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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
October 4, 2012
Jefferson City, Missouri
Volume 24

In the Matter of Union Electric)
Company d/b/a Ameren Missouri's)
Tariffs to Increase Its Annual)File No. ER-2012-0166
Revenues for Electric Service)

MORRIS L. WOODRUFF, Presiding
CHIEF REGULATORY LAW JUDGE

TERRY M. JARRETT
ROBERT S. KENNEY
STEPHEN M. STOLL
COMMISSIONERS

1 APPEARANCE

2 THOMAS BYRNE, Attorney at Law
3 WENDY K. TATRO, Attorney at Law
4 P.O. Box 66149
5 1901 Chouteau Avenue
6 St. Louis, MO 63103
7 (314) 554-2237
8 tbyrnes@ameren.com

9 JAMES B. LOWERY, Attorney at Law
10 Smith Lewis, LLP
11 111 South 9th Street, Suite 200
12 Columbia, MO 65205-0918
13 (573) 443-3141
14 lowery@smithlewis.com
15 For: Union Electric Company
16 d/b/a AmerenUE

17 EDWARD F. DOWNEY, Attorney at Law
18 BRENT ROAM, Attorney at Law
19 Bryan Cave, LLP
20 221 Bolivar Street, Suite 101
21 Jefferson City, MO 65101-1575
22 (573) 556-6622
23 efdowney@bryancave.com
24 For: Missouri Industrial Energy Consumers

25 LEWIS R. MILLS, JR., Public Counsel
Office of the Public Counsel
P.O. Box 2230
200 Madison Street, Suite 650
Jefferson City, MO 65102-2230
(573) 751-4857
FOR: Office of the Public Counsel
and the Public

KEVIN A. THOMPSON, Chief Staff Counsel
Missouri Public Service Commission
P.O. Box 360
200 Madison Street
Jefferson City, MO 65102
FOR: Staff of the Missouri Public
Service Commission

REPORTED BY:

24 Suzanne M. Benoist, RPR, CCR, CSR-ILL
25 MIDWEST LITIGATION SERVICES

1 (Whereupon, the hearing began at 8:33 a.m.)

2 JUDGE WOODRUFF: Welcome back for another
3 day of the Ameren rate case hearing. Today we're going
4 to be taking up first the coal inventory issue and if
5 there's anything anybody wants to bring up before we get
6 started.

7 All right. We'll start with mini openings
8 on that then beginning with Ameren.

9 MS. TATRO: Good morning Commissioners,
10 Commissioner Stoll. My name is Wendy Tatro, I'm an
11 attorney for Ameren Missouri, I don't believe I've
12 appeared in front of you yet.

13 The first issue before you today is coal
14 inventory and specifically whether coal in transit or
15 coal that's still on the train should be included in the
16 company coal inventory. This issue impacts the company's
17 rate base by several million dollars, although because
18 it's a rate base item it impacts the revenue requirement
19 at a much lower level. The parties in this case have
20 agreed that the amount of coal held in inventory at the
21 power plants is appropriate, all the parties agree that
22 the coal inventory at the power plants is properly a rate
23 base item. All the parties agree that as coal is burned
24 for power generation the actual cost of the coal runs
25 through the net based fuel cost or through the FAC,

1 there's no dispute about these issues.

2 The issue before you today is the coal
3 that's owned by the Company but it is not yet at the
4 plant. The coal that is in transit from the mines.
5 Staff and MIEC proposed to treat this coal differently,
6 that is they proposed to ignore unnecessary and prudent
7 costs merely because the coal's in transit and not yet
8 setting at the power plant. The Company contends this is
9 not an appropriate treatment and that this coal should be
10 included in the Company inventory.

11 Mr. Robert Neff's prefiled testimony
12 points out that Ameren Missouri owns the coal as it's
13 being carried by the train, that is as soon as it's
14 loaded on to the train title is transferred to the
15 Company. The Company owns the coal in the coal pile and
16 it owns the coal on the trains and this way it's not any
17 different and should be treated the same.

18 No one in this case is arguing the Company
19 shouldn't purchase additional coal, no one is arguing
20 that transporting coal by rail is imprudent. No one is
21 arguing that coal isn't burned daily at the company power
22 plant and/or that the coal supply doesn't need to be
23 replenished. This is not a prudence issue. Yet for no
24 reason other than the fact the coal isn't setting on the
25 ground at the power plant staff at MIEC argue that it

1 should not be included in the inventory but yet neither
2 have offered sufficient justification to treat this coal
3 differently than we treat all other coal inventory. I
4 put to you that is because there's no reason to treat it
5 differently. Purchasing and transporting coal is a
6 necessary expenditure, it's a prudent expenditure and the
7 Commission should recognize it as such and include the
8 cost of coal in transit as a part of the company coal
9 inventory level.

10 Thank you.

11 JUDGE WOODRUFF: Opening for staff.

12 MR. THOMPSON: Good morning. May it
13 please the Commission.

14 Ms. Tatro described the issue very clearly
15 but there's one thing you did not hear from her, you did
16 not hear that the Company has in fact paid for the coal
17 that's in transit. There's really two reasons why the
18 Staff is contesting the inclusion of coal in transit in
19 rate base in this case, first because it's never been in
20 rate base, second because the Company hasn't paid for
21 that coal yet and that goes to the purpose of rate base
22 in a rate case. Rate base represents the investment made
23 by the shareholders and it is that investment on which
24 the shareholders earn a return. You multiply the value
25 of rate base less accumulated depreciation times the rate

1 of return and that's the return that the shareholders are
2 due on their investment. There is no investment in the
3 coal that's on the railroad cars that hasn't been paid
4 for yet. There is no investment. We agree the Company
5 owns it, we agree that they need to buy coal on a regular
6 basis to keep up their inventories, we understand all
7 that but they haven't paid for this coal yet. That's why
8 this coal has never been in rate base in previous cases,
9 I mean we've been doing this since 1913. If this coal
10 was an appropriate rate base item it would have been in
11 rate base in 1913 but it's not, it's a new item, it's
12 another attempt by the Company to improve its financial
13 picture by looking at details they haven't looked at
14 before. Somebody at the Ameren headquarters said hey,
15 what about all that coal on the train cars? We own it,
16 shouldn't we be earning a return on that, well Staff says
17 no, not until you pay for it. Not until you pay for the
18 coal.

19 Thank you.

20 JUDGE WOODRUFF: Thank you.

21 Opening for Public Counsel?

22 MR. MILLS: I'll waive opening on this
23 issue.

24 JUDGE WOODRUFF: For MIEC.

25 MR. ROAM: We'll need to go in camera too

1 because I want to if possible to talk about some real
2 numbers.

3 JUDGE WOODRUFF: The whole opening?

4 MR. ROAM: I think so.

5 JUDGE WOODRUFF: All right, we'll go in
6 camera.

7

8 (WHEREUPON, at this point an in-camera session was held
9 which is contained in Volume 25, pages 1381-1389 of the
10 transcript)

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1 JUDGE WOODRUFF: And we're back in regular
2 session and for anybody watching Mr. Roam completed his
3 opening statement in camera and we're now ready to go on
4 with our first witness which according to my chart would
5 be starting with Mr. Meyer, is that correct, or are we
6 starting with Mr. Neff?

7 MS. TATRO: I don't have the list in front
8 of me so I don't know.

9 JUDGE WOODRUFF: Normally we start with
10 the Company but --

11 MS. TATRO: We're happy to put Mr. Neff
12 up.

13 JUDGE WOODRUFF: All right.
14 Welcome back Mr. Neff and you testified
15 yesterday I believe.

16 A. That's correct.

17 JUDGE WOODRUFF: So you're still under
18 oath.

19 A. Yes. Thank you.

20 JUDGE WOODRUFF: You may inquire.

21 DIRECT EXAMINATION

22 QUESTIONS BY MS. TATRO:

23 Q. Good morning. Could you state your name
24 and business address for the Commission please?

25 A. My name is Robert Neff, my business

1 address is 1901 Chouteau Avenue, St. Louis, Missouri.

2 Q. And you're the same Robert Neff who
3 re-filed I think rebuttal HC and NP which I guess was
4 admitted yesterday when you testified on the HC, is that
5 correct?

6 A. That is correct.

7 Q. Do you have any corrections or additions
8 on the coal and transit portion of your testimony?

9 A. Yes, I have one correction. On page 5 of
10 my testimony, line 13 I would like to strike the last
11 sentence.

12 Q. Do you have any additional corrections?

13 A. That's the only correction.

14 Q. And if I were to ask you these questions
15 again would your answers be the same?

16 A. Yes, they would.

17 MS. TATRO: I would tender the witness for
18 cross examination.

19 JUDGE WOODRUFF: Okay. Cross examination
20 will begin with MIEC.

21

22 (WHEREUPON, at this point an in-camera session was held
23 which is contained in Volume 25, pages 1392-1401 of the
24 transcript)

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1 JUDGE WOODRUFF: And we're back in regular
2 session and MIEC's entire cross was in camera so we will
3 move on now to Public Counsel.

4 MR. MILLS: Let me ask counsel for Ameren
5 Missouri whether this would be highly confidential.

6 CROSS EXAMINATION

7 QUESTIONS BY MR. MILLS:

8 Q. Just a few questions Mr. Neff and I'm
9 going to try to do this cross examination without talking
10 about specific numbers and so I don't believe that this
11 will be highly confidential but if you feel that you need
12 to get in to the numbers to fully answer my question just
13 let us know and we can go in camera.

14 A. I understand.

15 Q. Leaving aside Labadie for the moment but
16 the charges that are attached to Mr. Meyer's testimony,
17 they establish that there is a least cost, well they show
18 that there is a least cost level determined by the UFIM
19 model and that Ameren Missouri is targeting a higher
20 level than the least cost level, is that correct?

21 A. That's correct.

22 Q. And if I wanted to calculate the rate base
23 value of the incremental amount of coal above that least
24 cost level I could calculate the amount of fuel burned on
25 the max burn day times the difference in days, establish

1 between the least cost level and the targeted level times
2 the average value of coal in inventory, correct?

3 A. That's correct.

4 Q. And then to calculate the revenue
5 requirement amount of that would be roughly 10 percent of
6 that value because the first value we calculated was a
7 rate base value, correct?

8 A. That's correct.

9 Q. And is the average value of your coal in
10 inventory, is that a highly confidential number?

11 A. I'm not sure if that's under highly
12 confidential data request or not, I would have to check.

13 Q. Okay. Could you check on that because I
14 want to ask you what that number is.

15 MS. TATRO: I think that is.

16 A. Let's assume that it is.

17 Q. (By Mr. Mills) At the very end I'll
18 circle back to that number so we don't have to go in and
19 out of in camera.

20 A. Okay.

21 Q. In cross examination you talked about a
22 number of years in which you've had some service
23 interruptions going back to the flood of '93, correct?

24 A. Correct.

25 Q. Was, were the interruptions in 2011 that

1 have been adjusted in your testimony, were those typical
2 or average level of interruptions or were those more
3 severe or less severe than the normal that you've had
4 over the last roughly 10 years?

5 A. We would categorize those as large
6 interruptions for the plants that were affected.

7 Q. Okay. The 2011 were larger than normal?
8 As we have what we call large and small interruptions, a
9 small interruption would typically last two to three
10 weeks where a large interruption would last months which
11 last year the Force majeure went for five months.

12 MR. MILLS: And then I think I'm going to
13 ask the in camera question which is the --

14 JUDGE WOODRUFF: All right. We'll go in
15 camera then.

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19 (WHEREUPON, at this point an in-camera session was held
20 which is contained in Volume 25, page 1405 of the
21 transcript)

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1 JUDGE WOODRUFF: And for staff?

2 MR. THOMPSON: I have no questions. Thank
3 you.

4 JUDGE WOODRUFF: Okay. Questions from the
5 bench then.

6 EXAMINATION

7 QUESTIONS BY COMMISSIONER KENNEY:

8 Q. Mr. Neff good morning.

9 A. Good morning Commissioner.

10 Q. So the in transit coal according to your
11 testimony says that it's not added to plant inventory
12 until its actually unloaded, right?

13 A. That's correct.

14 Q. Or the cost of plant inventory. So when
15 you were testifying earlier about how you account for it
16 that's distinct from it actually being added to plant
17 inventory, correct?

18 A. We have an in-transit account and we have
19 an in-plant account and so when the coal is loaded in to
20 a train it goes in to the in-transit account, when it's
21 unloaded at the plant it goes in to the in-plant
22 inventory account.

23 JUDGE WOODRUFF: If I can interrupt, I
24 want to be clear with the court reporter, we are out of
25 camera and we were soon as Mr. Mills closed.

1 I just want to be sure. Because I'm not
2 sure if I instructed the court reporter if we were out of
3 being in-camera. It had nothing to do with your
4 questions.

5 COMMISSIONER KENNEY: Okay.

6 Q. (By Commissioner Kenney) So it's
7 technically not a rate base item until it's added to the
8 plant inventory account, correct?

9 A. That is what the intervenors have argued,
10 the Company position is that we own the coal when it is
11 loaded in to the train, it goes on to our books when it's
12 loaded in to the train and so therefore that should also
13 be an inventory item, a rate base item.

14 Q. Is every item that Ameren owns or is every
15 item that's on Ameren's books considered a rate base
16 item?

17 A. I can't answer that question, I'm not
18 familiar with all the different accounts but as far as
19 coal inventory is concerned coal inventory is a rate base
20 item and when we own, when we take delivery of the coal
21 in to the train it becomes our property, we're
22 responsible for it and it goes on our books just like
23 anything else we purchase. Under the accounting system
24 we use it doesn't really matter when we pay for it, it's
25 no different than our revenues, like we just finished the

1 month of September and we'll book the revenues from our
2 customers but our customers haven't paid us for the power
3 yet but yet we put it on our books as revenue and it's
4 very similar here. We take ownership of the coal but we
5 don't pay for it until we're invoiced for it which would
6 be two weeks later.

7 Q. I understand that, I understand it's put
8 on your books and when you use the phrase it's on your
9 books is that a colloquial term or is that a term of art?

10 A. I'm not an accountant so I guess it's a
11 colloquial term.

12 Q. All right. Because we're talking it being
13 on your books for accounting purposes and you own it, I
14 don't think anybody disagrees on that, it's the point at
15 which its converted from ownership to being a rate based
16 item essentially and so I guess the question that I would
17 ask is that the fact that it's placed on your books and
18 that you own it, is that the determining factor of
19 whether or not it's a rate base item at that point?

20 A. I believe it is. It's really no different
21 than the inventory at our power plants. The coal is
22 delivered in three or four days and so a good portion of
23 the coal in our inventory which all the parties have
24 agreed to include in the rate base has not been paid for.

25 Q. It's just a timing issue.

1 A. It's a timing issue, that's correct, I
2 would say --

3 **Q. How has this been done in the past?**

4 A. We have considered all the coal in
5 inventory to be in rate base regardless of whether it's
6 been paid for or not.

7 **Q. Well you guys consider it that way but**
8 **how's it been treated in prior orders?**

9 A. That's how it's been treated in the prior
10 rate cases as well.

11 **Q. Okay. Thank you.**

12 JUDGE WOODRUFF: Commissioner Stoll?

13 COMMISSIONER STOLL: I have no questions
14 Your Honor. Thank you.

15 JUDGE WOODRUFF: All right. Chairman Gunn
16 sent me a question before the hearing that he wanted me
17 to ask so I'll go ahead and ask that. And it deals with
18 the ownership question of the coal and his hypothetical
19 was imagine a coal train on its way from Wyoming derails,
20 dumps the coal in to the Missouri River. Who gets the
21 insurance proceeds for the coal?

22 A. Well actually that happens, it's not a
23 hypothetical and when the railroad loses coal in transit
24 we must file a claim for it because it's our coal and the
25 railroad will write us a check for it because we own it.

1 JUDGE WOODRUFF: So you would have a claim
2 against the railroad.

3 A. That's correct, yes.

4 JUDGE WOODRUFF: Okay. All right.

5 I also had a question about the payment
6 for the coal.

7 EXAMINATION

8 QUESTIONS BY JUDGE WOODRUFF:

9 Q. You said the coal was transferred to
10 Ameren's ownership when it's loaded on to the rail cars?

11 A. That's correct.

12 Q. And then I believe you said you paid for
13 it when you were invoiced About two weeks later.

14 A. That's correct.

15 Q. So if the coal is still on the rail cars
16 two weeks later you'll still pay for it.

17 A. We would own it in that case.

18 Q. In case there were a strike or something
19 and the rail car is sitting in Nebraska somewhere.

20 A. That's correct.

21 Q. And I also wanted to ask you about paying
22 for the coal, you indicated the ratepayers pay for the
23 coal only when it's consumed. Can you explain to me how
24 that works?

25 A. Yes. When we purchase the coal it goes in

1 to the inventory accounts, either the in-transit
2 inventory or at the plant account, those are, the rate, a
3 level of inventory is established of course in the rate
4 base as a rate base item so we earn a return on that
5 inventory but we don't really charge the customer for the
6 fuel until it's consumed in the plant and then the costs
7 are flowed to the fuel adjustment cost.

8 Q. So like there's a meter as the coal is
9 going in to the burner.

10 A. That's exactly it.

11 Q. It's racking up charges to the customer,
12 the ratepayers.

13 A. That's correct.

14 JUDGE WOODRUFF: All right. I think
15 that's all the questions I have then.

16 Any redirect based on questions from the
17 bench?

18 Anything from MIEC?

19 RECROSS EXAMINATION

20 QUESTIONS BY MR. ROAM:

21 Q. Just one and that was just to verify on a
22 question that Commissioner Kenney asked in terms of how
23 coal in transit or coal inventory has been treated
24 traditionally and since I guess 1913 coal in transit has
25 never been to your knowledge been treated as coal in

1 **inventory, coal inventory for purposes of a rate base,**
2 **isn't that correct?**

3 A. Well I only looked at the last five rate
4 cases and in the last five in one case coal in transit
5 was included and the other four it was not.

6 COMMISSIONER KENNEY: You said in one case
7 then I didn't hear you?

8 A. Yes, in one case. The EC-2002 dash 1
9 case, both coal balances were used in that case which
10 included coal in transit.

11 **Q. (By Mr. Roam) In that case then I would**
12 **ask that why you struck at the beginning of your**
13 **testimony, why you struck the line page 5, line 13, of**
14 **your testimony that says this is consistent with practice**
15 **in prior rate cases? Why did you delete that line?**

16 A. Well in the cases in 2007 and 2008 we used
17 a target number which was kind of a theoretical balance
18 number which did not include coal in transit. I thought
19 that number did at the time I wrote my testimony and
20 after further investigation I found out did not. In the
21 last two cases, 2010 and 2011, we went to this average
22 inventory on the ground type methodology and I think we
23 just overlooked the coal in transit in those two cases
24 and did not include it. In this case we did file with
25 coal in transit and it was taken out.

1 **Q.** Let me ask you this: If you wanted to
2 maintain the 60 day coal in inventory you could
3 essentially have your, the coal in your pile be, and you
4 wanted to include coal in transit you could have the coal
5 that's in the pile at the generating plant be 57 days and
6 the coal in transit be three days or just hypothetically,
7 that would be another way that you could have your 60 day
8 target.

9 **A.** Well, our policy is for coal at the plant
10 that we know we can burn.

11 **Q.** Right.

12 **A.** Coal in transit may or may not get there
13 depending on the type of disruption so the policies that
14 we have identify coal in the pile at the plant and that's
15 where we set our 62 days. And so we consider coal in
16 transit as coal that's on its way but not there.

17 **Q.** Okay. Thank you.

18 JUDGE WOODRUFF: Public Counsel?

19 MR. MILLS: Yeah, I have a similar
20 question.

21 RE CROSS EXAMINATION

22 QUESTIONS BY MR. MILLS:

23 **Q.** So is it fair to say that over the last
24 five cases more often than not coal in transit has not
25 been included in rate base?

1 A. Only one has been, has included that, yes.

2 Q. But it has not been a litigated issue in
3 any of those cases, has it?

4 A. I'm not aware of it, I wouldn't know about
5 the earlier cases but the most recent two cases at least
6 I don't think it was an issue.

7 Q. You're not aware of a Commission decision
8 that says it should be this way or it should be that way.

9 A. No I am not.

10 MR. MILLS: I don't have any further
11 questions.

12 JUDGE WOODRUFF: For Staff?

13 MR. THOMPSON: Thank you.

14 CROSS EXAMINATION

15 QUESTIONS BY MR. THOMPSON:

16 Q. Now Mr. Neff you concede that the Company
17 doesn't pay for the coal until two weeks after you take
18 title by which time it's generally sitting in the
19 inventory pile at the plant, is that correct?

20 A. That's correct.

21 Q. And I assume you purchased the coal FOB
22 mine, is that correct?

23 A. That's correct.

24 Q. And so the risk of loss transfers at that
25 time when it's loaded on the train.

1 A. Yes.

2 Q. And typically that would include transfer
3 of title as well, isn't that right?

4 A. That's correct.

5 Q. Which is pretty much the base of the
6 Company position in this case, would you agree?

7 A. I agree.

8 Q. Okay. And you also agree that in the 2011
9 rate case it was not included.

10 A. I agree.

11 Q. Or in the 2010.

12 A. I agree.

13 Q. Or the 2008.

14 A. Yes.

15 Q. Or the 2007.

16 A. Yes.

17 Q. Now it's your position that it was
18 included in the EC-2002-1 case.

19 A. That's correct.

20 Q. But that was an over earnings complaint
21 brought by Staff, was it not?

22 A. It was.

23 Q. And it was resolved by a black box
24 settlement, was it not?

25 A. I believe it was.

1 Q. So how do you know that it was included?

2 A. I guess since it was a black box
3 settlement no one knows it was included but it was in the
4 case originally and included in our numbers.

5 Q. Okay. But it was actually settled for an
6 amount of money that everybody could agree on, right?

7 A. That's correct.

8 Q. And no stipulation as to what was in or
9 out.

10 A. That's correct.

11 MR. THOMPSON: I have no further
12 questions. Thank you.

13 JUDGE WOODRUFF: Redirect?

14 MS. TATRO: Thank you.

15 REDIRECT EXAMINATION

16 QUESTIONS BY MS. TATRO:

17 Q. Mr. Neff, Mr. Roam asked you questions
18 about the target inventory as set by UFIM and I'm not
19 going to talk about specific numbers, but indicating that
20 the Company policy was at a higher level than the UFIM
21 target number. Do you remember those questions?

22 A. Yes, I remember them.

23 Q. Can you explain to me why the company sets
24 the policy at a different level than that target number?

25 A. Well the target number is a calculation, a

1 theoretical least cost based on replacement power, the
2 cost of replacement fuel, various other costs that are
3 involved when you run low on fuel and it calculates a
4 least cost level just based on generation costs. It does
5 not take into account whether you're actually going to
6 run out of fuel or not and I mentioned the consequences
7 of running out of fuel are far greater than the costs
8 that are put in the UFIM model for generation costs so we
9 set a level higher than that to avoid running out of
10 fuel.

11 **Q. So in your professional opinion would it**
12 **be prudent for the Company to set its coal inventory**
13 **target level at the UFIM number?**

14 **A.** No, that would not be prudent and even the
15 people who make the UFIM model do not recommend that the
16 least cost number be used as the inventory target level,
17 they recommend it be higher than that level for all the
18 reasons I've stated.

19 **Q. Okay. Mr. Roam also talked to you quite a**
20 **bit about this concept that customers are now paying more**
21 **for inventory under this proposal because they're having**
22 **to pay for this additional coal. Do you recall that line**
23 **of questioning?**

24 **A.** I do.

25 **Q. I think perhaps there's some confusion**

1 **about what inventory means and when customers actually**
2 **pay for coal. Can you kind of high level walk through**
3 **how that works?**

4 A. Yes. Customers pay for inventory as a
5 rate base item, when the coal goes in inventory it is a,
6 they're charged basically the rate of 10 percent carrying
7 costs on that coal. That's all they pay until the coal
8 is consumed so all while the coal is either in transit or
9 sitting in inventory it's a rate base item and they only
10 pay the 10 percent. Once the coal goes in to the plant
11 it is flowed through the FAC and the actual cost of the
12 coal is passed through the customers in the FAC.

13 Q. **And Mr. Roam kept saying that well, it**
14 **might not be a large cost to Ameren Missouri it's a large**
15 **cost to its customers. Do you agree with his statement?**

16 A. Can we get in to numbers for a second?

17 Q. **Sure.**

18 MS. TATRO: Can we go in camera please?

19 JUDGE WOODRUFF: Sure. We'll go in
20 camera.

21

22

23 (WHEREUPON, at this point an in-camera session was held
24 which is contained in Volume 25, page 1419 of the
25 transcript)

1 JUDGE WOODRUFF: We're out of in-camera.

2 Q. (By Ms. Tatro) Do customers pay for their
3 additional coal itself prior to it being used, to
4 generate power?

5 A. They do not pay for the coal itself until
6 it's consumed.

7 Q. Mr. Roam also talked to you and I think
8 Mr. Thompson had talked to you about how coal's not paid
9 for until two weeks, approximately, after it's been
10 delivered. Do you recall that line of questioning?

11 A. I do recall that.

12 Q. And you discussed how it is accounted for,
13 is it accounted for differently than the way the Company
14 accounts for other expenses or revenues?

15 A. No. It is accounted for, when we take
16 ownership of the coal it is accounted for, it's put on
17 our books as a property, as owned property. I think what
18 the intervenor suggests is perhaps we go to some sort of
19 cash accounting for coal in transit that we wouldn't
20 account for the coal until the actual cash is paid which
21 would be contrary to all the other, the way we do all
22 other accounting in our system.

23 Q. And if you don't use cash accounting basis
24 what kind of basis does the Company use?

25 A. The Company uses accrual method of

1 accounting.

2 Q. If the Company pays for this coal two
3 weeks after it's been delivered does that mean there's a
4 portion of the coal pile itself that has not been paid
5 for yet?

6 A. Yes. Since we have approximately 60 days
7 on the ground and we don't pay for coal for two weeks at
8 any given time a fourth of the coal inventory has not
9 been paid for.

10 Q. And all the parties agree that that should
11 be allowed in to inventory, don't they?

12 A. Yes, they've agreed with that, yes.

13 MS. TATRO: I have no further questions.

14 Thank you.

15 JUDGE WOODRUFF: All right then Mr. Neff,
16 you can step down.

17 A. Thank you.

18 JUDGE WOODRUFF: And are we going to call
19 Ms. Hanneken or Mr. Meyer next?

20 MR. THOMPSON: Ms. Hanneken.

21 JUDGE WOODRUFF: All right.

22 Good morning.

23 A. Good morning.

24 JUDGE WOODRUFF: You testified yesterday
25 so you are also still under oath.

1 MR. THOMPSON: I believe her testimony has
2 been admitted so I will tender her for cross examination
3 Judge.

4 JUDGE WOODRUFF: All right.
5 Beginning with MIEC.

6 CROSS EXAMINATION

7 QUESTIONS BY MR. ROAM:

8 Q. Just a few questions. Good morning Ms.
9 Hanneken.

10 A. Good morning.

11 Q. I want to show you a schedule from Gary
12 Weiss's direct testimony relating to cash working
13 capital.

14 Ms. Hanneken this is a schedule from Gary
15 Weiss's direct testimony. Have you seen that before, are
16 you familiar with that?

17 A. I have definitely seen CWC schedules
18 before and I have viewed this briefly as looking at Mr.
19 Weiss's testimony.

20 MR. THOMPSON: I wonder if you could
21 identify the schedule by number?

22 MR. ROAM: Sure. And I'll also put it up
23 on the Elmo, this is not highly confidential. The
24 schedule is GSW dash E5.

25 MR. THOMPSON: Thank you.

1 Q. (By Mr. Roam) Okay. I'm going to zoom
2 in. I'm going to focus a little bit here. All right.

3 Do you see, now do you see where Mr.
4 Weiss's schedule showed coal and then it shows an expense
5 lead of 17.14 days -- sorry.

6 A. Yes.

7 Q. Okay. And is it your understanding that
8 the 17 days represents the lag between the day the
9 Company receives the coal and the day that it pays for
10 the coal?

11 A. On average, yes.

12 Q. On average. So the cash working capital
13 study measures the time between when the coal is loaded
14 in to the rail cars until the time that it's paid for, is
15 that right?

16 A. That is my understanding, yes.

17 Q. Okay. I want to just, I'll zoom out a
18 little bit. So we're still here at coal and if we go
19 across we've got the 17.4, 14 days for expense lead and
20 we go over here to this number, this is the cash working
21 capital requirement and that is \$53,195,000. Isn't that
22 right?

23 A. That is correct.

24 Q. So there's already a \$53,195,000 cash
25 working capital requirement for coal for the expense lead

1 in coal, isn't that correct in this case?

2 A. From that schedule, correct.

3 Q. So if the Commission were to grant the
4 coal in transit adjustment wouldn't they be, wouldn't
5 Ameren Missouri be recognizing double recovery, double
6 recovery of the time between the coal, the time when the
7 coal is loaded in to the rail car and time that it's
8 included in the pile?

9 A. Yes.

10 MS. TATRO: No further questions.

11 JUDGE WOODRUFF: Okay. Public Counsel?

12 MR. MILLS: Yeah.

13 CROSS EXAMINATION

14 QUESTIONS BY MR. MILLS:

15 Q. You were here when Commissioner Kenney
16 asked Mr. Neff a question and Mr. Neff wasn't able to
17 answer because he said he was not an accountant, do you
18 recall that?

19 A. Yes.

20 Q. You are an accountant, are you not?

21 A. Correct.

22 Q. Do you know of other items that the
23 Company owns that, other than coal in transit for example
24 that the Company owns that are not included in rate base?

25 A. Well I mean I'm sure they have other

1 inventory items that would be the same type of thing
2 where they've taken possession of it, it may have even
3 been delivered to them but they have not yet paid for it.
4 So that would be one example.

5 Q. Okay. How about construction work in
6 progress?

7 A. Construction work in progress would be
8 another example. You know, another thing, you know, I'm
9 aware of from other cases is also something to consider
10 is the fact that there are things on Company rate base
11 schedule that they have not paid for but that we do not
12 include them in the total calculation for them to get a
13 return on that such as construction, I'm sorry,
14 contributions from aid of construction would be another
15 item where it would appear in plant on the books and
16 records of the Company that the Company did not pay for
17 that item and therefore we do not include that item in
18 the calculation of giving the Company a return on that
19 item because they didn't pay for it.

20 Q. Okay. How about plant held for future
21 use?

22 A. That would be another item, yes.

23 Q. So coal in transit would not be a unique
24 item in this respect.

25 A. No.

1 **Q. If the Commission adapted staff and MIEC's**
2 **position.**

3 A. That's correct.

4 MR. MILLS: I have no further questions.

5 JUDGE WOODRUFF: For Ameren.

6 MS. TATRO: Thank you.

7 May I approach?

8 JUDGE WOODRUFF: You may.

9 MR. THOMPSON: Can I see that first?

10 MS. TATRO: It's what Mr. Roam put up on
11 the Elmo. I'm sorry, he didn't bring copies.

12 MR. THOMPSON: That's quite all right.

13 MS. TATRO: (Indicating). Thank you.

14 CROSS EXAMINATION

15 QUESTIONS BY MS. TATRO:

16 **Q. All right. I'll try to do this from**
17 **memory since I don't have a copy in front of me either**
18 **but there was a \$17 million number that Mr. Roam pointed**
19 **you to dealing with the coal, right? When coal inventory**
20 **is paid for?**

21 A. I'm sorry?

22 **Q. 17 days, I'm sorry.**

23 A. Yeah. 17.14 days.

24 **Q. And is that a negative -- well let's go**
25 **to the next column over which puts that 17 days in to**

1 **dollars, right?**

2 A. Right.

3 **Q. Is that a negative number?**

4 A. No.

5 **Q. Doesn't it have parenthesis around it?**

6 A. I'm sorry?

7 **Q. Isn't there parenthesis because it's a**
8 **delay?**

9 A. Well expense lags are a delay in the time,
10 or expense lags are the measurement of time it takes the
11 Company to pay their invoices.

12 **Q. So in the cash working capital calculation**
13 **isn't that a credit back to customers because there's a**
14 **delay there?**

15 A. But it's offset by the revenue lag so I
16 don't know that you can, you know, there's a net lag
17 there.

18 **Q. It's offset by the revenue lag. So the**
19 **whole purpose of the cash working capital study is so**
20 **that customers aren't any worse off and the Company, and**
21 **whatever lag the Company is made whole for, right?**

22 A. The purpose of cash working capital study
23 is to determine the amount of money which is working for
24 the company and whether or not the Company is paying
25 out-of-pocket for their expenses or whether the customers

1 are footing the bill for those expenses.

2 Q. And if customers are footing the bill then
3 it's shown as a credit in that study, the end result is a
4 credit, isn't that correct?

5 A. I'm not sure.

6 Q. Okay.

7 A. I'm not sure what you're trying to --

8 Q. Okay. Let's set that aside for a minute.

9 In questioning from Mr. Mills you talked
10 about other issues where you said staff does not include
11 costs because the Company hasn't paid for it and one of
12 the examples was cash working capital, I'm sorry, one of
13 the examples was construction in progress, right?

14 MR. MILLS: I'm sorry but I believe that
15 mischaracterizes the questioning so I object to the
16 question that it assumes facts not in evidence and it's
17 an improper hypothetical. I did not necessarily ask
18 about things that were, that the Company had not paid
19 for. Some of the things we talked about the Company has
20 paid for but are nonetheless not included in rate base.

21 JUDGE WOODRUFF: You want to clarify your
22 question?

23 MS. TATRO: Fair enough.

24 Q. (By Ms. Tatro) You talked about costs
25 that weren't in rate base whether they were paid for or

1 not paid for, correct?

2 A. Correct.

3 Q. And one of those was construction work in
4 progress, right?

5 A. Correct.

6 Q. And the reason that can't be included is
7 there's a state law that deals with that, right?

8 A. Correct.

9 Q. You also mentioned contribution in aid of
10 construction, correct?

11 A. Correct.

12 Q. And what are contributions in aid of
13 construction?

14 A. That could be where either a customer or a
15 third party has paid for a piece of plant that has been
16 donated to the Company, the Company then owns that piece
17 of property or that piece of plant but they have not
18 actually in fact paid for it. Now it does become an
19 asset on their books in the plant account but then there
20 is, when we put it on the rate base schedule we have an
21 offset for that amount because the Company did not pay
22 for that item they do not get a profit or interest amount
23 on that item.

24 Q. But the fact is in those cases the Company
25 never has to pay for that portion of the plant, right?

1 A. Correct, but --

2 Q. That was my question. Did the Company
3 ever have to put out cash to pay for that portion of the
4 plant?

5 A. Not that specific item no.

6 Q. Okay. You do have your testimony with
7 you?

8 A. Yes, I do.

9 Q. Okay. Your surrebuttal, page 3?

10 A. I'm sorry, what page?

11 Q. 3.

12 A. I don't -- hold on, I'll have to go back
13 to that.

14 Okay.

15 Q. Starting on line 19 you have an answer
16 where you talk about the coal inventory level according
17 to the Company policy requirement, do you see that?

18 A. Yes.

19 Q. Did you review that policy?

20 A. I have some time ago.

21 Q. Okay. Do you agree that that -- and
22 Staff is agreeing with that level of coal at the plant,
23 correct?

24 A. We have in this case agreed with it, yes.

25 Q. Right. So in this case you agree it's

1 **necessary to maintain that level of coal at the power**
2 **plant.**

3 A. We believe it's a reasonable level, yes.

4 Q. **Okay. Does Ameren Missouri burn coal**
5 **every day?**

6 A. I believe so.

7 Q. **Okay. How much coal is burnt at the**
8 **Company power plant daily?**

9 A. I don't know that off the top of my head,
10 I would need to look that up.

11 Q. **If the Company burns 21 million tons a**
12 **year you would just divide that by 365, right?**

13 A. Correct.

14 Q. **So 60,000 tons a day, does that sound**
15 **about right?**

16 A. I don't have a calculator, but.

17 Q. **And you agree that the coal that's burnt**
18 **comes from the coal pile?**

19 A. Correct.

20 Q. **And when I say a coal pile I mean the pile**
21 **of coal that's at each plant.**

22 A. Correct.

23 Q. **Okay. And you agree that the coal pile**
24 **that's at the plant is properly included in the Company**
25 **inventory levels.**

1 A. Yes.

2 Q. Okay. So each day coal's used from that
3 plant, that pile.

4 A. Correct.

5 Q. And so each day that pile is going to get
6 smaller unless its replenished, correct?

7 A. Correct.

8 Q. Now, let's presume for a while that the
9 coal pile isn't replenished and if the coal pile starts
10 with some number, number of days worth of coal in it and
11 the plant runs for a day then you agree the coal pile is
12 then one day less than what it was the day before.

13 A. Yes.

14 Q. I'm trying not to use numbers here so I
15 apologize for the convoluted question.

16 And after two days there'd be two days
17 less of coal, right?

18 A. Presumably, yes.

19 Q. So after day one the Company wouldn't have
20 enough coal in the pile to be in compliance with its
21 policy because it burnt a day of coal, right?

22 A. Yeah, I think that's consistent with some
23 of the minor fluctuations we see in the inventory.

24 Q. And after two days it would be two days
25 away from its policy level.

1 A. Correct.

2 Q. And after three days it would be three
3 days away, right?

4 A. Yes.

5 Q. So you agree that in order to maintain the
6 number of days policy for a particular plant the Company
7 has to add coal on a regular basis.

8 A. I don't think Staff is disputing that
9 fact, no.

10 Q. Okay. So Staff agrees it's necessary for
11 the Company to have coal delivered to its plants.

12 A. Yes.

13 Q. And you agree it's prudent for the Company
14 to have coal delivered to its plants.

15 A. Correct.

16 Q. How does Ameren Missouri get coal
17 delivered to its plants, do you know?

18 A. It's either delivered by train or barge.

19 Q. And that's the coal in transit we're
20 talking about here today.

21 A. I -- yes.

22 Q. Just out of curiosity do you know how
23 often Labadie receives coal train deliveries?

24 A. Quite often.

25 Q. Do you have an idea what that is?

1 A. I want to say it's anywhere from every day
2 to every couple of days.

3 Q. Would you accept two times a day?

4 A. Yes.

5 Q. Does that sound reasonable?

6 A. Yes.

7 Q. How about Rush Island?

8 A. I would assume all plants are probably
9 comparable to that.

10 Q. Okay. And would you agree without these
11 coal train deliveries the Company couldn't meet its
12 policy for the number of days for coal supply to have on
13 hand?

14 A. I believe Staff's in agreement with that,
15 yes.

16 Q. Okay. Yesterday Staff filed a change in
17 position on the coal in transit issue, are you familiar
18 with that change?

19 A. I don't know exactly what it was.

20 Q. And that change was to take out the
21 argument that coal in transit has never been included in
22 rate base?

23 A. Well, I am familiar with that and I
24 believe the statement was very broad in that it didn't
25 specifically say Ameren. It indicated that it could have

1 been any utility in the state so I could not make that
2 statement.

3 **Q. But you didn't modify it, you just took**
4 **the sentence completely out?**

5 A. I don't know actually what was done with
6 it.

7 **Q. You're the expert and you weren't**
8 **consulted?**

9 A. Well, I gave my input to it but I don't
10 know what was actually done. I did not see a draft
11 before it went out.

12 **Q. Okay.**

13 **All right. Let's try to go back to the**
14 **exhibit that Mr. Roam used. Do you still have that in**
15 **front of you?**

16 A. Okay.

17 **Q. Now in the cash working capital**
18 **calculation that sheet shows there's a 17 day expense lag**
19 **associated with coal, right?**

20 A. Correct.

21 **Q. And that expense lag reduces the amount of**
22 **cash working capital, correct?**

23 A. Yes.

24 **Q. Okay. And that means it credits customers**
25 **for the delay in paying for coal after it's purchased,**

1 **right?**

2 A. Yes.

3 **Q. Thank you.**

4 MS. TATRO: I have no further questions.

5 JUDGE WOODRUFF: Questions from the bench?

6 Mr. Jarrett?

7 MR. JARRETT: No questions. Thank you.

8 JUDGE WOODRUFF: Mr. Kenney?

9 EXAMINATION

10 QUESTIONS BY COMMISSIONER KENNEY:

11 **Q. Just one question Ms. Hanneken. Thank**
12 **you.**

13 **So in prior rate cases we have not**
14 **included coal in transit as a rate base item, is that**
15 **right?**

16 A. That is correct. To the best of my
17 knowledge.

18 **Q. Okay. Thank you.**

19 JUDGE WOODRUFF: Commissioner Stoll?

20 COMMISSIONER STOLL: I have no questions
21 Your Honor. Thank you.

22 EXAMINATION

23 QUESTIONS BY JUDGE WOODRUFF:

24 **Q. I do have a question and it concerns**
25 **questions that Mr. Roam asked you about the lead lag**

1 study and you agreed that there would be double recovery
2 under some circumstances. Can you explain that more
3 fully to me?

4 A. Well, if the Company is outlaying cash for
5 something ahead of time then there would be a, I don't
6 want to use the word, it determines what cash is needed
7 on a daily basis to either pay for expenses either before
8 the service is received or after the service is received.
9 In this case they are paying for the coal after they take
10 ownership of it. There is a delay.

11 Q. About 17 days.

12 A. Right. So they've actually taken
13 possession of that coal prior to paying for it.

14 Q. Okay.

15 A. So therefore there's a credit because the
16 customers have actually, you know, or the Company has
17 taken possession of that coal and received that service
18 so to speak prior to actually paying for it. So
19 conversely if they had paid for something before they
20 received the service the customer would be ultimately
21 outlaying the money ahead of time for a service they have
22 not yet received so this study, it is kind of like a
23 checkbook, you know, whether you pay for something
24 beforehand or after hand you still have to have money in
25 your checkbook and it determines, you know, whether

1 you've had to put money in to cover the check you wrote
2 or so whether you already had the money in there and you
3 don't have to write the check until after your, you know,
4 got your item that you purchased.

5 **Q. How does adjusting coal in transit result**
6 **in a double recovery?**

7 A. Well, if you're looking at this there's a
8 \$53 million amount here and because of the revenue lag
9 being positive they're a \$53 million amount that is on
10 the cash working capital that is included in rate base
11 already.

12 **Q. Okay.**

13 A. Because the cash working capital in
14 totality is already placed on the rate base schedule and
15 the amount of that the Company is already getting a
16 return on that amount for cash that they have outlaid.

17 **Q. Okay. I think I understand that part of**
18 **it.**

19 **All right. We'll let it go at that.**

20 JUDGE WOODRUFF: Recross based on
21 questions from the bench. MIEC?

22 MR. ROAM: No questions.

23 JUDGE WOODRUFF: Public Counsel?

24 MR. MILLS: No questions.

25 JUDGE WOODRUFF: Staff? I'm sorry,

1 Ameren.

2 MS. TATRO: No.

3 JUDGE WOODRUFF: Now redirect.

4 MR. THOMPSON: Thank you.

5 REDIRECT EXAMINATION

6 QUESTIONS BY MR. THOMPSON:

7 Q. Do you have that schedule Mr. Roam handed
8 you? I'm going to try to put it up on the Elmo so we can
9 all see it.

10 MR. ROAM: Next time I will make copies of
11 that schedule.

12 MR. THOMPSON: You have thrown the apple
13 of discord.

14 Q. (By Mr. Thompson) Of course we can't get
15 all of it up there at any one time which is sort of the
16 problem.

17 MR. MILLS: Zoom out.

18 Q. (By Mr. Thompson) Okay. My question is
19 actually pretty simple. According to that chart there is
20 an amount of money that is put in rate base for Ameren
21 Missouri that relates to coal it's going to have to pay
22 for before it receives revenue from services it provides,
23 isn't that right?

24 A. Yes.

25 MS. TATRO: Objection, leading.

1 MR. THOMPSON: I'll try not to lead.

2 Q. (By Mr. Thompson) Take a look at the
3 revenue lag column. What is the revenue lag for coal?

4 A. It's 42.66 days.

5 Q. And what is the expense lead for coal?

6 A. It's 17.14.

7 Q. And is the net positive or negative?

8 A. Positive.

9 Q. So if you know does that mean that
10 ratepayers need to provide cash to Ameren Missouri to pay
11 for that item before the revenue comes in?

12 A. I'm sorry, can you repeat that?

13 MS. TATRO: And can you rephrase it so
14 it's not leading please?

15 Q. (By Mr. Thompson) If you know since there
16 is a positive net lead lag what does that mean?

17 A. That means that amount would be placed on
18 the rate base schedule and return would be earned on
19 that.

20 Q. And that's the source of the double
21 recovery you were talking about.

22 A. Correct. That's what I was trying to
23 explain earlier and I believe in answer to Judge
24 Woodruff's question I tried to explain that.

25 MR. THOMPSON: No further questions.

1 Thank you.

2 JUDGE WOODRUFF: All right then Ms.

3 Hanneken. You can step down.

4 A. Thank you.

5 JUDGE WOODRUFF: And call Greg Meyer.

6 JUDGE WOODRUFF: And Mr. Meyer you have
7 also testified earlier so you are also still under oath.

8 A. Yes.

9 JUDGE WOODRUFF: You may inquire.

10 MR. ROAM: MIEC tenders the witness for
11 cross examination.

12 JUDGE WOODRUFF: Public Counsel.

13 MR. MILLS: No questions.

14 JUDGE WOODRUFF: Staff?

15 MR. THOMPSON: No questions.

16 JUDGE WOODRUFF: Ameren?

17 MS. TATRO: No questions.

18 JUDGE WOODRUFF: Open questions from the
19 bench.

20 MR. JARRETT: Good morning Mr. Meyer. No
21 questions. Thank you.

22 JUDGE WOODRUFF: Mr. Kenney.

23 COMMISSIONER KENNEY: No questions. Thank
24 you.

25 JUDGE WOODRUFF: Mr. Stoll?

1 COMMISSIONER STOLL: Make it unanimous.

2 No questions.

3 JUDGE WOODRUFF: All right. Then there's
4 no need for recross or redirect and you can step down and
5 that covers the coal issue.

6 I believe next we were going to bring up
7 Mr. Weiss to answer some questions.

8 MR. BURN: Yes, Your Honor.

9 JUDGE WOODRUFF: Welcome back Mr. Weiss
10 and you are also still under oath.

11 And Mr. Burn I remember this was about the
12 exhibit for the 10-Q but could you refresh me which issue
13 that was about?

14 MR. BURN: Yeah, there's really two issues
15 here Judge. One was that 10-Q that I was trying to
16 explain that has been marked Exhibit 48 and maybe even
17 admitted and I was trying to explain what it showed but
18 people properly pointed out that I probably wasn't
19 qualified to explain what the 10-Q showed.

20 JUDGE WOODRUFF: And just to clarify it
21 has not been offered yet. And which issue was that
22 involving?

23 MR. BURN: I think Commissioner Kenney had
24 asked what financial, we were talking about earnings and
25 earnings charts in connection with the plant and service

1 accounting issue and I believe Commissioner Kenney asked
2 what do your filings with the SEC show as far as earnings
3 for the Company so we agreed that we would bring in, we
4 didn't have it with us but we agreed we would bring in
5 the latest filing for the SEC to show what the financial
6 earnings were for the Company.

7 COMMISSIONER KENNEY: Can I ask a
8 question?

9 JUDGE WOODRUFF: Go ahead.

10 COMMISSIONER KENNEY: Is there a chart
11 that you're about to show?

12 JUDGE WOODRUFF: It's Exhibit 48 that was
13 offered last week.

14 COMMISSIONER KENNEY: Which was what?

15 MR. BURN: 10-Q.

16 JUDGE WOODRUFF: The form 10-Q for the
17 Company.

18 COMMISSIONER KENNEY: All right. So
19 you're going to walk through what your ROE is for
20 purposes of reporting to the SEC?

21 MR. BURN: That's correct Commissioner.

22 COMMISSIONER KENNEY: All right.

23 Exciting, great. Thanks.

24 MR. BURN: It shouldn't take long. The
25 good news is it shouldn't take long.

1 DIRECT EXAMINATION

2 QUESTIONS BY MR. BURN:

3 Q. Mr. Weiss can you identify what's been
4 marked as Exhibit 48?

5 A. Yes, I can. It is the copy of the front
6 page and pages I think 10 and 11 from the Ameren
7 Corporation Form 10-Q, it's filed with the SEC, it's the
8 one for the second quarter ending June 30th, 2012.

9 Q. And page 10 and 11 deal with what in
10 particular?

11 A. Page 10 is the Union Electric Company
12 statement of income and comprehensive income and page 11
13 is Union Electric Company balance sheet.

14 Q. And are these, do these just relate to
15 Union Electric Company electric operations or is there
16 more than that?

17 A. No, these statements refer to total
18 operations of Union Electric Company or Ameren Missouri
19 so it includes both electric and gas and any other
20 operations.

21 Q. But my understanding is gas and other are
22 pretty small components, is that fair to say?

23 A. That's fair to say.

24 Q. So this is mostly electric?

25 A. That is correct.

1 **Q. Okay. All right. And if you turn to page**
2 **10 I guess I would ask you can you, does this show a**
3 **return on equity for Union Electric Company?**

4 A. No. I have reviewed the whole 97 pages of
5 the 10-Q and nowhere in there is there a return on equity
6 shown for any of the operations so you'd have to impute
7 return based on these schedules.

8 **Q. Okay. So how do you calculate a return**
9 **based on these schedules?**

10 A. Okay. Since these schedules are prepared
11 on the financial basis versus the regulatory basis the
12 return you would calculate would be the financial return
13 on common equity and that would be calculated by taking
14 the net income available to common stockholders --

15 **Q. And are you doing this for the six months**
16 **ended June 30th?**

17 A. Right. Unfortunately the 10-Q also is not
18 prepared on a 12 month basis, it's prepared for each
19 quarter and then accumulates quarter for quarter as it
20 blows through so any calculation you would do off of
21 this, you know, you have to say okay, it's only for a
22 half a year so what, if you assume that's double for a
23 full year it's an approximation but would not be a
24 complete calculation. But based on the numbers that are
25 filed in the 10-Q with the income available to common

1 stockholders is the bottom number in the third column of
2 \$164 million, if you turn to page 11 --

3 Q. So --

4 COMMISSIONER KENNEY: Slow down, I can't
5 keep up with you.

6 Now where are you looking?

7 A. On page 10.

8 COMMISSIONER KENNEY: Yeah.

9 A. It would be the six months ending June
10 30th, 2012, that would be the second column. It's the
11 very bottom number, net income available to common
12 stockholders, it's the 164.

13 COMMISSIONER KENNEY: That income
14 available to common stockholders is 164. All right. So
15 this is for Ameren Corporation?

16 A. No, this is for Union Electric Company
17 only.

18 COMMISSIONER KENNEY: This is only UE,
19 okay. 164 million.

20 Okay. I'm taking notes.

21 A. Okay.

22 COMMISSIONER KENNEY: So bear with me.

23 A. You turn to the next page, page 11.

24 Q. (By Mr. Burn) And Mr. Weiss is that going
25 to be the enumerator of your calculation, that \$164

1 **million?**

2 A. That is correct.

3 **Q. Okay.**

4 A. Then you turn to the next page, page 11
5 which is a Union Electric Company balance sheet and you
6 go to the first column June 30th, 2012 and you come down
7 near the last section is called stockholder equity and
8 that includes both common and preferred so to calculate
9 the return on common equity you have to back out the
10 preferred stock which is shown as 80 million of the total
11 in that column so that leaves common equity amount of
12 \$3,921,000,000, that's adding up to 511 --

13 COMMISSIONER KENNEY: You back out the 80
14 million from which number?

15 A. The total stockholder equity of four
16 billion 001.

17 COMMISSIONER KENNEY: Okay.

18 A. That gives you \$3,921,000,000.

19 **Q. (By Mr. Burn) And is that the denominator**
20 **of the calculation?**

21 A. That is the denominator of the
22 calculation.

23 **Q. So what's the resulting return?**

24 A. That would show 4.18 percent and you
25 assume that's half a year, so just simply doubling that

1 would make it 8.36 percent which we all know is probably
2 not a correct calculation but it's in the range of
3 reasonable.

4 Q. Okay. Thank you Mr. Weiss, I don't have
5 any other questions about that.

6 MR. BURN: Judge the other topic is we
7 were asked to reconcile, well, to provide some additional
8 information about the earnings charts and sort of
9 reconciling the amount that was shown on the surveillance
10 report, the 10.53 percent for the 12 months ended June
11 30th, 2012 with some of the charts in Mr. Baxter's
12 testimony and I have three --

13 JUDGE WOODRUFF: Before you go in to that.
14 Let's deal with Exhibit 48. Do you wish to offer it at
15 this time?

16 MR. BURN: Yes I would offer 48 at this
17 time.

18 JUDGE WOODRUFF: Exhibit 48 has been
19 offered. Any objections to its receipt?

20 MR. MILLS: I don't have any objection to
21 its receipt but are we going to be allowed to question
22 this witness on his testimony about that exhibit?

23 JUDGE WOODRUFF: Certainly.

24 Hearing no objections Exhibit 48 will be
25 received.

1 MR. BURN: Judge I'd like to mark three
2 more exhibits which will deal with the issue of
3 reconciling the charts.

4 JUDGE WOODRUFF: It will be 66, 67 and 68.

5 (MARKED AMERENUE EXHIBIT NOS. 66-68)

6 JUDGE WOODRUFF: June 2012 is 66 then?

7 MR. BURN: Yes. I think they're all June
8 2012, so maybe the better way to say it is return on
9 equity reconciliation between WLB-ES2 and surveillance
10 would be the first exhibit which is which exhibit
11 number --

12 JUDGE WOODRUFF: 66.

13 MR. BURN: 66. And then ROE
14 reconciliation between WLB dash ES-4 and surveillance
15 would be 67. And then comparison of Ameren Missouri
16 earned ROEs and allowed ROEs would be 68.

17 And maybe what I'll do is put them up on
18 the Elmo since Commissioner Kenney is in St. Louis.

19 JUDGE WOODRUFF: Okay.

20 Q. (By Mr. Burn) Let me start with what's
21 been marked as Exhibit 66. And Mr. Weiss did you prepare
22 what's been marked as Exhibit 66?

23 A. Yes, I did.

24 Q. And what is it?

25 A. Based on questioning from Commissioner

1 Jarrett we were asked to prepare a schedule that would
2 show reconciliation between the surveillance return
3 report of 10.53 for June 2012 so the 8.85 percent shown
4 on Mr. Baxter's schedule WLB dash E32 and as I had tried
5 to explain from the stand that the total difference was
6 due to the write off of the Taum Sauk facilities that we
7 had to do based on the Commission's last order, that was
8 the only difference between the return on the
9 surveillance report and Mr. Baxter's schedules but it was
10 difficult to see in the numbers so we thought a visual
11 would help to show it really does move it from the 10.3
12 down to the 8.85.

13 Q. Okay. Is that the only difference between
14 the two numbers?

15 A. That is correct.

16 Q. Okay. Then let me ask you about the chart
17 that's been marked as Exhibit 67. Did you prepare that
18 document Mr. Weiss?

19 A. Yes, I did.

20 Q. And what does that show?

21 A. This is a reconciliation between the
22 surveillance return of 10.523 and the return of 9.97
23 shown on Mr. Baxter's schedule WLB dash E34. This
24 schedule was prepared in response to some criticism from
25 an MIEC witness and so we had tried to remove all the, or

1 left in all the unusual items that had occurred during
2 that 12 month period and except for the Entergy refund
3 which was a non-recurring one time event so just taking
4 out the Entergy refund moved the return shown on the
5 surveillance report from 10.53 down to 9.97 percent and
6 that's the only difference in those two amounts and two
7 schedules.

8 Q. Okay. And Mr. Baxter has two other
9 schedules on his surrebuttal testimony, what are those
10 two other schedules?

11 A. Those just reflect the impact of normal
12 weather versus the actual weather.

13 Q. Okay. Then finally I'd like you to take a
14 look --

15 COMMISSIONER KENNEY: Hold it a second.
16 Could you go back to that?

17 MR. BURN: Sure.

18 COMMISSIONER KENNEY: So this is the ROE
19 of 10.53 includes the Entergy refund of \$36 million and
20 is not weather normalized.

21 A. That is correct Commissioner.

22 COMMISSIONER KENNEY: And I think that was
23 clear from Ms. Barnes's testimony whenever that was and I
24 think she said that that was worth 30 basis points. Do
25 you agree with that?

1 A. I think she said \$30 million, I don't
2 think she said 30 basis points.

3 COMMISSIONER KENNEY: I'm pretty sure she
4 said 30 basis points. She may have said it was \$36
5 million but I think she said it was 30 basis points
6 because that 10.5 backing out the Entergy refund came
7 down to 10.23 is what I think she said. Well I'm saying
8 it. Do you agree with me?

9 A. No.

10 COMMISSIONER KENNEY: Or is it something
11 else?

12 A. No, my schedule shows that moving, taking
13 the Entergy refund moves it from 10.53 down to 9.97.
14 That's the actual impact.

15 COMMISSIONER KENNEY: I know but if we
16 take the Entergy refund out of the 10.53 what does it do
17 to the ROE under that calculation in the surveillance
18 report?

19 A. It would drop it down to around 9.97 as I
20 showed here.

21 COMMISSIONER KENNEY: Okay.

22 A. There's no other difference.

23 COMMISSIONER KENNEY: How do you quantify
24 that the \$36 million Entergy refund is however many basis
25 points it amounts to to get down to 9.97?

1 A. You have to run it through the
2 surveillance report calculation that we, you know, file
3 with the Commission and you just reflect, removing, or
4 putting back in the refund. Since it reduced expenses
5 you've increased expenses back to the level it would have
6 been without the refund and you run it through the form
7 of the calculation that's attached to the surveillance
8 report and it calculates the bottom number.

9 COMMISSIONER KENNEY: So your testimony
10 today is that the 10.523 as it's reflected in the
11 surveillance report that was attached, I think it's
12 Exhibit 227?

13 A. Sounds very familiar.

14 COMMISSIONER KENNEY: Your testimony today
15 is that if you remove the Entergy refund from that
16 calculation of 10.53 you will arrive at 9.97, is that
17 correct?

18 A. It would be in that neighborhood, yes.

19 COMMISSIONER KENNEY: Yes. Okay. Thank
20 you.

21 Q. **(By Mr. Burn) And Mr. Weiss if I could**
22 **just ask a question based on Commissioner Kenney's**
23 **question, I mean was Ms. Barnes able to do the running it**
24 **through the model while she was sitting up on the witness**
25 **stand trying to do the calculation?**

1 A. No, she was not.

2 Q. Okay.

3 COMMISSIONER KENNEY: Did you just do
4 that?

5 A. No, I did it back at the office on the
6 computer.

7 COMMISSIONER KENNEY: Okay.

8 Q. (By Mr. Burn) Next is Exhibit 68, what's
9 been marked as Exhibit 68. And Mr. Weiss did you prepare
10 what's been marked as Exhibit 68?

11 A. Yes, I did.

12 Q. And what does that show?

13 A. Since there seems to be some confusion on
14 what was shown on the various schedules and charts that
15 had been provided during the hearings I decided to go
16 back and say okay, just look at purely the surveillance
17 reports as filed with the Commission and it's filed
18 quarterly so I started with the March 11 and ran it
19 through July 12th using the actual numbers filed with the
20 Commission that were revised reports filed for a couple
21 of the quarters but the final numbers that were filed
22 with the Commission and it shows that from March through,
23 March of '11 through March of '12 we did not earn our
24 return and June of '12 we did earn above our allowed
25 return and as we showed on the previous schedule that was

1 due to the Entergy refund.

2 Q. And, but June of '12 covers a 12 month
3 period, right?

4 A. Right. These are all 12 month rolling
5 periods.

6 Q. Okay. Thank you.

7 MR. BURN: I don't have any further
8 questions. I guess I would offer Exhibits 66, 67, 68 and
9 tender Mr. Weiss for cross examination.

10 JUDGE WOODRUFF: All right. 66, 67 and 68
11 have been offered. Any objections to their receipt?

12 Hearing none they will be received.

13 Cross examination beginning with MIEC?

14 MR. DOWNEY: Yes. Thank you.

15 CROSS EXAMINATION

16 QUESTIONS BY MR. DOWNEY:

17 Q. Good morning Mr. Weiss.

18 A. Good morning. The lawyers changed.

19 Q. Didn't think they were going to get to you
20 so early this morning.

21 I missed it, this particular exhibit ROE
22 reconciliation between WLB dash E64, or ES4, what number
23 is that exhibit?

24 MR. MILLS: 67.

25 Q. (By Mr. Downey) I'd like you to look at

1 **Exhibit 68. And the 12 month period ending June 12, see**
2 **that?**

3 A. Yes.

4 Q. And you're telling the Commission if you
5 remove the Entergy refund that column drops just slightly
6 below the red line, is that right, slightly below 10
7 percent?

8 A. Correct.

9 Q. Okay. So even without the Entergy refund
10 the return on equity for that 12 month period which is
11 really the most recent 12 month period is pretty darned
12 close to 10 percent, right?

13 A. That is correct under a non-weather
14 normalized basis.

15 Q. Correct.

16 A. Correct.

17 Q. Now the Entergy refund, that is reflected
18 on the Company books and records, correct?

19 A. Yes. It was recorded on the books as a
20 reduction to purchase power expense.

21 Q. And it will continue to enter in to the
22 Company, or in to the equation for the Company return all
23 the way through is it the first quarter --

24 A. May of 2013.

25 Q. Okay. May of 2013.

1 The, on Exhibit 68 the line for the 12
2 month period June of 2012, that represents pretty close
3 to the trued up test year, doesn't it, that 12 month
4 period?

5 A. It is a 12 month period but the trued up
6 test year is weather normalized but it is the same 12
7 month period.

8 Q. That's what I was getting at.

9 A. That's correct.

10 Q. And so have you run a calculation to
11 determine what that return on equity would be if you had
12 let's say 150 million additional revenue?

13 A. I have not.

14 Q. Is it something you can do while you're
15 sitting there, give us a ball park?

16 A. Assuming that this level of revenue on
17 this chart is reflective of a normal level which it's not
18 but just reflecting that I mean 150, you said 150
19 million?

20 Q. Yes.

21 A. That's basically 200 basis points or so.

22 Q. Okay. Well I mean the Entergy refund was
23 how much, 36 million?

24 A. 36 million, yes.

25 Q. And that dropped the ROE from 10.53 to

1 9.97.

2 A. That's correct.

3 Q. So if we had had times that amount of
4 revenue added wouldn't we increase it by almost two and a
5 half percent, is that right, percent? Two and a half
6 percent, is that right?

7 A. Well, and you have to run that through the
8 model but there are a lot of things that get involved in
9 that calculation but it would be at least 2, 200 percent
10 or 2 percent or 200 basis points, however you want to
11 refer to that.

12 Q. At least and if you do the quick and dirty
13 calculation it looks like it could be two and a half
14 percent.

15 A. Just looking at \$150 million, yes.

16 Q. Okay. So if the Company already had this
17 150 million let's assume that's what it would get in this
18 rate case and it had it last year it would have earned
19 well over 12 percent ROE. That's what would have been
20 reported on this surveillance report.

21 A. That is correct under a non-normalized
22 operation.

23 Q. Okay. Thank you.

24 MR. DOWNEY: Nothing further.

25 JUDGE WOODRUFF: Public Counsel.

1 MR. MILLS: Yeah, I do have some
2 questions.

3 CROSS EXAMINATION

4 QUESTIONS BY MR. MILLS:

5 Q. Mr. Weiss can you look at Exhibit 66? How
6 is the Entergy refund treated on Exhibit 66?

7 A. It is included in both Mr. Baxter's
8 numbers and the surveillance numbers. It has not been
9 removed from either one, it's reflected as a reduction
10 and expense in both calculations.

11 Q. So it is included in both.

12 A. Yes, it is.

13 Q. Okay. And going back to your analysis of
14 the 10-Q filing is it, in general terms because weather
15 plays in to this but is it generally true that revenues
16 and expenses from the first six months of any given year
17 are the same as revenues and expenses of the second six
18 months?

19 A. That's correct. I made my comments on the
20 fact that you have to assume that six months, you double
21 it but I said that was not, it was just an approximation
22 of what the full year would look like.

23 Q. So a six month period that does not
24 include the months of July and August you have the same
25 revenues and expenses as the six month period that does?

1 A. I can tell you from my experience the true
2 would be the second six months could be higher but
3 overall it's not that much higher when you double six
4 months and compare it to 12 month numbers, they are
5 slightly higher but not that much higher.

6 Q. Okay. And with respect to that analysis
7 what percent of those numbers are electric as opposed to,
8 because electric as you testified was, is not the entire
9 of course, you know, of the numbers there, it includes
10 gas and some other operations.

11 A. I would say approximately 95 percent would
12 be electric.

13 Q. How approximate is that number?

14 A. Well normally our gas allocation when we
15 look at the revenue requirement is around five percent.

16 Q. Now is the balance sheet number that you
17 looked at for financial purposes, is that the same as
18 rate based for regulatory purposes?

19 A. No it's not.

20 Q. Just at a very high level how useful is
21 that 10-Q analysis that you did in determining whether or
22 not Ameren Missouri electric operations are chronically
23 failing to earn the authorized return on a regulatory
24 basis?

25 A. In doing my analysis we do not look at the

1 10-Q because as I said earlier it's a financial report
2 versus a regulatory report and so we have to look at
3 everything on the regulatory view and that's the report
4 that we, you know, the view we look at when we do the
5 surveillance filings and when we do our rate case
6 filings. It's as we call it the FERC accounting method
7 and the SEC has slightly different rules and requirements
8 that do not segregate costs and revenues exactly the same
9 way.

10 **Q. So is it your testimony that that 10-Q**
11 **analysis is not very useful for that purpose?**

12 **A.** From my point of view when I want to look
13 at what the earned regulatory ROE compared is to what we
14 were allowed in the last rate case I do not use this, I
15 use the regulatory reporting or the FERC method.

16 **Q. Okay. Now with respect to all of these**
17 **exhibits and in particular Exhibit 68 have you done any**
18 **comparable analysis for other vertically integrated**
19 **electric utilities?**

20 **A.** No, I have not.

21 **Q. Okay. So you don't know whether other**
22 **vertically integrated electric utilities around the**
23 **country would show a similar pattern of under returns**
24 **versus allowed returns.**

25 **Q. Just based on my general knowledge that**

1 **utilities across the country are filing numerous rate**
2 **cases I would assume that their earned returns are less**
3 **than their allowed returns but that's just speculation on**
4 **my part.**

5 **Q. Okay.**

6 MR. MILLS: That's all I have. Thank you.

7 JUDGE WOODRUFF: Staff?

8 CROSS EXAMINATION

9 QUESTIONS BY MR. THOMPSON:

10 **Q. First take a look at Exhibit 68 if you**
11 **would Mr. Weiss, it's the one up on the screen behind**
12 **you. Now each of those bars represents a 12 month**
13 **rolling average, correct?**

14 A. That is correct.

15 **Q. Okay. And next looking at Exhibit 67 as I**
16 **understand your testimony you're basically saying that**
17 **you remove the Entergy refund and then you've got the**
18 **appropriate ROE for regulatory purposes, right, that that**
19 **should be 9.97?**

20 A. I'm just saying that one particular
21 non-recurring item that was reported in the surveillance
22 report if removed would show that we did not earn over
23 our allowed return.

24 **Q. Okay. But you understand that the**
25 **Commissioners want to compare the ROE that they authorize**

1 and report in order, the one they're going to authorize
2 in this report and order, the one they authorized in the
3 last report and order, they want to compare your
4 performance to what they authorize, that's where we're
5 trying to get. So with respect to the surveillance
6 report for the year ending June 30th, 2012 your
7 contention is that the appropriate number to compare to
8 the authorized ROE is what?

9 A. It would be my opinion that it would be
10 the exhibit WLB-S3 which is weather normalized. I mean I
11 think for comparison to what's involved in an allowed
12 return.

13 Q. And that's not even one of the ones on
14 these charts, is it?

15 A. No. But, you know, it's in the records, I
16 mean the numbers didn't change. The numbers are in the
17 record on the schedule.

18 Q. I understand.

19 Now Mr. Weiss first of all can you tell us
20 what were the calculations you performed in correcting
21 the FAC surveillance report? You'll recall that it was
22 attached to Mr. Cassidy's testimony and the Company then
23 corrected it and the result of the correction was Staff's
24 Exhibit 237. That is also in the record, right?

25 A. That is correct.

1 Q. And so what was the calculation you
2 performed getting from what was attached to Mr. Cassidy's
3 testimony to Staff Exhibit 237?

4 A. I think we explained this in the last week
5 when I was on the stand but I'll be happy to do it again.

6 Q. If you could.

7 Maybe I should shortstop this. Would you
8 agree with me that what you did was you moved the tax
9 impact of the Taum Sauk disallowance from above the line
10 to below the line?

11 A. That is correct. The actual write off of
12 the Taum Sauk was above the line but the taxes, I mean
13 wasn't below the line but taxes were above the line so we
14 had a mismatch and so we had to move the taxes below the
15 line to get the correct regulatory operating income.

16 Q. And the affect of that correction was to
17 reduce the earned ROE shown on the surveillance report.

18 A. That is correct.

19 Q. Okay. Now for regulatory purposes you
20 would also have to correct that ROE with respect to
21 earnings per share based incentive compensation, wouldn't
22 you?

23 A. No. Surveillance report has direct
24 requirements and rules on how you prepare the report and
25 it's not a full revenue requirement report, it's purely

1 per book.

2 Q. Okay. In other words to get from the
3 surveillance report to something comparable to the ROE
4 awarded by the Commission so that they can have an apples
5 to apples comparison of the Company performance to what
6 they authorized you would have to increase the ROE to
7 reflect the disallowance of earnings per share based
8 incentive compensation, would you not?

9 A. That's just one item of numerous items
10 that have to be adjusted up and down both directions to
11 reflect a revenue requirement that was approved by the
12 Commission.

13 Q. I understand that. But for that
14 particular item it would be an upward adjustment, isn't
15 that correct?

16 A. That's correct.

17 Q. Okay. And that's about \$15 million, isn't
18 it?

19 A. That seems awful high, but.

20 Q. Seems high.

21 A. It does. It should be less than 10 I
22 would think.

23 Q. What about Callaway refueling? Is that
24 another item that would lead to an upward adjustment?

25 A. Some months up some months down.

1 Q. Some months up some months down.

2 A. Right.

3 Q. And would you agree with me that that's
4 about 12.5 million?

5 A. There again some periods it's an increase
6 of 12 million, some periods it's a decrease of 12 million
7 because it's a, calibrated refill is done every 18 months
8 so each period has to reflect 12 months.

9 Q. And another item would be institutional
10 advertising, isn't that right?

11 A. As I told you to do our complete
12 calculation required doing a complete full revenue
13 already where you normalize, annualize every single item
14 like you do for a rate case filing and if you did all of
15 that with all the ups and downs you would get comparable
16 returns is what we're showing on our graphs. In total
17 they don't move the graphs up or down very much.

18 Q. Okay. Just trying to make sure we get to
19 apples to apples.

20 Now, let me shift gears a little bit here.

21 MR. THOMPSON: What's our next exhibit
22 number Judge?

23 JUDGE WOODRUFF: Let me get to it here.
24 It would be 241.

25 MR. THOMPSON: I'll take a moment to mark

1 these exhibits.

2 (MARKED STAFF EXHIBIT NO. 241)

3 Q. (By Mr. Thompson) Do you recognize that
4 item that I've marked as Exhibit 241?

5 A. Yes, I do.

6 Q. Okay. What do you recognize it to be?

7 A. A response to a staff data request MPSC
8 0173 S4 which means supplement number 4.

9 Q. Okay.

10 A. Dealing with IIA and rate case expense.

11 Q. And I would be correct would I not that
12 you prepared this response?

13 A. That is correct.

14 Q. I wonder if you could read the data
15 request starting with the word please?

16 MR. BURN: Your Honor I guess I'd like to
17 interpose an objection, I don't see any relationship
18 between this data request and the topics at hand. Maybe
19 Mr. Thompson, maybe there is a relationship, I just don't
20 see it.

21 JUDGE WOODRUFF: Mr. Thompson do you have
22 a response? What is it in relationship to?

23 MR. THOMPSON: This relates to the topic
24 of rate case expense.

25 MR. BURN: That's not the topic we're here

1 to discuss.

2 MR. THOMPSON: Well you tendered this man
3 for cross examination didn't you?

4 JUDGE BURN: That was for cross
5 examination on his previous testimony offered today.

6 MR. THOMPSON: This has no relation to the
7 previous testimony offered today. This relates to rate
8 case expense which is also an issue that we're litigating
9 in this case. Mr. Weiss was not the Company witness on
10 that topic as I recall, is that correct?

11 MR. BURN: I'm not sure, the rate case
12 expense was tried a couple days ago. I'm not a lawyer
13 who worked on the rate case expense.

14 I don't believe it's appropriate for him
15 to start asking questions about an issue that was tried
16 days ago that we're completely, we don't have the lawyer
17 here for, we're not prepared to address.

18 MR. THOMPSON: Well if I could respond --

19 JUDGE WOODRUFF: Sure.

20 MR. THOMPSON: Mr. Weiss has told us he
21 prepared this data request response, he recognizes this
22 data request, he prepared the response, it goes to an
23 issue that is on the table in this case, I believe it is
24 appropriate cross examination but of course I'll be
25 guided by whatever you say Judge.

1 JUDGE WOODRUFF: I don't believe it's
2 appropriate cross examination for the testimony that's
3 been offered by Mr. Weiss. It's going pretty far afield.
4 I'm not going to allow it.

5 MR. THOMPSON: Thank you.

6 JUDGE WOODRUFF: All right.

7 All right then. That completes the cross
8 examination. Open up for questions from the bench?

9 Mr. Jarrett?

10 MR. JARRETT: God morning Mr. Weiss, I
11 don't have any questions but I want to thank you for
12 providing these charts at my request, I appreciate that.

13 A. I hope they were helpful.

14 MR. JARRETT: Thank you. Yes.

15 JUDGE WOODRUFF: Commissioner Kenney?

16 COMMISSIONER KENNEY: Just a few just to
17 close the loop on my understanding of what we've
18 accomplished today.

19 EXAMINATION

20 QUESTIONS BY MR. KENNEY:

21 Q. So for the purposes of the 10-Q, and I
22 understand we're not exactly comparing apples to apples
23 but for the purposes of the 10-Q the ROE that you would
24 have come up with for a 12 month period based upon the
25 numbers that were actually a six month period was 8.36,

1 correct?

2 A. That's correct.

3 Q. The 10.53 percent ROE that is reflected on
4 the surveillance report after adjusting for the Entergy
5 refund is 9.97 percent, correct?

6 A. Correct.

7 Q. And finally I want to ask a question that
8 I don't think anybody asked, there is a reference to the
9 surveillance report number not being weather normalized.
10 Is that, did I understand you correctly?

11 A. That is correct.

12 Q. This was discussed a bit the other day
13 when we were going through the surveillance report and
14 I'm not clear on why it is that you would be weather
15 normalizing historic actual numbers. Can you explain
16 that to me?

17 A. Well, the way the rates were set using the
18 revenue requirement is to use weather normalized expenses
19 and compare that to normalized revenues and that is how
20 your return is set, so if you want to compare as we say
21 apples to apples, if you want to compare the earned
22 regulatory return to how the allowed return applies then
23 you'd have to weather normalize and as Mr. Thompson
24 pointed out there's probably numerous other items that
25 have to be adjusted too if you really want to do a

1 complete analysis but the surveillance report is intended
2 to give a range of a return and show a trend, if the
3 Commission and Staff sees a trend of the Company over
4 earning its authorized return quarter to quarter then it
5 would know then it may want to look in to why it's
6 earning over the return and start the complaint case.
7 It's just intended to give an approximation of what that
8 earned return is and it's not intended to be 100 percent
9 down to the basis point as that's your actual earned
10 return. It's an approximation and it's in the reasonable
11 range.

12 Q. And there was testimony on that same day
13 that you don't weather normalize actual numbers, did you
14 hear that testimony? Or do you recall that?

15 A. I do not recall that testimony. I'm
16 sorry.

17 Q. Okay. That's okay.
18 Well thank you.

19 JUDGE WOODRUFF: Commissioner Stoll do you
20 have any questions?

21 COMMISSIONER STOLL: I have no questions
22 Your Honor. Thank you.

23 JUDGE WOODRUFF: I have no questions.

24 So we'll go to recross based on questions
25 from the bench.

1 MIEC?

2 MR. DOWNEY: No questions.

3 JUDGE WOODRUFF: Public Counsel?

4 MR. MILLS: I have no questions.

5 JUDGE WOODRUFF: Staff?

6 MR. THOMPSON: No questions.

7 JUDGE WOODRUFF: Redirect.

8 MR. BURN: Thank you.

9 REDIRECT EXAMINATION

10 QUESTIONS BY MR. BURN:

11 Q. Mr. Weiss you might recall Mr. Downey
12 asked you about I believe it was Exhibit 67 and he said
13 what if you would add I think it was \$150 million of
14 revenue on to that exhibit, is that right, am I
15 remembering that correctly?

16 A. That's what he said, yes.

17 Q. Okay. And I guess you said well if you
18 just added \$150 million of revenue on to that schedule it
19 would increase the earnings by about 200 basis points, is
20 that right?

21 A. That's what I said, yes.

22 Q. Okay. But I guess he's kind of, I took to
23 be referencing a rate increase we might get, is that how
24 you took it as well?

25 A. Yes.

1 Q. Okay. Well let me ask you this: And in
2 this case a rate increase would only be effective when?

3 A. January 2nd, 2013.

4 Q. Okay. And so you would actually recover
5 any money on an annual basis beginning in 2013, is that
6 correct?

7 A. That's correct.

8 Q. And let me ask you this: What, wouldn't
9 in terms of calculating an earnings based on that rate
10 increase wouldn't you also have to take into account the
11 cost that the Company incurs in 2013?

12 A. That is correct.

13 Q. And are costs expected to go up or stay
14 the same or go down in 2013?

15 A. Well we know for sure the fuel costs will
16 go up on January 2nd or 1st and other costs will also be
17 increasing with labor contract, et cetera, during the
18 year.

19 Q. Well how much, if you know, how much are
20 we expecting the fuel costs to go up on January 1st,
21 2013?

22 A. I don't know for sure but I think it's
23 north of 30 million.

24 Q. Okay. And I guess you said labor, do you
25 know how much labor would be expected to go up?

1 A. No, I think the contracts will be
2 renegotiated in early this year, it would be effective in
3 July, but, you know, two and a half percent would be the
4 range.

5 Q. Do you know how much of our fuel, or how
6 much of our revenue rate increase request in this case is
7 fuel expense?

8 A. It was 103 million, now the 376.

9 Q. Okay. And is it true to say the customers
10 only, with fuel adjustment clause customers only pay,
11 well, subject to the 95/5 or 85/15 sharing they'll only,
12 they'll pay exactly what the fuel costs are, net fuel
13 costs?

14 A. No. There will be a shortfall, either
15 five percent or 15 percent.

16 Q. Okay. How about another category of
17 expense which is MEEIA, the Missouri, or what is that,
18 the Missouri Energy Efficiency Investment Act costs, do
19 you know how much of this rate case constitutes those
20 costs?

21 A. Approximately \$79 million.

22 Q. And would those costs be applicable
23 beginning in 2013?

24 A. Yes.

25 Q. Okay. Let's imagine that there were some

1 earnings left over based on, you know, Mr. Downey's
2 hypothetical that we will get \$150 million after we paid
3 all the costs, what if there were some earnings left
4 over? Would those earnings be subject to income tax?

5 A. That is correct.

6 Q. And do you know how much income tax the
7 Company pays on money that it earns?

8 A. The effective tax rate is around 38.4,
9 38.2.

10 Q. So -- okay. So if there were any
11 earnings I assume they'd have to be tax adjusted, is that
12 correct?

13 A. That's correct.

14 Q. Okay. In response to some questions from
15 Mr. Thompson I think he was suggesting certain upward
16 adjustments would be appropriate to the earnings shown on
17 these charts for incentive compensation, certain kinds of
18 incentive compensation and I don't know, maybe there was
19 a Callaway one that he suggested, do you recall that,
20 those questions?

21 A. Yes I do.

22 Q. Do all of the adjustments go up that you
23 would have to make to this?

24 A. No, as I pointed out earlier if you do
25 this completely correct you'd have to do a full revenue

1 requirement at the end of each quarter where you would
2 annualize and normalize, get normalized and annualized in
3 a rate case and there are items that go up and items that
4 go down, you know, if you annualize labor increases they
5 could go up, you know, if you normalize for weather they
6 would probably go down. So they go both ways as I said
7 in my experience over a number of years those tend in the
8 long run to almost even out so they do not raise or lower
9 the return by any significant amount of points.

10 Q. Thank you Mr. Weiss. That's all I have.

11 JUDGE WOODRUFF: Thank you Mr. Weiss. You
12 can step down.

13 And do we know if we're going to need to
14 hear the low income issues?

15 MS. TATRO: After we finished the coal
16 inventory I went upstairs and spoke with staff counsel,
17 I'm blanking on her name, Amy Moore, and I also spoke
18 with Ryan because Lewis was down here and they indicated
19 to me that they have reached an agreement in principle so
20 I do not believe we need to try it and we will file a
21 stipulation after language has been agreed upon.

22 JUDGE WOODRUFF: Anyone agree with that?

23 MR. MILLS: I have no basis to disagree.

24 JUDGE WOODRUFF: Okay. Well I believe
25 that then concludes the proceedings for today.

1 MR. THOMPSON: Judge I'm going to offer
2 Exhibit 241 which Mr. Weiss admitted he knew and had
3 prepared.

4 MR. BURN: I object Your Honor.

5 JUDGE WOODRUFF: I'll consider it offered
6 but I will deny its admission.

7 MR. THOMPSON: And what's the basis of
8 your denial?

9 JUDGE WOODRUFF: It was not proper cross.

10 MR. THOMPSON: No, the exhibit, what is
11 the basis of your refusal to receive this exhibit in to
12 the record?

13 JUDGE WOODRUFF: It was offered as part of
14 improper cross examination, I find no basis, foundation
15 to putting it in to the record.

16 MR. THOMPSON: Thank you.

17 JUDGE WOODRUFF: All right.

18 We are adjourned then until tomorrow at
19 8:30.

20

21 (Whereupon, the deposition concluded at 10:46 a.m.)

22

23

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18 EXHIBIT NO. 241

19 Response to Staff data request

20 MPSC 017354 1467

21

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1 REPORTER CERTIFICATE

2

3 I, SUZANNE BENOIST, Certified Shorthand Reporter,
4 do hereby certify that there came before me at the
5 Missouri Public Service Commission, 200 Madison Street,
6 Jefferson City, MO 65102, the above-referenced parties,
7 that the proceeding was translated and proofread using
8 computer-aided transcription, and the above transcript of
9 proceedings is a true and accurate transcript of my notes
10 as taken at the time of said event.

11 I further certify that I am neither attorney nor
12 counsel for nor related nor employed by any of the
13 parties to the action in which this examination is taken;
14 further, that I am not a relative or employee of any
15 attorney or counsel employed by the parties hereto or
16 financially interested in this action.

17

18

19

20

SUZANNE BENOIST, RPR, CCR, CSR-IL

21

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