asset Agreement -- or Asset Purchase
12 Agreement at Exhibit 5 -- oh, I'm sorry, Exhibit 6.
13 I'm going to read it to you. So this is the -- the
14 City of Prestonsburg adopting a resolution to agree
15 to move forward with the deed -- agreement. "So
16 whereas 'the City's existing wastewater treatment
17 plant'" -- the city wastewater treatment plant in
18 quotes -- "is currently operating a maximum
19 capacity. Whereas, Southern District's Harold,
20 Betsy Layne wastewater treatment plant, the Harold
21 wastewater treatment plant is modern, operates
22 approximately 50 percent of its rated capacity of
23 100,000 gallons per day, is expandable to 400,000
24 gallons per day, and is strategically located along
25 the 'U.S. Highway 23 corridor'" -- the U.S. 23

1 corridor in quotes.

2 "Whereas, if the City acquires the Harold
3 wastewater treatment plant, Prestonsburg City
4 Utilities can reverse the flow of wastewater, divert
5 a substantial portion of the wastewater from its
6 existing wastewater treatment plant to the Harold
7 wastewater treatment plant and create additional
8 capacity at the City wastewater treatment plant.

9 "Whereas, acquisition of the Harold
10 wastewater treatment plant will enable the City to
11 forgo substantial capital improvements at the City
12 wastewater treatment plant.

13 "Whereas, acquisition of the Harold
14 wastewater treatment plant will enable the City and
15 PCUC" -- Prestonsburg Utility -- "to more
16 economically extend wastewater service along the
17 U.S. 23 corridor to the Floyd/Pike County line."

18 I know that's a lot of stuff that you don't
19 typically deal with. But based on that -- I'll
20 summarize it from my opinion what it means. It
21 means that they're getting a new -- Prestonsburg is
22 acquiring a new asset from -- from Southern. That
23 asset is in good condition. It has extra capacity.
24 Because of that, Prestonsburg does not have to
25 expand -- invest in capital improvements in their

1 current wastewater treatment plant, because they're
2 almost at capacity there. And by acquiring this
3 wastewater treatment plant, they can divert flows to
4 that new wastewater treatment plant and, also,
5 potentially add new clients that can be serviced by
6 that wastewater treatment plant.

7 Now, I know that's a lot. How would you
8 evaluate that from an appraisal's perspective and
9 how would that impact the appraisal of the sewer
10 assets?

11 A Zero.

12 Q Zero?

13 A Let me --

14 Q Tell me why.

15 A -- let me tell you why.

16 You're -- you're describing what the benefits to
17 the buyer is, okay. And the definition of fair
18 market value is between a buyer and seller and
19 neither compelled, all relevant facts, and so
20 forth. And it still comes back to, you know, what
21 was the benefit stream to the seller, is -- is how
22 you value. So everything that you read off there,
23 how is that going to impact Southern Water?
24 What -- how is that going to change their income
25 stream for -- for the sewer? And that's all the

1 benefits to a buyer, but the buyer typically ain't
2 willing to pay you for me being able to use what
3 I'm buying at an advantage. I'm not willing to pay
4 you for that, okay. It -- it's almost like -- we
5 actually run into that question. That's not an
6 unusual question in our profession, okay.

7 So picture I'm going to be able to buy your
8 company because strategically I'm going to be able
9 to use you and I'm going to make more money,
10 et cetera, et cetera, et cetera, but I'm not willing
11 to pay you more than what your company is currently
12 doing. Not what I'm going to be able to do with it
13 once I buy it. I'm not going to compensate -- I'm
14 not going to pay you for what I'm going to be able
15 to do. I'm going to pay you what you're operating
16 at. And that's a fairly common, you know, question.
17 So I didn't mean to --

18 Q No. That's fine. I was kind of
19 expecting that answer.

20 You never had that conversation with
21 Mr. Hall, did you?

22 A No, I don't believe so.

23 Q You never had that conversation
24 with Mr. Campbell, did you?

25 A No. If -- if there was anything

1 close to that, the phone call I got from Mr. Hale
2 and Mr. Hall that day -- I don't know how to
3 characterize that conversation any more than it
4 wasn't just an introduction; it wasn't just a
5 friendly, hey, here's who I am type thing. He was
6 promoting the value for Southern District. That's
7 how I'm going to say that.

8 Q And I don't want to put words in
9 your mouth, but it sounds like you had an ill
10 feeling about that conversation?

11 A I don't -- I don't -- I don't
12 know that I felt ill. I -- I thought it was
13 interesting that he was promoting -- it was almost
14 like he had a personal interest in the transaction.
15 And I wasn't aware of that personal interest until
16 I get that phone call. Now, I expected Mr. Hall to
17 call me. I didn't expect Mr. Hale to call me.

18 Q Did you make it clear in that
19 conversation that your client was Mr. Hall and not
20 Judge Executive Hale?

21 A Well, again, the client would be
22 Southern District.

23 Q I'm sorry. I know.

24 A And I know you --

25 Q I apologize.

1 A But let me -- I think -- I think
2 I said this before, but he was also wanting to make
3 sure that I understood that Southern was my client
4 also. So Mr. Hall was sitting there -- or either
5 sitting there or on the phone. And I said, I
6 understand that fully. That was presented to me
7 when I met with Mr. Campbell from day one. So now,
8 did I say, now, Mr. Hale you're not my client? No,
9 I did not.

10 Q And you testified previously that
11 you -- that you performed two different utility
12 appraisals; correct? And one was South Shore and
13 what was the other?

14 A It was the city of South Shore --
15 I'm sorry, that's not correct. That was a
16 situation where that was a private company that the
17 city of South Shore was going to buy, but the name
18 of the company was just simply South Shore Water
19 Works. And the other one was Bonzo Water Company.

20 Q So you've had experience with two
21 different water company type appraisals?

22 A Those were full company
23 valuations as opposed to just lost revenue.

24 Q Do you have any experience
25 appraising sewer -- a sewer district itself?

1 A No, sir.

2 Q Or sewer assets?

3 A No, sir.

4 Q It sounded like you may have
5 consulted with Mr. Cranfield at some point in
6 your --

7 A I did.

8 Q -- in your work for Southern and
9 Prestonsburg?

10 A He had actually done one of
11 these --

12 Q Uh-huh (affirmative).

13 A -- before. And I asked him to --
14 well, first of all, I called him to thank him for
15 the referral. And he had actually done one, which
16 is how I think there was the connection to begin
17 with, with Mr. Campbell and him. And I asked him
18 to send a copy of his report, and he did the
19 discounted cash flow method also.

20 Q Did Mr. Cranfield review your
21 report before you submitted it?

22 A No, sir.

23 Q And besides that help that you
24 just described, did he assist you in any other way?

25 A No, sir.

1 information. Now, obviously, they had the -- the
2 gross. If I -- if I read the report correctly, what
3 it looked like to me it said that, you know, that
4 they had determined the lost revenue to be 656,
5 whatever it was. So evidently they had the ability
6 to arrive at that number. And I was under the
7 impression that the staffers accepted that number.
8 And I think they did that after reviewing, you know,
9 the calculations and stuff. But as far as the
10 expenses directly related to it, might have been
11 where they were struggling a little bit.

12 Q Ultimately, though, you had
13 information you needed to produce the report that
14 you produced; correct?

15 A That's correct.

16 Q Were you aware that Southern had
17 that information as early as July of 2018 in
18 document form and they could have e-mailed it to
19 you very quickly?

20 A No, I was not aware of that and I
21 don't...

22 Q That's part of the rate case and
23 that's -- the PSC staff report was based on the
24 application that Southern submitted to the PSC.
25 And you're saying the number that was provided

1 there, that the PSC approved of, that's what you
2 needed to ultimately finish your report; correct?

3 A That's -- that's correct.

4 Q So that's why I go back to my
5 confusion question as to Mr. Hall not knowing
6 exactly what he needed from you, because they had
7 that number for the past six months.

8 A That would confuse me also.

9 Who I actually got the Public Service
10 Commission report from? Mr. Campbell. I was maybe
11 complaining a little bit that he -- he was on to me.
12 Ag people is what -- somebody was breathing down his
13 neck for the report. And I was simply saying, I
14 can't get it. I can't get the information. And
15 this evidently came available October 24th maybe, or
16 somewhere close to that or, you know, whatever, and
17 he's going to e-mail it to me. Now, if it didn't
18 have the information I needed, I was still back in
19 the same position, but it actually had the
20 information, so I'm -- I would be just as confused
21 as you of why I couldn't get the information.

22 Q Could it be possible that
23 Mr. Hall was relying on Mr. Campbell to provide
24 that to you in the first place?

25 A He wouldn't have wanted to.

1 Q Excuse me?

2 A He wouldn't have wanted to.

3 Q Why is that?

4 A Mr. Campbell's calculation was
5 much, much less. He -- he had cost assigned to it
6 that brought the net revenue down to 200 and some
7 thousand dollars, and that -- that wouldn't have
8 been into Southern's best interest. And I'll be
9 honest with you, I wouldn't have accepted -- he
10 sent it to me. I had it. I wouldn't accept it
11 without, you know, Southern saying, yeah, that's
12 right. But when I got the PSC report, it was 482
13 whatever and -- and that's what I used.

14 Q So you have two different
15 numbers, but you're relying on the PSC number, not
16 the Prestonsburg number?

17 A The staffers -- when I looked at
18 the report, it looked like to me -- I think it even
19 says in there that they spent a week down in
20 Southern's offices, I picture pouring through the
21 records, to come up with the report that they came
22 up with. And so I thought that -- that -- if
23 you're -- if you're trying to think of what the
24 most reliable information would be, would it be
25 from Mr. Campbell? I don't think so. But I felt

1 like the PSC information was accurate and that's
2 what I used.

3 Q So, you know, what I'm trying to
4 get at a little bit, too, is it seems like there's
5 an inherent conflict here between you representing
6 both Prestonsburg and Southern at the same time.
7 You're getting numbers from Prestonsburg they don't
8 agree with and, ultimately, you use numbers that
9 benefit Southern, but you're still getting input
10 from two different folks that you're representing
11 at the same time, and there's not really clear
12 boundaries over who is expected to give you what
13 over who your loyalty -- I won't say loyalties are,
14 but, you know, in the attorney sense we have a duty
15 of loyalty to one of our clients -- to a client. I
16 don't know what that is like for you, but it seems
17 problematic and I'm just curious to know why maybe
18 you didn't recommend Southern or Prestonsburg get
19 separate -- you know, get their own CPA, their own
20 appraiser to do this rather than being a joint -- a
21 joint effort?

22 A Well, the reason -- reason he
23 gave it to me is so I could compare Southern's, if
24 I had gotten it, so I could try to determine, okay,
25 now what do I got to do to figure out which one's

1 right. But then when the PSC report came out, now
2 you've got a third -- independent third party,
3 okay. Can't get any better than that. Actually,
4 going down to the office, detailed work, and -- and
5 here's the numbers. To me that was better than
6 anything else I could have gotten from either one
7 of them two.

8 Q But going beyond just that
9 number, I mean, the entire relationship, it seems
10 confusing, difficult to figure out, you know, where
11 am I getting information from, who am I listening
12 to, whose offices am I going to go visit? You
13 know, who am I going to talk to on the phone?
14 Who's the point person? It just seems difficult
15 and I'm just asking your opinion --

16 A Every -- every --

17 Q -- on why -- let me finish --

18 A -- every West Virginia --

19 Q -- let me finish -- let me
20 finish --

21 A -- divorce case is like that.

22 Q -- let me finish, please.
23 Please, let me finish.

24 I just want your opinion on why you thought
25 that was okay to represent both entities at the same

1 time in something like this.

2 A Well, what you're implying is
3 that I can't be objective, and that's our standard,
4 that I can't be objective by performing a service
5 for two different parties. And I think you can see
6 what I've done is make sure that I maintained my
7 independence throughout the process.

8 And you're right, if I hadn't have got the
9 PSC report, I'm sitting there and I don't have
10 information to do anything. I can't rely on his,
11 you know, and I'm not getting anything from
12 Southern. And why I don't -- I don't know the
13 answer to that. It would confuse me just as much as
14 it does you. But once I got the PSC report, I feel
15 like that what I performed is, in fact, what I was
16 contracted to do for both parties. And I think you
17 can see I didn't prejudice against one versus the
18 other, in my opinion. In fact, Prestonsburg ought
19 to be the one that's upset, not Southern, in my
20 opinion. So I do think I had the ability to do that
21 and we do it -- like I say, that's -- I do that
22 every West Virginia divorce case I've got to -- have
23 to do that.

24 Q And I'm by no means questioning
25 your independence and your ability to be objective,

1 but -- well, you mentioned just then that you had
2 contracted with Southern, but you never, in fact,
3 had contracted with Southern; correct?

4 A Verbally, I did. Mr. -- the
5 phone call that I had, Mr. Hall was there and
6 Mr. Hale was trying to make sure I understood that
7 I was also representing Southern. And I told him I
8 was and Mr. Hale heard it. Now, like I say, I
9 don't remember Mr. Hall saying a whole lot. I
10 think he introduced himself, wanted me to know, you
11 know, who he was. And then, you know, he may have
12 a blind e-mail account for all I know, but somebody
13 was answering the e-mails. So I think I had a
14 contract with Southern District.

15 Q And this is probably my last
16 question, so thank you for being patient with me.

17 You mentioned there's a type of urgency
18 associated with getting this report out. Where was
19 that urgency coming from?

20 A My understanding was, is this
21 transaction took place -- now I know June 28th. I
22 think earlier I said June 30th of 2017. And I was
23 under the impression -- I didn't even know the PSC
24 was involved in it. My impression is the Ag people
25 were wanting the report. And I don't know who

1 determined that Prestonsburg had to pay. But when
2 I met with Mr. Campbell, he said that -- that
3 whoever was dictating it, Prestonsburg had to pay
4 for the valuation and so forth. So the engagement
5 letter was just purely a compensation arrangement.
6 And before I came down here, I conferred with him
7 to make sure that, you know, I didn't have to have
8 a new one just for this, that in theory it could
9 cover that if he was okay. If not, I'll -- I'll do
10 another one. And he said it was okay. So when
11 they asked me who's paying for today, that's
12 Prestonsburg Utility. And so...

13 Q Going back to my question about
14 urgency, who conveyed that urgency to you?

15 A Mr. Campbell.

16 Q So Mr. Hall never conveyed any
17 urgency to you?

18 A No, sir.

19 Q So is it reasonable to think that
20 Mr. Hall wasn't getting you the information you
21 needed so quickly because he didn't have that same
22 sense of urgency that Mr. Campbell, and I guess to
23 you as well, that you had?

24 A I think you're going to find out
25 that you're talking about a period of 30 days. I

1 don't know. And, especially, if you say he had
2 this information, which obviously he did, or at
3 least he had the gross. I don't know about the --
4 seemed like the expense side of it came, you know,
5 strictly from the PSC. I don't know. That
6 seemed -- I -- I don't want to misspeak here, but I
7 want to believe that he knew that I was doing this
8 and that there was some urgency. Now, obviously, I
9 don't know, but that was the impression I got.

10 MR. STROBO: Thank you, sir. No further
11 questions.

12 CHAIRMAN SCHMITT: I just have -- have a
13 couple, just for the record.

14 RE-EXAMINATION

15 BY CHAIRMAN SCHMITT:

16 Q Mr. Fyffe, you -- did you ever
17 have any conversation or communication, either
18 e-mail, telephone, personal meetings with any of
19 the members of the Commission, the Commissioners of
20 the -- of the Southern Water and Sewer District?
21 Let me read you their names, just so -- Paula
22 Johnson was the Chairperson, Barry Hall, Larry Joe
23 Osborne, Hayes Hamilton, Joe Jacobs, and then later
24 Eula Hall, Dean Hall's mother. Do you -- have you
25 had any communication, verbal, e-mail, or any way

1 with any of those people?

2 A No, sir. The only thing I got
3 from you-all were the subpoena.

4 CHAIRMAN SCHMITT: Okay. Thank you.

5 Commissioner Cicero?

6 MR. CICERO: I just have one comment; I
7 have two questions.

8 RE-EXAMINATION

9 BY MR. CICERO:

10 Q So with regard to representing
11 two parties and whether there's confusion or not,
12 you understand where the Commission is because we
13 also understand that one attorney represented two
14 parties in this transaction, which really makes it
15 convoluted on who is representing who and -- and
16 what's whose best interest. And I just make that
17 comment in regards to the comment that was made
18 about whether you can represent two parties at the
19 same time. So this -- this case has a lot going
20 forward in terms of being unusual.

21 So my two questions. Did anyone or Mr. Hall
22 object to you performing the appraisal?

23 A No, sir.

24 Q So you never received any
25 communication, e-mail, verbal or otherwise? When

1 they found out or discovered you were going to do
2 an appraisal of the assets, did anyone object to
3 it?

4 A No, sir.

5 Q Did anyone call or object to you
6 performing the appraisal and what the appraised
7 value turned out to be?

8 A No, sir.

9 Q So when the report was issued and
10 received by both parties, whether acknowledged or
11 not, there was never any communication -- I guess
12 you said Mr. Campbell made something to the comment
13 it was about what he expected or something?

14 A Looked -- looked okay to me.

15 Q Okay. But nothing from Southern
16 that said, we believe this report is wrong, you're
17 using the wrong information, we have other
18 information that says it should be different from
19 this? Nothing?

20 A Nothing.

21 Q Nothing from Mr. Hall?

22 A Nothing.

23 MR. CICERO: That's all I have.

24 CHAIRMAN SCHMITT: Mr. Bowker? Mr. McNeil?

25 MR. McNEIL: I have nothing, sir.

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CHAIRMAN SCHMITT: Anything further?

Let me -- is there any reason why Mr. Fyffe can't be excused?

MR. BOWKER: No, sir.

CHAIRMAN SCHMITT: Mr. Fyffe, thank you for coming. You may step down. You may be excused.

If you -- if you wouldn't mind waiting just for the -- after you're through, we'll have about five minutes, I'd like to ask you a question off the record --

THE WITNESS: Okay.

CHAIRMAN SCHMITT: -- that has nothing to do with the case.

THE WITNESS: Sure thing. These are --

MR. BOWKER: You can just leave them there.

CHAIRMAN SCHMITT: Brenda, did you get copies of those?

BRENDA: I did.

CHAIRMAN SCHMITT: Okay. Well, we'll want to file both of those as exhibits. You can just call them Commission Exhibit 1 and Commission Exhibit 2.

BRENDA: Okay.

CHAIRMAN SCHMITT: Okay. I guess,

1 Mr. Strobo, do you have any witnesses or
2 anybody to put on or want to call?
3 MR. STROBO: Not today, Your Honor.
4 CHAIRMAN SCHMITT: Okay. Mr. McNeil?
5 MR. McNEIL: I have none.
6 CHAIRMAN SCHMITT: Staff?
7 MR. BOWKER: No, sir.
8 CHAIRMAN SCHMITT: So, I guess, if I
9 understand -- I haven't seen it. Sometimes
10 when things come in, they don't get in our
11 files so I can see it until a few days
12 later, but you have the only -- Mr. Strobo,
13 the only reply brief left?
14 MR. STROBO: Correct. And I believe it's
15 due tomorrow. Probably late at night.
16 CHAIRMAN SCHMITT: Well, what -- all right.
17 So I guess we can adjourn at this point.
18 But let me say this: This -- this is not a
19 usual case. And I don't know where this is
20 going, but I suspect there probably will be
21 another -- at least one or two proceedings
22 following this because of the rather
23 unusual circumstances surrounding it. But
24 let me put just two things in and then
25 we'll adjourn.

1 One, I don't know -- maybe there was a
2 mistake in the way it was asked, but there
3 should have been, but perhaps wasn't, a data
4 request that asked, I guess, Southern to see
5 if you could get fiscal court minutes from
6 maybe March -- or not March -- November,
7 December, because of what I perceived as an
8 unusual circumstance under which the county
9 judge and fiscal court made two
10 appointments, so...

11 MR. STROBO: So to -- my understanding is
12 that the judge executive or someone from
13 the fiscal court contacted Commission
14 staff -- and I don't know if Mr. Bowker
15 wants to help me out with this. And they
16 filed something or sent you a letter that
17 had -- not fiscal court minutes, but some
18 information regarding the assets; correct?

19 MR. BOWKER: Well, there was -- there was
20 something filed by Mr. Campbell in the --
21 in the --

22 CHAIRMAN SCHMITT: I think Mr. Campbell
23 sent that and then -- but it did -- but
24 something did happen. One day, I guess
25 somebody had contacted the county judge,

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thing is this: And I -- if you'd rather answer this question off of the record, that will be fine, too. But I'd like to know who your client is.

MR. STROBO: My client?

CHAIRMAN SCHMITT: Yes, sir.

MR. STROBO: Southern Water District.

CHAIRMAN SCHMITT: Okay. Your client is not the Commissioners individually or Mr. Hall?

MR. STROBO: No. It's the entity.

CHAIRMAN SCHMITT: All right. Okay, good. Now, at some point in time I think they need to know that.

MR. STROBO: They do.

CHAIRMAN SCHMITT: All right. Okay. Because I foresee other -- other situations where they may need their personal counsel, okay?

MR. STROBO: Okay.

CHAIRMAN SCHMITT: All right. Is there anything else that anyone would like to say? And if not, then this hearing will be adjourned. Thank you.

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THEREUPON, the Hearing was concluded at
12:27 p.m.

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<p>\$ \$18 [1] 90/14 \$18 million [1] 90/14 \$2 [2] 37/7 62/14 \$2 million [1] 37/7 \$2,000,000 [1] 92/17 \$2,140,000 [3] 42/12 42/23 92/8 \$250 [1] 58/12 \$4,000 [3] 19/9 19/11 51/15 \$4.1 [1] 78/2 \$4.1 million [1] 78/2 \$431,127 [1] 84/16 \$482,000 [1] 32/20 \$54,000 [1] 79/13 \$656,000 [1] 108/7 \$656,122 [2] 76/10 78/16</p>	<p>3 30 [2] 64/13 127/25 30th [2] 69/19 126/22 31st [3] 22/13 45/18 107/12 32 [1] 64/14 384 [1] 84/17 4 4 million [5] 85/5 85/23 90/17 93/14 93/15 4,020,000 [2] 55/5 84/24 4.1 [1] 54/22 4.1 million [4] 62/12 62/17 62/25 63/7 40 [1] 9/22 400,000 [1] 112/23 480 [1] 84/3 482 [4] 82/11 85/6 85/10 122/12</p>	
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