



Filing Receipt

Filing Date - 2025-02-18 02:45:36 PM

Control Number - 54713

Item Number - 102

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

Erin Selvera
Erin@carltonlawaustin.com

February 18, 2025

VIA EFILING SUBMISSION

Public Utility Commission of Texas
Attn.: Central Records
P.O. Box 13326
Austin, Texas 78711-3326

RE: PUC Docket No. 54713; SOAH Docket No. 473-23-22448.WS; *Petition by Ratepayers Appealing the Water Rates Established by Westwood Shores Municipal Utility District*; Before the State Office of Administrative Hearings.

Dear Filing Clerk:

Pursuant to *SOAH Order No. 11 Canceling Hearing on the Merits; Requiring Submission of Exhibits and Identification of Stipulated Facts; Restating Post-Hearing Briefing Deadlines*, which was entered this morning in the above-referenced proceeding, enclosed please find the deposition transcripts for Commission Staff witnesses James Euton, Ethan Blanchard, and Emily Sears. In addition, please be advised that each of the witnesses waived review and signature, and the transmittal letters stating as much are also enclosed.

If you need anything further or have any questions, please do not hesitate to contact me, and thank you for your attention to the enclosed materials.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



Erin Selvera
Attorney for Westwood Shores Municipal
Utility District

Enclosures as stated.

cc: Kevin Pierce (via email, with enclosures)
Paul Smith (via email, with enclosures)

KENNEDY

REPORTING SERVICE
A record of excellence

100 E. Whitestone Blvd., Suite 148, Cedar Park, TX 78613
512-474-2233 order@kennedyreporting.com

January 13, 2025

Ms. Erin Selvera
THE CARLTON LAW FRIM, PLLC
4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Re: *Oral Deposition of James Euton, taken on January 10, 2025*
PETITION BY RATEPAYERS APPEALING THE WATER AND SEWER RATES
ESTABLISHED BY WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT
SOAH Docket No. 473-23-22448.WS/ PUC Docket No. 54713

Dear Ms. Selvera:

Enclosed please find the Original Transcript of the deposition of James Euton taken in the above-referenced case.

Per agreement at the time of the deposition, the witness has waived review and signature. By copy of this letter, we are advising all parties in attendance of the return of the Original Transcript to you.

Please contact us if you have any questions or concerns.

Sincerely,

Amy Burt
President

Via email:

Randall Wilburn, Kevin Pierce, Ian Groetsch, Austin Spraetz, Paul Smith

Reference: KRS Job No. 25007

SOAH DOCKET NO. 473-23-22448.WS

PUC DOCKET NO. 54713

PETITION BY RATEPAYERS) BEFORE THE STATE OFFICE
APPEALING THE WATER AND)
SEWER RATES ESTABLISHED BY) OF
WESTWOOD SHORES MUNICIPAL)
UTILITY DISTRICT) ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

JAMES EUTON

Friday, January 10, 2025

(Via Zoom Videoconference)

ORAL DEPOSITION of JAMES EUTON, produced as a witness at the instance of the Respondent and duly sworn, was taken in the above-styled and numbered cause on Friday, January 10, 2025, from 9:07 a.m. to 10:24 a.m., before Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomate Reporter and Certified Realtime Reporter, reported remotely by computerized stenotype machine from the location of the witness, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES

FOR PETITIONERS:

Mr. Paul A. Smith
LAW OFFICE OF PAUL A. SMITH
4701 Staggerbrush Road #1811
Austin, Texas 78749
Telephone: 512-770-7611
email: pas@pasmithlaw.com

FOR RESPONDENT:

Ms. Erin R. Selvera
Mr. Randall B. Wilburn
THE CARLTON LAW FIRM, P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
Telephone: 512-614-0901 - Fax: 512-900-2855
email: erin@carltonlawaustin.com
randy@carltonlawaustin.com

FOR COMMISSION STAFF:

Mr. Kevin Pierce
Mr. Ian Groetsch
Mr. Austin Spraetz
PUBLIC UTILITY COMMISSION OF TEXAS
1701 North Congress Avenue
Austin, Texas 78701
Telephone: 512-936-7265 - Fax: 512-936-7268
email: kevin.pierce@puc.texas.gov

ALSO PRESENT:

Ms. Robin Gray
Mr. Jay Joyce

TABLE OF CONTENTS

	PAGE
Appearances	2
JAMES EUTON	
Examination by Ms. Selvera	4
Examination by Mr. Pierce	33
Further Examination by Ms. Selvera	36
Reporter's Certificate	41

DEPOSITION EXHIBITS

(None marked)

1 MS. SELVERA: Good morning. My name is
2 Erin Selvera. I'm with the law -- Carlton Law Firm. We
3 are representing Westwood Shores Municipal Utility
4 District. With me today is Randy -- why am I blanking
5 on your last name? Sorry.

6 MR. WILBURN: Wilburn.

7 MS. SELVERA: -- Wilburn, who is of
8 counsel with the firm. And I think that's all -- that
9 is all we have for the -- for Westwood Shores today.

10 MR. WILBURN: And Jay Joyce may join us.

11 MS. SELVERA: Jay may join us. He's not
12 here yet.

13 MR. PIERCE: And for Commission Staff, I'm
14 Kevin Pierce, joined by counsel Austin Spraetz and Ian
15 Groetsch, who are observing.

16 (Witness sworn)

17 JAMES EUTON,
18 having been first duly sworn, testified as follows:

19 EXAMINATION

20 BY MS. SELVERA:

21 Q Good morning, Mr. Euton. Like I said earlier,
22 my name is Erin Selvera. I'll be conducting the
23 deposition today for Westwood Shores MUD. Just want to
24 go over a couple of kind of housekeeping and basics.

25 Have you ever been deposed before?

1 A No.

2 Q Okay. So lay of the land, I'm going to try
3 really hard to speak slowly and clearly so that the
4 court reporter can take down all of the words that I say
5 and all of the words that you say. And so I'd ask you
6 to kind of do the same.

7 I'm going to work diligently to not speak
8 over you and allow you to answer your -- answer the
9 questions fully and completely.

10 If you don't understand a question I've
11 asked or you don't hear me, feel free to ask me to
12 repeat the question, and I'll endeavor to do that.

13 If at any point you need to take a break,
14 feel free to speak up and ask for that and we'll --
15 happy to accommodate you in that.

16 We -- have you ever given written
17 testimony before?

18 A Yes.

19 Q Okay. And have you ever testified live before?

20 A I've been cross-examined, I believe, once.

21 Q Okay. And what do you have in front of you
22 today? Do you have any documents or information in
23 front of you?

24 A I have Jay Joyce's testimony, my testimony, and
25 the workpapers from Jay Joyce's testimony.

1 Q And did you review these documents in
2 preparation for your deposition today?

3 A Yes.

4 Q Did you review anything else in preparation for
5 your deposition today?

6 A No.

7 Q Okay. Let's -- let's start with some basics.
8 Your prefiled testimony indicates that you are employed
9 with the Public Utility Commission as a project manager
10 in the infrastructure division. Has that always been
11 your role at the PUC?

12 A No.

13 Q Okay. Tell me what other roles you've served
14 at the PUC.

15 A I was an engineering specialist for most of my
16 time.

17 Q And how -- tell me what those time frames are.

18 A I guess for the first two years of my
19 employment, I was an engineering specialist.

20 Q Tell me what an engineering specialist does.

21 A We give recommendations on a variety of cases.
22 We will analyze and inspect applications for new
23 transmission lines, and we'll review rate cases and give
24 recommendations based on their, you know, plant in
25 service and plant-related operation maintenance

1 expenses. And also we will give a recommendation on,
2 you know, complaints and -- for the water and electric
3 utilities and just -- it's a lot, a variety of cases,
4 but yeah.

5 Q How many cases would you say you've worked on?

6 A A lot. Wow. I've never really -- I've never
7 really thought of that question. In my three years of
8 working with the PUC -- oh, man, over 50, at least.

9 Q And how many of -- approximately -- okay, I
10 want to notify the -- sorry to interrupt.

11 MS. SELVERA: Ms. Schnoor, Paul Smith, who
12 is counsel for the petitioners, signed on. I don't know
13 if you want to take his appearance.

14 THE REPORTER: Yes, if I could, please,
15 that would be great.

16 MR. SMITH: Good morning. Can you hear
17 me? I'm sorry, I'm a little under the weather today,
18 but I just wanted to observe what was happening. I'm
19 Paul Smith. I'm the attorney for the ratepayers.

20 MS. SELVERA: Mr. Smith, I see a Robin
21 Gray has joined us. Is Robin one of the petitioners?

22 MR. SMITH: She is, and she's been
23 assisting me with -- sort of as my ad hoc paralegal.

24 MS. SELVERA: Okay.

25 MR. SMITH: Yeah, I would ask that she be

1 allowed to observe.

2 (Discussion with the reporter.)

3 Q (BY MS. SELVERA) Okay. Sorry for the
4 interruption, Mr. Euton. Let's go back.

5 I had asked you -- you had indicated that
6 you had worked on over 50 cases. And I was about to ask
7 you, or maybe I did ask you, you know, how many of those
8 were -- are water cases?

9 A Water cases, quite a bit. I really can't give
10 you like a definitive number, but, you know, I handle a
11 lot of water cases.

12 Q Well, I'd like to try to narrow that down a
13 little -- little bit. Can you tell me about the types
14 of water cases that you've worked on?

15 A Sure. Like I mentioned, complaints, cost of
16 service appeals, water rate base cases. And let me
17 think of any more. Those would be the main types of
18 water cases. And, yeah, quite a bit.

19 THE REPORTER: Ms. Selvera, I'm sorry.
20 There is background noise. If I could just have
21 everyone mute who is not speaking, that would be very
22 helpful.

23 MS. SELVERA: Currently, I have everyone
24 but Mr. Euton and myself muted. Hopefully that will
25 help. And then if someone needs to join in, you'll need

1 to unmute yourself. Okay?

2 Q (BY MS. SELVERA) Okay, Mr. Euton. Sorry we --
3 my apologies.

4 A It's okay.

5 Q We've got another person joined us.

6 MS. SELVERA: Ms. Schnoor, Jay Joyce, who
7 is an expert witness for Westwood Shores, has joined us.

8 Q (BY MS. SELVERA) Okay. Okay, Mr. Euton, you
9 were talking about -- you mentioned that you saw a
10 complaint. You looked at water rate cases, including
11 complaints, appeals and rate base. What kinds of
12 appeals have you worked on?

13 A The cost of obtaining service appeals.

14 Q Approximately how many of those have you worked
15 on in -- since you started with the PUC in 2021?

16 A It is -- it's kind of hard to put a number on
17 it, but I would say ten, to give you a number. But, I
18 mean, that's just a rough estimate.

19 Q Would you say that most of the cases you worked
20 on are either for water supply corporations or
21 investor-owned utilities?

22 A Yes.

23 Q Okay. Have you -- how many of the cases that
24 you worked on have been for other types of retail public
25 utilities that are not water supply corporations or

1 investor-owned utilities?

2 A Probably a handful.

3 Q Okay. Any -- any particular that come to mind?

4 A No.

5 Q Okay. You included in your testimony a list of
6 previously filed testimony. Is that list up-to-date?

7 A Is it up-to-date? When did I file that? Yeah,
8 pretty much. I mean, I might have had one or two filed
9 since I filed that testimony, but it's pretty accurate.

10 Q Okay. Which ones would you have filed since
11 December 18th that are not on this list?

12 A Since December 18th?

13 Q Uh-huh.

14 A What is it, the 10th today? So I have one
15 that's going to be filed on the 17th. So, no, yeah,
16 that's accurate.

17 Q Okay. So you filed no additional testimony
18 since you provided this list that's exhibit --
19 attachment JE-2. Is that --

20 A Correct.

21 Q -- fair?

22 A Yes.

23 Q I see that you are -- you have a bachelor of
24 science in mechanical engineering and a master's of
25 business administration degree. Let's talk a little bit

1 about your engineering degree.

2 Tell -- where did you go to school?

3 A Texas A&M University, Corpus Christi.

4 Q And did you -- tell me about the courses that
5 you took to get your engineering degree.

6 A I took fluid mechanics, statics, dynamics,
7 calculus 1, calculus 2, calculus 3, differential
8 equations, linear algebra, engineering analysis, solid
9 mechanics, engineering analysis. Yeah, those were --
10 thermodynamics, heat transfer. And that's, I guess, all
11 that comes to mind, but there might be more.

12 Q Were -- were any of those water or wastewater
13 system design courses?

14 A No.

15 Q Have you done any water plant design work?

16 A No.

17 Q Have you toured a water plant before?

18 A No.

19 Q Have you ever evaluated the system capacity of
20 a water plant?

21 A Evaluated a system capacity. I reviewed
22 distribution maps for water utilities from time to time.

23 Q Have you ever evaluated a water system to
24 assess its operational integrity?

25 A Somewhat.

1 Q Tell me more about that. What do you mean by
2 "somewhat"?

3 A I looked at -- so I've reviewed distribution
4 maps, and I've basically looked at the size of the line
5 and how many connections they have on a line. And per
6 TCEQ rules, you know, a certain line size can only have
7 a certain amount of connections on it. And so I
8 reviewed those. And there's also another, I believe a
9 TCEQ rule, 85 percent rule, that when a distribution
10 system is at 85 percent of its capacity, they need to
11 start -- they need to implement a capital improvement
12 plan to bring the capacity needs down -- or improve the
13 capacity needs.

14 Q Have you ever reviewed a capital improvement
15 plan for a water system?

16 A Yes.

17 Q Have you ever developed a capital improvement
18 plan for a water system?

19 A No.

20 Q When you -- how many water systems have -- how
21 many water system capital improvement plans have you
22 reviewed?

23 A Probably a handful.

24 Q Less than ten?

25 A Less than ten.

1 Q Less than five?

2 A I'm not sure.

3 Q Okay. How large -- of the water system capital
4 improvement plans that you reviewed, what size systems
5 were they? Can you describe the size of the system?

6 A They might have been like a class C, so I would
7 say less than a thousand connections.

8 Q Okay. Have you reviewed any systems the size
9 of Westwood Shores MUD system?

10 A Yes.

11 Q Which ones?

12 A I mean, I can't remember off the top of my
13 head. I'm being honest.

14 Q But you -- have you ever submitted testimony
15 regarding any of -- any of those systems that you're
16 referring to?

17 A No.

18 Q What did you do when you -- strike that.

19 Tell me about the process for reviewing
20 the capital improvement plan for a water system. Where
21 do you start?

22 A I'm not really sure how to answer the question.

23 Q Well, what documents would you look at when
24 you're looking at the capital improvement plan for a
25 water system?

1 A I mean, I would just look at the plan in its
2 entirety.

3 Q What are you looking for?

4 A Basically just to see if they -- if they have a
5 plan in place.

6 Q And what kind of information do you -- would
7 you deem necessary to be included in a plan?

8 A Can you repeat the question again, please?

9 Q What kind of information would you determine is
10 necessary to be in a plan?

11 A It would need to have, you know, an analysis of
12 their capacity needs conducted by an engineer to tell
13 them -- to show, you know, which part of the system is
14 at capacity and needs improvement. And then from there,
15 the plan would need to detail, you know, what their
16 course of action, what they're going to implement,
17 things of that nature.

18 Q You mention engineer. I see in your testimony
19 that you're an EIT. Is that still your current status?

20 A Yes.

21 Q Okay. So you're not a PE at this point?

22 A No.

23 Q Okay. How far are you into your EIT training?

24 A Well, coming up on this year in October, if I
25 take the PE exam and pass it, I can become a PE.

1 Q Do you plan to take it in October?

2 A I planned to take it the past two years, and
3 I've been too busy to even study for it, so...

4 Q Does the PUC offer any training for EITs to
5 assist you with taking your PE exam?

6 A They offer -- I'm not sure.

7 Q Have you had any -- taken any specific training
8 through the PUC to perform your job duties?

9 A Yes.

10 Q Tell me about that. What trainings have you
11 done?

12 A I've done rate school. I've done depreciation
13 training. Yeah, rate school, depreciation training.
14 And then, you know, coming to the -- you know, coming to
15 the position that I'm in now, we -- you know, we had
16 managers that provide oversight and, you know, training
17 through just hands-on experience, I guess.

18 Q Okay. Let's talk about rate school. When did
19 you take rate school?

20 A I took rate school -- when was that? That was,
21 I believe, March of last year.

22 Q So March of 2024?

23 A Yes.

24 Q And you said depreciation training. When did
25 you have depreciation training?

1 A Depreciation training, I did one last year in
2 August and then another in 2022 probably around the same
3 time period, August 2022.

4 Q Who conducted the depreciation training?

5 A It -- the depreciation training was put on by
6 the -- what's it called? -- depreciation professionals.
7 It's -- it's put on by Dane Watson, who's a well-known
8 depreciation expert and provides testimony on a lot of
9 rate cases throughout the nation.

10 Q I'm sorry, I didn't catch the first name. I
11 got the last name Watson, but who is the first name?

12 A Dane.

13 Q D-A- --

14 A D-A-N-E, Dane Watson.

15 Q And who -- who did the rate school?

16 A Rate school, I don't remember.

17 Q Was it in-house at PUC?

18 A No. That was actually in San Diego. So we had
19 to fly there, and we were there for the week. And it
20 was -- yeah, a lot of people were there.

21 Q You mentioned oversight and kind of hands-on
22 training. Who are the people who performed that
23 oversight and/or hands-on training with you?

24 A We had the previous person that's -- that was
25 in my position, Heidi Graham. She is since retired.

1 And then we have currently on staff one of our PEs,
2 Roshan Pokhrel.

3 Q How did you develop your testimony?

4 MR. PIERCE: Objection. Objection, form.
5 James, you can answer the question.

6 THE WITNESS: Okay.

7 A I developed my testimony based on Jay Joyce's
8 testimony and the exhibits within his testimony and
9 workpapers.

10 Q (BY MS. SELVERA) Did you do any review of
11 Westwood Shores' maintenance records?

12 A What do you mean by "maintenance records"?

13 Q Did you pull -- did you review any records,
14 maintenance records, for the water system for Westwood
15 Shores MUD --

16 A No.

17 Q -- in developing your testimony?

18 A No.

19 Q Did you do a site review? Did you go to the
20 site?

21 A What do you mean by that?

22 Q Did you go to Westwood Shores and look at
23 the -- their water system?

24 A No.

25 Q Did you review any kind of master plan for

1 Westwood Shores?

2 A Master plan?

3 Q Uh-huh.

4 A Could you explain that to me, please?

5 Q Any -- any plans or information detailing
6 Westwood Shores' plan for maintenance or upgrades of the
7 system, did you review any documents to that effect?

8 A No.

9 Q Did you review any engineering schedules for
10 Westwood Shores?

11 A No.

12 Q Are you aware of the current condition of
13 Westwood Shores' water system equipment?

14 A No.

15 Q Is -- are you aware of the condition of
16 Westwood Shores' MUD's lines and other infrastructure?

17 A No.

18 Q Did you review any of the financial books for
19 Westwood Shores MUD?

20 A I reviewed what was laid out in Jay Joyce's
21 testimony.

22 Q Is there any particular guidance document that
23 you use when you -- or that you rely upon when you
24 develop your testimony?

25 A Can you repeat the question, please?

1 Q Are there any -- is there any particular
2 guidance document or -- that you would use to help you
3 develop your testimony?

4 A Yes. There was the exhibits -- I think it was
5 one of Jay Joyce's exhibits. I think he had six of
6 them. It's JJJ-1 all the way to -6.

7 Q I want to make sure we're looking at the
8 same --

9 A Yeah, it was -- it would be -- it was item
10 No. 59 in the docket.

11 Q Okay.

12 A It was schedules, schedules JJJ-1 through
13 JJJ-6.

14 Q Okay. Are there particular rules that you
15 apply when you're evaluating a water system's rates?

16 A Yes. We use the NARUC charts of accounts.

17 Q And how -- how do you apply the NARUC charts of
18 accounts?

19 A Typically, they give guidance on how to account
20 for expenses. And so some will be revenue requirement,
21 and some expenses will be put in the rate base.

22 Q Other than the NARUC charts, are there other
23 documents that you use when you're evaluating a water
24 system's financials?

25 A NARUC is what's been adopted with the PUC, and

1 there is also the M-1 manual that gives -- gives us some
2 guidance, but it's not been adopted by the PUC.

3 Q How would you use the M-1 manual when you're
4 evaluating a system's financials?

5 A Could you repeat the question one more time,
6 please?

7 MS. SELVERA: Ms. Schnoor, would you read
8 that back for us please?

9 (Requested portion was read.)

10 A I guess I wouldn't use it to evaluate a
11 system's financials.

12 Q (BY MS. SELVERA) Okay. Are there any statutes
13 that you rely upon when you're evaluating a water
14 system's financial documents?

15 A Yes.

16 Q Tell us what those are, please.

17 A I don't have them off the top of my head. I
18 just -- I don't have them memorized off the top of my
19 head.

20 Q You indicated that you wouldn't use the M-1
21 manual to evaluate a system's financials. How would you
22 use -- how do you use the M-1 manual?

23 A Just as guidance, something to reference
24 specifically talking about -- I know I've used it as
25 guidance for evaluating depreciation expense.

1 Q Okay. Anything other than depreciation
2 expense?

3 A I would have to have the manual out to look at
4 it to go through it, and I just don't have it off the
5 top of my head. I haven't memorized it.

6 Q Okay. It's a big document, so...

7 MS. SELVERA: Can we -- I want -- I'd like
8 to take a -- go off the record, take a break for about
9 five minutes, please.

10 Kevin, you good with taking a five-minute
11 break?

12 MR. PIERCE: Yes, that's fine.

13 (Recess: 9:41 a.m. to 9:45 a.m.)

14 Q (BY MS. SELVERA) Okay. During the break, I
15 pulled up a copy of the M-1 manual. I believe,
16 Mr. Euton, you said you had a copy of the M-1 manual in
17 front of you as well. Is that right?

18 A That is right.

19 Q Okay. I want to make sure we're talking apples
20 to apples. What version of the M-1 manual do you have
21 in front of you?

22 A I have the 2017, which is the seventh edition.

23 Q Okay. And can you tell us where in the M-1
24 manual, what portion -- what section you would use to
25 evaluate depreciation?

1 A So Page 15. And like I said, the PUC hasn't
2 adopted the M-1 manual, and we use it as -- use it for
3 guidance, just some guidelines to look at.

4 Q Okay. Is there any particular statement on
5 Page 15 that you would use as guidance for depreciation,
6 any statement or paragraphs that you --

7 A Second paragraph on Page 15 just gives -- and I
8 looked at -- you know, early on when I first started
9 working for the PUC, you know, I would read this, refer
10 to this manual to get -- just for examples of like when
11 to capitalize an expense and when amortization is --

12 Q Okay.

13 A -- and stuff like that.

14 Just a resource.

15 Q Did you analyze depreciation for Westwood
16 Shores, the Westwood Shores system?

17 A No, they're a cash-needs basis.

18 Q What do you know about municipal utility
19 districts?

20 MR. PIERCE: Objection, form.

21 James, you can answer.

22 A They're a special district that is set in place
23 to provide infrastructure for water and wastewater
24 systems. And, yeah, they're managed by a board, elected
25 by the ratepayers. Yeah.

1 Q (BY MS. SELVERA) Do you know if municipal
2 utility districts are -- are required to apply any
3 particular guidance with regard to their financials?

4 MR. PIERCE: Objection, form.

5 James, you can answer.

6 A Could you repeat the question, please?

7 Q (BY MS. SELVERA) Do you know if there is any
8 specific guidance that applies to municipal utility
9 districts related to their financials?

10 A Not that I can think of at this moment.

11 Q Have you -- are you aware that TCEQ has a Water
12 District Financial Management Guide?

13 MR. PIERCE: Objection, form.

14 James, you can answer.

15 A Could you repeat that, please?

16 Q (BY MS. SELVERA) Are you aware that TCEQ has a
17 Water District Financial Management Guide?

18 A No.

19 Q If I ask you about original rate jurisdiction,
20 do you -- do you know what that means?

21 A I believe so.

22 Q Tell me what it means to you.

23 A It means to me when a water utility such as
24 like an IOU or a water supply corporation, say, want to
25 increase their rates or decrease their rates, they have

1 to come into the PUC and apply for -- for such an
2 increase.

3 Q So municipal utility districts establish their
4 rates without coming to the PUC. Would you say
5 that's -- that's correct?

6 MR. PIERCE: Objection, form. Objection,
7 leading.

8 James, you can answer.

9 A Yes.

10 Q (BY MS. SELVERA) Let me ask it differently.
11 Do you know if MUDs have to come to the PUC to have
12 their rates approved?

13 MR. PIERCE: Objection, form.

14 James, you can answer.

15 A Can you repeat the question again, please?

16 Q (BY MS. SELVERA) Do you know if municipal
17 utility districts have to have their rates approved by
18 the Public Utility Commission?

19 A Yes. They do not.

20 Q For this particular case, what information, to
21 your knowledge, did the board use to set their rates?

22 MR. PIERCE: Objection, form.

23 James, you can answer.

24 A They used a rate study conducted by -- yeah,
25 they used a rate study. I think Superior was the

1 company. I can't remember off the top of my head, but
2 they used a rate study.

3 Q (BY MS. SELVERA) Did you review that rate
4 study?

5 A Yes.

6 Q And I want to go back for half a second. When
7 MUDs set their rates, they do that in the same way that
8 a city sets their rates. Right?

9 MR. PIERCE: Objection, form. Objection,
10 leading.

11 James, you can answer.

12 A I don't know the answer to that question.

13 Q (BY MS. SELVERA) But you -- you indicated that
14 Westwood Shores sets their -- set their rates -- to your
15 knowledge, they set their rates based on a rate study.
16 Do you know if they used a budget to set their rates?

17 A Yes, they had a budget.

18 Q And do you know if there was any consideration
19 of the current operational integrity of the system?

20 A Can you repeat the question, please?

21 Q Do you know when they set their rates, if they
22 considered the current operational integrity of the
23 system?

24 A I assume so.

25 Q Did you review any information to support your

1 assumption?

2 A What was my assumption?

3 Q I asked you if the -- if you thought the board
4 considered any -- any information regarding operational
5 integrity when they set the rates, and you indicated you
6 assumed so. And I'm trying to understand what
7 information you may have reviewed to support that
8 assumption.

9 A I'm not sure if there was any information
10 provided in the docket. I would -- I would -- you know,
11 I assume that they would be doing diligence to -- can
12 you repeat the question one more time?

13 MS. SELVERA: Ms. Schnoor, you'll have to
14 help me with that one.

15 (Requested portion was read.)

16 A The rate study.

17 Q (BY MS. SELVERA) And can you point to any
18 specific -- specific information in the rate study that
19 addresses the operational integrity of the system?

20 MR. PIERCE: Objection, form.

21 James, you can answer.

22 A No.

23 Q (BY MS. SELVERA) What kind of information do
24 you consider when you're determining whether O&M
25 reserves are just and reasonable?

1 A Can you repeat the question, please?

2 Q What information do you consider when
3 determining whether a system's O&M reserves is just and
4 reasonable? What do you look at?

5 A I look at testimony provided in the docket.

6 Q If that testimony doesn't include specific
7 information about the condition of the water, wastewater
8 infrastructure, do you ever dig deeper?

9 A I would say that burden is on the witness
10 testifying.

11 Q Do you know if this -- the board in this
12 particular case set their rates based on a budget, their
13 budget?

14 A Yes.

15 Q Did you review that budget?

16 A I believe so.

17 Q And did you find any information in the budget
18 in -- that was incorrect?

19 A No.

20 Q Have you evaluated a water system that was
21 experiencing any catastrophic failures before?

22 A No.

23 Q If you had reviewed a system that was
24 experiencing catastrophic failures, would that impact
25 your determination of what kind of reserves are needed?

1 A Yes.

2 Q Would it impact how quickly those reserves
3 should be secured?

4 A Yes.

5 Q Tell me how.

6 A Tell you how --

7 MR. PIERCE: Objection, form.

8 James, go ahead and answer.

9 A Could you repeat the question, Erin?

10 MS. SELVERA: Ms. Schnoor, will you help
11 me with that, please?

12 (Requested portion was read.)

13 A It might. Maybe.

14 Q (BY MS. SELVERA) Tell me how maybe.

15 A Well, it depends on how they got into this
16 catastrophic position. You know, this is all a bit
17 subjective, and we're kind of speculating.

18 Q Okay. So if a system had been the victim of a
19 flood or fire, and it obliterated portions of the system
20 and thus the reserves were all gone, would you -- would
21 it impact your decision on how quickly those reserves
22 should be rebuilt?

23 MR. PIERCE: Objection, form.

24 James, you can answer.

25 A It might.

1 Q (BY MS. SELVERA) What would tip your
2 decision-making to yes?

3 A If there was no other way that they could
4 collect funds other than putting that onto the
5 ratepayers, I would say.

6 Q Are you familiar with how municipal utility
7 districts collect funds?

8 MR. PIERCE: Objection, form.

9 James, you can answer.

10 A Yes.

11 Q (BY MS. SELVERA) What's your -- tell me your
12 knowledge of that.

13 A Through property taxes and fees and, I believe,
14 issuing bonds.

15 Q How about rates?

16 A Sure.

17 Q So if you -- did you -- hang on one second.

18 A Uh-huh.

19 MS. SELVERA: Let's go off the record for
20 about two minutes. I may be almost done.

21 MR. PIERCE: Works for me.

22 (Recess: 10:02 a.m. to 10:06 a.m.)

23 Q (BY MS. SELVERA) Your testimony references a
24 City of Celina case where the -- it increases operating
25 reserves from 40 to 60 days in three years. Are you

1 familiar with the City of Round Rock rate appeal case?

2 A I am not.

3 Q Okay. Would it surprise you that Commission
4 Staff, your colleagues, did not oppose a 525-day cash
5 reserve for operating expenses?

6 A Would it surprise me?

7 Q Yeah, would it surprise you?

8 A No.

9 Q If you were to see a 525-day cash reserve for
10 operating expenses, would you have any concerns about
11 that?

12 A It would depend on how they determined that a
13 525-day reserve was -- was needed.

14 Q And so 40 to 60 days -- increasing the
15 operating reserve from 40 to 60 days in three years is
16 not a hard and fast rule for you, is it?

17 A No.

18 Q Is there any specified standard that is
19 applied -- that you apply when determining the
20 reasonableness of establishing operating reserves?

21 A No.

22 Q Have you ever been on a board of a governmental
23 entity before?

24 A No.

25 Q Have you ever served on the board of a

1 nonprofit organization?

2 MR. PIERCE: Objection, form.

3 A No.

4 MR. PIERCE: James, you can answer.

5 A Sorry. No.

6 Q (BY MS. SELVERA) Would you expect the board of
7 a water system to investigate the financial integrity of
8 that system when it's determining what rates to set?

9 MR. PIERCE: Objection, form.

10 A Yes.

11 MR. PIERCE: James, you can answer.

12 A Yes.

13 Q (BY MS. SELVERA) And do you know if the
14 board -- Westwood Shores MUD board did that? Do you
15 know if they investigated the financial integrity of
16 their system when they set the rates?

17 A I assume so.

18 Q Financial integrity of a water system is a
19 requirement under PUC rules. Right?

20 MR. PIERCE: Objection, form. Objection,
21 leading.

22 James, you can answer.

23 A I believe so.

24 Q (BY MS. SELVERA) Do you look at the financial
25 integrity of a system when you're making your

1 recommendations?

2 A For a rate case, yes.

3 Q What do you look at to determine financial
4 integrity?

5 A I look at --

6 MR. PIERCE: Objection, form.

7 James, go ahead and answer.

8 A I look at their plant-related operations --
9 operations and maintenance expenses and depreciation
10 expense.

11 Q (BY MS. SELVERA) But depreciation expense only
12 applies when they're using the utility basis method. Is
13 that right?

14 MR. PIERCE: Objection, leading.

15 Objection, form.

16 James, you can answer.

17 A Correct.

18 Q (BY MS. SELVERA) Are you aware of the ongoing
19 operational problems at Westwood Shores?

20 A No.

21 MS. SELVERA: Mr. Euton, I want to thank
22 you for your time. You've been a very cooperative
23 witness. Mr. Smith may have some questions for you, but
24 at this time I'll pass the witness.

25 MR. SMITH: I don't have any questions.

1 MS. SELVERA: Okay. Mr. Euton, then I
2 think that -- oh, I'm sorry. Kevin?

3 MR. PIERCE: Yeah, I've got a few
4 questions I'd like to put in.

5 MS. SELVERA: Sure.

6 CROSS-EXAMINATION

7 BY MR. PIERCE:

8 Q James, can you hear me okay?

9 A Yes, I can hear you.

10 Q You should know me, but for the record, I'm
11 Kevin Pierce. I'm attorney for Staff. I've got a few
12 follow-up questions I want to ask you just to clarify a
13 couple points.

14 First, in terms of determining what an
15 appropriate O&M reserve funding structure looks like, in
16 your experience, does it matter whether the utility is a
17 municipal utility district, a water control improvement
18 district, a special utility district, or an
19 investor-owned-utility?

20 A No.

21 Q Have you received training from the PUC in the
22 time you've been there that provides you with the
23 foundation to opine on O&M reserve contributions?

24 A Yes.

25 Q Has the -- you were asked about site visits

1 briefly. Has the PUC ever sent you on a site visit to a
2 particular utility's location in response to an active
3 docket relating to that utility?

4 A No.

5 Q To the best of your knowledge, has the PUC sent
6 anyone in your role to a particular regulated utility
7 site in response to an active docket?

8 A No.

9 Q To the best of your knowledge, do you conduct
10 your review of applications and petitions consistent
11 with the rules and regulations of the Commission?

12 A Yes.

13 Q Is there a difference between current operation
14 and maintenance needs and O&M reserve needs?

15 A Can you repeat the question for me, Kevin?

16 Q I'll restate that.

17 Does the current needs of a utility, in
18 terms of operation and maintenance, impact how fast an
19 O&M reserve needs to be funded?

20 A No.

21 Q Is -- does your testimony discuss depreciation?

22 A No.

23 Q To your knowledge, does the TCEQ regulate a
24 utility's finances?

25 A No.

1 Q Simply from your experience, who has to prove
2 an appeal -- a utility's appealed rates are just and
3 reasonable?

4 A The PUC.

5 Q So I want to clarify. Are you saying that the
6 PUC needs to prove that a utility's rates are just and
7 reasonable if those rates get appealed?

8 A Yes.

9 Q If a utility doesn't provide you information
10 about their finances or their reserves or anything like
11 that, is it your responsibility to find that
12 information, or is it the responsibility of the utility
13 to prove it up?

14 A It is the responsibility of the utility to
15 provide such information.

16 Q In your review, did you find any information
17 that suggested Westwood Shores was experiencing some
18 kind of catastrophic system failure?

19 A No.

20 Q My last question. You were asked about a case
21 with Round Rock in relation to your reference to the
22 City of Celina. Do you know whether or not Round Rock
23 is a larger utility provider than City of Celina?

24 A Yes, Round Rock is larger.

25 MR. PIERCE: All right. Thank you, James.

1 I don't have any other questions.

2 MS. SELVERA: I have just a few
3 follow-ups.

4 FURTHER EXAMINATION

5 BY MS. SELVERA:

6 Q What -- first of all, you mentioned some
7 training regarding O&M reserves. What training -- what
8 training was that, and when did it occur?

9 A Rate school, and that occurred last year. I
10 believe it was in August -- no, no, no, no, no. That
11 was in March of last year.

12 Q March of 2024?

13 A Yes.

14 Q When did you begin reviewing this
15 application -- or this appeal?

16 A This appeal, when it was filed. That was -- it
17 was a while ago.

18 Q If a system is falling apart, wouldn't it be
19 critical to establish an operations and maintenance
20 reserve?

21 MR. PIERCE: Objection, form.

22 James, you can answer.

23 A In particular with this -- with this MUD, yes,
24 because they use the cash-needs basis.

25 Q (BY MS. SELVERA) Okay. What information in

1 the record can you point to that demonstrates the
2 base -- that the board's decision to establish reserves
3 was not just and reasonable?

4 MR. PIERCE: Objection, form.

5 You can answer, James.

6 A It's not establishing a reserve that's not just
7 and reasonable. It's the 12 months of O&M reserves
8 collected over two years is where I saw that it was not
9 just and reasonable and not in the public interest.

10 Q (BY MS. SELVERA) Why did -- why did you find
11 that it's not just and reasonable? What about 12 months
12 makes it not just and reasonable?

13 A There is -- the information that was provided
14 in Mr. Joyce's testimony, I didn't feel that it was --
15 it justified the 12 months of O&M reserves.

16 Q Based on what?

17 A Based on -- I believe in my direct testimony,
18 there was two reasons why they wanted 12 months of O&M
19 reserves. And if that's the only information that
20 you're going to provide, then I didn't see that that 12
21 months was just and reasonable over -- collected over
22 two years.

23 Q What -- what would -- what information would be
24 necessary to justify collection of these O&M reserves
25 over 12 months versus a longer period of time?

1 MR. PIERCE: Objection, form.

2 James, you can answer.

3 A I don't know. I think we're kind of
4 speculating at this point. But, yeah, I don't really
5 know how to answer that question.

6 Q (BY MS. SELVERA) So, I mean, what information
7 would be needed to change your mind about that?

8 MR. PIERCE: Objection, form.

9 A I'm not sure.

10 Q (BY MS. SELVERA) Is there any information that
11 would demonstrate to you that that collection of the O&M
12 reserves over 12 months is justified?

13 A Yes.

14 MR. PIERCE: Objection, form.

15 Q (BY MS. SELVERA) What would that be? What
16 kinds of information would that be?

17 A If any information to prove that the financial
18 integrity of the utility district, that it is -- sorry.
19 I'm a bad speaker.

20 If there was any information to show that
21 it's imperative to the financial integrity of the
22 company that it must collect an O&M reserve of 12 months
23 in an aggressive two-year time period, if there was any
24 information in that docket to suggest that, I would have
25 taken that into consideration. But there wasn't.

1 Q Is there any other basis for your determination
2 that the board's decision was not just and reasonable?

3 MR. PIERCE: Objection, form.

4 James, you can answer.

5 A "The board's decision." Could you be more
6 specific?

7 Q (BY MS. SELVERA) To establish the rates that
8 are subject to appeal in this case.

9 A And can you repeat the original question?

10 MS. SELVERA: Ms. Schnoor?

11 (Requested portion was read.)

12 A Is there any other basis? No.

13 Q (BY MS. SELVERA) If a MUD has already spent
14 all of their reserves to address operations and
15 maintenance issues, would that demonstrate that the
16 12-month O&M reserve was appropriate?

17 MR. PIERCE: Objection, form.

18 You can answer, James.

19 A If they had spent all their O&M reserve, would
20 that suggest that a 12-month O&M reserve is reasonable?
21 It -- it might.

22 MS. SELVERA: I think that's all I have
23 for this round.

24 MR. PIERCE: I don't have any other
25 follow-up questions.

1 MS. SELVERA: Okay. Okay. Thank you so
2 much, Mr. Euton. I appreciate your time today. You --
3 congratulations. You just finished your first
4 deposition.

5 THE WITNESS: Thank you. I appreciate it.

6 THE REPORTER: Are we off or on the
7 record?

8 MS. SELVERA: Yes, let's go off the
9 record.

10 (Proceedings concluded at 10:24 a.m.)

11 (Signature was waived)

1 SOAH DOCKET NO. 473-23-22448.WS

2 PUC DOCKET NO. 54713

3 PETITION BY RATEPAYERS) BEFORE THE STATE OFFICE
4 APPEALING THE WATER AND)
SEWER RATES ESTABLISHED BY) OF
5 WESTWOOD SHORES MUNICIPAL)
6 UTILITY DISTRICT) ADMINISTRATIVE HEARINGS

7 REPORTER'S CERTIFICATION

8 ORAL DEPOSITION OF JAMES EUTON

9 Friday, January 10, 2025

10 (Via Zoom Videoconference)

11 I, Lorrie A. Schnoor, Certified Shorthand Reporter
12 in and for the State of Texas, hereby certify to the
13 following:

14 That the witness, JAMES EUTON, was duly sworn and
15 that the transcript of the deposition is a true record
16 of the testimony given by the witness;

17 That examination and signature of the witness to
18 the deposition transcript was waived by the witness with
19 the agreement of the parties at the time of the
20 deposition;

21 That the original deposition was delivered to
22 Ms. Erin R. Selvera, Custodial Attorney.

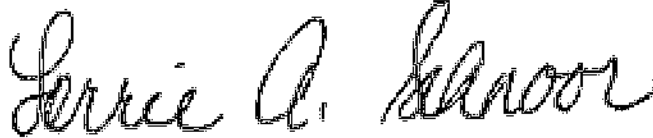
23 That pursuant to information given to the
24 deposition officer at the time said testimony was taken,
25 the following includes all parties of record and the

1 amount of time used by each party at the time of the
2 deposition:

3 Mr. Paul A. Smith (0h0m)
4 Attorney for Petitioners
5 Ms. Erin R. Selvera and Mr. Randall B. Wilburn
6 (1h06m)
7 Attorneys for Respondent
8 Mr. Kevin Pierce (0h4m)
9 Attorney for Commission Staff

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties in the
12 action in which this proceeding was taken, and further
13 that I am not financially or otherwise interested in the
14 outcome of this action.

15 Certified to by me on this 13th day of January,
16 2025.

17 
18 LORRIE A. SCHNOOR, TCRR, RDR, CRR
19 TEXAS CSR 4642
20 Method: Machine Shorthand
21 Expiration Date: 01/31/26
22 Kennedy Reporting Service, Inc.
23 Firm Registration No. 276
24 100 E. Whitestone Boulevard
25 Suite 148
Cedar Park, Texas 78613
Phone: 512-474-2233
Email: order@kennedyreporting.com

KENNEDY

REPORTING SERVICE
A record of excellence

100 E. Whitestone Blvd., Suite 148, Cedar Park, TX 78613
512-474-2233 order@kennedyreporting.com

January 13, 2025

Ms. Erin Selvera
THE CARLTON LAW FRIM, PLLC
4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Re: *Oral Deposition of Ethan Blanchard, taken on January 10, 2025*
PETITION BY RATEPAYERS APPEALING THE WATER AND SEWER RATES
ESTABLISHED BY WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT
SOAH Docket No. 473-23-22448.WS/ PUC Docket No. 54713

Dear Ms. Selvera:

Enclosed please find the Original Transcript of the deposition of Ethan Blanchard taken in the above-referenced case.

Per agreement at the time of the deposition, the witness has waived review and signature. By copy of this letter, we are advising all parties in attendance of the return of the Original Transcript to you.

Please contact us if you have any questions or concerns.

Sincerely,

Amy Burt
President

Via email:

Randall Wilburn, Kevin Pierce, Ian Groetsch, Rowan Pruitt, Paul Smith

Reference: KRS Job No. 25008

SOAH DOCKET NO. 473-23-22448.WS

PUC DOCKET NO. 54713

PETITION BY RATEPAYERS) BEFORE THE STATE OFFICE
APPEALING THE WATER AND)
SEWER RATES ESTABLISHED BY) OF
WESTWOOD SHORES MUNICIPAL)
UTILITY DISTRICT) ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

ETHAN BLANCHARD

Friday, January 10, 2025

(Via Zoom Videoconference)

ORAL DEPOSITION of ETHAN BLANCHARD, produced as a witness at the instance of the Respondent and duly sworn, was taken in the above-styled and numbered cause on Friday, January 10, 2025, from 10:34 a.m. to 11:38 a.m., before Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomate Reporter and Certified Realtime Reporter, reported remotely by computerized stenotype machine from the location of the witness, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES

FOR PETITIONERS:

Mr. Paul A. Smith
LAW OFFICE OF PAUL A. SMITH
4701 Staggerbrush Road #1811
Austin, Texas 78749
Telephone: 512-770-7611
email: pas@pasmithlaw.com

FOR RESPONDENT:

Ms. Erin R. Selvera
Mr. Randall B. Wilburn
THE CARLTON LAW FIRM, P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
Telephone: 512-614-0901 - Fax: 512-900-2855
email: erin@carltonlawaustin.com
randy@carltonlawaustin.com

FOR COMMISSION STAFF:

Mr. Kevin Pierce
Mr. Ian Groetsch
Ms. Rowan Pruitt
PUBLIC UTILITY COMMISSION OF TEXAS
1701 North Congress Avenue
Austin, Texas 78701
Telephone: 512-936-7265 - Fax: 512-936-7268
email: kevin.pierce@puc.texas.gov

ALSO PRESENT:

Ms. Robin Gray
Ms. Katy Hennings
Mr. Jay Joyce

TABLE OF CONTENTS

	PAGE
Appearances	2
ETHAN BLANCHARD	
Examination by Ms. Selvera	4
Examination by Mr. Smith	26
Examination by Mr. Pierce	29
Further Examination by Ms. Selvera	32
Reporter's Certificate	34

DEPOSITION EXHIBITS

(None marked)

1 MS. SELVERA: Okay. Ms. Schnoor, ready to
2 go on the record? My name is Erin Selvera. I'm with
3 The Carlton Law Firm and represent Westwood Shores
4 Municipal Utility District. With me is Randy Wilburn,
5 who is of counsel with our firm. And I believe online
6 we also have Jay Joyce with us today.

7 MR. SMITH: I'm Paul Smith. I'm the
8 attorney for the Westwood Shores Ratepayers Association.
9 And Robin Gray, one of the plaintiffs who's been helping
10 me, is also listening.

11 MR. PIERCE: And good morning. For
12 Commission Staff, I'm Kevin Pierce. I'm joined by my
13 colleagues Rowan Pruitt and Ian Groetsch, who are
14 observing. And we have our witness, Ethan Blanchard.

15 (Witness sworn)

16 ETHAN BLANCHARD,
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 BY MS. SELVERA:

20 Q All right. Good morning, Mr. Blanchard.

21 A Good morning.

22 Q I do not see you on the screen. We need to
23 see --

24 MR. WILBURN: He's on.

25 MS. SELVERA: Oh, he is. Mine is just set

1 up weird. Okay.

2 Q (BY MS. SELVERA) Were you -- you did not
3 participate or sit in on the previous deposition, did
4 you, Mr. Euton's?

5 A Correct. I did not.

6 Q You did not. Okay.

7 Where are you today?

8 A I'm on the eighth floor of the William B.
9 Travis building, where the PUC is.

10 Q Okay. So you had to go in to work today?

11 A I have two small kids, so it was going to be
12 better.

13 (Laughter)

14 Q (BY MS. SELVERA) Fair enough.

15 What do you have in front of you?

16 A On the right screen -- right side of the screen
17 is the Zoom call, and the left side I have my testimony,
18 my testimony workpaper, Mr. Joyce's testimony, and 16
19 TAC 24.43.

20 Q Okay. Did you review all of these things in
21 preparation for your deposition this morning?

22 A No, I did not review all of them.

23 Q Tell me what you reviewed.

24 A I reviewed my testimony and 16 TAC 24.43
25 Subsection B, Paragraph 1.

1 Q And did anybody assist you in preparing your
2 testimony?

3 A No. I made my testimony myself, although I had
4 input from other staff members for certain numbers.

5 Q And who were those other staff members that
6 gave you input?

7 A As covered in my testimony, I relied on the
8 revenue requirement from Emily Sears.

9 Q Anybody else?

10 A That's it.

11 Q Okay. Let's do a little housekeeping.

12 Have you ever been deposed before?

13 A I have not.

14 Q Okay. So I am going to kind of -- we'll just
15 talk a little about the ground rules. I am going to ask
16 you a series of questions. Your -- your counsel has the
17 opportunity to object. However, you will likely hear
18 him direct you to respond. I'm going to endeavor to
19 talk slowly and clearly. If anything that I ask you is
20 either unclear or you need me to repeat it, don't
21 hesitate; just ask me to repeat it. Happy to do that.

22 If at any point you need to take a break,
23 we can certainly do that, so just speak up at any time.
24 If you can't hear me, or if there's some background
25 noise or something else that happens, we may need to

1 backtrack a bit and kind of repeat things. I want to
2 make sure that we make a very clear record for the court
3 reporter, Ms. Schnoor.

4 It's important that you articulate well
5 enough so that she understands each of the words that --
6 that you're saying so that we have an accurate record.

7 Did -- I want to start with your
8 testimony. You indicated that you reviewed portions of
9 the application and the direct testimony of Westwood
10 Shores Municipal Utility District and certain responses
11 to requests for information and Commission rules and
12 orders. I want to break that down a little bit and kind
13 of better understand your testimony.

14 What portions of the application did you
15 review?

16 A I don't recall with precise memory everything
17 that I read.

18 Q So let me ask it a little different. Is there
19 an actual application applicable in this case?

20 A I suppose a better word would be complaint or
21 petition.

22 Q Complaint or petition and not an application?
23 Did I understand that right?

24 A Yes.

25 Q Okay. What testimony for Westwood Shores did

1 you review to prepare your testimony?

2 A I reviewed Mr. -- portions of Mr. Joyce's
3 testimony.

4 Q Are there any particular portions of
5 Mr. Joyce's testimony that you focused on?

6 A I can't recall what I did not focus on.

7 Q Do you recall what you did focus on?

8 A Also not precisely.

9 Q I'm going to come back to that in a little bit.
10 I may ask you to take a look at Mr. Joyce's testimony,
11 and we'll come back to that question.

12 So do you have access to Mr. Joyce's
13 testimony? I think you -- I believe you said you did.
14 You have it on the other screen. Is that right?

15 A Yes, ma'am.

16 Q Okay. We might take a break here in a little
17 bit and come back to that, so let's hold on to that for
18 a moment.

19 You said you reviewed certain responses to
20 requests for information. Can you tell us which of
21 those responses to the requests for information you
22 reviewed?

23 A I didn't keep track of which ones I reviewed
24 and did not review. And I, at this moment, cannot
25 recall precisely which ones I did and did not review.

1 Q When you prepare testimony for PUC cases, do
2 you selectively review certain RFIs and not others?

3 A It's not easy to determine what is in a
4 response to an RFI before viewing it, so I don't have
5 any methodology for excluding RFIs in my review.

6 Q Tell me what your regular practice is with
7 regard to RFIs when you're preparing to testify.

8 MR. PIERCE: Objection, form.

9 Ethan, you can answer.

10 A I believe you mean responses to RFIs, and my
11 general practice is to read them.

12 Q (BY MS. SELVERA) Do you read all of them?

13 A If I can tell that one is not related to my
14 testimony, such as a question that was written by the
15 infrastructure team member from the PUC, I will skim it.

16 Q Okay. You serve as a rate analyst in the
17 tariff and rate analysis section of the PUC?

18 A That's correct.

19 Q Tell me what a rate analyst does.

20 A Do you mean -- are you seeking a definition
21 that's applicable everywhere, or are you asking me what
22 I do?

23 Q I'm asking what you do.

24 A As covered in Section 1 of my testimony, I
25 analyze various issues related to the ratemaking

1 process, cost allocation, rate design. I do compliance
2 review for other entities not related to water utilities
3 such as retail electric providers.

4 Q I want to make sure you completed your
5 responses.

6 A I could go further if you would like me to.

7 Q Well, you mentioned you evaluate issues, you
8 look at cost allocation, you do rate design, and you do
9 compliance review for electric utilities. Is that the
10 sum total of what you do as a rate analyst for the PUC?

11 A Not an exhaustive list.

12 Q Is there anything not on this list that you
13 performed for this particular case?

14 A I would just add, checking mathematical
15 accuracy. I do that generally every case, including
16 this one.

17 Q Okay.

18 A But notwithstanding or besides that, no.

19 Q Okay. You mentioned "issues." What types of
20 issues do you analyze?

21 A For example, with electric utilities, they can
22 be vertically integrated, meaning that one company owns
23 generation, transmission, and distribution costs --
24 operations, not costs. And I, for example, we at the
25 PUC regulate the transmission portion but not the

1 generation and distribution portions within ERCOT. So
2 sometimes -- this is an example, not applicable to this
3 docket, but ensuring that costs at the company level are
4 properly allocated to the different segment of
5 operations so that the competitive customers are paying
6 for costs relative to them and the regulated portions,
7 those portions. Um...

8 Q You ended with an "um." I want to make sure
9 you were done before I asked the next question. Are we
10 good?

11 A I think I'm done with that question.

12 Q Okay.

13 A Or I've answered it.

14 Q Okay. How many water utility rate cases have
15 you reviewed?

16 A When you say "rate case," do you consider a
17 docket like this to be a rate case?

18 Q Yes.

19 A If you'll give me a few seconds, I can give you
20 a precise number.

21 Q That would be fantastic.

22 A Approximately six.

23 Q Is this the only water rate appeal case that
24 you've ever worked on?

25 A No, ma'am.

1 Q Okay. How many other water rate appeal cases
2 have you worked on?

3 A I believe in Attachment ENB-1, at the bottom of
4 my testimony, are all the dockets in which I've filed
5 testimony.

6 Q Okay.

7 A Third on that list is 54966, and I would say
8 that the answer is therefore one in the sense -- or --
9 the answer is one, that I've only reviewed one docket
10 before this to the degree that I've -- to the same
11 degree.

12 Q So the list that you provided as ENB-1 is the
13 list of testimony that you filed. Have you reviewed
14 other water utility rate cases -- rate appeal cases
15 where you did not provide testimony?

16 A No.

17 Q Okay. And you mentioned something a second ago
18 about reviewing it to this degree. What do you mean by
19 to this degree?

20 A Filing testimony.

21 Q You mentioned something a moment ago about
22 doing mathematical -- verifying mathematical accuracy.
23 Did I -- did I hear that right?

24 A Yes, ma'am.

25 Q Okay. I did notice in Docket 54966 that you

1 testified that you were not able to reproduce the
2 76-dollar and 15-cent figure from North Hampton's rate
3 study. Did you perform that analysis for Westwood
4 Shores MUD's rates?

5 A No, I don't believe it's comparable. 54966 --
6 or, actually, I've answered the question.

7 Q So I want to make sure I understood your
8 response. You did not go in and try to reproduce
9 Westwood Shores' rates MUDs -- Westwood Shores MUD's
10 rates?

11 A Not in a fashion similar to 54966. 54966,
12 there was a table with a few numbers in it, and none of
13 them added up by any way to a number they claimed that
14 that table produced. And after many RFIs from -- or not
15 "many," but RFIs from PUC Staff and other parties, they
16 never produced calculations to prove that that number
17 was accurate.

18 Q Did you find inaccuracies in the calculations
19 for Westwood Shores MUD's rates?

20 A In Mr. Joyce's testimony, his final rates were
21 not rounded to the nearest cent; otherwise, no.

22 Q So if they had been rounded to the nearest
23 cent, then you would have found that to be accurate. Is
24 that -- is that a fair statement?

25 A What do you mean by "accurate"?

1 Q Well, a minute ago, I asked you if you found
2 any of the calculation -- any inaccuracies in Westwood
3 Shores MUD's calculations, and your -- if I understood
4 your response correctly, you indicated that Mr. Joyce's
5 final rates were not rounded to the nearest cent, but
6 that was the only inaccuracy that you found. Did I
7 understand that correctly?

8 A Yes.

9 Q Okay. So other than not being rounded to the
10 nearest cent, you would say that the rates were -- there
11 were no inaccuracies in the calculations?

12 A In Mr. Joyce's testimony filed -- let me check
13 my citations. I don't have the Interchange up. I
14 actually don't have the date it was filed. One moment.
15 Yes, in the workbooks filed on October 16th, 2024, was
16 the only inaccuracy I found.

17 Q I want to take kind of a more -- take us back
18 kind of a step or two and talk in more general terms
19 about the process that you use when you're evaluating a
20 case.

21 For a water utility rate appeal, what
22 information do you typically start with?

23 A Depends on what point in the procedural
24 schedule we're at, it's testimony or just a
25 recommendation. But for testimony, I work with my

1 colleagues who provide me a revenue requirement. And
2 from there, I evaluate our -- remark the way that
3 revenue requirement flows into the rates recommended by
4 that party.

5 Q What do you mean by how the "revenue
6 requirement flows into the rates"? Tell me what you
7 mean by that.

8 A Yes. In this docket, for example, the revenue
9 requirement is -- which is in Mr. Joyce's Exhibit
10 JJJ-2 --

11 Q Okay.

12 A -- the revenue requirement is separated into
13 water and sewer revenue requirements.

14 Q Okay.

15 A And then the water revenue requirement is
16 further separated in Mr. Joyce's Exhibit JJJ-3 into a
17 fixed water revenue requirement and a volumetric or
18 variable water revenue requirement. And that is also
19 further broken up in, for the fixed one, the fixed water
20 revenue requirement is -- flows through the rates based
21 on meter size, and the volumetric, or variable water
22 revenue requirement, is collected by, in this docket, as
23 proposed by Mr. Joyce, into four gallonage tiers.

24 Q Okay.

25 A I use the verb "flow" because we're talking

1 about water.

2 Q Okay. Are you familiar with the PUC
3 requirements for an appeal petition under
4 Section 24.103?

5 A I don't have it memorized. I am not an
6 attorney.

7 Q Do you typically look at the information in the
8 petition appealing a rate?

9 A Generally.

10 Q Did you review each signature page of the
11 petition?

12 A I can't recall.

13 Q Is that normally -- is that something that's
14 part of your scope?

15 A No.

16 Q Do you know who at the PUC would review a
17 petition to determine whether or not it's complete?

18 A No.

19 Q Do you know if anybody does that?

20 MR. PIERCE: Objection, form.

21 Ethan, you can answer.

22 A I -- I believe that's answered by the previous
23 question that I don't know who does it. I cannot say
24 with certainty when it is done.

25 Q (BY MS. SELVERA) Do you know if it is done?

1 MR. PIERCE: Objection, form.

2 Ethan, you can answer.

3 A With certainty, no. It's not part of my
4 review.

5 Q (BY MS. SELVERA) Are you aware that the rates
6 at issue in this matter were in effect for one year?

7 A Yes.

8 Q And do you know which rate was appealed?

9 A Yes, that's in my testimony.

10 Q Can you point to where in your testimony?

11 A It would be Page -- make sure the page numbers
12 are right. Yes, Page 5. Or more specifically,
13 Section 4 of my testimony titled Appealed Rates.

14 Q Section 4 has two tables in it. Are you
15 referring to the rates that are -- begin on Page 5
16 starting with -- on Line 5?

17 A Table 1, yes.

18 Q Are you aware that the rates that were --
19 sorry. Let me -- let's look at this.

20 Can you look -- do you have access to the
21 Interchange?

22 A Somewhere.

23 Q -- in front of you?

24 Would you go to Item 1 in the Interchange
25 for me, please?

1 A Yes.

2 Q Let me know when you get there.

3 A It is loading extraordinarily slow. I'm going
4 to turn off my video in hopes that that speeds it up.

5 Q Before you begin your answer, turn your video
6 back on, but we are happy to wait for you.

7 A Okay. It's in front of me now.

8 Q Okay. What do you see on that -- on -- begins
9 on Page 3, The petition to appeal rates established by
10 Westwood Shores.

11 A Uh-huh.

12 Q Based on this information -- and have you ever
13 read this document before?

14 A Perhaps. Cannot recall.

15 Q Well, let's give you a moment to refresh your
16 memory. Can you read the document that's on the third
17 page of that PDF please to yourself, and then I'll have
18 more questions?

19 A It begins with, The undersigned ratepayers?

20 Q Yes, sir.

21 (Pause)

22 A Okay.

23 Q (BY MS. SELVERA) Can you show me where on this
24 page the -- well, let's -- let's start with a different
25 question.

1 Do you understand this to be the rates --
2 the information on this page to be the rates appealed in
3 this case?

4 A Let me compare my testimony. I'm not sure.

5 Q Well, can you -- can you point to me which
6 information on this Page 3, where that -- what
7 information matches up to the rates that are included in
8 your Table 1?

9 MR. PIERCE: Objection, form.

10 Ethan, you can answer.

11 A Can you repeat that question?

12 Q (BY MS. SELVERA) Can you tell me what
13 information on this Page 3 that you just read matches up
14 to the information you included as the appealed rates on
15 Line 5 of Page 5 of your testimony?

16 A I cannot.

17 Q Can you tell me what is the rate that's
18 appealed on Page 3 of the petition?

19 MR. PIERCE: Objection, form.

20 Ethan, you can answer.

21 A I assume the second-to-last and third-to-last
22 sentence.

23 Q (BY MS. SELVERA) Would you read those so that
24 the court reporter can take those down, please?

25 A Then on October 1st, 2022, the service provider

1 increased the rates to \$117 for 3,000 gallons plus 9.5
2 for each additional 1,000 gallons. On December 20th,
3 2022, the service provider increased the rates to
4 \$192.75 for 4,000 gallons plus 1.5 for each additional
5 1,000 gallons.

6 Q How does that -- but a hundred and -- let's
7 see. I want to go -- make sure I'm following what
8 you've read. I don't see -- or let me -- let me say it
9 this way.

10 I don't see \$192.75 for 4,000 gallons on
11 your chart. Am I misreading something?

12 MR. PIERCE: Objection, form.

13 Ethan, go ahead and answer.

14 A On my chart, there is no figure that is
15 \$192.75.

16 Q (BY MS. SELVERA) Okay. Let's change gears for
17 a little bit. I want to talk about the information that
18 you used in developing the -- the rates. You indicated
19 that you used the revenue requirement from Ms. -- from
20 Ms. Sears. Did I hear that right?

21 A You did.

22 Q If Ms. Sears used the wrong information to
23 establish her revenue requirement, then your rate design
24 would be inaccurate. Is that -- that fair to say?

25 MR. PIERCE: Objection, form.

1 Ethan, you can answer.

2 A No, that would not be fair to say.

3 Q (BY MS. SELVERA) Okay. Why?

4 A The -- if there are mistakes in Ms. Sears'
5 revenue requirement, then we could say that the rates
6 that I recommended are inaccurate but not the rate
7 design.

8 Q Okay. Do you -- which statute authorizes a MUD
9 to allocate rates as the MUD deems appropriate?

10 MR. PIERCE: Objection, form.

11 Ethan, you can answer.

12 A I'm not an attorney, and I did not cover that
13 in my testimony, nor am I an expert on that matter.

14 Q (BY MS. SELVERA) Your testimony does not cover
15 allocation?

16 A On -- that was not your question. Your
17 question was what statute, and I'm not an expert on the
18 applicability of statutes.

19 Q Do you apply statutes when you determine
20 allocation for water and sewer revenue requirements?

21 MR. PIERCE: Objection, form.

22 Ethan, you can answer.

23 A Yes.

24 Q (BY MS. SELVERA) Okay. What statute do you
25 apply?

1 A In this docket and in my testimony, I did not
2 refer to any specific statute.

3 Q Okay. Is that because there is none applicable
4 in this case?

5 MR. PIERCE: Objection, form.

6 Ethan, you can answer.

7 A I don't know.

8 Q (BY MS. SELVERA) If -- so if state law
9 authorizes a MUD to allocate between water and
10 wastewater as they see fit, is there any basis for
11 recommending otherwise?

12 A I don't know.

13 MR. PIERCE: Objection, form.

14 Ethan you can answer.

15 A I don't know.

16 Q (BY MS. SELVERA) So what is the legal basis
17 for your testimony if you --

18 MR. PIERCE: Objection, form.

19 (Simultaneous discussion)

20 MR. PIERCE: Objection, form.

21 Ethan, you can answer.

22 Ask that question to be re-asked if I
23 interrupted, Erin.

24 MS. SELVERA: Sure.

25 THE REPORTER: Please. Please.

1 Q (BY MS. SELVERA) Let me start again, Ethan. I
2 want to make sure we have a clear record for
3 Ms. Schnoor.

4 What is the legal basis for your testimony
5 if you did not review the statutes?

6 MR. PIERCE: Reassert the objection, form.

7 Ethan, answer.

8 A I don't know.

9 Q (BY MS. SELVERA) What did you apply when you
10 made -- when you conducted your analysis of Westwood
11 Shores MUD's rates?

12 A I don't know.

13 Q If you'll bear with me for just a moment.

14 Are you aware that MUDs have original rate
15 jurisdiction?

16 A No, not with certainty.

17 Q Okay. Tell me what you understand original
18 rate jurisdiction to be.

19 A I don't cover original rate jurisdiction in my
20 testimony, and I'm not an expert on the statutes, so I
21 don't feel that an opinion on dictionary definition of
22 two words is relevant.

23 Q Well, I'm not asking you as an expert; I'm
24 asking what you know. I'm trying to understand what the
25 basis for your knowledge is.

1 So what does original rate jurisdiction
2 mean to you?

3 A It doesn't mean anything to me besides what
4 those two words strung together would mean to any
5 person --

6 Q Have you --

7 A -- unfamiliar with the statutes.

8 Q Okay. Are you familiar -- are you aware of any
9 TCEQ guidance that is applicable to water districts
10 regarding their financial management?

11 MR. PIERCE: Objection, form.

12 Ethan, you can answer.

13 A No.

14 Q (BY MS. SELVERA) Okay. Have you ever served
15 on the board of a district?

16 MR. PIERCE: Objection, form.

17 Ethan, you can answer.

18 A No, ma'am.

19 Q (BY MS. SELVERA) Have you ever served on the
20 board of a nonprofit entity?

21 MR. PIERCE: Objection, form.

22 Ethan, you can answer.

23 A No.

24 Q (BY MS. SELVERA) Have you ever served on city
25 council for a municipality?

1 MR. PIERCE: Objection, form.

2 Ethan, you can answer.

3 A No.

4 Q (BY MS. SELVERA) In your testimony, you took
5 issue with the MUD not having an Excel copy of the
6 Superior Water Management Rate Study. Did you try to
7 verify the numbers with a calculator?

8 A The appeal was --

9 Q I'm sorry. I didn't understand what you said.
10 Can you repeat?

11 A Sorry. I'll start over. The appeal was filed
12 almost two years ago. I seem to recall attempting to
13 verify them with a calculator, and I seem to recall
14 finding inaccuracies, although I cannot recall where
15 those inaccuracies were.

16 Q And you didn't describe any of those
17 inaccuracies in your testimony, do you?

18 A Correct. I did not rereview -- reattempt to
19 write testimony for the MUD.

20 Q Did you attempt to verify -- to verify the
21 accuracy of the rates?

22 A In preparation for my testimony, I did not
23 attempt to verify the accuracy of the appealed rates in
24 the Superior Management PDF. I -- as discussed in my
25 RFI, I encouraged Kevin, here on this call, to file a

1 request for information, which he did, in June of 2023
2 asking for that information from Westwood, and it was
3 never provided.

4 MS. SELVERA: If you'll bear with me,
5 we'll go off the record for just a couple minutes. I
6 want to double-check a couple things, and we may be just
7 about done. So if we could go off for just a couple
8 minutes.

9 THE REPORTER: Mr. Pierce, is that okay
10 with you?

11 MR. PIERCE: Yes. Sorry.

12 (Recess: 11:23 a.m. to 11:26 a.m.)

13 MS. SELVERA: Ethan, those are the
14 questions I have for you at this moment. I'm going to
15 pass the witness. We'll see if Mr. Smith or your
16 counsel have questions for you.

17 MR. SMITH: I did just have a couple
18 questions, and I guess I can start video, too, if that
19 helps.

20 EXAMINATION

21 BY MR. SMITH:

22 Q Hi. Mr. Blanchard, do you still have access
23 to -- you were asked earlier about Page 3 of the -- of
24 the -- of the petition to appeal the rates. Do you
25 still have access to that screen?

1 A Yes, sir.

2 Q And so just so I read this -- and I also -- and
3 I'm just -- you were also asked -- Ms. Selvera asked
4 whether -- she noted that -- that the table you provided
5 on Page 5 of your testimony did not have -- did not
6 reference the December 20th, 2022 rate increase to
7 192.75 -- \$192.75 for 4,000 gallons, that initial thing.

8 So I just do -- if I could ask you to --
9 well, I'll go ahead and read it. The -- the first two
10 sentences indicate that the ratepayers were appealing
11 the decision which were effective February 1st, 2023.
12 Can you read that in the -- in that Page 3?

13 A I can read it.

14 Q Okay.

15 A Would you --

16 Q Yeah, go ahead, or would you -- would -- could
17 you read the next two sentences after that, starting
18 with, On January 4th...

19 A On January 4th, 2023, the ratepayers were
20 notified by the service provider of this rate increase.
21 Please note that there have been three rate changes in
22 2022.

23 Q Okay, thanks.

24 So -- so your testimony -- and the
25 ratepayers go on to summarize three rate increases which

1 occurred prior to the one that they're appealing, is the
2 way I read that paragraph. So -- and if we could go --
3 so your analysis -- like if -- if we could go to that
4 Page 5 of your testimony, I'm -- is it true that your
5 analysis of the -- of -- or of the rates approved by
6 Westwood's board of directors which went into effect on
7 February 20th, 2023?

8 A No, because those rates were only provided to
9 me in PDF form, as I discussed with Ms. Selvera. I --
10 my analysis was based on a later set of rates submitted
11 by Mr. Jay Joyce.

12 Q Okay. You were -- you were analyzing
13 Mr. Joyce's testimony, not the ones being appealed, per
14 se?

15 A Correct. The -- Mr. Joyce's rates are not
16 extremely different from the appealed rates.

17 Q Okay. And -- but your analysis was definitely
18 not of the three prior rate increases which the
19 ratepayers' petition mentions, the ones prior -- they
20 happen -- they mentioned that there were -- as context
21 for the whole petition, they seem to indicate that there
22 were three prior raises, but that's not what your
23 analysis -- you were not reviewing, for example, that
24 \$192 for the first 5,000 gallons or 4,000 gallons. That
25 wasn't what you were analyzing?

1 MR. PIERCE: Objection, form.

2 Ethan, go ahead and answer if you can.

3 A I did not -- yes, I did not review the prior
4 rate increases, nor did -- was I able to verify the
5 mathematical accuracy of the documents supporting those
6 rate increases.

7 MR. SMITH: Okay. Thank you.

8 No further questions.

9 MR. PIERCE: I have a few questions.

10 EXAMINATION

11 BY MR. PIERCE:

12 Q Ethan, can you hear me okay?

13 A Yes, sir.

14 Q All right. I'm just going to touch back on a
15 couple of things you were asked earlier to clarify a
16 couple points.

17 First of all, in your review, did you
18 review the testimony of Mr. Joyce?

19 A Portions, yes.

20 Q Did you review some of his workpapers, the JJJs
21 1 through 6?

22 A Yes.

23 Q You mentioned there was a couple of questions
24 about RFI responses and what you reviewed. Do you look
25 at all RFI responses if for no other reason than to

1 determine whether or not they're relevant to your
2 testimony?

3 A Yes.

4 Q And to your knowledge, who is responsible for
5 proving that a utility's appealed rates are just and
6 reasonable?

7 A The utility.

8 Q To your knowledge and in your experience, if a
9 utility doesn't provide sufficient information to verify
10 calculations to justify costs or rates, is it your
11 responsibility to do those calculations or to get that
12 information on the utility's behalf?

13 A No.

14 Q In your testimony on Pages 5 and 6, you have
15 two different tables. Is that correct?

16 A Yes, sir.

17 Q Can you tell me what the difference between
18 those two tables are? I see Appealed Rates in Table 1
19 and Westwood Rates in Table 2. Can you tell me what
20 Table 1 is?

21 A Yes. Table 1 shows the rates appealed by the
22 ratepayers that went into effect February 1, 2023, which
23 were not supported with native Microsoft Excel
24 workpapers. And Table 2 was provided -- or contains
25 rates provided by Mr. Joyce in his testimony.

1 Q And to your knowledge, are the Westwood Rates
2 in Table 2, are those rates that have been approved by
3 the District?

4 A No.

5 Q There was -- there were some questions about
6 the differences between what the petition stated and
7 what the appealed rates stated. Where did you get the
8 information for the Table 1, Appealed Rates?

9 A They are in Mr. Joyce's testimony.

10 Q And just to clarify, do you know who Mr. Joyce
11 provided testimony on behalf of?

12 A The MUD.

13 Q Thank you.

14 One other question. There was a question
15 about your testimony in Docket No. 54966. Can you tell
16 me the difference between that docket and this docket in
17 terms of what was being appealed?

18 A The 54966 was about the tax-exempt status of
19 the petitioner. And the rates in that one, if I recall
20 correctly, were one fixed -- one fixed customer charge
21 for that particular customer class.

22 Q Thank you. And in 54966, do you recall how
23 many ratepayers were in the ratepayer appeal?

24 A One.

25 MR. PIERCE: Ethan, I don't have any other

1 questions for you. Thank you.

2 I'll pass the witness back if Ms. Selvera
3 has any follow-ups.

4 Ms. Selvera, you appear to be muted.

5 MS. SELVERA: Thank you.

6 FURTHER EXAMINATION

7 BY MS. SELVERA:

8 Q Okay. I just have a few questions, follow-up
9 questions.

10 You mentioned and were asked about Excel
11 files. Can you point to me what water code, statute, or
12 other law for an entity with original rate jurisdiction
13 requires the filing of an Excel file?

14 MR. PIERCE: Objection, form.

15 Ethan, you can answer.

16 A No.

17 Q (BY MS. SELVERA) Mr. Blanchard, do you
18 understand that, you know, if Westwood's rates are
19 deemed to be unreasonable, then the Commission must
20 recommend rates?

21 MR. PIERCE: Objection, form.

22 Ethan, you can answer.

23 A I'm not familiar with the relevant statute that
24 would require that, but that information is not
25 surprising.

1 MS. SELVERA: I have no further questions.
2 I don't know if your counsel or Mr. Smith have any
3 additional follow-ups.

4 MR. PIERCE: I have nothing further.

5 MR. SMITH: None for me.

6 MS. SELVERA: Okay. Mr. Blanchard, thank
7 you so much for your time today. Congratulations on
8 finishing your first deposition.

9 THE WITNESS: Thank you.

10 MS. SELVERA: I appreciate your time.

11 (Proceedings concluded at 11:38 a.m.)

12 (Signature was waived)

1 SOAH DOCKET NO. 473-23-22448.WS

2 PUC DOCKET NO. 54713

3 PETITION BY RATEPAYERS) BEFORE THE STATE OFFICE
4 APPEALING THE WATER AND)
SEWER RATES ESTABLISHED BY) OF
5 WESTWOOD SHORES MUNICIPAL)
6 UTILITY DISTRICT) ADMINISTRATIVE HEARINGS

7 REPORTER'S CERTIFICATION

8 ORAL DEPOSITION OF ETHAN BLANCHARD

9 Friday, January 10, 2025

10 (Via Zoom Videoconference)

11 I, Lorrie A. Schnoor, Certified Shorthand Reporter
12 in and for the State of Texas, hereby certify to the
13 following:

14 That the witness, ETHAN BLANCHARD, was duly sworn
15 and that the transcript of the deposition is a true
16 record of the testimony given by the witness;

17 That examination and signature of the witness to
18 the deposition transcript was waived by the witness with
19 the agreement of the parties at the time of the
20 deposition;

21 That the original deposition was delivered to
22 Ms. Erin R. Selvera, Custodial Attorney.

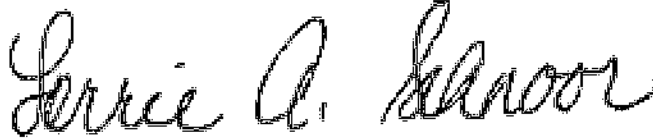
23 That pursuant to information given to the
24 deposition officer at the time said testimony was taken,
25 the following includes all parties of record and the

1 amount of time used by each party at the time of the
2 deposition:

3 Mr. Paul A. Smith (0h5m)
4 Attorney for Petitioners
5 Ms. Erin R. Selvera and Mr. Randall B. Wilburn
6 (0h51m)
7 Attorneys for Respondent
8 Mr. Kevin Pierce (0h4m)
9 Attorney for Commission Staff

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties in the
12 action in which this proceeding was taken, and further
13 that I am not financially or otherwise interested in the
14 outcome of this action.

15 Certified to by me on this 13th day of January,
16 2025.

17 
18 LORRIE A. SCHNOOR, TCRR, RDR, CRR
19 TEXAS CSR 4642
20 Method: Machine Shorthand
21 Expiration Date: 01/31/26

22 Kennedy Reporting Service, Inc.
23 Firm Registration No. 276
24 100 E. Whitestone Boulevard
25 Suite 148
Cedar Park, Texas 78613
Phone: 512-474-2233
Email: order@kennedyreporting.com

KENNEDY

REPORTING SERVICE
A record of excellence

100 E. Whitestone Blvd., Suite 148, Cedar Park, TX 78613
512-474-2233 order@kennedyreporting.com

January 13, 2025

Mr. Randall Wilburn
THE CARLTON LAW FRIM, PLLC
4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Re: *Oral Deposition of Emily Sears, taken on January 10, 2025*
PETITION BY RATEPAYERS APPEALING THE WATER AND SEWER RATES
ESTABLISHED BY WESTWOOD SHORES MUNICIPAL UTILITY DISTRICT
SOAH Docket No. 473-23-22448.WS/ PUC Docket No. 54713

Dear Mr. Wilburn:

Enclosed please find the Original Transcript of the deposition of Emily Sears taken in the above-referenced case.

Per agreement at the time of the deposition, the witness has waived review and signature. By copy of this letter, we are advising all parties in attendance of the return of the Original Transcript to you.

Please contact us if you have any questions or concerns.

Sincerely,

Amy Burt
President

Via email:

Erin Selvera, Kevin Pierce, Ian Groetsch, David Skawin, Paul Smith

Reference: KRS Job No. 25009

SOAH DOCKET NO. 473-23-22448.WS

PUC DOCKET NO. 54713

PETITION BY RATEPAYERS) BEFORE THE STATE OFFICE
APPEALING THE WATER AND)
SEWER RATES ESTABLISHED BY) OF
WESTWOOD SHORES MUNICIPAL)
UTILITY DISTRICT) ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

EMILY SEARS

Friday, January 10, 2025

(Via Zoom Videoconference)

ORAL DEPOSITION of EMILY SEARS, produced as a witness at the instance of the Respondent and duly sworn, was taken in the above-styled and numbered cause on Friday, January 10, 2025, from 1:31 p.m. to 2:18 p.m., before Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomate Reporter and Certified Realtime Reporter, reported remotely by computerized stenotype machine from the location of the witness, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES

FOR PETITIONERS:

Mr. Paul A. Smith
LAW OFFICE OF PAUL A. SMITH
4701 Staggerbrush Road #1811
Austin, Texas 78749
Telephone: 512-770-7611
email: pas@pasmithlaw.com

FOR RESPONDENT:

Ms. Erin R. Selvera
Mr. Randall B. Wilburn
THE CARLTON LAW FIRM, P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
Telephone: 512-614-0901 - Fax: 512-900-2855
email: erin@carltonlawaustin.com
randy@carltonlawaustin.com

FOR COMMISSION STAFF:

Mr. Kevin Pierce
Mr. David Skawin
Mr. Ian Groetsch
PUBLIC UTILITY COMMISSION OF TEXAS
1701 North Congress Avenue
Austin, Texas 78701
Telephone: 512-936-7265 - Fax: 512-936-7268
email: kevin.pierce@puc.texas.gov

ALSO PRESENT:

Ms. Robin Gray
Mr. Darryl Tietjen
Mr. Jay Joyce

TABLE OF CONTENTS

	PAGE
Appearances	2
EMILY SEARS	
Examination by Mr. Wilburn	4
Examination by Mr. Pierce	28
Further Examination by Mr. Wilburn	29
Reporter's Certificate	31

DEPOSITION EXHIBITS

(None marked)

1 MR. WILBURN: Hello. My name is Randy
2 Wilburn. I'm here on behalf of Westwood Shores. I'm
3 with Carlton Law Firm. Also with me today is Erin
4 Selvera.

5 MR. SMITH: Hello. I'm Paul Smith. I'm
6 the attorney for the ratepayers. I believe Robin Gray
7 is actually -- is also signed into this Zoom meeting.
8 Thanks.

9 MR. PIERCE: Good afternoon. On behalf of
10 Commission Staff, I'm Kevin Pierce. I'm joined with my
11 colleagues David Skawin and Ian Groetsch, attorneys. We
12 also have Darryl Tietjen, who is observing. And we have
13 our witness, Emily Sears.

14 MR. WILBURN: And, Ms. Schnoor, for the
15 record, Jay Joyce for the District is also on the line.

16 EMILY SEARS,
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 BY MR. WILBURN:

20 Q Good afternoon, Ms. Sears. How are you?

21 A Good. How are you?

22 Q I'm well. I know we've known each other for
23 quite a while, so I know I will slip into calling you by
24 your first name if that's okay?

25 A That is fine with me.

1 Q Okay. Some groundkeeping, I guess. First, I
2 will try to speak loudly enough for you to hear and try
3 to speak clearly, but if I don't, please ask me to
4 repeat the questions. Or if you don't understand or
5 hear, ask me to repeat the questions.

6 Let's try not to talk over each other.
7 I'm bad about that, so just let me finish whatever I'm
8 saying, if you would, before you answer.

9 And, again, if you don't understand
10 something, ask me to explain it or repeat it, please.
11 Do you agree to that?

12 A Yes.

13 Q Okay. Have you ever had your deposition taken
14 before?

15 A Not a deposition, no.

16 Q You've testified at several rate hearings. Is
17 that correct?

18 A Yes.

19 Q Have you ever testified in a case involving a
20 municipal utility district where the utility district's
21 rates are being appealed?

22 A Yes.

23 Q And what cases were those?

24 A So I know there was Bear Creek Special Utility
25 District. I don't know off the top of my head what the

1 other ones were.

2 Q But there's been more than just Bear Creek?

3 A Maybe. They may be cities. They may not be
4 MUDs directly. There was another appeal recently, I
5 think, but it had to do with an apartment complex. And
6 then there was the north -- North Texas Municipal Water
7 District I was a part of. Those are the ones that I
8 know of off the top of my head.

9 Q Sorry.

10 For simplicity's sake today, I may refer
11 to Westwood Shores Municipal Utility District as "the
12 MUD." Do we have that understanding that that's -- I'm
13 referring to Westwood Shores Municipal Utility District?

14 A Okay.

15 Q I may refer to it as "the District." And if
16 you don't understand what I'm referring to, just please
17 let me know. Okay?

18 A Okay.

19 Q Then I might talk about MUDs, plural, in
20 general. I might be talking about the universe of
21 municipal utility districts, so just keep that in mind
22 when I'm asking questions if you would, please.

23 A Okay.

24 Q Okay. I was looking at your testimony, and I
25 was looking at Page 4. And on that page, you have a

1 statement about the debt service reserve should be
2 collected over a five-year period.

3 A Correct.

4 Q How did you come up with a five-year period?

5 A In my experience, it's typically done over five
6 years.

7 Q What do you mean by it's "done"?

8 A So typically when you have something like a
9 sinking fund or a reserve fund or anything where you're
10 collecting money to kind of put in a pot in case you
11 don't have the money to pay your debt service, then you
12 collect that typically over -- usually, it's the first
13 five years of a loan. In this case since there -- that
14 didn't happen, I'm still recommending five years.

15 Q So you understand that this -- these MUD --
16 excuse me. Let me rephrase.

17 You understand that these bonds have been
18 in place for a number of years. Correct?

19 A Yes.

20 Q And for whatever reason, the MUD reserve fund
21 has been spent down. Correct?

22 A I was unaware that it was spent down. When I
23 read the bond documents, I didn't see anything about a
24 sinking fund or reserve fund requirement, so I just
25 assumed that there wasn't one.

1 Q Okay. So what do you know about MUDs in
2 general?

3 MR. PIERCE: Objection, form.

4 Emily, you can answer the question.

5 A I mean, I know they're utility districts.
6 They're generally formed for the specific purpose of
7 being for the utilities specifically and not, you know,
8 like a city or anything like that. It's kind of a big
9 universe of what do you know about them, so...

10 Q (BY MR. WILBURN) Let me try to narrow that
11 down for you. You understand that they're governmental
12 entities. Is that correct?

13 A Yes.

14 Q Similar to a municipality. Correct?

15 A In some ways, yes.

16 Q Do you know what a general law entity is in the
17 state of Texas?

18 A I do not.

19 Q On Page 5 of your testimony, you talk about the
20 Westwood Shores 2022 Annual Report. Do you see that?

21 A Yes.

22 Q And that was the 2023 audit. Correct?

23 A The 20 -- well, it was -- you mean it was done
24 in 2023 for 2022?

25 Q Yes, ma'am.

1 A Yes.

2 Q So that document was not available to the board
3 when they made their decision. Correct?

4 A Correct.

5 Q In the middle of the page, you talk about
6 Westwood not considering the current levels of reserves.
7 Do you see that?

8 A Yes.

9 Q Where did you find the current levels of
10 reserves when you were reviewing the documents?

11 A As described in the footnotes there, the
12 workpapers of Jay Joyce, he specifically laid all of
13 that out as what the balances were as of June of 2022, I
14 believe.

15 Q Okay. Have you ever served on the board of
16 directors of a municipal utility district?

17 MR. PIERCE: Objection, form.

18 You can answer the question, Emily.

19 A No.

20 Q (BY MR. WILBURN) Have you ever been on the
21 board of directors for a nonprofit organization?

22 MR. PIERCE: Objection, form.

23 You can answer.

24 A Depends on what you're talking about, but I am
25 on a board of SURFA, which is the Society of Utility and

1 Financial Regulatory Accountants. So I have served on a
2 board.

3 Q (BY MR. WILBURN) In that board, are you
4 responsible for reviewing all the financial documents?

5 MR. PIERCE: Objection, form.

6 You can answer the question, Emily.

7 A I am not.

8 Q (BY MR. WILBURN) So for a municipal utility
9 district, the board of directors is responsible for all
10 the financial decisions. Correct?

11 MR. PIERCE: Objection, form.

12 But, Emily, you can answer if you can.

13 A I'm not a hundred percent sure, because I think
14 sometimes there has to be voting. So I think it just
15 depends on the circumstances.

16 Q (BY MR. WILBURN) Okay. For annual budgets,
17 that would be the responsibility of the board of
18 directors. Correct?

19 MR. PIERCE: Objection, form.

20 Emily, you can answer.

21 A I'm not sure.

22 Q (BY MR. WILBURN) Okay. Are you aware of any
23 specific regulations dealing with the finances of
24 municipal utility districts?

25 A I'm sure there are some, but I do not know what

1 they are.

2 Q So, for example, there was a provision that
3 allows MUDs to allocate costs as they see fit. Are you
4 aware of that provision?

5 MR. PIERCE: Objection, form.

6 But, Emily, you can answer.

7 A I don't think so.

8 Q (BY MR. WILBURN) So if you were presented with
9 that statute, would that change any of your testimony?

10 A No.

11 Q Are you aware of any rules for the TCEQ about
12 the finances of a municipal utility district?

13 MR. PIERCE: Objection, form.

14 Emily, you can answer.

15 A TCEQ has a whole division for districts, so
16 there are rules and regulations -- like related to them.

17 Q (BY MR. WILBURN) Yes, but are you aware that
18 there are specific rules for finances for a municipal
19 utility district?

20 A Not specifically. I can remember that
21 there's -- that there's a rule that I read recently
22 related to finances, but I don't know if it was TCEQ or
23 if it was like a state provision.

24 Q What TCEQ rules regarding water district
25 financing have you reviewed?

1 A None.

2 Q What guidance documents from TCEQ regarding
3 water district finances have you reviewed?

4 A None.

5 Q You said earlier that you believe debt service
6 reserve funds should be collected over a five-year
7 period. Where did you come up with the five years?

8 A Both -- I mean, it's primarily my experience in
9 looking at bond documents, but I also referred to the
10 bond document that was referenced in the Bear Creek SUD
11 appeal that Jay Joyce had in his testimony as an example
12 showing that it is typically five years.

13 Q Let's go with a hypothetical. Let's say you've
14 been elected to the board of directors for a municipal
15 utility district, okay, and you've just been appointed.
16 What would you do in regards to reviewing the finances
17 of the District?

18 MR. PIERCE: Objection, form.

19 But, Emily, you can answer if you can.

20 A I'm sorry. Could you rephrase that? What
21 would I do as the board of directors?

22 Q (BY MR. WILBURN) Well, so you have a
23 responsibility to the constituents and to the ratepayers
24 of the District. Correct?

25 A Correct.

1 Q You've been newly elected, and now you want to
2 investigate the finances of the district. What would
3 you review?

4 MR. PIERCE: Objection, form.

5 But go ahead and answer.

6 A Most likely past annual reports, past budgets,
7 any other financial statements that the District has
8 used in the past.

9 Q (BY MR. WILBURN) And if bond covenants
10 required there be a debt service -- excuse me -- a
11 bond -- excuse me -- a debt service amount in reserve of
12 X amount, would you make sure that you had that amount
13 in reserves for the District?

14 MR. PIERCE: Objection, form.

15 But you can answer, Emily.

16 A I mean, if it's a bond covenant, you have to
17 have that in reserves.

18 Q (BY MR. WILBURN) Okay. Back when I was with
19 the agency, the rate reviewers would go out to the site
20 and do a review of the site. Did you go out to the
21 site?

22 MR. PIERCE: Objection, form.

23 But, Emily, you can answer.

24 A No.

25 Q (BY MR. WILBURN) Have you reviewed all the

1 operation and management -- excuse me -- operation and
2 maintenance issues involving the District today?

3 A No. That is not my area in this case.

4 Q Okay. If the District was an old district that
5 had lots of issues with operations and maintenance, as a
6 board of directors, would you not want to collect O&M
7 reserves to ensure you could pay for all the
8 infrastructure improvements needed?

9 MR. PIERCE: Objection, form.

10 Emily, you can answer.

11 A That's a loaded question because there's --
12 there's a lot of things that go into what we're talking
13 about here when we're talking about finances. So I
14 don't think I can answer that straightforward.

15 Q (BY MR. WILBURN) What can you answer?

16 A I mean, I would have to look at the finances.
17 I would have to look at how much we're charging
18 customers. I would have to look at what our expenses
19 are, if there's ways to trim down expenses, are we
20 overspending? I mean, there's a lot that goes into
21 that.

22 Q If the TCEQ had issued enforcement orders
23 against the District, would it be imperative to make the
24 repairs?

25 MR. PIERCE: Objection, form.

1 Emily, you can answer.

2 A If there's an enforcement order, then you work
3 with TCEQ to get that resolved, yes.

4 Q (BY MR. WILBURN) Which could include lots of
5 infrastructure construction. Correct?

6 MR. PIERCE: Objection, form.

7 Emily, you can answer.

8 A It could.

9 Q (BY MR. WILBURN) Page 6 of your testimony, you
10 talk about your opinion regarding the reserve fund on
11 Page -- on excuse -- Line 8. Do you see that?

12 A Yes.

13 Q What is the basis of your opinion?

14 A So the PUC is tasked with making sure that the
15 public interest is preserved and the public interest
16 balances the needs of the utility with the amount
17 customers pay and any other entities that are involved,
18 that it's kind of fair and in the best interest of all
19 parties involved. So that's what that sentence goes
20 towards.

21 Q Isn't the number one criteria for the PUC
22 maintaining the financial integrity of the retail public
23 utility?

24 MR. PIERCE: Objection, form.

25 Emily, you can answer.

1 A I don't know what you mean by the "number one"
2 thing. I think that is part of it.

3 Q (BY MR. WILBURN) And if there was
4 infrastructure that needed to be constructed or put in
5 place, and the District did not have reserve funds to
6 pay for that infrastructure, then wouldn't you have to
7 raise rates to raise sufficient funds to pay for the
8 infrastructure needed to meet the TCEQ's regulations?

9 MR. PIERCE: Objection, form.

10 Emily, you can answer.

11 A There's several ways to go about doing
12 infrastructure. You could go and get bonds. You could
13 raise rates. You could -- you know, if you have money
14 in reserves, you could use some of that. You could go
15 to the Texas Water Development Board and get loans
16 through them, which may or may not have to be paid back.
17 There might be other ways that you can get loans and
18 money especially for a district that aren't necessarily
19 just raising rates.

20 Q (BY MR. WILBURN) So what is the process for a
21 MUD to get approval for a bond sale?

22 MR. PIERCE: Objection, form.

23 Emily, you can answer.

24 A I don't know.

25 Q (BY MR. WILBURN) Are you aware that it takes a

1 vote of the residents to approve bonds supported by ad
2 valorem taxes?

3 A I believe it can be, yes.

4 Q Actually, it has to be. Correct?

5 A I don't know.

6 Q Are you aware that the ratepayers in Westwood
7 Shores had voted down bond issues in the past?

8 A No.

9 Q How long does it take to obtain a loan from the
10 Texas Water Development Board?

11 MR. PIERCE: Objection, form.

12 Emily, you can answer.

13 A I don't know.

14 Q (BY MR. WILBURN) If I told you three years,
15 would that seem unreasonable?

16 A So I know that there's different stages to
17 this. So if you're talking from the first point of
18 application before anything -- before construction and
19 anything else starts, then that could be possible.

20 Q What is a fiduciary duty?

21 MR. PIERCE: Objection, form.

22 But, Emily, you can answer.

23 MR. WILBURN: Kevin, what is your
24 objection?

25 MR. PIERCE: It calls for speculation, I

1 think lack of foundation. I don't believe --

2 (Simultaneous discussion)

3 MR. WILBURN: -- they're objections under
4 the state's rules.

5 MR. PIERCE: I've stated my basis.

6 Q (BY MR. WILBURN) Go ahead, Emily.

7 MR. PIERCE: Emily, you can --

8 A I don't have a specific definition for you.

9 Q (BY MR. WILBURN) What information -- financial
10 information did you review in developing your testimony?

11 A In this specific case, I reviewed the petition
12 and I reviewed Jay Joyce's testimony.

13 Q Who helped you put together your testimony?

14 A I put it together myself, and then it went
15 through management and legal review, but I did it by
16 myself.

17 Q Did management change any of your testimony?

18 A Nothing substantial, no.

19 Q What did they change?

20 A They may have changed a word or two. It may
21 have been misspelled or formatting, but that's about it.

22 Q So typographical errors?

23 A Yes.

24 Q Mr. Joyce based his review on the budgets
25 adopted by the board of directors. Did you review the