

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

3 _____

4 TRANSCRIPT OF PROCEEDINGS

5 EVIDENTIARY HEARING

6 July 27, 2007

7 Jefferson City, Missouri

8 Volume 2

9 _____

10 In the matter of:

11 Application of Southern)

12 Missouri Gas Company LP,)

13 d/b/a Southern Missouri) Case No. GA-2007-0212,

14 Natural Gas for a Certificate) et. al.

15 Of Public Convenience and)

16 Necessity Authorizing It to)

17 Construct, Install, Own,)

18 Operate, Control, Manage,)

19 And Maintain a Natural Gas)

20 Distribution System to Provide))

21 Gas Service in Lebanon, MO)

22 _____

23 NANCY DIPPELL, Presiding

24 REGULATORY LAW JUDGE.

25 CONNIE MURRAY,

 STEVE GAW,

 ROBERT M. CLAYTON, III,

 LINWARD "LIN" APPLING,

 COMMISSIONERS.

 JEFF DAVIS,

 CHAIRMAN.

24 REPORTED BY:

25 LISA M. BANKS, CCR

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

2 JUDGE DIPPELL: This is Case
3 No. GA-2007-0212 in the matter of the application of
4 Southern Missouri Gas Company, LP, doing business as
5 Southern Missouri Natural Gas, for a certificate of
6 public convenience and necessity, authorizing it to
7 construct, install, own, operate, control, manage, and
8 maintain a natural gas distribution system to provide
9 gas service in Lebanon, Missouri. This case has been
10 consolidated with Case No. GA-2007-0310 and
11 GF-2007-0215.

12 My name is Nancy Dippell. I'm the
13 Regulatory Law Judge assigned to this case. And we've
14 come here today for an evidentiary hearing.

15 The procedure today is slightly
16 different than the procedure before the Commission in a
17 usual case in that today we're going to have live
18 direct testimony, and we don't have prefiled direct
19 testimony.

20 And we're going to do the order of
21 witnesses a little bit different than had been
22 suggested earlier. And that is, we're going to do
23 Southern -- yeah, Missouri -- Southern Missouri Gas --
24 excuse me if I keep calling you the wrong name --
25 Southern Missouri Gas witnesses, and then we will do

1 the Missouri Propane Gas Association witnesses, and
2 then we will take Staff witnesses, as necessary.

3 And we're going to go ahead and begin
4 with entries of appearance. So if we could begin with
5 Staff.

6 MR. THOMPSON: Thank you, Your Honor.
7 Kevin Thompson for the Staff, the Missouri Public
8 Service Commission, Post Office Box 360, Jefferson
9 City, Missouri 65102.

10 JUDGE DIPPELL: And Office of Public
11 Counsel.

12 MR. POSTON: Thank you. Marc Poston
13 appearing on behalf of the Office of Public Counsel and
14 the Public, P.O. Box 2230, Jefferson City, Missouri
15 65102.

16 JUDGE DIPPELL: Southern Missouri Gas.

17 MR. FISCHER: Let the record reflect the
18 appearance of James M. Fischer and Larry W. Dority, the
19 law firm of Fischer and Dority, P.C. Our mailing
20 address is 101 Madison Street, Suite 400, Jefferson
21 City, Missouri 65101, appearing today on behalf of the
22 applicant, Southern Missouri Gas Company, LP, doing
23 business as Southern Missouri Natural Gas. Thank you.

24 JUDGE DIPPELL: And the Missouri Propane
25 Gas Association.

1 MR. HATFIELD: Thank you, Your Honor.
2 The law firm of Stinson, Morrison & Hecker, represented
3 today by Charles Hatfield and Khristine Heisinger for
4 the Missouri Propane Gas Association, 230 West McCarty
5 Street, Jefferson City, Missouri 65101.

6 JUDGE DIPPELL: Okay. And is there
7 anyone present for Southern Star Central Gas Pipeline?

8 All right. Then we're going to begin
9 with opening statements. And we have -- I've already
10 set an expedited briefing schedule and request for
11 expedited transcript. So we'll begin, then, with
12 opening statements. And I guess we'll begin with
13 Missouri Southern Gas -- Southern Missouri Gas. I
14 can't get the Missouri and Southern straight.

15 MR. FISCHER: Judge, I noticed there's
16 not a microphone. Does that have any -- do you have
17 any problem with that on the web?

18 JUDGE DIPPELL: No. The microphones are
19 in the ceiling, so --

20 MR. FISCHER: Okay.

21 JUDGE DIPPELL: -- just -- and if you
22 have trouble hearing me at the back of the room, please
23 let me know.

24 MR. FISCHER: Okay. Thank you.

25 Good morning. My name is Jim Fischer

1 and I'm appearing today on behalf of the applicant,
2 Southern Missouri Natural Gas. As the Judge has
3 already pointed out, this is a consolidated case that
4 involves three applications filed by Southern Missouri
5 Natural Gas. The lead case was filed on December 6th,
6 2006, and it involves the company's request for a
7 certificate of convenience and necessity to provide
8 natural gas distribution service to city of Lebanon,
9 Missouri. That lead case is GA-2007-0212.

10 The second case involves the company's
11 request to renew or reaffirm its certificate of
12 convenience and necessity to serve Houston and Licking,
13 Missouri. Although the case caption still reflects a
14 request to serve Mountain View, Missouri, the company
15 has withdrawn its request to serve this community at
16 this time.

17 And, finally, there's a third
18 application which involves a request for financing
19 authority.

20 On June the 12th of this year, Staff
21 filed its Staff recommendation in the consolidated case
22 which recommended, among other things, that the
23 Commission conditionally approve Southern Missouri
24 Natural Gas's application to expand into Lebanon,
25 Houston, and Licking, and to withhold the approval of

1 the financing application pending the receipt of
2 specific information as requested by Staff.

3 The approach suggested by Staff for
4 resolving the final issues related to the applications
5 for the certificates of convenience and necessity for
6 Lebanon, Houston, and Licking is certainly acceptable
7 to the company. The ratification election in Lebanon
8 is scheduled for August 7, and we will obviously know
9 the results of the election within a few days.

10 The city administrator from Lebanon, Joe
11 Knapp and the mayor of Lebanon, Bud Allen, are here
12 today and are available to answer questions regarding
13 the City's need for and desire for natural gas service.
14 And I intend to bring Joe Knapp up to talk about that
15 as the company's second witness today.

16 As the Commission has already concluded
17 in your June 26th order denying motion to dismiss or,
18 in the alternative, to stay proceedings, no
19 ratification election is legally required under Section
20 77520, but in order to avoid litigation with the
21 Missouri Propane Gas Association on that particular
22 point, the City and company felt it was prudent to
23 schedule a ratification election. Given the fact that
24 it's already July 27th, the election results will be
25 known by the time the final order in this proceeding is

1 issued, and we will let you know by filing as soon as
2 we know what the election results happen to be.

3 With regard to the financing
4 application, the Commission is in the final stages of
5 evaluating a short -- excuse me, the company is in the
6 final stages of evaluating a short list of interested
7 investors. The company expects to be in a position to
8 provide the Staff with the specific information
9 requested by Staff in the next few weeks.

10 Randy Maffett will be discussing the
11 need to obtain an affirmative order from the Commission
12 on the request for the CCN in order to close on the
13 financing with the large institutional investors that
14 will be providing the funds for the recapitalization of
15 the company and the expansion into the new areas.

16 Turning now to the request to serve
17 Lebanon, Missouri. Lebanon is the county seat of
18 Laclede County. And according to the City's website,
19 this community will celebrate its 130th birthday this
20 fall. The City's website also touts several other
21 major advantages. It says as follows: "Our population
22 is 12,155. As county seat, Lebanon provides numerous
23 employment, shopping, and recreational opportunities.
24 Lebanon has a variety of established industries that
25 provide good jobs for our residents. Workers here

1 produce scroll refrigeration compressors, electric
2 motors, electric breaker boxes, tools and dies, whiskey
3 barrels, fishing boats, and other items.

4 In 1983, then-Governor Kit Bond dubbed
5 Lebanon the 'Aluminum Fishing Boat Capital of the
6 World.' In addition, Lebanon has an expanding
7 state-of-the-art hospital, St. John's Lebanon, with
8 doctor, pharmacy, and ambulance service on campus.
9 Lebanon has several comfortable homes and assisted care
10 facilities."

11 The website goes on to explain, "The
12 citizens of Lebanon are very proud of our town. We
13 hope you will say we live up to our motto, "Friendly
14 People, Friendly Place."

15 After nearly 130 years of its existence,
16 however, there is still one major advantage that
17 Lebanon does not have. After 130 years, Lebanon still
18 does not have natural gas available to it. But
19 Southern Missouri Natural Gas Company would like to
20 change that. We believe that 130 years is long enough
21 to wait for an economic energy source that most
22 Missourians have enjoyed and had available to them for
23 many years.

24 The second certificate case involves the
25 company's request to provide natural gas service to

1 Houston and Licking, Missouri. The Commission
2 originally granted the company a certificate to serve
3 these communities in Case No. GA94-124. However, the
4 previous owners of the company did not choose to
5 complete the build-out of those communities. And to
6 avoid any question of whether the certificates of
7 convenience and necessity have lapsed for Houston and
8 Licking, current management decided to file a new
9 application in this proceeding.

10 I would request, though, that the
11 Commission take official notice of its order approving
12 tariffs and authorizing the commencement and
13 construction of gas facilities issued on April 14, 1995
14 in Case No. GA94-127. And I'd note a copy of that
15 order was attached to the application that was filed in
16 this consolidated case.

17 I also have with me today Randy Maffett,
18 the president of Sendero Capital Partners, the managing
19 partner of Southern Missouri Natural Gas. Mr. Maffett
20 will provide an overview of the company's applications
21 and demonstrate that approval is reasonable and in the
22 public interest.

23 In particular, Mr. Maffett will testify
24 that there is a need for natural gas and transportation
25 services in these areas and that Southern Missouri is

1 financially and technically capable of providing
2 natural gas and transportation services to the cities
3 of Lebanon, Houston, and Licking. He'll also
4 demonstrate the approval -- that the approval of these
5 applications is clearly in the public interest.

6 Now, as I've already mentioned, I have
7 with me today the city administrator and mayor of
8 Lebanon, Missouri. The city administrators is Joe
9 Knapp and the mayor is Bud Allen. These gentlemen
10 intimately familiar with the needs and desires of
11 Lebanon and its residents for natural gas service.

12 Finally, I also have several other
13 company witnesses, including Matt Gimble, Michael
14 Lewis, and Mike Lumby, who are available, if necessary,
15 to answer more technical questions regarding the
16 economic feasibility study, engineering issues, the
17 construction process, or operational issues. But I
18 believe Mr. Maffett will be able to address most, if
19 not all, of those questions regarding the company's
20 request.

21 Thank you very much for your attention
22 today, and we look forward to your questions.

23 JUDGE DIPPELL: Thank you. Mr. Fischer,
24 were you requesting that the Commission take official
25 notice of those tariffs at this time?

1 MR. FISCHER: Yes. The order approving
2 those in that case.

3 JUDGE DIPPELL: And that was the order
4 approving the certificate or the order approving the
5 tariff?

6 MR. FISCHER: That was the final order
7 that actually authorized the company to commence
8 construction.

9 JUDGE DIPPELL: Would there be any
10 objection to the Commission taking official notice of
11 this document?

12 MR. HATFIELD: No, ma'am.

13 MR. THOMPSON: No objection from Staff.

14 JUDGE DIPPELL: And I'm going to go
15 ahead and mark those as Exhibit 1, just to keep it
16 clear in the record.

17 (EXHIBIT NO. 1 WAS MARKED FOR
18 IDENTIFICATION.)

19 JUDGE DIPPELL: And the Commission will
20 take official notice.

21 And those were attached to your
22 application. That's correct?

23 MR. FISCHER: That's correct. The
24 order -- it's actually titled, The Order Approving
25 Tariffs and Authorizing the Commencement of

1 Construction of Gas Facilities, issued on April 14,
2 1995 in GA94-127. And I will be introducing that as an
3 exhibit later on with the application.

4 JUDGE DIPPELL: Okay. Okay. Does Staff
5 have an opening statement?

6 MR. THOMPSON: Why, yes, Your Honor.

7 May it please the Commission, Staff has
8 recommended and takes the position in this case that
9 the certificate of convenience and necessity be
10 granted, conditioned on a favorable vote from the
11 citizens of the City of Lebanon.

12 With respect to the financing
13 application, Staff recommends that it not be approved
14 at this time. Staff is waiting until it has received
15 the actual terms and conditions proposed by the
16 ultimate investors. And after receiving that
17 information and analyzing it, Staff will provide a
18 recommendation with respect to the financing
19 application.

20 Thank you.

21 JUDGE DIPPELL: Thank you.

22 Does Public Counsel have an open -- any
23 opening statement?

24 MR. POSTON: We don't have an opening.

25 Thank you.

1 JUDGE DIPPELL: Missouri Propane Gas
2 Association.

3 MR. HATFIELD: Just very briefly, Judge.

4 Good morning. I just have a brief
5 opening statement, mainly because, as the Commission
6 knows, Staff's recommendation in this matter was only
7 issued on June the 13th. We asked for a stay of the
8 proceedings for several reasons. But without the
9 benefit of prefiling of testimony and with Staff's
10 recommendation being a little over a month ago, I'm
11 waiting to hear what the live witnesses have to say so
12 that we can better explain exactly where we are.

13 But I did want to just briefly review
14 some of the things that we want to cover today. We
15 believe Staff's recommendation to approve a certificate
16 of necessity without financing is inappropriate. The
17 company has admitted in its filings that it cannot go
18 forward with this project without the financing. And
19 so, to give a certificate of need that is conditioned
20 on financing seems to really be putting the cart before
21 the horse. I think -- and we'll ask witnesses about
22 this.

23 But I think this Commission may have
24 some experiences before in the Branson area, with
25 granting a certificate of necessity and then not having

1 financing come through. So what you end up with is a
2 certificate of necessity where nobody else can come in
3 and provide the service, yet you have no service. And
4 it really seems to us, as a conceptual matter, that we
5 should not be proceeding on the certificate of
6 necessity until we have a recommendation, finally, on
7 what the financing is.

8 But I do want to just briefly cover some
9 other areas. Mr. Fischer discussed two of the criteria
10 this Commission uses in a case like this. I think,
11 from my review of the cases, there are five.

12 First, there must be a need for the
13 service, which was covered. Second, the applicant must
14 be qualified to provide the service. Third, the
15 applicant must have the financial ability to provide
16 the service. Fourth, the applicant's proposal must be
17 economically feasible. In other words, even if they
18 don't have the money, or whether they do have the
19 money, it still has to make sense on a go-forward
20 basis. And fifth, that the service must promote the
21 public interest.

22 And as I read the Commission's case
23 decisions in the past, that fifth one really depends on
24 the other. So public interest is sort of a catch-all
25 that encapsulates the rest.

1 We want to talk to the witnesses. We
2 have not seen prefiled testimony. But we believe that
3 the evidence shows that this was not some spontaneous
4 uprising in Lebanon, Missouri that, my gosh, we got to
5 have Lebanon Gas. Lebanon has several providers of
6 propane gas, has healthy competition for propane.

7 Many residents use electricity. There's
8 evidence in the record about the other sources that
9 they have. Instead, what happened in this case is
10 Southern Missouri, understandably, came to the City of
11 Lebanon and said, Hey, don't you guys need gas? and the
12 City of Lebanon saying, Well, sure. We'd be happy to
13 talk about that. And we will explain to the Commission
14 how that progressed going forward.

15 Second, applicant qualifications. We'd
16 like to talk to Staff, and I'm sure Staff will explain
17 this, about some of the problems that Southern Missouri
18 Gas has had in the past before this Commission. There
19 has been a change in ownership. That's certainly true.

20 But the record is pretty clear that
21 Southern Missouri Natural Gas has historically missed
22 its projections, has an outstanding ACA balance right
23 now as a result of missing its projections and
24 inappropriate hedging. We think that's a matter for --
25 and when I say inappropriate, hedging that the Staff

1 says could've been done better in the past, not that
2 there was anything nefarious about it. But it did not
3 produce the right economic results.

4 Third, applicant must have the financial
5 ability. It's clear, before you even hear from the
6 witnesses, based on the record before us, that Southern
7 Missouri Natural Gas has no assets other than the
8 operations that it operates in Southern Missouri.

9 This is not a case where you have an
10 applicant who has a parent corporation who is backing
11 up all of the liabilities and all of the obligations.
12 This is a case where Southern Missouri Natural Gas is
13 currently owned by two shell corporations which have no
14 assets or liabilities and are insulated from any
15 liabilities. This Commission has talked in some of its
16 cases about whether the risk of failure falls on the
17 investors or the ratepayers, and it's a very important
18 criteria to decide.

19 In this case, we don't even know who the
20 investors are. We have no idea of what the investment
21 terms will be. But we do know that there is
22 insufficient capital to go forward with this expansion
23 without those investors. So I don't know how the
24 Commission could possibly reach a conclusion on whether
25 the risk of failure falls on the ratepayers or the

1 investors in this case. If you have to reach a
2 conclusion, it clearly falls on the ratepayers.

3 Fourth, the applicant's proposal must be
4 economically feasible. We're going to talk about that.
5 The applicant's proposal depends very heavily on
6 industrial users. The applicant's proposal requires --
7 by their own testimony, I think -- that they have very
8 heavy industrial usage. It does not envision serving
9 the entire residential area, and envisions that they
10 will not have more than 50 percent, even, of
11 residential customers who will choose to sign up for
12 natural gas.

13 Finally, this public interest criteria.
14 Our witness is going to discuss the economic impact on
15 the community when a natural gas company comes in and
16 serves industrial providers -- if they come in and do
17 exactly what they've projected to do, serve the
18 industrial and only serve 50 percent of the residential
19 users -- which is their own economic feasibility study.

20 Our witness is going to explain to you
21 how that drives up the cost for the propane users who
22 do not have the opportunity to get natural gas, because
23 the costs go up as the supply has decreased. There's
24 less propane gas going into the community, so there's
25 more cost on those who are still on propane gas.

1 many communities -- I know they're consolidated cases
2 here. I'm going to start with Southern Missouri Gas.

3 Could you identify the communities that
4 are involved here once again, and tell me whether the
5 standard that has to be established is standard -- is
6 different among any of the communities?

7 MR. FISCHER: The three communities that
8 the company is currently seeking to serve as a part of
9 this case are Lebanon, Houston, and Licking, Missouri.
10 Mountain View originally was included in the
11 application, but when we approached them, the City
12 fathers recently, they have indicated they don't have a
13 desire to have natural gas at this time, so we've
14 withdrawn that request.

15 COMMISSIONER CLAYTON: Okay.

16 MR. FISCHER: So it's those three. The
17 standard is the same, although --

18 COMMISSIONER CLAYTON: The same.

19 MR. FISCHER: -- the Commission has
20 approved the Houston and Licking in a previous case,
21 and we've incorporated much of that into this
22 application.

23 COMMISSIONER CLAYTON: When you say
24 "we've already approved them," what do you mean? They
25 already have a certificate to serve those communities?

1 MR. FISCHER: They have a certificate to
2 serve those communities, but there was a question about
3 whether under the statute if the build-out was not
4 completed within the two years, whether that might
5 lapse. So the management felt it was prudent to
6 request a new certificate to reaffirm that they do have
7 the ability to go forward to construct in those
8 communities.

9 COMMISSIONER CLAYTON: And that's both
10 in Houston and in Licking?

11 MR. FISCHER: That's correct.

12 COMMISSIONER CLAYTON: Okay. So that's
13 the same there. There's only one election pending.
14 That's in Lebanon?

15 MR. FISCHER: Yes.

16 COMMISSIONER CLAYTON: And that's on
17 August 7th?

18 MR. FISCHER: Yes.

19 COMMISSIONER CLAYTON: If the voters
20 turn down -- the voters say no, what happens to the
21 application?

22 MR. FISCHER: Well, the Staff is
23 recommending, I think, that the Commission's order be
24 conditional on an approval. From a legal standpoint,
25 our position is that a ratification election was not

1 necessary, but we've gone forward to --

2 COMMISSIONER CLAYTON: I understand
3 that. If it's voted down, are you-all going to move
4 forward with your application, or is it -- do you think
5 the case is done at that point?

6 MR. FISCHER: We would move forward and
7 we would address that at that time.

8 COMMISSIONER CLAYTON: So regardless of
9 the election. So we're having an election, but you-all
10 don't think it's relevant, even if the people say no?

11 MR. FISCHER: We have --
12 Judge, we're very confident in the
13 ability that we'll have that approved. That's been the
14 history of this company throughout their service
15 territory, that when natural gas has been put on the
16 ballot, it's been approved.

17 COMMISSIONER CLAYTON: I appreciate your
18 confidence. Many of us in this room have tried to pick
19 elections --

20 MR. FISCHER: Thank you.

21 COMMISSIONER CLAYTON: -- with limited
22 success.

23 I wanted to ask, what is the expected
24 peak day usage for the Lebanon system?

25 MR. FISCHER: I will have one of the

1 technical experts address that question. Mr. Maffett,
2 I think, can answer that, or one of the other technical
3 people.

4 COMMISSIONER CLAYTON: Supply will come
5 from which pipeline? Southern Star?

6 MR. FISCHER: Southern Star.

7 COMMISSIONER CLAYTON: Can you identify
8 for me which of your witnesses will be addressing the
9 risk of failure that was suggested by another opening?
10 Or, more particularly, if things go bad, who is bearing
11 the risk of this expansion? Is it the existing
12 ratepayers in Southern Missouri's territory, or is it
13 the company?

14 MR. FISCHER: Mr. Maffett would be the
15 primary witness to address that.

16 COMMISSIONER CLAYTON: And his -- what
17 will his testimony show?

18 MR. FISCHER: His testimony will show
19 that this particular expansion will, over time, benefit
20 all the system, including those existing communities,
21 that Lebanon -- that the company is currently serving,
22 and that it will be improving the situation financially
23 for --

24 COMMISSIONER CLAYTON: Will his
25 evident -- will his testimony suggest that the cost of

1 expansion into these other communities will be -- rates
2 will be affected in the existing service territories?

3 MR. FISCHER: Judge, right now the
4 company's request is to continue the rates as they are
5 today.

6 But if I understand your question, he
7 will suggest that, over time, that rates will be
8 impacted positively by allowing the company to expand
9 into these areas.

10 COMMISSIONER CLAYTON: Is it Southern
11 Missouri Gas's position that if it is granted a
12 certificate, will they have the obligation to serve all
13 customers within the service territory?

14 MR. FISCHER: I think -- yes. They
15 would take that position, subject to their extension
16 policies which are contained in the approved tariffs of
17 the Commission.

18 COMMISSIONER CLAYTON: Okay. Which
19 witness will discuss those extension policies?

20 MR. FISCHER: We can -- Mr. Maffett can
21 discuss those, or we also have the company's general
22 manager, Mike Lumby. He may be in a position to also
23 give more details about the tariffs themselves.

24 The 50 percent conversion that was
25 addressed, that is what the company is projecting will

1 be the residential -- the number of folks that will opt
2 for service over a period of time.

3 COMMISSIONER CLAYTON: Okay. Will
4 the -- if we grant the certificate and the election
5 goes through without difficulty, assuming that, will
6 the PGA rates be identical with the existing service
7 territory, or will it be a separate, distinct PGA
8 district?

9 MR. FISCHER: The company's proposing to
10 have -- continue its PGA all one district.

11 COMMISSIONER CLAYTON: So it will be a
12 single tariff?

13 MR. FISCHER: That's correct.

14 COMMISSIONER CLAYTON: A single PGA
15 tariff. And last question. Ultimately, the standard
16 that must be established is that the service must
17 promote the public interest, that it's not detrimental
18 to. It is -- must be in the public interest.

19 MR. FISCHER: I think that's what most
20 of the certificate cases have used, Your Honor, yes.

21 COMMISSIONER CLAYTON: Okay. I don't
22 think I have any other questions.

23 Thank you, Judge.

24 JUDGE DIPPELL: Thank you. Are there
25 any other Commission questions before we have our first

1 witness?

2 Commissioner Appling.

3 COMMISSIONER APPLING: Mr. Thompson.

4 MR. THOMPSON: Yes, sir.

5 COMMISSIONER APPLING: Good morning to
6 you.

7 MR. THOMPSON: Good morning to you, sir.

8 COMMISSIONER APPLING: What's Staff's
9 position on this case?

10 MR. THOMPSON: Staff's position is that
11 the certificate should be granted, conditioned on the
12 results of the ratification election in Lebanon. And
13 Staff has recommended that the financing application
14 not be approved at this time. Staff is waiting for
15 additional information about the specific nature of the
16 conditions the ultimate investors are imposing, and
17 will provide a recommendation after it has received and
18 analyzed that information.

19 COMMISSIONER APPLING: Who is opposing?

20 MR. THOMPSON: Who is opposing? The
21 propane dealers.

22 COMMISSIONER APPLING: Thank you.
23 What's the Propane position?

24 MR. HATFIELD: Well, our position is --
25 we have several. Again, I'm waiting to hear. I'm not

1 sure the application meets your criteria on its face.
2 I didn't really discuss that. But I'm not sure under
3 your own regulations that you can grant this
4 application. Staff has pointed out that the
5 application does not contain all of the items that are
6 required by the regulation, but Staff appears willing
7 to go forward, even though you don't have a complete
8 application in front of you.

9 I guess the main issue I -- the big
10 issue is, for me, how can you possibly find that this
11 is in the public interest, that it either promotes or
12 is not detrimental to the public interest, when we
13 don't know what the financing is? And we've asked the
14 Commission to stay the proceeding because of the
15 election. And we also think it's too early to grant
16 this certificate.

17 If you have to go forward -- if the
18 company wants to go forward in this posture, when this
19 Commission has no idea how it's going to be funded,
20 what the obligations are going to be, then you have to
21 deny it.

22 COMMISSIONER APPLING: Thank you very
23 much, sir.

24 MR. HATFIELD: That's our -- thank you.

25 JUDGE DIPPELL: Commissioner Clayton.

1 COMMISSIONER CLAYTON: Last question,
2 Judge. I promise. She's going to scold me.

3 Mr. Thompson --

4 MR. THOMPSON: Yes, sir.

5 COMMISSIONER CLAYTON: -- which Staff
6 witness will address the issue of who will bear the
7 risk in this expansion? We dealt with this issue in, I
8 think, the Missouri gas utilities case, on that
9 expansion, and we had significant discussions, I know,
10 on agenda.

11 Which witness will be addressing who
12 will be bearing the risk of the expansion in the event
13 of -- in the event of -- I don't want to say failure,
14 but in the event of failure?

15 MR. THOMPSON: Just a moment, sir.
16 Mr. Solt and Mr. Murray are both prepared to address
17 that issue.

18 COMMISSIONER CLAYTON: And do you know
19 what their testimony will show, who will bear that
20 risk?

21 MR. THOMPSON: Staff's consistent
22 position has been that the shareholders should bear the
23 risk. Consequently, Staff's recommendation of approval
24 in this case indicates that Staff has determined that
25 the shareholders would bear the risk in this case.

1 COMMISSIONER CLAYTON: Okay. Thank you.

2 COMMISSIONER MURRAY: Judge?

3 JUDGE DIPPELL: Yes. Commissioner

4 Murray.

5 COMMISSIONER MURRAY: Mr. Thompson, do
6 you agree with the five criteria for the standard?

7 MR. THOMPSON: Yes, ma'am.

8 COMMISSIONER MURRAY: Thank you.

9 JUDGE DIPPELL: Any other Commission
10 questions?

11 COMMISSIONER GAW: I'm curious about how
12 you're going to ensure that the shareholders are
13 willing to bear the risk here. And I -- rather than --
14 Mr. Thompson, unless you know the answer to that, I'll
15 just defer until your witness comes up to explain that
16 to me.

17 MR. THOMPSON: I think you need to wait
18 for the witness, sir.

19 COMMISSIONER GAW: Yes. That's fine. I
20 know you've been busy with other things this week.

21 MR. THOMPSON: We can talk about dam
22 safety, if you'd like.

23 COMMISSIONER GAW: Yes. I thought so.
24 Thank you.

25 JUDGE DIPPELL: Okay. Are there any

1 other Commission questions?

2 All right, then. We can go ahead with
3 Southern Missouri's first witness.

4 MR. FISCHER: Your Honor, at this time,
5 we would call Randy Maffett to the stand.

6 (WITNESS SWORN.)

7 JUDGE DIPPELL: Go ahead and have a
8 seat. And if you could spell your name for the court
9 reporter.

10 THE WITNESS: Randal R-a-n-d-a-l Maffett
11 M-a-f-f-e-t-t.

12 JUDGE DIPPELL: Thank you.

13 Mr. Fisher.

14 RANDY MAFFETT testified as follows:

15 DIRECT EXAMINATION BY MR. FISCHER:

16 Q. Please state your name and business
17 address.

18 A. Randal T. Maffett. 1001 Fannin Street,
19 Suite 550, Houston, Texas 77002.

20 Q. Mr. Maffett, what is your position and
21 what's your relationship to the applicant in this case?

22 A. I am one of the owners and the primary
23 managing partner.

24 Q. And you are president and CEO of Sendero
25 Asset Management. Is that the name of your company?

1 A. Correct.

2 Q. Okay. Please describe just briefly your
3 education and experience to the Commission. Don't go
4 into everything, but just --

5 A. I've -- I have a bachelor of science in
6 petroleum engineering from Louisiana State University,
7 1983. I have been in the energy industry since 1978,
8 including summer interns and working through college.

9 Q. And have you previously testified before
10 the Commission?

11 A. Yes. Yes.

12 Q. In several cases?

13 A. Yes, sir.

14 Q. Would you explain the nature of the
15 Southern Missouri Natural Gas's applications for a
16 certificate of convenience and necessity in this
17 proceeding?

18 A. Yes, sir. We applied for a certificate
19 for -- to serve the community of Lebanon. When we
20 acquired the company in 2005, we were under the
21 impression from the seller that the certificates for
22 Houston and Licking were already in place. Upon our
23 expansion request for Lebanon, there was some doubt,
24 that Mr. Fischer referred to earlier, as to whether or
25 not they were still valid. So we chose to take the

1 high road and bring them before the Commission again
2 for a reaffirmation to serve Houston and Licking.

3 Q. And as you mentioned, the Commission has
4 previously granted a certificate for Houston and
5 Licking. Is that your understanding?

6 A. It was. Yes, sir.

7 Q. Mr. Maffett, are you sponsoring the
8 verified applications and the attached exhibits that
9 have been prefiled in this case?

10 A. Yes, sir. I am.

11 MR. FISCHER: Judge, if I understood
12 what your ruling was, you'd like to see those
13 introduced as exhibits.

14 JUDGE DIPPELL: Yes.

15 MR. FISCHER: I've got copies of those,
16 and we can go through those quickly.

17 (EXHIBIT NO. 2 WAS MARKED FOR
18 IDENTIFICATION.)

19 BY MR. FISCHER:

20 Q. Mr. Maffett, I've placed in front of you
21 an exhibit, which I believe would be marked No. 2,
22 which is a copy of the Southern Missouri Gas
23 application for Lebanon, Missouri; is that correct?

24 A. Yes, sir.

25 MR. FISCHER: Do you-all want copies for

1 your records, or --

2 MR. HATFIELD: Yes.

3 (EXHIBIT NO. 3 WAS MARKED FOR
4 IDENTIFICATION.)

5 BY MR. FISCHER:

6 Q. And the third exhibit would be Appendix
7 F to that application, which was a late-file, approved
8 franchise of the city of Lebanon, Missouri. Are you
9 familiar with that?

10 A. Yes, sir.

11 MR. HATFIELD: Sorry, Judge. Did we
12 just mark the franchise separately? Does it have its
13 own number?

14 MR. FISCHER: Yeah.

15 JUDGE DIPPELL: Yes.

16 MR. FISCHER: We marked it separately
17 since it was late-filed.

18 MR. HATFIELD: What number was it? I'm
19 sorry.

20 JUDGE DIPPELL: I'm sorry. Number 3.

21 MR. HATFIELD: Number 3. Thank you.

22 JUDGE DIPPELL: Yes. I'm sorry.

23 MR. HATFIELD: The application was 3?

24 JUDGE DIPPELL: The application is No. 2
25 and the exhibit -- the Appendix F is No. 3.

1 MR. FISCHER: And I believe No. 4 would
2 be the Appendix D, the feasibility study.

3 (EXHIBIT NO. 4P WAS MARKED FOR
4 IDENTIFICATION.)

5 MR. FISCHER: And, Your Honor, I'd note
6 that this was filed as proprietary information under
7 seal, and I would ask that it continue to be protected
8 under the Commission's rules.

9 JUDGE DIPPELL: Okay. So Exhibit
10 No. 4HC will be the Appendix D.

11 Mr. Fischer, if you could just give me
12 all of the copies, and then that would be easier for
13 keeping it straight.

14 MR. FISCHER: Okay. I'm sorry. Just as
15 I have them marked, or as you -- do you want that whole
16 stack?

17 JUDGE DIPPELL: No, no. As you mark
18 them.

19 MR. FISCHER: Okay.

20 JUDGE DIPPELL: Yeah. I have to make
21 sure all the Commissioners get one. In fact, I need
22 one more copy, Mr. Fischer.

23 MR. FISCHER: Sorry, Judge.

24 MR. HATFIELD: Judge, I apologize for
25 interrupting again. Mr. Fischer made a request about

1 Exhibit D that was filed as proprietary. Do you rule
2 on that or --

3 JUDGE DIPPELL: Yes. It will remain
4 proprietary unless there's some --

5 MR. HATFIELD: Yeah. I want to object
6 to Exhibit D being treated as proprietary because it
7 has been distributed to the public. And I would be
8 happy to introduce an e-mail that was sent by
9 Mr. Maffett containing Exhibit D to individuals who are
10 not parties to these proceedings.

11 JUDGE DIPPELL: Okay. Mr. Fischer.

12 MR. FISCHER: Judge, I think the
13 information must have been distributed very strictly,
14 if it was distributed at all, to the City, which is
15 certainly a very interested party in this manner. It
16 has not been distributed to the public generally. It
17 contains information that is confidential, and
18 business-sensitive information. We would ask that it
19 continue to be treated as proprietary information under
20 the Commission's rules.

21 JUDGE DIPPELL: And --

22 MR. HATFIELD: I don't know your
23 practice, Judge. I could either do an offer of proof,
24 or I can wait until cross if you want to reserve a
25 ruling and ask Mr. Maffett about his distribution of

1 the --

2 JUDGE DIPPELL: Let's wait at this
3 point.

4 MR. HATFIELD: Sure.

5 JUDGE DIPPELL: We'll deal with that --

6 MR. FISCHER: And then --

7 JUDGE DIPPELL: -- at the end of -- at
8 the end of Mr. Maffett's --

9 MR. HATFIELD: Sure.

10 (EXHIBIT NO. 5 WAS MARKED FOR
11 IDENTIFICATION.)

12 MR. FISCHER: The fifth exhibit -- No. 5
13 would be the application related to Houston and Licking
14 that was prefiled in the case.

15 JUDGE DIPPELL: And so that is
16 GA-2007-310?

17 MR. FISCHER: Yes. I believe that's
18 right.

19 MR. HATFIELD: What exhibit is this?

20 JUDGE DIPPELL: It's No. 5.

21 MR. HATFIELD: The feasibility study
22 would be 4?

23 JUDGE DIPPELL: Yes.

24 JUDGE DIPPELL: Yes. At this point it's
25 still --

1 (EXHIBIT NO. 6 WAS MARKED FOR
2 IDENTIFICATION.)

3 MR. FISCHER: No. 6HC would be the
4 highly-confidential economic feasibility study that was
5 filed with that second application.

6 JUDGE DIPPELL: Okay.

7 MR. HATFIELD: That would be No. 6?

8 JUDGE DIPPELL: Okay.

9 And Mr. Hatfield, do you know, is there
10 going to be any objection to the confidentiality of --

11 MR. HATFIELD: No.

12 JUDGE DIPPELL: -- of this one? Okay.

13 MR. HATFIELD: No. Thank you for
14 asking.

15 JUDGE DIPPELL: Okay. Then it will
16 remain Exhibit 6HC. Or -- is this proprietary or --

17 MR. FISCHER: No. This was actually
18 highly confidential.

19 JUDGE DIPPELL: Okay.

20 (EXHIBIT NO. 7 WAS MARKED FOR
21 IDENTIFICATION.)

22 MR. FISCHER: And then No. 7 would be
23 the financing application that was filed in this
24 proceeding.

25 MR. HATFIELD: Thank you.

1 (EXHIBIT NO. 8P WAS MARKED FOR
2 IDENTIFICATION.)

3 MR. FISCHER: And then No. 8 would be
4 the description of the equity capital and debt
5 securities that was filed as proprietary information
6 that was Appendix B to the financing application.

7 JUDGE DIPPELL: Okay. So Appendix B to
8 the financing application is Exhibit 8. And that is
9 proprietary?

10 MR. FISCHER: Yes.

11 JUDGE DIPPELL: So Exhibit 8P.

12 MR. FISCHER: Yes.

13 JUDGE DIPPELL: And Mr. Hatfield, do you
14 know if there's any objection to the continued
15 classification --

16 MR. HATFIELD: No. I --

17 JUDGE DIPPELL: -- of that?

18 MR. HATFIELD: There's not. And Judge,
19 by the way, that exhibit I mentioned is the only one I
20 know of --

21 JUDGE DIPPELL: Okay.

22 MR. HATFIELD: -- where I'll have an
23 objection on that basis.

24 JUDGE DIPPELL: Okay.

25 MR. FISCHER: And Judge, I would note

1 that yesterday I filed a letter with the Commission
2 indicating that I had failed to provide the case
3 name -- or case number for the fictitious name
4 registration was filed in the case -- or filed in a
5 Commission case, and I asked you to adopt that, or at
6 least let us incorporate that into the application.

7 JUDGE DIPPELL: Would there be any
8 objection to the them just incorporating that when
9 considering the fictitious name registration citation
10 as part of the original application?

11 MR. THOMPSON: None from Staff.

12 MR. HATFIELD: None from us, Judge.

13 JUDGE DIPPELL: Okay. Thank you. We'll
14 consider that incorporated as part of Exhibit No. 2.

15 BY MR. FISCHER:

16 Q. Mr. Maffett, did you have these exhibits
17 that we've just marked prepared under your supervision?

18 A. Yes, sir.

19 Q. Do you know of any corrections that need
20 to be made to any of those exhibits?

21 A. No, sir.

22 Q. Are they accurate and correct to the
23 best of your knowledge and belief?

24 A. Yes, sir.

25 MR. FISCHER: Your Honor, I would move

1 that the Exhibits 1 through --

2 MR. HATFIELD: 8.

3 MR. FISCHER: -- 8 be admitted into the
4 record.

5 JUDGE DIPPELL: Would there be any
6 objection to Exhibit No. 2 --

7 MR. THOMPSON: No objection.

8 JUDGE DIPPELL: -- which is the
9 application for the Lebanon --

10 MR. HATFIELD: No objection.

11 JUDGE DIPPELL: Okay. Would there be
12 any -- oh, I'm sorry.

13 Then I'll receive it into evidence.

14 (EXHIBIT NO. 2 WAS RECEIVED INTO
15 EVIDENCE.)

16 JUDGE DIPPELL: Would there be any
17 objection to Exhibit No. 3, which was Attachment F to
18 the application, the franchise statement?

19 MR. HATFIELD: No objection.

20 JUDGE DIPPELL: Seeing none, then I will
21 receive that into evidence.

22 (EXHIBIT NO. 3 WAS RECEIVED INTO
23 EVIDENCE.)

24 JUDGE DIPPELL: Would there be any
25 further objection -- we have an objection to the

1 confidentiality of Exhibit No. 4 -- would there be any
2 objection to -- otherwise to it being admitted?

3 MR. HATFIELD: No objection.

4 JUDGE DIPPELL: Then I will receive that
5 pending the objection to its classification.

6 (EXHIBIT NO. 4P WAS RECEIVED INTO
7 EVIDENCE.)

8 JUDGE DIPPELL: Would there be any
9 objection to Exhibit No. 5, which is the other
10 application for the Licking and Houston areas?

11 Seeing no objection, I'll receive that
12 into evidence.

13 (EXHIBIT NO. 5 WAS RECEIVED INTO
14 EVIDENCE.)

15

16 JUDGE DIPPELL: Is there any objection
17 to Exhibit No. 6HC, the feasibility study in that case?

18 MR. HATFIELD: No objection.

19 JUDGE DIPPELL: Seeing none, I will
20 receive that into evidence.

21 (EXHIBIT NO. 6 WAS RECEIVED INTO
22 EVIDENCE.)

23

24 JUDGE DIPPELL: Is there any objection
25 to Exhibit No. 7, the financing application?

1 Seeing none, then I will receive that
2 into evidence.

3 (EXHIBIT NO. 7 WAS RECEIVED INTO
4 EVIDENCE.)

5

6 JUDGE DIPPELL: And is there any
7 objection to Exhibit 8P, which is the Appendix B from
8 that application?

9 Seeing none, I will also receive that
10 into evidence.

11 (EXHIBIT NO. 8 WAS RECEIVED INTO
12 EVIDENCE.)

13

14 JUDGE DIPPELL: Mr. Fischer.

15 BY MR. FISCHER:

16 Q. Mr. Maffett, are you in a position to
17 answer questions regarding these documents?

18 A. Yes, sir.

19 Q. Are there other witnesses also from the
20 company that are available to answer specific technical
21 questions, if there are any, beyond your scope?

22 A. Yes, sir.

23 Q. And who would those witnesses be?

24 A. Matthew Gimble, who can represent
25 detailed issues with respect to the feasibility study;

1 and Michael Lewis with respect to engineering,
2 operations, construction of the pipeline and the system
3 itself.

4 Q. And is the general manager also here?

5 A. Mike Lumby is here, who can represent
6 company history, company management, operational
7 issues, day-to-day running of the company.

8 Q. Will your proposed project benefit the
9 citizens of the state of Missouri, in particular the
10 citizens of Lebanon, Houston, and Licking, in your
11 opinion?

12 A. Yes, sir.

13 Q. Would you explain why you believe that?

14 A. Areas without natural gas are lacking a
15 normal choice. And again, it's not a requirement that
16 anyone in these areas subscribe to natural gas service.
17 It's a choice.

18 MR. HATFIELD: Judge, I'm sorry to
19 interrupt. And I don't want to slow down the
20 Commission's proceedings. But I do want to preserve a
21 lack of foundation, and also mention the Commission's
22 rule that employees are not allowed to testify as
23 expert witnesses. So to the extent Mr. Maffett is
24 offering an expert opinion, I'm just going to object to
25 it for the record.

1 MR. FISCHER: Your Honor, I'm not
2 familiar at all with what counsel is referring to, that
3 employees can't be expert witnesses. I am familiar
4 with the Commission's rules that employees cannot
5 review confidential materials of opposing companies
6 that have indicated that it's highly confidential
7 information. But I think, certainly, Mr. Maffett is an
8 expert witness in the area that he's testifying in, and
9 should be permitted to testify.

10 JUDGE DIPPELL: Mr. Hatfield, is that
11 the rule which you're referring to?

12 MR. HATFIELD: Yes. As I understand
13 that rule -- well, yes, it is. But I also object on
14 the lack of foundation for this witness.

15 JUDGE DIPPELL: I'll sustain your
16 objection on lack of foundation.

17 Mr. Fischer, would you like to establish
18 one?

19 MR. THOMPSON: Does that mean you're
20 overruling the other objection, Judge?

21 JUDGE DIPPELL: I am overruling the
22 other objection.

23 MR. THOMPSON: Thank you, Your Honor.

24 BY MR. FISCHER:

25 Q. Mr. Maffett, in your role as the

1 managing partner of Southern Missouri Natural Gas, have
2 you had the occasion to investigate the types of
3 benefits that natural gas brings to communities
4 whenever a natural gas company chooses to serve those
5 areas?

6 A. Yes, sir.

7 Q. And can you explain some of the things
8 that you have done to investigate that area in your
9 experience?

10 A. Meeting directly with potential
11 customers, constituents, understanding what their
12 energy costs currently are, helping them understand
13 what their options could be, analyzing those options,
14 and finding out what their operational concerns might
15 be, meeting with residences, meeting with small
16 businesses in basically discovering and understanding
17 the same information.

18 Q. Specifically, with regard to the areas
19 of Lebanon, Houston, and Licking, have you done some of
20 those kinds of investigatory activities?

21 A. Yes, sir. We have.

22 Q. Have you had other experiences in your
23 existing areas that you've done similar types of
24 investigations into what benefits accrued whenever
25 natural gas is available?

1 A. Yes, sir. We have.

2 Q. Do you believe you're qualified to
3 address the benefits that accrue to people whenever
4 natural gas is brought to their community?

5 A. Yes, sir. I do.

6 MR. FISCHER: Your Honor, with that, I
7 would ask the question again.

8 BY MR. FISCHER:

9 Q. Would you describe the project's
10 benefits to the citizens of the state of Missouri, and
11 particularly the communities of Houston, Licking, and
12 Lebanon?

13 MR. HATFIELD: I would still object to a
14 lack of foundation to that question. And I think it's
15 an ultimate issue for the Commission to decide, as
16 well. So it calls for a legal conclusion on the part
17 of the witness.

18 MR. FISCHER: I would agree that it's an
19 issue that the Commission needs to decide in the end
20 and what's in the public interest. But certainly, this
21 expert witness is in a position to give the Commission
22 a lot of information regarding the kinds of technical
23 things that would be taken into account in addressing
24 that ultimate issue.

25 JUDGE DIPPELL: I'll overrule the part

1 about the legal conclusion. And I believe it's
2 actually two questions, how this is affecting the
3 citizens of the state of Missouri and how it's
4 affecting the Lebanon parties in particular. I will
5 allow the witness to answer with regard to that
6 particular -- I believe there was a foundation laid for
7 that.

8 I will not allow him to address the
9 citizenry in general, except for how the Lebanon
10 application would affect those in the state as a whole.
11 Does that make any sense?

12 I'll allow him to answer that part of
13 the question.

14 BY MR. FISCHER:

15 Q. Do you understand what you're being
16 asked to address? If not, let me ask it again.

17 Would you address the benefits to the
18 communities of Lebanon, Houston, and Licking that would
19 result or accrue from your proposed project?

20 A. Yes.

21 Q. Would you explain to the Commission what
22 you believe are those benefits?

23 A. Again, as I started to say earlier,
24 providing an opportunity for choice, number one.
25 Number two is the potential to decrease substantially

1 their energy costs. Number three, to increase their
2 operational and/or their energy convenience, whether
3 it's a residential, commercial, or industrial customer.

4 Q. Will there be substantial capital
5 expenditures made by Southern Missouri if this is
6 approved?

7 A. Yes, sir. There will.

8 Q. Will there be any benefits that will
9 accrue to the citizens as a result of those capital
10 expenditures?

11 A. Yes, sir. There will.

12 Q. Would you explain why?

13 A. Can I ask for clarification on the
14 question? Is that with respect to the citizens of
15 Lebanon or the citizens of the whole system, or both?

16 Q. Why don't you limit it to Lebanon and
17 Houston and Licking.

18 A. Okay. Again, the capital expenditures
19 required would be used to lay the infrastructure to
20 provide natural gas service to those communities, and
21 for the reasons previously stated; they're still the
22 same: Another choice in energy, another choice in
23 operational convenience.

24 Q. Mr. Maffett, do you believe there are
25 any economic development effects of bringing natural

1 gas to Houston and Licking and Lebanon?

2 A. Yes, sir.

3 MR. HATFIELD: Objection.

4 THE WITNESS: I do.

5 MR. HATFIELD: Calls for speculation or
6 an expert opinion, which he's not qualified to render.

7 JUDGE DIPPELL: He already answered the
8 question. But --

9 MR. HATFIELD: I'll be faster next time.
10 I move to strike his answer.

11 JUDGE DIPPELL: I'm sorry. Now, I've
12 forgotten the question.

13 MR. FISCHER: Your Honor, I would --

14 JUDGE DIPPELL: What's the question,
15 Mr. Fischer?

16 MR. FISCHER: -- suggest that this
17 gentleman is very much in a position to give an expert
18 opinion about what kind of economic development impacts
19 there are whenever you bring natural gas service to
20 these communities.

21 JUDGE DIPPELL: I'm going to sustain the
22 objection, and I'm going to strike his answer from the
23 record.

24 BY MR. FISCHER:

25 Q. Mr. Maffett, do you know the approximate

1 number of households that are in these communities?

2 A. Yes, sir. Am I okay to refer to the
3 exhibits that were admitted? I don't know them off the
4 top of my head.

5 I believe in Lebanon, the total number
6 of households was approximately 6,000. For Houston and
7 Licking, I want to say they are around 1,000.

8 Q. And could you explain to the Commission
9 what -- roughly what percentage of those households you
10 would expect might have an interest in natural gas
11 based upon experiences in other communities?

12 A. Yes, sir. Southern Missouri has been
13 operating for almost 12 years. And in its current
14 service territory, its real-time conversion ratio is
15 approximately 52 percent of the existing propane
16 market. The all-electric market is a much smaller
17 conversion. And so we generally target somewhere
18 between 20 and 30 percent of the all-electric market.
19 And that typically occurs over a longer period of time.
20 But we have company data that can demonstrate that we,
21 on average, will penetrate roughly 52 percent of the
22 propane market.

23 Q. Do the communities of Lebanon, Houston,
24 and Licking have natural gas available today?

25 A. No, sir. They do not.

1 Q. Does your proposal contemplate serving
2 the retail customers located within the communities
3 along the proposed service area?

4 A. Yes, sir. It does.

5 Q. You'll provide transportation services
6 as well as retail sales; is that correct?

7 A. Yes, sir. We will.

8 Q. From what you've seen in your
9 investigations of these three areas, is there a public
10 need for natural gas in the areas served by the
11 proposed project?

12 A. Yes, sir. There is.

13 Q. Do you believe that the cost of natural
14 gas, as you're projecting it, is competitive with
15 propane in these areas?

16 A. Yes, sir. It is.

17 Q. Would you elaborate upon that, why you
18 believe that?

19 A. Yes, sir. We take market studies
20 periodically, pretty much on a weekly basis, comparing
21 natural gas to propane. And currently on a -- from the
22 website -- the -- from the NGPA's own website, they
23 posted an average propane price of \$1.85 a gallon,
24 which on a BTU heating content basis equates to
25 approximately \$20 an MMBTU.

1 When you compare that to our current PGA
2 plus our current monthly service charge, inclusive of
3 franchise fees and taxes, Southern Missouri's total
4 delivered cost on a residential home is approximately
5 \$13 an MMBTU.

6 Q. Will natural gas delivered into this
7 area be cost-competitive with other forms of fuel such
8 as heating oil or electricity?

9 A. Yes, sir. It will.

10 Q. How will Southern Missouri Natural Gas
11 obtain supplies of natural gas for this project?

12 A. Currently, Southern Missouri has
13 approximately four gas supply contracts in place with
14 four very large suppliers into the Southern Star
15 pipeline market. We actively solicit competitive bids
16 and do business with all four on a regular basis.

17 Q. And could you describe to the Commission
18 briefly any efforts you've made to expand your ability
19 to serve from the pipeline capacity standpoint?

20 A. Yes, sir. In -- well, in December of
21 2006, Southern Missouri contracted with Southern Star
22 to add five million cubic feet a day of additional firm
23 pipeline capacity to its delivery point at Station 142
24 near Rogersville. At the time, Southern Star was going
25 through what was called their Ozark Trails expansion,

1 and Southern Missouri was already contemplating plans
2 to expand to serve Houston, Licking, and at that time
3 Mountain View and Lebanon. And this capacity was
4 earmarked for -- primarily for those expansions.

5 Q. Do you believe that Southern Missouri is
6 qualified financially and technically to develop and
7 operate the project as you've proposed?

8 A. Yes, sir. We've been operating and
9 developing for almost 12 years.

10 Q. Could you describe the number of
11 employees that you expect to add as a result of
12 expanding into this project?

13 A. Approximately, I believe, 12 new
14 employees.

15 Q. Okay. And will the proposed project be
16 operated in accordance with current safety rules of the
17 Commission?

18 A. Yes, sir.

19 Q. And Mr. Maffett, would you described
20 based on your experience how this project will serve
21 the public convenience and necessity?

22 A. Again, by providing citizens in an area
23 another option to choose their source of energy,
24 another option to compare economic benefits and
25 convenience.

1 Q. And what rates will be offered by the
2 company to serve customers in this area?

3 A. We are proposing to continue utilizing
4 the existing rates that are on file and approved with
5 the Public Service Commission today.

6 Q. Would that also include your PGA that
7 you have for the cost of gas?

8 A. Yes, sir.

9 Q. So there would be just one set of rates,
10 as there is today with your other communities?

11 A. That's correct.

12 Q. Mr. Maffett, is the Staff recommendation
13 that was filed in this matter on June 12th, 2007
14 acceptable to Southern Missouri Natural Gas?

15 A. Yes, sir. It is.

16 Q. Staff also recommended, I believe, as a
17 part of that that the Commission condition the
18 certificate on a favorable vote of the citizens of
19 Lebanon. Is that your understanding?

20 A. Yes, sir. It is.

21 Q. Is that approach acceptable to the
22 company at this time?

23 A. Yes, sir.

24 Q. The Staff recommendation also
25 recommended that the Commission defer ruling on the

1 financing application until after more specific
2 information relating to the new investor and specific
3 terms and conditions of the financing are available.

4 Is that your understanding?

5 A. Yes, sir.

6 Q. Is that approach acceptable to Southern
7 Missouri at this time?

8 A. Yes, sir.

9 Q. Would you please explain the nature of
10 Southern Missouri's application for financing in this
11 case?

12 A. Yes, sir. We hired a private placement
13 advisor who helped us compile a private placement
14 memorandum. We shopped that around numerous potential
15 investors, financiers. And we have now narrowed that
16 list down to three large accredited institutional
17 investors, all of whom are experienced in the energy
18 and specifically the natural gas and distribution
19 businesses. We are currently awaiting final definitive
20 term sheets from them and expect them very soon, at
21 which time we will make a comparison and make a
22 recommendation to Southern Missouri's board and
23 partners. At that time, we would provide the
24 information that Staff has requested, which is
25 basically the identity and the final definitive terms.

1 It's very similar to what we did when we
2 acquired the company in 2005. We have somewhat of a
3 chicken and egg syndrome in the sense that the
4 Commission would like to see, Staff would like to see
5 as much definition as possible. On the other hand, the
6 financiers and investors would like to know that the
7 Commission supports the recommendation. Transaction
8 costs can be very high when you go through processes
9 like this. And we try to avoid, you know, unnecessary
10 closing expenses if the Commission or if Staff is not
11 in support of the expansions.

12 Q. Mr. Maffett, would you explain the
13 importance of receiving a conditional CCN as a part of
14 your need to close with the financiers?

15 A. Yes, sir. It's primarily to demonstrate
16 to the potential investors that not only is the market
17 there and the market feasible, but that regulatory
18 support is there for the expansions and supporting the
19 growth of the company.

20 Q. And when do you expect that you will
21 have the information needed -- or requested by Staff?

22 A. Roughly the next two to three weeks.

23 Q. Okay. Mr. Maffett, do you believe that
24 Southern Missouri Natural Gas has the technical and
25 financial ability to serve those three new communities?

1 A. Yes, sir. We do.

2 Q. Mr. Maffett, in the position statements
3 that were filed earlier in this proceeding, a
4 representative of the Missouri Propane Gas Association
5 indicated that he intended to address what he described
6 as pressure problems on the Southern Missouri Natural
7 Gas system. Are you familiar with that statement?

8 A. Yes, sir. I've seen the statement.

9 Q. Are pressure tests performed monthly on
10 the Southern Missouri Natural Gas mainline?

11 A. Yes, sir. Southern Star Central, who is
12 our delivery pipeline, does a pressure test at Station
13 142 at Rogersville, I believe, every month.

14 MR. FISCHER: Your Honor, I'd like to
15 have an exhibit marked.

16 JUDGE DIPPELL: It will be Exhibit
17 No. 9.

18 (EXHIBIT NO. 9 WAS MARKED FOR
19 IDENTIFICATION.)

20 BY MR. FISCHER:

21 Q. Mr. Maffett, would you describe what
22 Exhibit No. 9 shows?

23 A. Yes, sir. It represents, dating back to
24 January of 2006, each of the monthly pressure tests
25 performed by Southern Star at our delivery station at

1 Station 142. A particular note, in January of 2007,
2 there was no test due to the ice storm that had
3 occurred. So our pipeline pressure did not go to zero;
4 there was just no test done that month. But all the
5 other data points represent the mainline delivery
6 pressure at Station 142 for each of the past 18, 19
7 months.

8 Q. Was this exhibit prepared by you or
9 under your direction?

10 A. Yes, sir. It was.

11 Q. Does it accurately depict what it's
12 intended to show?

13 A. Yes. It does.

14 Q. What do you conclude from that data
15 that's included in that exhibit?

16 A. Southern Missouri has no delivery
17 pressure or operational constraints or issues. And to
18 the best of our knowledge, it never has in its 12 years
19 of operation.

20 Q. Have you ever received a consumer
21 complaint regarding pressure in the time that you've
22 operated the company?

23 A. No, sir. We have not.

24 Q. Do you have any other information or
25 factors you'd like to discuss with the Commission

1 before I turn you over for cross-examination?

2 A. Only to the extent that in the opening
3 statements, the comment was made that we intended to
4 cherry-pick the customers. That is absolutely
5 incorrect. In our pro forma, as I represented, that we
6 target what we expect to be realistic expectations on
7 the conversions and on who we can serve. Our model,
8 although it only shows 52 percent of the propane market
9 as being converted, to the extent that 100 percent of
10 the market wants to convert, we would gladly have them
11 on our system.

12 The feasibility study is there and those
13 numbers are used to justify the economic feasibility of
14 the project, not to show where we intend to start or
15 stop the business.

16 Our current system, we serve
17 approximately 7,500 customers. Of that, 6,800 are
18 residential customers. So we have no intent to
19 cherry-pick. We have an intent to serve businesses and
20 residences alike.

21 MR. FISCHER: Your Honor, I would move
22 for the admission of Exhibit No. 9 and tender the
23 witness for cross-examination.

24 JUDGE DIPPELL: Would there be any
25 objection to Exhibit No. 9?

1 MR. HATFIELD: No objection.

2 MR. THOMPSON: No objection.

3 JUDGE DIPPELL: Then I'll receive it
4 into evidence.

5 (EXHIBIT NO. 9 WAS RECEIVED INTO
6 EVIDENCE.)

7 JUDGE DIPPELL: Is there
8 cross-examination from the Staff?

9 MR. THOMPSON: Yes, Your Honor.

10 CROSS-EXAMINATION BY MR. THOMPSON:

11 Q. Good morning, Mr. Maffett.

12 A. Good morning.

13 Q. I have just a few questions for you.

14 Your testimony was that it's the
15 historical experience of your company that your
16 penetration into the propane market is 52 percent?

17 A. Yes, sir.

18 Q. And how long does it take generally to
19 reach that level of penetration?

20 A. Approximately five years.

21 Q. About five years. And it was also your
22 testimony, was it not, that you do weekly market
23 studies on the differential between propane and gas
24 costs, and based on these studies that you believe your
25 delivered cost per MMBTU would be \$13 compared to \$20

1 for an equal amount of propane?

2 A. Yes, sir. Those are approximate
3 estimate -- or just estimates.

4 Q. So would you conclude from this that
5 natural gas would be significantly cheaper for meeting
6 the energy needs of the people in Lebanon, Houston, and
7 Licking than propane is?

8 A. Yes, sir.

9 Q. And you understand that your opponent
10 today is the Missouri Propane Dealers' Association?

11 A. Yes, sir.

12 Q. Do you have any opinion as to what's
13 motivating their opposition?

14 MR. HATFIELD: I object. It calls for
15 speculation.

16 MR. THOMPSON: Oh, I don't think it's
17 speculative at all, Your Honor.

18 JUDGE DIPPELL: I think it is.

19 Sustained.

20 MR. THOMPSON: Very well. No further
21 questions.

22 MR. HATFIELD: Can I stand up here, Your
23 Honor?

24 JUDGE DIPPELL: Yes.

25 MR. HATFIELD: I can't see back there.

1 JUDGE DIPPELL: You can either stay at
2 your seat or --

3 MR. POSTON: Hey, Judge --

4 JUDGE DIPPELL: -- come to the podium.

5 MR. POSTON: I don't know if I should --
6 I had a few questions.

7 JUDGE DIPPELL: Oh, I'm sorry.

8 MR. HATFIELD: I'm sorry.

9 JUDGE DIPPELL: I'm sorry.

10 MR. POSTON: And I'm hiding behind your
11 monitor.

12 MR. HATFIELD: You looked at me and --

13 MR. POSTON: Sorry.

14 JUDGE DIPPELL: Public Counsel.

15 MR. POSTON: I -- thank you.

16 CROSS-EXAMINATION BY MR. POSTON:

17 Q. I wanted to follow-up on some of the
18 questions that Mr. Thompson was asking you about the 52
19 percent. And what communities does Southern Missouri
20 Gas serve today?

21 A. There are 12 communities: Rogersville,
22 Marshfield, Ava, Norwood, Mountain Grove, West Plains,
23 Willow Springs, Cabool, Mansfield.

24 Q. That's okay. I'm trying to find out
25 which of those were propane markets. I'm trying to

1 find out what's the basis of your 52 percent.

2 A. All of them. Prior to Southern Missouri
3 being built, there was no natural gas service in any of
4 the six counties that we currently operate.

5 Q. Okay. And are any of those communities
6 similar in size --

7 A. West Plains is very --

8 Q. -- to Lebanon?

9 A. -- similar to size -- in size to
10 Lebanon.

11 Q. Okay. And the take right there was
12 close to the 52 percent, or was it something different?

13 A. It's close. I mean, the 52 percent
14 number is based upon the whole system that stretches
15 from Rogersville to West Plains. We've not gone in and
16 looked individually at our conversion success. But
17 West Plains represents about 25 percent of the total
18 system load. And in actuality, we probably have a
19 higher conversion rate in West Plains.

20 Q. Okay. And what -- is the propane market
21 that existed when you moved into West Plains, how does
22 it compare to the propane market that you see now in
23 Lebanon?

24 A. I -- you have to remember, I acquired
25 the company just two years ago, so I was not the

1 owner/operator of the company when it moved into its
2 existing territory. I don't know enough about the
3 historical retail propane prices in that area dating
4 back to 1994.

5 Q. Okay. And is there a percentage that it
6 would not be feasible if you determine, say, it's not
7 52 percent -- if we said, Okay, it's really going to be
8 30 percent -- is there a percentage where it does not
9 become feasible to expand into Lebanon?

10 A. Yes, sir. There's -- ultimately, there
11 are, you know, bottom line numbers that would make it
12 unattractive.

13 Q. And what happens if the estimate is
14 wrong, 52 percent don't take it and it's far less?
15 What's the result?

16 A. Well, historically, the shareholders
17 have had to absorb the losses. When the company was
18 originally certificated in the Case 94-0127 -- is that
19 correct?

20 MR. FISCHER: I think it's just 127,
21 but --

22 THE WITNESS: 127. The Staff made it
23 clear and the Commission made it clear in that order
24 that the shareholders would bear those risks and not
25 the ratepayers.

1 BY MR. POSTON:

2 Q. And do you agree that that should be the
3 result out of this case?

4 A. Yes, sir.

5 Q. Thank you.

6 MR. POSTON: That's all I have.

7 JUDGE DIPPELL: Okay. Mr. Hatfield.

8 CROSS-EXAMINATION BY MR. HATFIELD:

9 Q. Good morning, Mr. Maffett.

10 A. Good morning.

11 Q. Can you -- I just need to get a little
12 bit of background to make sure that I've got foundation
13 for what I need to ask.

14 Your current position with Sendero is
15 what?

16 A. I am an owner and president/CEO of
17 Sendero.

18 Q. Okay. And what was your position prior
19 to being with Sendero?

20 A. I was with a company called RWE Trading
21 Americas as the vice president of corporate
22 development.

23 Q. Okay. And are you -- at some point you
24 were at Enron; is that right?

25 A. Yes, sir.

1 Q. Global Markets?

2 A. Yes, sir.

3 Q. Is that correct? Okay.

4 And who owns Southern Missouri Natural

5 Gas today?

6 A. The two companies are Sendero SMGCGP

7 Acquisition Company, LP and Sendero SMGC Limited

8 Acquisition Company, LP.

9 Q. And those two --

10 A. LLC. I'm sorry.

11 Q. -- those two Sendero entities you just

12 named have no other assets other than their respective

13 interest in Southern Missouri; is that correct?

14 A. That's correct.

15 Q. Those companies have no other income?

16 A. No, sir.

17 Q. Correct? They have no other expenses,

18 conversely. So Southern Missouri's financial

19 statements are the financial statements of those two

20 entities?

21 A. That's correct.

22 Q. There are no other assets we could

23 consider?

24 A. That's correct.

25 Q. All right. And Sendero Asset

1 Management, then, is paid a management fee by Southern
2 Missouri Natural Gas?

3 A. Yes, sir.

4 Q. And what is the amount of that
5 management fee?

6 A. At the time, when the Commission
7 approved the acquisition, it was \$200,000 per year,
8 with escalation tied to inflation and with a cap on
9 that escalation.

10 Q. Okay. And what would the manage --
11 would the management fee increase, then, if this is
12 granted?

13 A. No, sir. There's no increase to the
14 management fees.

15 Q. All right. All of Southern Missouri's
16 Natural Gas's financing are secured solely by the
17 assets of Southern Missouri Natural Gas. Correct?

18 A. That's correct.

19 Q. They're non-recourse to any other entity
20 that has an ownership interest?

21 A. That's correct.

22 Q. And they're non-recourse to you as an
23 owner of Sendero?

24 A. That's correct.

25 Q. All right.

1 MR. HATFIELD: We're on No. 10?

2 JUDGE DIPPELL: Exhibit No. 10. Yes.

3 MR. HATFIELD: Let me -- do you mark
4 them or do I write on them? Okay.

5 (EXHIBIT NO. 10 WAS MARKED FOR
6 IDENTIFICATION.)

7 BY MR. HATFIELD:

8 Q. Let me show you what we're going to mark
9 as Exhibit 10.

10 MR. HATFIELD: And if it will speed
11 things along, the first part is an e-mail that contains
12 some of the information I just asked him about. But,
13 really, what I'm wanting him to look at is just a
14 corporate structure at the back of Exhibit 10.

15 BY MR. HATFIELD:

16 Q. Let me ask you if you've seen Exhibit 10
17 before.

18 A. I can't say that I've seen the e-mail.
19 I'm not real sure who the e-mail is from.

20 Q. I believe on the CC line it indicates
21 you're copied on the e-mail; is that correct? Is that
22 your e-mail address?

23 A. That is.

24 Q. Okay. Can you tell the Commission what
25 this is?

1 A. With respect to the e-mail or the
2 diagram?

3 Q. I think you just did. It's an e-mail
4 and a diagram; is that right?

5 A. Okay.

6 Q. Okay. And directing your attention,
7 then -- well, could you just take a minute and read the
8 e-mail real quick and tell me if there's anything in
9 here that is not an accurate representation?

10 JUDGE DIPPELL: I have two extra copies.

11 MR. HATFIELD: I'm sorry.

12 THE WITNESS: Yes, sir. I believe that
13 to be accurate.

14 BY MR. HATFIELD:

15 Q. Okay. And then if you could turn to the
16 diagram -- I think it's the next page -- and just tell
17 us what that diagram is.

18 A. It's an ownership diagram.

19 Q. And is that an accurate representation
20 of the ownership structure of Southern Missouri Natural
21 Gas?

22 A. Yes, sir.

23 Q. All right.

24 MR. HATFIELD: I'd just move the
25 introduction of Exhibit 10.

1 MR. FISCHER: No objection.

2 MR. THOMPSON: No objection.

3 JUDGE DIPPELL: Seeing no objection,
4 I'll receive it.

5 (EXHIBIT NO. 10 WAS RECEIVED INTO
6 EVIDENCE)

7 BY MR. HATFIELD:

8 Q. You've talked a little bit about the --
9 sorry.

10 You talked about -- a little bit about
11 the areas in which you currently provide services in
12 Southern Missouri. What is the customer retention rate
13 in those areas?

14 A. Extremely high. We have -- of our 6,800
15 approximate residential customers, we have about 600 to
16 700 a year who disconnect in April or May, and they
17 choose -- and then reconnect in October/November. So,
18 essentially, almost 100 percent of any customer we lose
19 is what we refer to as a seasonal disconnect so that
20 they don't have to pay the monthly service fee during
21 the months when they're not using any natural gas.

22 Q. And how many offices do you have in
23 Missouri?

24 A. We have two, I believe.

25 Q. All right. You serve the community of

1 Marshfield; is that correct?

2 A. Yes, sir.

3 Q. And Southern Missouri at one point had
4 an office in Marshfield?

5 A. We did.

6 Q. And it represented Marshfield when they
7 got their service granted that they would have an
8 office in Marshfield; is that correct?

9 A. I wasn't involved in that discussion, so
10 I can't answer that.

11 Q. No office in Marshfield today. Correct?

12 A. No, sir.

13 Q. All right.

14 A. With the City's approval.

15 Q. All right. Now, I wanted to ask you
16 just briefly about the application, which I hope you
17 still have up there. It's Exhibit --

18 MR. HATFIELD: The Lebanon application,
19 Judge.

20 MR. FISCHER: Two.

21 JUDGE DIPPELL: Two.

22 MR. HATFIELD: Two.

23 BY MR. HATFIELD:

24 Q. The application indicates that you will
25 not require any other franchises or permits other than

1 the usual customary highway, railroad, et cetera.

2 You're familiar with that statement?

3 A. Yes, sir.

4 Q. Now, you need some easements from the
5 County of Laclede; is that correct?

6 A. I believe those easements have been
7 obtained.

8 Q. All right. Are you telling the
9 Commission they have been obtained?

10 A. I said I believe they have been.

11 Q. Well, have they or not?

12 A. Can I defer the question to my general
13 manager?

14 Q. Oh, sure. Yeah. I'm sorry. I didn't
15 realize there was somebody else on that.

16 You would need those easements in order
17 to provide the service. Correct?

18 A. Yes, sir.

19 Q. All right. Now, you also said, and you
20 mentioned a couple times, that you propose to use the
21 current rates -- tariffed rates. And then I didn't
22 understand your testimony. But not forever; you may
23 ask for a change at some point; is that right?

24 A. I didn't mention anything about a change
25 that I'm aware of.

1 Q. Okay. That's fine. So you're not aware
2 that you'll ask for any change to the rates?

3 A. Not today. No, sir.

4 Q. Not currently planning to ask for any
5 future change to the rates?

6 A. Not today.

7 Q. All right. And you said in your
8 application that there's no same or similar service
9 regulated or unregulated in the area. And I was
10 curious about that.

11 There's no opportunity to get any
12 similar service in the area?

13 A. There's no natural gas service in
14 Lebanon.

15 Q. Okay. But you do -- there is propane
16 service in Lebanon. Correct?

17 A. I'm not -- I assume there is. I'm not
18 in the --

19 Q. Okay. So --

20 A. -- propane business.

21 Q. -- I misunderstood your testimony
22 earlier. You don't know at all whether there is
23 currently propane service in Lebanon?

24 A. I think there is.

25 Q. Okay. And you've done studies on that.

1 Correct?

2 A. We've not done studies on the propane
3 industry in Lebanon.

4 Q. You have not?

5 A. No, sir.

6 Q. Very good. So you don't know how many
7 customers are currently using propane in Lebanon, then?

8 A. That's -- we have estimates.

9 Q. Okay. If you haven't done any studies,
10 how did you come up with these estimates?

11 A. I said we haven't done studies of the
12 propane industry. I didn't say we haven't done studies
13 of the market in Lebanon.

14 Q. Okay.

15 A. And we've done meter counts. We've done
16 walking counts of propane tanks in the city. We've
17 talked with city officials. We've looked at census
18 data -- that's public data -- to derive the numbers
19 used in our feasibility study.

20 Q. Okay. So you don't know -- but you told
21 us a minute ago, you don't know how many propane users
22 there are in Lebanon; is that right?

23 A. I told you we haven't done a study of
24 the propane industry.

25 Q. Okay. Well, the record will be what it

1 is.

2 A. Okay.

3 Q. But you've got a feasibility study that
4 assumes a certain take rate from propane customers?

5 A. Correct.

6 Q. And your feasibility study depends on
7 those numbers being accurate. Correct?

8 A. The feasibility study is an estimate.
9 It is a pro forma. And it's based upon U.S. Census
10 Data Bureau and the market data that we discovered
11 through our due diligence.

12 Q. And those numbers -- if those numbers
13 are not accurate, then the feasibility study is not
14 accurate. Correct?

15 A. That's correct.

16 Q. All right. And you based the census
17 study on the 2000 census. Correct?

18 A. We used 2000 and we used 2006.

19 Q. All right. You used the 2006 census?

20 A. We used 2000 and 2006.

21 Q. Okay. All right. Let me ask you --
22 well, let me just say it this way: Are you familiar
23 with Southern Missouri's current ACA balance, as
24 recommended by Staff?

25 A. Yes. Yes. I am.

1 Q. What is it?

2 A. It's somewhere between, generally
3 speaking, 250,000 and \$320,000.

4 Q. In other words, Staff wants to disallow
5 somewhere between whatever that number was you just
6 said?

7 A. That's what they wrote in their
8 recommendation.

9 Q. And Southern Missouri has said that a
10 disallowance of that magnitude would be financial
11 detrimental to the company; is that correct?

12 A. Yes. It would.

13 Q. And it said -- has represented to this
14 Commission that it would be detrimental to the
15 company's ability to provide safe service to Missouri
16 service areas. Correct?

17 A. I can't recall quote for quote what was
18 said, but --

19 Q. You've said that a disallowance of as
20 little as \$200,000 would be detrimental to the
21 company's ability to provide reliable service
22 throughout Missouri service areas. Correct?

23 A. Southern Missouri is a small company.

24 Q. Small margin for error? \$200,000 would
25 make it so you couldn't provide safe or reliable

1 service. Correct?

2 A. If that's what's in our response, that's
3 what's in our response.

4 Q. I'm just asking you if that's right, if
5 \$200,000 would be detrimental to your ability to
6 provide safe and reliable service.

7 A. \$200,000 is detrimental to the company.

8 Q. And to provide safe service?

9 A. It -- the dollar amount does not affect
10 our ability to provide safe or reliable service.

11 Q. Okay. So in the submission you made on
12 July 19th, where you made that representation to the
13 Commission, that was wrong?

14 A. I --

15 MR. FISCHER: Your Honor, I'm going to
16 object to it's evidence -- or information not --
17 assumes evidence not in the record at this point. I
18 will stipulate that the company has a filed a response
19 and had suggested that a disallowance of -- the Staff's
20 disallowance would be financially detrimental to the
21 company. And --

22 MR. HATFIELD: Well, I'm sorry. He had
23 an objection, I think.

24 JUDGE DIPPELL: I'll sustain his
25 objection that -- based on facts that are not in the

1 record.

2 MR. HATFIELD: Okay. I'd like to ask
3 the Commission to take judicial notice of Southern
4 Missouri Natural Gas's response to the Staff
5 recommendation of Southern Missouri Gas Company, LLP --
6 or LP, in the matter of Southern Missouri Gas Company's
7 purchased gas adjustment factors, to be reviewed in its
8 2005/2006 actual cost adjustment, Case
9 No. GR-2006-0352. And for the Commission, that's a
10 filing on -- well, last week, I guess -- July 19th of
11 '07.

12 JUDGE DIPPELL: Would there be any
13 objection to the Commission taking judicial notice of
14 that?

15 Seeing none, the Commission will take
16 official notice.

17 And just to keep the record straight,
18 I'm going to mark that as Exhibit No. 11 of response.

19 (EXHIBIT NO. 11 WAS MARKED FOR
20 IDENTIFICATION.)

21 JUDGE DIPPELL: Mr. Hatfield, do you by
22 any chance have copies of that?

23 MR. HATFIELD: I have one --

24 JUDGE DIPPELL: Okay.

25 MR. HATFIELD: Not an unannotated copy.

1 JUDGE DIPPELL: That's fine. We'll get
2 copies on break.

3 MR. HATFIELD: Okay. I apologize.

4 JUDGE DIPPELL: That's fine.

5 BY MR. HATFIELD:

6 Q. Okay. And let me just be clear on the
7 financing issue for a minute. And I know you may have
8 another witness to talk about that.

9 Are you going to address financing?

10 A. To the best I can.

11 Q. Okay. I want to be clear that you
12 cannot do this expansion unless you obtain the
13 financing. Correct?

14 A. Correct. But we have multiple sources
15 of financing.

16 Q. But you're not telling the Commission
17 you've obtained one yet?

18 A. We haven't obtained a commitment yet,
19 no.

20 Q. Right. And you want the Commission, as
21 I understood your testimony earlier, to give you a
22 certificate so that you can obtain the financing?

23 A. We're asking the Commission to show its
24 support for the expansion in order to close the
25 financing.

1 Q. And I guess I just wasn't completely
2 clear. Are you saying that you don't think you can get
3 the financing without this Commission's expression of
4 support, as you call it?

5 A. No. I did not say that. Those are your
6 words.

7 Q. Well, can you get the financing without
8 this Commission's expression of support?

9 A. It could be possible.

10 Q. When did you file the application?

11 A. In December 2006.

12 Q. Okay. And you have no commitments for
13 financing now?

14 A. No, sir. We have no commitments at this
15 time.

16 Q. No conditional commitments for
17 financing?

18 A. No, sir.

19 Q. Nobody said, We'll give you financing
20 conditioned on your getting your certificate of need
21 and necessity?

22 A. No, sir.

23 Q. All right. And didn't you tell Staff in
24 responses that you would have financing documents for
25 them by, I believe it was tomorrow?

1 A. Again, I -- lots of conversations. I
2 can't remember every one and every date. But
3 oftentimes we estimate when we think we'll have things,
4 and sometimes we don't hit the deadlines.

5 Q. Your estimate today is another two to
6 three weeks?

7 A. For definitive term sheets, yes, sir.

8 Q. Do you have preliminary term sheets that
9 you could provide to Staff now?

10 A. We have preliminary term sheets that we
11 constructed to send to the potential investors. But
12 they still had a lot of blanks, and that was the reason
13 why Staff made its recommendation to withhold the
14 financing approval until we had more terms.

15 Q. Well, let's let Staff tell us why they
16 did that.

17 A. Sure.

18 Q. But you provided those preliminary term
19 sheets to Staff?

20 A. Yes. We have.

21 Q. All right. Okay. Now, you -- there's
22 an exhibit up there somewhere that is the financial
23 statements. I think that's Exhibit --

24 MR. FISCHER: Appendix B, maybe. On the
25 financing application? Or on the feasibility study?

1 MR. HATFIELD: Yeah. I think it's in
2 Exhibit 6. There's a feasibility study that has --
3 that was attached to the second application. That's 6.

4 BY MR. HATFIELD:

5 Q. Exhibit 6 contains a feasibility study.
6 And in there -- or wherever it is; I'm not meaning to
7 characterize it. But Exhibit -- let's talk about
8 Exhibit 6. Okay.

9 MR. FISCHER: It is highly confidential.

10 JUDGE DIPPELL: If you want to go into
11 the specifics of it, then we will go in an in-camera
12 session.

13 MR. HATFIELD: I'll keep that in mind.
14 I don't know that I'm going to go into the specifics of
15 it.

16 JUDGE DIPPELL: If you can -- I was
17 going to say, you can --

18 BY MR. HATFIELD:

19 Q. There's a sheet in Exhibit 6 somewhere
20 that contains financial projections. Are you familiar
21 with that sheet?

22 A. The whole model is a financial
23 projection.

24 Q. Right. And I guess I just couldn't find
25 on the financial projections -- hoping you could point

1 us to it -- where the franchise fee goes into the
2 financial projection.

3 A. The franchise fees are a pass-through.

4 Q. Okay.

5 A. We collect them, and they're paid to the
6 city. So it has no financial impact on the company.

7 Q. All right. I get it. Now, the
8 franchise agreement with the city is a 5 percent fee on
9 residential customers; is that right?

10 A. I believe it had a little bit of a
11 sliding scale. I would have to go back and look at the
12 specifics.

13 Q. Okay. But what you're saying is that
14 franchise fee to the city is passed directly through to
15 the customer?

16 A. That's correct.

17 Q. And so it's on the cost of delivery
18 somewhere in your feasibility study?

19 A. No. Because it's -- again, it has no
20 financial implication to the company itself. And the
21 feasibility study is simply measuring the feasibility
22 of serving the customers.

23 Q. All right. It's in here somewhere.
24 Right? It's included in your financial calculations,
25 the assumption that you're going to pay whatever the

1 franchise fee is to the city; is that right?

2 A. I don't think it is included because,
3 again, we collect that and turn around and pay 100
4 percent of that to the city. So it's a net-sum-zero
5 game to us.

6 Q. All right.

7 A. So we -- I think we've left it out
8 because it has no impact.

9 Q. So the cost to the consumer is going to
10 be 5 percent higher because it would pass-through
11 straight to the city?

12 A. Five percent higher than what we would
13 utilize in a PGA filing, correct.

14 Q. Okay. All right. All right. And just
15 one more.

16 A. Sure.

17 Q. I'm not an accountant, so --

18 A. I'm not, either.

19 Q. So what you're saying is, it's not on
20 here because -- I mean, I guess we could put it on here
21 as a cost, but it would also come off as an expense,
22 but it would also be income, and so it's a wash?

23 A. That's correct.

24 Q. Right. Okay. Just a straight
25 pass-through?

1 A. That's correct.

2 Q. Five percent. Or whatever it is. Okay.

3 So when you talked about how -- the
4 differential as you calculated to the consumer, in
5 terms of price -- and I'm not trying to put words in
6 your mouths, but I -- I wrote down, \$20 versus \$13; is
7 that about right?

8 A. Approximately. Yes, sir.

9 Q. Then based on your vast experience, why
10 wouldn't everybody take that deal?

11 A. To be honest with you, I don't know.
12 But we do have some customers who do not want to
13 convert. Whether they don't want to spend the money --
14 we have limitations under our tariff that's approved by
15 the PSC as to how much pipe or how much conversion we
16 can actually give a customer. We are a regulated
17 entity, and we have rules that we have to abide by. So
18 there -- but there are some customers who choose to
19 stay with the propane markets. I can't -- I would be
20 speculating as to why.

21 Q. And even though there's this big
22 differential, you're saying that -- in your feasibility
23 study is that in Lebanon, only 50 percent of the people
24 will convert from propane?

25 A. Only 50 percent of the existing propane

1 market, not 50 percent of the people.

2 Q. Fair enough. Which is slightly lower
3 than the 52 percent rate you've seen everywhere else?

4 A. Slightly.

5 Q. Pardon?

6 A. Yes.

7 Q. And do you have any -- based on your
8 studies, do you understand why that is or have any
9 opinion as to why that is?

10 A. The two-percent differential?

11 Q. Yes, sir.

12 A. I guess we were making the numbers
13 relatively easy and more conservative.

14 Q. So you just rounded it off?

15 A. Yes, sir.

16 Q. Okay. And I didn't understand your
17 testimony before. That's going to take five years to
18 reach the 50 number?

19 A. Approximately. That's what our
20 experience in our other 12 communities has shown us.

21 Q. Okay. Now, residential users are not
22 the key to the success of your expansion into Lebanon.
23 Correct?

24 A. They -- all customers are a part of the
25 success in Lebanon.

1 Q. Industrial users are the key to your
2 success in Lebanon. Correct?

3 A. Industrial users are a major component
4 of that success.

5 Q. Did you ever --

6 A. Correct.

7 Q. -- say in an e-mail that industrial
8 users were the key to your success?

9 A. I probably did.

10 Q. All right. And so, is that true or not?

11 A. It's my opinion.

12 Q. Okay. Let me show you --

13 MR. HATFIELD: What are we on? Eleven?

14 Twelve?

15 JUDGE DIPPELL: Twelve.

16 MR. FISCHER: This would be 12.

17 (EXHIBIT NO. 12 WAS MARKED FOR

18 IDENTIFICATION.)

19 BY MR. HATFIELD:

20 Q. Let me show you what we're going to mark
21 as Exhibit 12. Let me ask you if you've seen Exhibit
22 12 before.

23 MR. THOMPSON: I object, Your Honor. I
24 haven't seen it.

25 MR. HATFIELD: I'm not sure if that's a

1 valid objection, but I'll give him a copy.

2 MR. THOMPSON: Thank you.

3 MR. HATFIELD: And if I might clarify,
4 this is printed out of somewhere else. So it has -- I
5 will just say, it has the name Khristine Heisinger at
6 the top, which was not part of the original e-mail,
7 obviously.

8 BY MR. HATFIELD:

9 Q. But have you seen the body of this
10 e-mail before?

11 A. Yes, sir.

12 Q. And just tell us what this is.

13 A. It looks like it's an e-mail from myself
14 to Scott Shumate, the director of Public Works, with a
15 copy to my general manager, my operations manager, one
16 of my partners, about a introductory meeting that we
17 scheduled in Lebanon to introduce ourselves to the
18 constituency of Lebanon.

19 And in here, I extended an invitation to
20 Scott, the mayor, and anyone else in the city office or
21 Chamber of Commerce. And I have made a statement that
22 the ultimate key to our success depends heavily on a
23 strong level of commitment from the major industrials
24 to justify the cost of expanding to Lebanon.

25 Q. And just to kind of go back. So when

1 you told them that, you were being truthful there.

2 Correct?

3 A. I make a habit of that.

4 Q. Good. Okay.

5 MR. HATFIELD: I'd move the introduction
6 of Exhibit 11, please.

7 MR. FISCHER: Twelve.

8 JUDGE DIPPELL: Twelve.

9 MR. HATFIELD: Twelve. Sorry.

10 JUDGE DIPPELL: Would there be any --

11 MR. HATFIELD: And 11.

12 JUDGE DIPPELL: -- objection to Exhibit
13 12?

14 MR. FISCHER: No objection.

15 JUDGE DIPPELL: Seeing none, then I will
16 receive that into evidence.

17 (EXHIBIT NO. 12 WAS RECEIVED INTO
18 EVIDENCE.)

19 BY MR. HATFIELD:

20 Q. Now, in the Staff report -- have you
21 reviewed the Staff recommendation in this case?

22 A. I did at one point. I haven't reviewed
23 it in detail very recently.

24 Q. And in the Staff recommendation, there's
25 a reference generally to economic feasibility and

1 competition from propane. Do you recall that
2 recommendation?

3 A. A recommendation or a statement?

4 Q. A statement in the Staff recommendation.

5 A. Okay. Yeah. I remember some statement
6 within the rec.

7 Q. Right. Well, I guess, I just want to
8 see if you're agreeing with Staff that because -- and
9 I'm characterizing it, so if you disagree with this
10 characterization, feel free to say so -- that because
11 the propane industry is unregulated -- you agree with
12 that?

13 A. Yes, sir.

14 Q. And that the propane industry,
15 therefore, has more flexibility than you do in terms of
16 setting pricing structure. Would you agree with that?

17 A. Yes.

18 Q. And I'm not sure if it says this, but
19 there's an implication there that they could do, for
20 example, different tiers of pricing structure. Do you
21 agree with that?

22 A. I think so. Yes, sir.

23 Q. They could offer a loss leader to
24 industrials, for example, because they're unregulated?

25 A. You bet.

1 her and give one to the witness.

2 MR. HATFIELD: Here you go. That's 13.

3 THE WITNESS: Thank you.

4 BY MR. HATFIELD:

5 Q. Let me just ask you if you have seen
6 that before.

7 A. Yes.

8 Q. And what is that?

9 A. That's an e-mail from myself to Scott
10 Shumate, and I think Joe Knapp, the city administrator.
11 I don't recognize the other e-mail address.

12 Q. Don't know who that other one is?

13 A. It's someone in city administration.

14 Q. All right. And it had an attachment to
15 it; is that correct?

16 A. I don't think there's -- oh, yes, it
17 does. I'm sorry.

18 Q. And do you recall what that attachment
19 was?

20 A. It's an Appendix D, which is the
21 feasibility study, and a copy of what appears to be the
22 final draft of the application we submitted.

23 Q. Okay. Now, I just want to ask about
24 what you're saying here. The first sentence says, Just
25 in case anyone tries to tout propane as being safer,

1 the link below is from USA Today. Were you concerned
2 that someone was going to tout propane as being safer
3 than natural gas?

4 A. I just made a statement.

5 Q. Is there some basis for the statement
6 that propane is safer than natural gas?

7 A. No. I don't think there's any basis for
8 any statement that propane is safer than natural gas.

9 Q. Had you heard that argument made before
10 somehow?

11 A. No, sir.

12 Q. Then I guess I'm just asking why you
13 sent this e-mail to the city about this propane tank
14 exploding?

15 A. Just communication.

16 Q. Fair enough.

17 MR. HATFIELD: Move the exhibit of --
18 exhibit next -- 13.

19 JUDGE DIPPELL: Would there be any
20 objection to Exhibit No. 13?

21 MR. THOMPSON: I object. I don't think
22 it's relevant.

23 MR. FISCHER: I join in the objection.

24 MR. HATFIELD: Well, Judge, it's
25 certainly relevant to the issue I raised earlier about

1 proprietary information.

2 JUDGE DIPPELL: All right.

3 MR. THOMPSON: Well, Your Honor, he
4 didn't ask him a single question about that.

5 MR. FISCHER: No.

6 JUDGE DIPPELL: Well, he did ask him
7 about what it contained and who it went to, or at least
8 that was explained. I will admit it for the limited
9 purpose determining the -- whether we should continue
10 the proprietary designation of the exhibit.

11 (EXHIBIT NO. 13 WAS RECEIVED INTO
12 EVIDENCE.)

13 MR. HATFIELD: That's all I have for
14 this witness, Judge.

15 JUDGE DIPPELL: Okay. I'm going to
16 continue, then, to reserve my ruling on the proprietary
17 nature until either that becomes necessary for an
18 in-camera session or at the end of this witness
19 testimony.

20 THE WITNESS: Your Honor, am I allowed
21 to ask a question of my attorney?

22 JUDGE DIPPELL: I'll let you go consult
23 with him, if you would like.

24 MR. FISCHER: I'll tell you what. I can
25 walk easier.

1 JUDGE DIPPELL: We can go off the record
2 for just a second.

3 MR. HATFIELD: Do we need to take a
4 break?

5 JUDGE DIPPELL: But I will --

6 MR. FISCHER: No.

7 JUDGE DIPPELL: You may want to go out
8 in the hallway if you don't want the microphones to
9 pick it up.

10 MR. HATFIELD: Judge, are we going to be
11 taking a recess, then?

12 JUDGE DIPPELL: Would this be a good
13 time to do that?

14 MR. HATFIELD: Certainly, I think so.

15 JUDGE DIPPELL: Let's go ahead and take
16 a little break, about 15 minutes.

17 (RECESS WAS TAKEN.)

18 JUDGE DIPPELL: We'll go ahead and go
19 back on the record. I think we're ready to begin with
20 Commissioner questions, and I'm seeing who we're
21 missing.

22 Commissioner Murray, did you have any
23 questions?

24 COMMISSIONER MURRAY: I do. Yes.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good morning, Mr. Maffett. I want to
2 pursue the -- into the area of financial ability and
3 economic feasibility for a minute.

4 First of all, do you agree that for --
5 that an applicant for a CCN must demonstrate financial
6 ability?

7 A. I'm not familiar verbatim with the
8 actual requirements. My understanding is there are a
9 number of attachments and exhibits that must be
10 submitted to complete an application.

11 Q. And they include the financial?

12 A. The financial plan.

13 Q. Will the capital -- and I think I heard
14 you say that the capital expenditures will not be made
15 if acceptable financing is not forthcoming; is that
16 correct?

17 A. That's correct.

18 Q. And it's my understanding that Staff's
19 recommendation for granting the CCN is that we make it
20 conditional upon a favorable vote for the franchise.
21 Correct?

22 A. Yes, ma'am.

23 Q. And that we defer ruling on the
24 financing application at this time. Is that your
25 understanding?

1 A. Yes, ma'am.

2 Q. Why wouldn't -- or let me ask you this:

3 Would it be acceptable to you, to Southern Missouri
4 Gas, if we made the grant of a CCN conditioned both
5 upon the favorable vote and upon financing?

6 A. Yes, ma'am. I believe it would.

7 Q. So that rather than granting it and
8 simply deferring approval of the financing, that it
9 would be conditioned upon financing that was acceptable
10 to the Commission?

11 A. Yes, ma'am.

12 Q. Now, I'd like to talk to you about the
13 economic -- well, I'm not sure if this is economic
14 feasibility or public interest that this would go to --
15 probably both.

16 But if the availability of natural gas
17 to the industrial and commercial users drives down the
18 energy costs to those customers, would that provide an
19 economic benefit to that community as a whole?

20 A. I believe it would.

21 Q. And would that benefit to the
22 residential users as well as the industrial and
23 commercial users?

24 A. Yes, ma'am.

25 Q. Whether or not they subscribe to natural

1 gas?

2 A. I can't control how other forms or
3 suppliers of energy price their energy. But I would --

4 Q. That's --

5 A. -- think competition is good to reduce
6 costs.

7 Q. Okay. My question is aimed more at --
8 take this assumption that you get the industrial and
9 commercial users to subscribe, or the bulk thereof to
10 subscribe. And I believe you stated that that would
11 drive down the energy costs for those users, and that
12 that would provide an economic benefit to the community
13 as a whole.

14 A. Yes, ma'am.

15 Q. So even if the residential users did not
16 subscribe, would those residential users still receive
17 some benefit from the provision of natural gas to the
18 area?

19 A. I believe they would.

20 Q. Will the same suppliers that serve your
21 current customers be the suppliers for your new
22 customers?

23 A. Gas suppliers?

24 Q. Yes.

25 A. Yes, ma'am.

1 Q. And will they be served by the same
2 pipeline?

3 A. Yes, ma'am.

4 Q. Can you tell me what's the safety track
5 record of Southern Missouri Gas?

6 A. It's exemplary. To the best of my
7 knowledge, in the company's history, there's never been
8 a major safety violation. We're subject to annual
9 safety inspection and reports from the Missouri Public
10 Service Commission. We go through those every year.
11 There are always small items like right-of-way needs to
12 be mowed closer or a sign had been knocked over by cows
13 or something, you know, warning -- or indicating the
14 presence of a pipeline. But it's pretty minimal stuff.

15 Q. If you're granted the CCN and get the
16 financing, will you serve every customer that requests
17 service?

18 A. We will -- we have to look at the
19 feasibility within a certain area. If we have one
20 customer who requests service in a community that's
21 all-electric homes, it's not economically in the best
22 interest to spend the money to build line to serve that
23 one customer if they're the only one that will convert.

24 Q. Okay. And I wanted to ask you -- I
25 should've looked it up during the break. Because I'm

1 drawing a blank on whether the CCN, when you get it,
2 for at -- for an area is exclusive. And if you know
3 the answer to that.

4 A. I'm not aware of any exclusivity on a
5 certificate of convenience and necessary.

6 Q. Okay.

7 A. But I'm also not aware of any instances
8 where the Commission has certificated overlapping
9 services.

10 Q. All right. Well, I did notice in the
11 Lebanon franchise agreement that that expressly is not
12 exclusive.

13 A. That's correct.

14 Q. You mentioned -- or you were asked about
15 the franchise fee and the financial documents and why
16 it didn't show up. I just want a little clarification
17 on that. You indicated it's passed directly to the
18 customer and has no financial impact on the company.

19 Is it -- is the franchise fee based on a
20 percentage of the number of customers that you actually
21 serve?

22 A. No, ma'am. It's a percentage of the
23 revenues generated.

24 Q. Okay. The actual revenues --

25 A. Yes, ma'am.

1 Q. -- generated. So if you generate no
2 revenues you pay no franchise fee?

3 A. That's correct.

4 Q. In your e-mail to Scott Shumate, Exhibit
5 No. 12 --

6 A. Yes, ma'am.

7 Q. -- you said that you would like to
8 target having gas available by late summer/early fall,
9 in advance of Winter 2007.

10 A. Yes, ma'am.

11 Q. What is your target as we sit here
12 today?

13 A. Because of the delays with getting the
14 approvals that we needed, if we were in a position to
15 close the financing, say, by the end of August, we're
16 estimating, I believe, 12 to 15 weeks to construct the
17 lateral. So end of August would put us somewhere in
18 December of '07, January of '08 providing service.

19 Q. So missing a significant portion of the
20 winter season?

21 A. We will have missed about -- yeah, you
22 never know how the weather is. If it's the winter of
23 '05/'06 we haven't missed much. But, typically, we --
24 you know, our revenues and cash flow is the greatest
25 during the winter months.

1 Q. Do you think that that timing will
2 affect your ability to attract customers?

3 A. No, ma'am. We will -- and particularly
4 with our investors, we can structure the repayment
5 terms of the debt so that we can draw down on the
6 construction loan and delay those amortization payments
7 out until we're in a position to generate that cash
8 shortfall. But it would be helpful to -- it would have
9 been helpful to have had the facilities constructed in,
10 say, the August/September time frame.

11 Q. So you don't think financially that will
12 have an impact if you're able to structure the
13 financing?

14 A. It won't have an impact in terms of our
15 ability to service the debt. It would have an impact
16 on our revenues and our sales and margin.

17 Q. Now, if you get the CCN and the
18 financing, and you make the capital expenditures, but
19 you don't get a significant percentage of the
20 industrial customers, will there be any potential
21 effect on rates to your other customers?

22 A. A lot would depend on how much capital
23 investment was made in the first place relative to the
24 total market penetration. As I referenced earlier, in
25 the original certification of Southern Missouri in

1 1994/'95, that was a major concern. And the conversion
2 rates being used back then were on an order or 40 to 50
3 percent higher than the conversion rates that we're
4 using today. They were estimating market penetration
5 rates of 75 to 80 percent, whereas we're using the
6 actual real-time experience that we've seen of 50 to 52
7 percent.

8 Q. So you don't have any -- you don't have
9 reason to doubt that you will actually penetrate
10 approximately that much of the market?

11 A. No, ma'am. I don't.

12 Q. Do you have any commitments, conditional
13 or otherwise, from industrial customers in the Lebanon
14 territory?

15 A. We have, you know, very non-binding
16 expressions of interest or intent.

17 Q. When was the CCN granted for Houston and
18 Licking? Do you know?

19 A. I believe it was in the original
20 Southern Missouri case, in 1994 or 5. I know
21 construction began in 1995.

22 MR. FISCHER: Judge, the order was dated
23 04/14/95 in Case No. GA94-127.

24 JUDGE DIPPELL: All right. And then the
25 construction was begun and stopped?

1 A. Well, the -- my understanding, Your
2 Honor, is the system was constructed from Rogersville
3 to West Plains and all the points in between. For
4 whatever reason, the existing owner never completed the
5 build-out all the way up from Cabool to Houston or
6 Licking or to the north, and Mountain View to the east.

7 JUDGE DIPPELL: Okay.

8 COMMISSIONER MURRAY: I believe that's
9 all. Thank you.

10 THE WITNESS: Yes, ma'am.

11 JUDGE DIPPELL: Thank you. Commissioner
12 Gaw, did you have questions?

13 COMMISSIONER GAW: Yes. And if I
14 duplicate anything, tell me I'm doing that and I'll try
15 to avoid it.

16 Did someone fix up a map of the Houston
17 and Lebanon -- and not the distribution map, but how
18 this fits into the transmission system? Did somebody
19 do that?

20 MR. FISCHER: There's one attached to
21 that application, Judge.

22 COMMISSIONER GAW: Okay.

23 MR. FISCHER: Which I think would
24 probably fit your needs.

25 COMMISSIONER GAW: Just -- but there's

1 not a big --

2 MR. FISCHER: No. I'm sorry.

3 COMMISSIONER GAW: -- picture that's
4 been developed?

5 If you've got something that I can look
6 at. I'm sure it's in one of these things you handed us
7 this morning. You say it's in the application?

8 MR. FISCHER: Yes.

9 COMMISSIONER GAW: I've got there here.

10 JUDGE DIPPELL: Exhibit 2. In that
11 application, or in the --

12 COMMISSIONER GAW: Which one?

13 MR. FISCHER: I think it's in probably
14 the Lebanon application, the first -- Exhibit 2.

15 THE WITNESS: Exhibit 2, Page 8.

16 Actually, that does not show Houston and Licking.

17 COMMISSIONER GAW: Yeah. Why don't we
18 just try to do this verbally.

19 QUESTIONS BY COMMISSIONER GAW:

20 Q. Tell me what you have to do in order to,
21 first of all, get to the city gate in both -- in all
22 three of those places.

23 A. Yes, sir.

24 Q. How far you have to go and et cetera.

25 A. I believe Houston is approximately 16

1 miles north of our existing mainline system.

2 Q. Okay.

3 A. And we would lay six-inch poly pipe,
4 which is our low-pressure pipe, all the way up to
5 Houston. And I believe Licking is 13 miles beyond
6 Houston.

7 Q. Okay. So that would be off the same
8 lateral?

9 A. Correct.

10 Q. And then what about with Lebanon?

11 A. Lebanon, we have today what's called the
12 Marshfield lateral, which is a four-inch line that
13 comes more or less from Rogersville up to Marshfield.

14 Q. Okay.

15 A. And we would tap into that and lay a
16 steel high-pressure line extension from Marshfield up
17 to Lebanon, which is about 30 miles.

18 Q. That's closer than I thought it was.
19 Okay. So -- and the reason that you would do a
20 high-pressure line there is?

21 A. We expect more load.

22 Q. Okay. Are both of those -- are all
23 three of those off of the same transmission line?

24 A. Yes, sir.

25 Q. Which is Southern Star?

1 A. Yes, sir.

2 Q. Is that correct?

3 And is the capacity on Southern Star --

4 is there capacity on Southern Star?

5 A. There is -- there -- today, I believe

6 Southern Star's firm capacity is fully contracted.

7 Q. Yes.

8 A. But we expanded our capacity last -- in

9 December this past year --

10 Q. Okay.

11 A. -- to accommodate our expansions.

12 Q. All right. Does it accommodate it for

13 your anticipated customer base or is it something that

14 is above that?

15 A. It's a little bit above --

16 Q. Okay.

17 A. -- to incorporate some reserve margin.

18 Q. Yes.

19 A. We have some -- prior to the additional

20 five million cubic feet a day that we signed up in

21 December --

22 Q. Right.

23 A. -- we had about 20 percent reserve

24 margin built into our existing capacity.

25 Q. Okay.

1 A. That hasn't changed. And so, you know,
2 your -- again, you get -- you have chicken-and-egg
3 syndrome, in --

4 Q. Yeah.

5 A. -- the sense that if -- when Southern
6 Star offered this capacity, if I had only taken what we
7 currently needed to have served our current markets, we
8 wouldn't have the opportunity to have more capacity to
9 expand.

10 Q. I understand. This is a constant
11 tension?

12 A. Yes, sir. It is.

13 Q. So when you get into the expense on this
14 thing -- and I -- I'll try to -- we'll try to avoid if
15 it gets into HC.

16 COMMISSIONER GAW: I have no idea when
17 we'll get -- cross that line. So just somebody raise
18 their hand or something.

19 BY COMMISSIONER GAW:

20 Q. Can you give me some general idea about
21 just reaching the city gate on the relative expense of
22 these three outcomes?

23 A. The capital costs?

24 Q. Yes.

25 A. Yes, sir. If I can refer to the

1 exhibit --

2 Q. Sure.

3 A. -- so I'll give you good, accurate
4 information.

5 Q. Is this HC stuff?

6 MR. FISCHER: It's in -- contained in
7 the economic feasibility study, Judge, and that is all
8 HC. I think we can deal with it in broader numbers,
9 perhaps.

10 COMMISSIONER GAW: Okay. That would be
11 great.

12 THE WITNESS: I believe the approximate
13 estimate is about \$11 million to build -- that would be
14 the trunk line for Lebanon, Houston, and Licking.

15 And, Your Honor, I sometimes -- without
16 going to the numbers which are HC --

17 COMMISSIONER GAW: Right.

18 THE WITNESS: -- I'm not always sure if
19 that included the distribution facility build-out or
20 not.

21 BY COMMISSIONER GAW:

22 Q. Okay. That's kind of important for me
23 to know --

24 A. Okay.

25 Q. -- at some point, as to whether or -- as

1 to the separation of those costs from getting up to the
2 city gate, and then what's the additional amount going
3 in to actually doing the build-out. If you can find
4 that.

5 A. Yes.

6 THE WITNESS: Your Honor, do --

7 JUDGE DIPPELL: Do --

8 THE WITNESS: -- can I refer to notes of
9 mine that are -- have not been admitted as exhibits?

10 JUDGE DIPPELL: I don't have a problem
11 with that, if you need to refresh your memory.

12 MR. FISCHER: Judge, we can --

13 JUDGE DIPPELL: Do you --

14 MR. FISCHER: We can get an answer to
15 that question, I think, over the break, and make
16 sure --

17 COMMISSIONER GAW: Yeah. That's fine.

18 MR. FISCHER: -- that's --

19 COMMISSIONER GAW: It's not crucial to
20 my continuing questioning --

21 JUDGE DIPPELL: Okay.

22 COMMISSIONER GAW: -- on that line.

23 MR. FISCHER: Okay.

24 THE WITNESS: The -- I do recall that
25 the distribution build-out was about \$1.7 million.

1 BY COMMISSIONER GAW:

2 Q. Okay. Is that for all three?

3 A. Yes, sir. But I --

4 Q. Okay.

5 A. -- I'm just -- I'm struggling to recall,
6 is that already in the 11 or is that in addition to.

7 Q. Yeah. If you could find out that out --

8 A. Yes, sir.

9 Q. -- and you can tell us later.

10 The other question along that line is,
11 when you're talking about the distribution side of it,
12 is it anticipated in the numbers that you have that you
13 will -- that you build out to all of the city? In
14 other words, are you building out to all of the -- all
15 the residential area?

16 A. We will generally approach every
17 residential area. Commissioner Murray asked the
18 question similarly.

19 Q. Okay.

20 A. And my response was, if we have a
21 subdivision that has all electric appliances and, you
22 know, utilities --

23 Q. Right.

24 A. -- and there's one customer who, they
25 just like cooking on natural gas better --

1 Q. Yes.

2 A. -- it's going to be difficult for us to
3 lay to that one customer.

4 Q. Yes. What about -- what's the breakover
5 on the determination there? How do you-all make that
6 decision?

7 A. We generally look at it on a
8 cost-to-service basis and how that would factor into
9 our regulated rate of return.

10 Q. What's -- what --

11 A. Sometimes we'll use a simple payback
12 methodology.

13 Q. What happens currently with the areas
14 that you're serving in that regard? What do your
15 tariffs call for? Do you know?

16 A. The tariffs don't actually dictate
17 mandatory service to any individual customer. But in
18 our existing markets, because they're already somewhat
19 saturated, most of our new customers today are new
20 housing developments.

21 Q. Yes.

22 A. And if you go in up-front and the
23 developer knows gas is available, then the developer
24 will build in the option for that customer to have
25 natural gas appliances. And we're 90 percent of that

1 market today. We have a very, very high success rate
2 for new developments.

3 Q. And I kind of -- I understand what your
4 point is there. What I'm looking for here is whether
5 or not the obligation to serve is there and to what
6 extent it's there. And if I've -- if you've got a
7 residential street or you -- that -- with
8 currently-built houses, are you planning on building
9 distribution lines down all of those streets?

10 A. We would if we had a high enough
11 concentration of conversions. But my earlier example,
12 it's not prudent to me as an operator to spend money to
13 lay all the way down five miles of streets for one
14 customer at the end of the system --

15 Q. Yeah.

16 A. -- to receive natural gas. And we have
17 limitations under our tariff on how much we can
18 actually give the customers on their conversions.
19 That's dictated by the Public Service Commission.

20 Q. Do you know, is -- does your -- do your
21 current tariffs call for the costs for the laying of a
22 distribution line like that to be included and put in
23 with the rates of everyone else, or is it to be paid
24 for or partially funded by the customers who are
25 requesting the hook-up?

1 A. There's actually two different
2 components, and there's one of each that you just
3 mentioned.

4 Q. Do you know what that --

5 A. Yes.

6 Q. -- what that entails?

7 A. Yes, sir. The -- what we would call the
8 distribution mains -- which is, say, a two-inch line
9 that's running down a street --

10 Q. Yes.

11 A. -- would go into the rate base.

12 Q. Yes.

13 A. And then what we call the
14 distribution -- or the service lines, which would be
15 the three-quarter inch lines --

16 Q. To the house.

17 A. -- including the meter and including any
18 piping, then we're able to contribute up to so many
19 feet of pipe -- outside the home, inside the home --
20 and up to a very small dollar amount -- I want to say
21 it's \$250 -- to the residential customer. To the
22 extent that that conversion would, say, cost \$600, they
23 would need to pay the other \$350.

24 Q. Okay. And I'm just --

25 COMMISSIONER GAW: To the Staff, when

1 you supply the appropriate witness up here, I want
2 somebody to address the expectation of Staff in regard
3 to the obligation to serve and what Staff is expecting
4 in regard to the company providing service to
5 residential customers who may request it, as to whether
6 or not there's a line that's fairly clear or not -- and
7 whether it's not clear about where -- when that
8 customer should expect the company to fulfill its
9 obligation to serve under -- to serve in its service
10 territory. And I don't know who the right witness is,
11 Mr. Thompson, but when you get to that, I would
12 appreciate it if someone would address that.

13 MR. THOMPSON: Yes, sir.

14 BY COMMISSIONER GAW:

15 Q. Let me ask, in regard to the payback
16 here, with your assumptions, what is the -- what is the
17 assumption on how long it would take to return your
18 investment in the -- and to hook up to the city gate
19 and the distribution system that you're anticipating,
20 time frame-wise?

21 A. Yes, sir. That's what I'm looking at.
22 What we -- our feasibility study was basically a
23 ten-year pro forma. And so in that ten years, we
24 anticipate being able to saturate the market in our
25 five-year Bell Curve.

1 Q. Yes.

2 A. That's based upon the real experience
3 the company saw over the last 12 years. And then we
4 level off at kind of traditional mature utility growth,
5 one and a half, 2 percent a year.

6 Q. Okay.

7 A. And so our return on equity is estimated
8 to be in the 10, 11 percent rate over that ten-year
9 period that we did the pro forma and feasibility study
10 for.

11 Q. Okay. Now, the areas that you currently
12 serve in Missouri -- you mentioned Marshfield. That
13 area is probably -- I would imagine it to be a fairly
14 fast-growing area.

15 A. Yes, sir.

16 Q. But that wouldn't necessarily be true of
17 all of the other areas, would it?

18 A. No, sir.

19 Q. The Lebanon and Houston areas, would
20 they be similar to Marshfield or more similar to some
21 of the other areas you serve in regard to anticipated
22 growth?

23 A. Lebanon would be similar to Marshfield,
24 Rogersville, and even West Plains.

25 Q. Okay.

1 A. The demographics are very similar to
2 West Plains. You know, Marshfield and Rogersville get
3 some of the benefit of Springfield suburbia. You see
4 some of that in Lebanon, but Lebanon has, you know, an
5 attractive industrial base. The same is true for
6 Houston, although Houston is not a high-growth market,
7 and neither is Licking. But there are some nice
8 industrial markets in both of those areas.

9 Q. Okay. I want to ask you a few questions
10 about the corporate structure.

11 A. Yes, sir.

12 COMMISSIONER GAW: And if any of this
13 gets into HC, you-all need to let me know.

14 And I'm looking at this Exhibit -- is it
15 10, I believe, that --

16 JUDGE DIPPELL: Yes.

17 COMMISSIONER GAW: -- has the corporate
18 structure and a diagram?

19 BY COMMISSIONER GAW:

20 Q. It appears to me that -- from this
21 diagram -- and I need to know whether this is correct,
22 that the division of ownership at the first tier of
23 SMGC, LP, 98 percent is in Sendero SMGC Limited
24 Acquisition Company; is that right?

25 A. Yes, sir.

1 Q. And then 2 percent is in Sendero SMGC GP
2 Acquisition Company. Can you explain to me why that is
3 done that way, if you know?

4 A. Yes, sir. Well, when we acquired the
5 company, that's the exact same ownership structure that
6 DTE had.

7 Q. Okay.

8 A. There was DTE Energy, which owned the
9 two percent general partner interest, and there was DTE
10 Ozark, I believe, that owned the 98 percent limited
11 partner interest.

12 Q. Do you know why that division is done?

13 A. Well, I can't say why -- I'm assuming
14 that it has more to do with the corporate legal
15 structure of a limited partnership.

16 Q. Okay.

17 A. You have to have at least two partners.

18 Q. So -- okay. So you think it's a legal
19 issue --

20 A. Correct.

21 Q. -- in regard -- because both of them
22 then go back to and are owned in total with these
23 three -- an LLC --

24 A. A S Corp.

25 Q. -- an S Corp and then an individual.

1 A. Correct.

2 Q. Correct?

3 And those -- so, in effect, the
4 ownership split comes back together.

5 A. It does. And, Commissioner, that was
6 done at the time of the acquisition to avoid regulation
7 under PUCA, the Public Utility Holding Company Act, of
8 1935.

9 Q. I see.

10 A. DTE was already a registered public
11 utility holding company, so that was not important for
12 them. But had we not done our structure this way --
13 which we did explain two and a half years ago for
14 you --

15 Q. Yes. I had forgotten.

16 A. -- our administrative costs would be
17 three times what they are because you fall under SEC,
18 you know, regulatory jurisdiction.

19 Q. Is that true today, do you know, after
20 the Congressional --

21 A. No, sir.

22 Q. -- action on PUCA?

23 A. About 60 days after you approved my
24 acquisition, Congress approved the Energy Policy Act of
25 2005 and repealed PUCA. It could've saved me quite a

1 bit of money in closing costs.

2 Q. Okay. All right. Well, let's see.

3 Now, this is where you're going to -- you're probably
4 going to have to give me some caution. Sendero Capital
5 Partners Missouri, LLC, is it possible for you to tell
6 me whether or not that -- and the interests there are
7 individual or corporate behind that company?

8 A. Yes, sir. They're owned by me
9 individually 100 percent.

10 Q. Okay.

11 A. And that's -- again, it was part of
12 PUCA. That had to be owned by me in -- as a Missouri
13 corporation.

14 Q. Okay. And then what about -- so there
15 might have been some benefit to some -- to Missouri for
16 the fact that you had to comply with that.

17 CHX Capital Missouri, Inc. What about
18 it?

19 A. It's owned 100 percent by Alex Cranberg.

20 Q. Okay. Have we heard his name before?

21 A. Oh, yes, sir. He's been in from Day
22 One.

23 Q. Okay. As an individual?

24 A. As an individual.

25 Q. Okay. And then Michael J. Lewis, that's

1 an individual --

2 A. Yes, sir.

3 Q. -- over there? Okay.

4 Now, I want you to tell me to the extent
5 that you're able to, what is it that is -- you're
6 looking for in regard to financing here? Assuming that
7 you get approval, what kind of financing are we talking
8 about? Is the realm of the universe a possibility?

9 A. Do --

10 MR. FISCHER: Judge, are you asking
11 about individual and institutional investors, or just
12 generally that we have three institutional investors
13 that will be giving us equity as well as debt, that
14 kind of thing?

15 THE WITNESS: Or general terms.

16 COMMISSIONER GAW: Yes. More general at
17 this point.

18 THE WITNESS: Okay.

19 COMMISSIONER GAW: I'm trying to gauge
20 how --

21 THE WITNESS: Yes, sir.

22 COMMISSIONER GAW: -- how -- is this
23 equity? Is it debt? Are we looking -- and what kind
24 of numbers are we looking at in regard to --

25 MR. FISCHER: He can answer that on the

1 record --

2 COMMISSIONER GAW: -- the amount --

3 MR. FISCHER: -- in a public session.

4 THE WITNESS: Yes, sir.

5 COMMISSIONER GAW: Thanks.

6 THE WITNESS: Judge -- Your Honor,

7 we're -- we have -- right now, all three of our

8 shortlist are very, very large institutional accredited

9 investors in this business. This is not new to them.

10 The general terms that we're looking at is about a

11 capitalization structure of roughly 70/30 debt to

12 equity --

13 COMMISSIONER GAW: Okay.

14 THE WITNESS: -- once the refinancing is

15 complete. When we acquired the company in 2005, our

16 leverage was considerably higher, at about 85/15. So

17 this is a dramatic improvement to the overall capital

18 structure of the company.

19 BY COMMISSIONER GAW:

20 Q. When you say it is, you're talking about

21 what you're anticipating --

22 A. Yes, sir.

23 Q. -- or what's --

24 A. Yes, sir.

25 Q. Okay.

1 A. And the terms that have been notionally
2 discussed with all three of the shortlisted bidders --

3 Q. Okay.

4 A. -- if you will.

5 Q. On the equity side, would you anticipate
6 that the equity would come in through a change in the
7 ownership of any of the three partners, for lack of --

8 A. Right.

9 Q. -- a better words -- that are at the top
10 of that diagram? How would that work?

11 A. I'll be honest with you. Until we
12 actually kind of got down to the finish line with a
13 preferred bidder, that's really more the structural
14 detail.

15 Q. Yes.

16 A. And each individual investor may have
17 its own preferences with respect to, do they actually
18 want to own their interest at the LP/GP level --

19 Q. Yes.

20 A. -- or do they want to own their interest
21 up here? Do we want to unwind what we did now that
22 PUCA has been repealed? We haven't pushed that issue
23 with the investors. We have discussed it. My take --
24 my belief is that the ownership interest will -- the
25 shift will occur at the LP and GP levels.

1 Q. Okay. And so equity interest, then, you
2 would anticipate that those companies might have a
3 shifting in percentages of ownership of GP and the
4 limited acquisition company?

5 A. No, sir. I think what would happen is
6 this --

7 Q. Go on.

8 A. -- this 98 percent will stay the same.

9 Q. All right.

10 A. The 2 percent will stay the same. The
11 numbers at the top --

12 Q. Yes.

13 A. -- would change. And now you --

14 Q. The numbers at the top --

15 A. -- you would have Investor X, and
16 Investor X would own, you know, Y percent.

17 Q. Yeah.

18 A. And our numbers would be diluted and
19 adjusted accordingly.

20 Q. Okay. All right. So you think the
21 debt/equity ratios from where you are today to where
22 you anticipate going are going to show an increase in
23 equity?

24 A. Yes, sir.

25 Q. And would there be a renegotiation -- or

1 a refinancing, would be a better word, of all of the
2 debt that you currently have?

3 A. Yes, sir. Essentially. And terms would
4 be somewhat in our favor.

5 Q. They would?

6 A. Yes, sir.

7 Q. Better than what you have today?

8 A. Yes, sir.

9 Q. Okay. Now, earlier, there was some
10 mention about the earlier order -- or earlier orders, I
11 don't remember -- having some provision that ensured
12 that ratepayers had some protection and the
13 shareholders bore the risk. What's your understanding
14 of that?

15 A. It's in black and white in the original
16 Staff recommendation in 1994 or 5.

17 Q. Okay.

18 A. And in the order that was issued. And
19 when I went through the acquisition process, that was a
20 question that you specifically asked me in the agenda
21 room, and I said, Yes, sir, we did understand that.

22 Q. Okay. And the effect of that would be,
23 if there is -- if for some reason the anticipation
24 doesn't play out -- well, it doesn't play out like you
25 anticipate, and the company doesn't financially make

1 it, then what -- how does -- how are the ratepayers
2 protected, in your understanding?

3 A. I mean, I'm not an expert in the course
4 of bankruptcy law or in the course of regulatory law.

5 Q. Yes.

6 A. But my understanding is, you know, you
7 control and regulate the rates that we're allowed to
8 recover. And if I go out and spend money and we can't
9 successfully market our products and services --

10 Q. Yes.

11 A. -- that I have the right to come and ask
12 for rate increases and you have the right to deny those
13 rate increases. And that it's -- it would be on
14 prudence and reviewed.

15 Q. I see. Generally speaking, the
16 investments that you have made thus far, give me your
17 perspective on how the expectations that you had at the
18 time you made them have matched up with what has
19 actually occurred.

20 A. Both good and bad.

21 Q. Okay.

22 A. The good is, we have a very good
23 employee base. We do have a growing market area. The
24 bad is, during the due diligence, we also had a lot of
25 trucks and equipment that needed to be replaced. And

1 in the first two years, we've reinvested roughly a
2 million to a million-five into the company. The
3 ownership has not taking any -- has not taken any
4 dividends or distributions out of the company. So
5 we're still putting money in.

6 Q. Yes.

7 A. But when we bought it, we understood
8 that a lot of the potential opportunity for Southern
9 Missouri was embedded in the expansion of Houston,
10 Licking, Mountain View, Lebanon, and even recent --
11 more recently, we've acquired the franchise rights for
12 Branson.

13 Q. Okay. Since you mentioned Branson, is
14 Branson off of Southern Star, also?

15 A. Well, it's not off anything today. It's
16 in a hold.

17 Q. It is?

18 A. They have no gas service.

19 Q. What's anticipated there?

20 A. That we would come off Southern Star --

21 Q. Okay.

22 A. -- but from a different take point.

23 Q. I see. I'll leave that alone, unless
24 somebody thinks it ties into this.

25 Q. Okay. How soon will you have the

1 information on the financing for this acquisition?

2 A. Commissioner, I don't control the banks
3 who are preparing the term sheets. But we have been
4 told by them in the last 24 hours that we will have
5 them next week. I will need and want time to lay them
6 side-by-side --

7 Q. Yes.

8 A. -- do our analysis, make a
9 recommendation to our partners. And that partnership
10 then would pick the horse that we want to ride. And at
11 that point, that's when we would provide that detailed
12 information to Staff and to the Commission. The sooner
13 we get this done, the better it is for us. We have no
14 reason to delay or procrastinate.

15 Q. Now, you may not be able to answer this
16 question. But if you can, give me some idea of what --
17 how this would impact the dynamic moving forward here,
18 if the Commission made a determination that if
19 acceptable financing were found and presented to the
20 Commission that it would then approve -- subject to the
21 election -- and it would then approve this matter? Is
22 that problematic as opposed to having approval of the
23 transaction but then a requirement that subsequently
24 there would be some approval of the financing?

25 A. Yes.

1 Q. Is there --

2 A. That's --

3 Q. Do you see the distinction?

4 A. That's pretty much the same question
5 Commissioner Murray asked --

6 Q. See, I missed that.

7 A. -- earlier.

8 Q. I apologize for that.

9 A. And the answer is, yes. What we're
10 looking for is a visible means of support from the
11 Commission to show the investment community. The
12 Commission wants to see visible means of interest from
13 the investment community to show its support.

14 Q. Yes.

15 A. You know, you're back to the Southern
16 Star capacity issue and what's your market today and
17 how do you plan for that.

18 Q. Right.

19 A. But that type of a contingency would be
20 acceptable to us as long as there was not another delay
21 in the final order once we're able to close the
22 financing. Because time is of the essence for our
23 construction.

24 Q. Yeah. I understand. When we say
25 another delay, what are you talking about that would be

1 significant?

2 A. You know, I mean, every day is
3 significant. And when you look at -- we had hoped to
4 be in service in 30 days from now.

5 Q. Yes.

6 A. So, I mean, literally, I would say 30
7 days.

8 Q. Okay.

9 A. You know, so if there's a recommendation
10 issued and a final order can be acted upon -- we want
11 to be in a position such that when we can close
12 financing, we can start digging ditches.

13 Q. And from the point in time you get that
14 final approval to when you think you're actually able
15 to start serving, how much time is that?

16 A. We're --

17 Q. Is that seasonal?

18 A. For Lebanon, we're estimating about 12
19 to 15 weeks.

20 Q. Okay. No matter what time of year, or
21 does it matter?

22 A. Well, if we were starting in
23 December/January, but we're not. Hopefully we'll be
24 starting in August/September. Had we been starting in
25 May/June, you know, it really wouldn't be a whole lot

1 different than August/September.

2 Q. Okay.

3 A. Mother Nature has some bearing on that
4 with respect to rain or freezes --

5 Q. Yes.

6 A. -- et cetera, flooding. But we're --

7 Q. Okay.

8 A. -- you know, pretty confident we can do
9 this in a 12- to 16-week period.

10 Q. Okay. What about the other places?

11 A. Houston and Licking, because it's the
12 low pressure poly pipe, we can do that with our own
13 in-house crews.

14 Q. I see.

15 A. And, you know, it's -- a lot of it is --
16 depends on how much rock that you're encountering when
17 you're trenching. On average, if we can lay 5,000 feet
18 a day -- that's a mile a day, which I've seen our crews
19 do a lot more -- I've seen them do three and four miles
20 a day -- we can be in Houston in 16 days.

21 Q. Wow. And did you --

22 A. We have our own trenchers and our own
23 crews in-house.

24 Q. Somebody might have already said this --
25 I think they did -- that the easements on the laterals

1 are already secured?

2 A. They are. They are. We have the County
3 right-of-way agreements for Houston and Licking. And I
4 get the counties mixed up. But a clarification from an
5 earlier question, we do also have the County
6 right-of-way agreement from Laclede County --

7 Q. Okay. That --

8 A. -- to serve Lebanon.

9 Q. Yes.

10 COMMISSIONER GAW: I think that's all I
11 have. Thank you.

12 THE WITNESS: Thank you.

13 JUDGE DIPPELL: Thank you.

14 Commissioner Clayton, did you have
15 questions?

16 COMMISSIONER CLAYTON: Yeah. Just a
17 few, Judge.

18 QUESTIONS BY COMMISSIONER CLAYTON:

19 Q. What do you anticipate the peak day
20 usage for Lebanon to be? Is that a public number? I
21 hope it's a public number.

22 A. Yeah. Sure. Roughly five and a half to
23 six million cubic feet a day.

24 Q. And how does that compare decatherms,
25 million BTU? Help convert some numbers for me.

1 A. Yes, sir. We -- generally speaking, we
2 use them one-to-one. So an MCF is an MMBTU. When, in
3 fact, there can be a 1 or 2 percent, 3 percent
4 variation.

5 Q. Okay.

6 A. But we're -- we would anticipate 5.8
7 million BTUs per day as somewhat of a peak design.

8 Q. Okay. And that's just for Lebanon?

9 A. Yes, sir.

10 Q. And you've acquired the capacity
11 necessary from Southern Star to make that happen?

12 A. Yes, sir.

13 Q. Did they have to rearrange their system
14 or modify physically their system?

15 A. Yes, sir. They held an open season for
16 what was called the Ozark Trails expansion.

17 Q. Yeah.

18 A. Had we not participated then, we would
19 not have capacity available today. And they would have
20 to go through another FERC 7C process or 311
21 certification.

22 Q. Now, Ozark Trails is still a -- an
23 east-to-west project. There's another north-south --

24 A. That's correct.

25 Q. -- one and Southern Star is --

1 A. That's Highland Trails.

2 Q. That's Highland Trails. Okay.

3 A. New -- brand-new development.

4 Q. That's in you-all -- it's not that one?

5 A. We're -- no, sir. No. Ozark Trails was
6 completed in December of '06.

7 Q. Okay.

8 A. And so -- and it was -- there was a
9 combination of looping some pipe and some compression
10 reconfiguration on the system.

11 Q. Okay. The -- and all of your current
12 service territory is served off of Southern Star?

13 A. Yes, sir.

14 Q. All right. And I think I heard earlier
15 that if you are granted the certificate, these
16 territories would be served under the same PGA rates as
17 the rest of the system.

18 A. Yes, sir.

19 Q. Is that correct?

20 A. We're not proposing any change to any of
21 the rates.

22 Q. All right. Well, I want to talk to you
23 about PGA rates, because I think we've got a little bit
24 of history with your company. And, in fact, I think
25 there was a complaint that was filed against Southern

1 Missouri Gas, either by Staff or Public Counsel.

2 A. Public Counsel.

3 Q. By Public Counsel. And that was
4 resolved eventually by a stipulation. Can you identify
5 for me the changes that have occurred since that
6 complaint that would illustrate Southern Missouri Gas's
7 efforts to reduce, you know, costs for the customers'
8 PGA?

9 A. Yes, sir. As far as a stipulation
10 settlement agreement, we agreed to specific percentages
11 as kind of minimum guidelines that have be hedged for
12 each approaching winter period by three deadlines. And
13 I believe they are April 30th, July 31st, and October
14 1st or 31st. I -- I'm -- and the numbers are -- as a
15 general estimate, roughly 20, 20, and 20 percent.

16 And so since that settlement was signed
17 in early 2006, we have complied to the letter. We
18 provide Staff with documentation as to the status of
19 our hedging. And currently today, for 2007/2008
20 winter, we've already hedged 41 percent of our expected
21 normal winter requirements.

22 Q. You've already done 41 percent as of
23 today?

24 A. Yes, sir.

25 Q. And then you're -- does that include the

1 July 31st date? Does that include --

2 A. For Lebanon?

3 Q. -- the obligations -- well, maybe I
4 misunderstood. You said there are three dates: April
5 30th, July 31st --

6 A. Right.

7 Q. -- and October 31st, where you have to
8 acquire, I think, certain either instruments or
9 physical --

10 A. Right. It just says hedge, is --

11 Q. Just hedge. So it could be any type
12 of --

13 A. It could be options. It could be
14 collars. It could be swaps. It could be physical
15 contracts.

16 Q. Let's not go too far down the road,
17 because I don't -- you're using --

18 A. We use physical contracts.

19 Q. Okay. So financial contracts?

20 A. Physical contracts.

21 Q. You use physical contracts?

22 A. Yes, sir.

23 Q. Okay. So does the 41 percent include
24 the purchases that would have to be made for the July
25 31st date?

1 A. They do.

2 Q. Okay. So it's 41 percent. And then in
3 October you would add potentially another 20 percent to
4 that figure?

5 A. That's correct.

6 Q. So since the complaint was filed, can
7 you tell me whether or not that has altered the PGA?
8 Has it -- what the effect has been on these hedging
9 prices?

10 A. If I can give you a very real analysis,
11 we started -- I think we did our first hedge for 20
12 percent in April. We locked in at a price when NYMEX
13 was still relatively high. The second hedge was done
14 just a few weeks back. NYMEX has sold off considerably
15 in this time frame.

16 So our first hedge, again, \$9 range.
17 Our second hedge has brought the average to \$8. If we
18 were unhedged today, locking in today, all of our
19 winter gas, we could've further lowered our PGA another
20 30 to 40 percent. Because NYMEX has sold off
21 significantly since that first 20 percent hedge was
22 locked in.

23 Q. Uh-huh. Uh-huh.

24 A. So -- but it's -- the message that Staff
25 and the Commission had sent to us is, You are not --

1 it's not your job to pick the highs and lows of the
2 market. It's your job to dollar cost average and to
3 provide some stability for your customers. So the
4 settlement with the OP -- with -- the Public Counsel
5 and with Staff, you know, has dictated those terms, and
6 we've complied to the letter.

7 Q. Okay. And that would -- according to
8 that agreement, that would leave you making purchases
9 of around 40 percent of your needs for --

10 A. Right.

11 Q. -- what, spot purchases? Is that --

12 A. Spot. Or if we continue to see the
13 market fall, we can choose to lock in more than 60
14 percent.

15 Q. You can lock in more?

16 A. You bet.

17 Q. You can lock in more?

18 A. And we did that last year, because we
19 saw, you know, on the heels of not a real strong winter
20 early --

21 Q. Uh-huh.

22 A. -- and strong storage injection numbers,
23 we actually did go longer than we needed to. And it
24 really helped bring our PGA down.

25 Q. Stability and trying to limit the spikes

1 that can really be disruptive, I think, was the purpose
2 behind that.

3 During the complaint hearing or during
4 the time when the stipulation was brought up, there was
5 discussion about the financial position of Southern
6 Missouri Gas in having some assurances from the
7 Commission that it is going to approve PGA
8 modifications. The financial community would -- and if
9 I'm -- if I don't restate this correctly, feel free to
10 correct me.

11 But as I understand, there were concerns
12 about finances of Southern Missouri Gas in being able
13 to make certain purchases of gas in advance.

14 A. Yes, sir.

15 Q. Do you recall that discussion?

16 A. I do. At the time -- because we had
17 submitted an amendment to our PGA. Remember that we
18 bill all of our sales in arrears. And they're
19 generally billed in about 45 to 60 days. On our
20 system -- our accounting system is set up to where 25
21 percent of our customers get invoiced every week.

22 So it takes us four straight weeks to
23 actually invoice all of our customers. Well, each one
24 of those billing cycles get 30 days to pay. So it
25 takes another four straight weeks. Now, you're eight

1 weeks before we've invoiced and we've received any
2 money.

3 Gas supply doesn't work that way. It's
4 net payable net-ten. And so you have a huge float that
5 is a -- about a 40-day float on what can be several
6 million dollars of invoices. And the criticality of
7 that PGA adjustment was reflecting the fact that after
8 the hurricanes, we were buying gas at \$12 and we were
9 selling it at seven. You know, even being from
10 Louisiana, those economics don't work.

11 Q. Will -- aside --

12 A. I was waiting for the chuckles.

13 Q. No. I appreciate that. I appreciate
14 that. I think that answers my question on that.

15 Is there a -- in your business plan for
16 going into, let's say Lebanon, for example, is there a
17 certain number of customers that you would need? Have
18 you established, like, a break-even point of customers
19 that you have to add?

20 A. No, sir. Not really. We've looked at
21 it, again, based on our real-time experience. And so
22 our projections -- and we've talked -- the question was
23 asked earlier, I believe by Staff counsel, how fast
24 before we saturated. What we've seen by looking back
25 at the data that Southern Missouri experienced in '95,

1 6, 7, 8, and 9, is of the saturation level, you're
2 going to get 40 to 50 percent of it in Year 1; 25 to 30
3 percent in Year 2; 10 percent, 5 percent, 2.5 percent,
4 1.5 to 2 thereafter. We've used that same curve in
5 developing our feasibility numbers.

6 Q. Well, in this -- I guess what I'm trying
7 to ask is, in this business, which is where you're
8 going to have build out -- you're going to have a
9 capital investment --

10 A. Right.

11 Q. -- to actually get the product to
12 people's houses, how many customers do you need to sign
13 up before you call this a success?

14 A. I mean, we just didn't analyze it that
15 way, because we took a ten-year approach. I can --

16 Q. So does that --

17 A. -- make an estimate.

18 Q. -- mean we have to wait ten years to
19 determine whether or not this was a worthwhile --

20 A. No, sir.

21 Q. -- endeavor?

22 A. No, sir. The definition of success in
23 my book is the opportunity to earn the regulated return
24 that you approve. And it would take me, as
25 according -- this is the -- kind of the realistic

1 plan using can back off. And I believe Staff has a
2 witness who will testify to the sensitivity analysis
3 that they did on our customer counts that will
4 demonstrate that there's -- there is a lot -- there is
5 a lot of opportunity for lower-level growth and still
6 having a feasible project. But we've tried to use
7 realistic data, not pro forma or projected data.

8 Q. Well, I understand that. I'm trying to
9 get a sense of after one year and you're off your
10 projections, is the -- I don't want to say the project
11 is in jeopardy. I mean, that's almost too dramatic.

12 I'm just saying, at what -- are your
13 targets set up to -- in a way that you need to make
14 those targets to meet a certain level of revenue for
15 the venture to be a success up to that point? Or is it
16 just not set up that way. It doesn't make any sense.

17 A. It's -- our analysis isn't set up that
18 way.

19 Q. Okay.

20 A. It's really set up more on what is
21 achievable.

22 Q. All right. Now --

23 A. What's realistic.

24 Q. -- in the city of Lebanon, if the
25 Commission grants the certificate, you will -- anyone

1 who calls, any customer that calls from within the city
2 limits, will be able to sign up for gas service from
3 you; is that correct?

4 A. That's a question that Commission Gaw
5 has asked for clarification on.

6 Q. Okay.

7 A. It's currently not my understanding that
8 that is required. And partly, Commissioner, is the
9 fact that it's not prudent for me to lay five miles of
10 pipe through an all-electric subdivision to serve one
11 person who wants fire -- gas -- natural gas.

12 Q. I believe Mr. Fischer brought this up
13 when I was asking you some questions during opening
14 statements, about the build-out requirements. Can you
15 give me an idea of the costs that a residential
16 customer would incur to sign up for gas? Would they
17 have to pay for a certain amount of infrastructure past
18 a certain distance from the mainline, or --

19 A. Yes, sir. And it's -- I can give you
20 some rule-of-thumbs.

21 Q. Uh-huh.

22 A. Because every conversion is different.
23 Was the house built in 1900 or 1990? Is there copper
24 pipe? Is it PVC pipe that's been duct-taped and
25 super-glued? We see it all.

1 Q. You mean within the house?

2 A. You bet.

3 Q. So that type of pipe being used for the
4 propane system? Is that what you're talking about?

5 A. Well, they use it for a lot of stuff.

6 Q. Okay.

7 A. But as a general rule, we're using
8 \$1,500 total cost per customer on the residential side.
9 Above the residential side, we have to look at each one
10 on a case-by-case basis. Because going in and repiping
11 a boiler or a furnace in a retail shopping center or an
12 office building, you just -- you have to look at those
13 case-by-case. But our tariff allows us to contribute
14 up to so many feet of pipe outside the home, so many
15 feet of pipe inside the home, not to exceed a value --
16 I believe the cap is at \$250.

17 Q. \$250 --

18 A. Yes, sir.

19 Q. -- per residential customer?

20 A. So if it was \$400, then the customer
21 would have to pay 150.

22 Q. What was the \$1,500 figure that you --

23 A. That's what we use as a estimate.

24 Because, remember, we have to lay a service line down
25 that street, too. That \$250 is simply to go from that

1 service line to --

2 Q. So the --

3 A. -- the house.

4 Q. -- the 1,500 is for up to the house,

5 then the 250 is --

6 A. And the meter.

7 Q. -- inside the house?

8 A. Correct. And the meters are three, four

9 hundred dollars.

10 Q. Are you going to -- are those meters

11 going to be automatic meter-reading meters? Are they

12 going to have a radio system in -- built into them? Or

13 are --

14 A. Yes.

15 Q. -- you going to have --

16 A. They do. We use the Itron system.

17 Q. The Itron --

18 A. Right.

19 Q. -- system?

20 A. But they're not --

21 Q. I got to ask --

22 A. -- on a --

23 Q. I got to ask this. Who is going to

24 install those? You got -- who installs the AMR part of

25 the meter? Or are they already on the meter?

1 A. I think they're already on the meter.

2 Q. They're already on there?

3 A. Yes, sir. We install our own meters.

4 We keep our own inventory service.

5 Q. It came up --

6 A. Everything that's low-pressure.

7 Q. It came up in another case.

8 A. Okay.

9 Q. Do you know, other than the Public
10 Counsel complaint that was filed against Southern
11 Missouri Gas, are you aware of any other complaints
12 that have been filed against your company?

13 A. I think in the two and a half years that
14 we've owned it, I think we've had three customer
15 complaints.

16 Q. Uh-huh.

17 A. All three were addressed satisfactorily
18 to the Staff and Commission's rules. And they were
19 quote/unquote "queries" on billing errors, resolved
20 without any issues. We have no outstanding complaints
21 that I'm aware of.

22 I have a weekly staff meeting with each
23 one of the managers, and that's one of the reports that
24 is presented to me.

25 COMMISSIONER CLAYTON: I don't think I

1 have any other questions. Thank you.

2 JUDGE DIPPELL: Thank you.

3 COMMISSIONER GAW: I have one more.

4 JUDGE DIPPELL: Go ahead, Commissioner
5 Gaw.

6 FURTHER QUESTIONS BY COMMISSIONER GAW:

7 Q. The north-south transmission line that
8 you were talking about earlier, that's coming up from
9 Arkansas?

10 A. Oh, the Highland Trails?

11 Q. Yes. Is that relevant at all to
12 these --

13 A. It --

14 Q. -- systems?

15 A. It could be. But on a cost basis, at
16 least the early numbers we saw from Southern Star --
17 the cost of service was higher than what we can
18 currently do coming in from the west.

19 Q. Yes.

20 A. But it could offer some arbitrage
21 opportunities by disbursing or unconcentrating your
22 supply risk.

23 Q. Yes.

24 A. Because it would give you -- Gulf
25 Coast -- access to Gulf Coast supplies relative to just

1 Mid-Continent.

2 Q. Right.

3 A. But Gulf Coast tends to price it about
4 30 cents to a dollar higher --

5 Q. Higher.

6 A. -- than Mid-Continent.

7 Q. I understand that. I was just curious
8 about what -- how close is it --

9 A. It's running right through Lebanon, to
10 my understanding.

11 Q. Is it --

12 A. It is. Now, that was the plan that we
13 saw early on.

14 Q. Okay.

15 A. We have opted, for the time being, not
16 to sign a precedent agreement for additional capacity.
17 You know, there could be opportunities down the road,
18 but we would also compare them against the ability to
19 incrementally expand the western route, as well.

20 Q. Yes. I understand.

21 A. And you -- then you look at your basis
22 differentials on your supplies, because it all becomes
23 rolled into your PGA. So you can't look at transport
24 in a vacuum. You have to look at it as a complement or
25 as a risk to your total supply costs.

1 Q. Sure. Thank you.

2 COMMISSIONER GAW: That's all I have,
3 Judge. Thanks.

4 JUDGE DIPPELL: Thank you. I had just a
5 couple of clarification things to state. And we've
6 used the term -- I think Mr. Fischer used it and
7 Commissioner Murray both used it -- CCN. And just so
8 that it's clear on the record, we're referring to a
9 certificate of convenience and necessity.

10 QUESTIONS BY JUDGE DIPPELL:

11 Q. And Mr. Maffett, you talked early on in
12 your testimony about having -- with regard to the
13 financing, about having a private placement. Can you
14 just, for those of us that aren't involved in those
15 kinds of transactions, can you just explain to me what
16 that means?

17 A. Yes, ma'am. It's a very commonly used
18 financing tool, particularly for non-public companies.
19 It's not a registered securities offering. And it's
20 generally -- it's a word-of-mouth and you approach
21 certain potential investors that are known to have an
22 interest in your business and to be knowledgeable in
23 your business. You show them what you're trying to do.

24 It's a fancy word to say you're calling
25 different people and seeing if they're interested.

1 Q. And -- but is there an agency or a
2 company, consultant that does that for you in this
3 situation?

4 A. Yes. There is.

5 Q. That's what I understood; you --

6 A. There is.

7 Q. -- contracted --

8 A. We have hired a financial advisor.

9 Q. Okay. And I think this maybe got
10 cleared up later. But you mentioned that the gas for
11 this area would be in your one particular delivery
12 station. Does your -- can you explain how the pipeline
13 works with regard to delivery stations? Do you have
14 more than one delivery station in this area, or --

15 A. Not off of Southern Star. Station 142
16 is the end of their system and the beginning of mine.

17 Q. Okay.

18 A. And so Southern Star meters are
19 delivered volumes at that one point, and that one point
20 only. Downstream, we have a meter station at every one
21 of our 12 city gates. We will have a meter station at
22 Lebanon, Houston, and Licking. So each area will have
23 its own meter station so that we're -- we can monitor
24 the total volumes going to a community. But on the
25 delivery side, there's only one measurement point, at

1 Station 142. And that's where that pressure profile
2 was --

3 Q. Okay.

4 A. -- constructed.

5 JUDGE DIPPELL: Great. Okay. Thank
6 you.

7 Commission Appling may have some
8 questions for you later, so I'll ask if you'll remain
9 after this to be possibly recalled for questions he may
10 have.

11 THE WITNESS: Yes, ma'am.

12 JUDGE DIPPELL: Is there any
13 cross-examination based upon the questions from the
14 Commissioners and myself from Staff?

15 MR. THOMPSON: Just a little bit, Your
16 Honor.

17 RE-CROSS-EXAMINATION BY MR. THOMPSON:

18 Q. Commissioner Murray asked you about
19 economic benefits to residents who do not convert to
20 natural gas service. Do you recall that?

21 A. I think so.

22 Q. And I wanted to explore that with you a
23 little bit. You did testify that it's your belief that
24 the delivered price of your product would be cheaper --
25 significantly cheaper than propane. Correct?

1 A. Today it is. Yes, sir.

2 Q. So, for example, take commercial
3 customers. If businesses are paying less for their
4 energy needs, is it possible that they might lower
5 their prices?

6 A. I guess it's possible. Yes, sir.

7 Q. Is it possible that they might expand
8 and add jobs?

9 A. Yes, sir.

10 Q. And if residential customers are paying
11 less for their energy, does it follow that they would
12 have extra money in their pocket to spend on other
13 things?

14 A. Yes, sir.

15 Q. Thank you.

16 MR. THOMPSON: No further questions.

17 JUDGE DIPPELL: Is there anything from
18 Public Counsel based on Commission questions?

19 MR. POSTON: Yes. Thank you.

20 RE-CROSS-EXAMINATION BY MR. POSTON:

21 Q. Commissioner Murray asked you some
22 questions about franchise fees, I believe.

23 A. Yes, sir.

24 Q. And pardon my ignorance on how franchise
25 fees are determined. Is that 5 percent -- is that a

1 negotiated percentage?

2 A. It is.

3 Q. Okay.

4 A. It tends to be -- I believe 5 percent is
5 the number that's in every -- all 12 of our existing
6 franchises. Some of them had a little bit of a ramp-up
7 for a moratorium to allow us to absorb the cost of
8 laying, you know, the initial Cap X, to get more
9 customers on. But, yes, sir, 5 percent is pretty
10 standard.

11 Q. Okay.

12 MR. POSTON: That's all. Thank you.

13 That's all I have.

14 JUDGE DIPPELL: Is there further
15 cross-examination from the Propane Gas Association?

16 MR. HATFIELD: Yes, Judge. Just a
17 couple things.

18 RE-CROSS-EXAMINATION BY MR. HATFIELD:

19 Q. I wanted to talk a little bit about
20 conversion costs that I think maybe all three
21 Commissioners who are still here -- and just to review.
22 So you're saying that if you were going to hook up my
23 house, I might have to pay some conversion costs
24 depending on how much line?

25 A. Correct.

1 Q. Okay. Does Southern Missouri Natural
2 Gas have a website?

3 A. It does.

4 Q. And is that available to consumers in
5 Missouri?

6 A. Sure.

7 MR. HATFIELD: I didn't bring extra
8 copies because I didn't know we were going to get into
9 this area.

10 (EXHIBIT NO. 14 WAS MARKED FOR
11 IDENTIFICATION.)

12 BY MR. HATFIELD:

13 Q. But let me show you what we're going to
14 mark as Exhibit 14.

15 JUDGE DIPPELL: Show that to Mr. Fischer
16 and then --

17 MR. HATFIELD: Absolutely.

18 JUDGE DIPPELL: -- you may give it to
19 the witness.

20 MR. HATFIELD: Okay. Let me ask --

21 MR. THOMPSON: Can I see that, please?

22 MR. HATFIELD: Sure.

23 MR. THOMPSON: Thank you. Thank you.

24 MR. HATFIELD: Uh-huh.

25 And I do apologize, Judge.

1 JUDGE DIPPELL: Would you like to see
2 it?

3 MR. HATFIELD: I didn't --

4 JUDGE DIPPELL: That's fine.

5 MR. HATFIELD: -- know this is where we
6 were going to go.

7 BY MR. HATFIELD:

8 Q. Let me ask you if you recognize that
9 page.

10 A. Yes, sir.

11 Q. And can you just tell us what it is?

12 A. It's a printout of a web page.

13 Q. And is that Southern Missouri Natural
14 Gas's web page?

15 A. Yes, sir.

16 Q. And can you read the paragraph that
17 says, Conversion Subsidy, please?

18 A. Conversion subsidies. If you wish to
19 convert your home from propane or electricity to
20 natural gas, SMNG will run a gas line to your house,
21 set a meter, and convert up to three appliances at no
22 charge. If you buy a new gas water heater from SMNG,
23 we will sell it to you at cost, give you a \$100 rebate
24 to be applied to your bill, and install it for free.

25 Q. Okay. So you won't actually run the

1 line out there at absolutely no charge if I live five
2 miles away? Your tariff prevents that. Correct?

3 A. I think that's true.

4 Q. Okay. Thank you. And this is a website
5 that's available for your consumers to use; is that
6 correct?

7 A. Sure.

8 Q. And you refer them to this website for
9 information; is that correct?

10 A. We generally refer them to ourselves for
11 information.

12 Q. And that web address in on marketing
13 materials that Southern Missouri Natural Gas --

14 A. It is.

15 Q. -- uses? Okay. On the issue of
16 penetration that Commissioner Murray asked you about, I
17 think we're all clear on this, but I just want to make
18 our record straight.

19 The two of you started discussing 50
20 percent. Your feasibility doesn't project 50 percent
21 of the residential households will come on. Correct?

22 A. That's correct.

23 Q. It's more -- I'm -- 39 percent from --

24 A. It's 50 percent of what we have
25 estimated to be the current propane market.

1 Q. Just propane?

2 A. For that one data point. We also
3 estimate that we will convert some of the electric and
4 some of the wood or diesel or other, as well.

5 Q. Right. I just -- I mean, the
6 feasibility study says what it says.

7 A. Right.

8 Q. I just wanted to make sure the record
9 was clear on what we were talking about there.

10 So on the -- back on the conversion
11 rates. And I guess it's related to penetration, too.
12 So if you have somebody who lives in a farmhouse five
13 miles outside of town and there's nobody between here
14 and there, the odds are you're not going to provide
15 service to them. Correct?

16 A. Not unless they're willing to help with
17 some of the cost.

18 Q. All right. Okay. The -- and on the
19 penetration, the financial -- or I'm sorry, the
20 feasibility study includes your estimates of how many
21 salespeople you would have in the Lebanon area; is that
22 correct?

23 A. Hang on just a minute. I think our
24 feasibility study just simply says head count. I don't
25 think it targets --

1 Q. Okay.

2 A. -- what their role is.

3 Q. All right. Well, let me just ask you
4 this: In order for the people to know that the -- how
5 are you going to let people know that natural gas is
6 available, if this is all approved?

7 A. Advertising, word-of-mouth. We will
8 have company vehicles. We'll have a local presence.
9 Civic organizations. We're extremely active in our --
10 all of our business communities.

11 Q. There will be salespeople on-site who
12 are responsible for doing that?

13 A. All employees are responsible for
14 selling for the company.

15 Q. Okay. Will there be somebody who is
16 designated in Lebanon as in sales?

17 A. I can't say today that there would be a
18 Lebanon salesperson. We will have salespeople in
19 Lebanon.

20 Q. Okay. Well, it will -- okay. I think
21 the record says there will be one salesperson in
22 Lebanon. Are you saying that's not correct?

23 A. Which record are you referring to?

24 Q. The feasibility studies.

25 A. I'm looking at the input page, and all I

1 see is a head count, and it shows nine in Lebanon.

2 Q. Okay. Well, I guess I'm just asking you
3 how many salespeople will there be?

4 A. It depends on how many people and how
5 fast they're calling and wanting to get hooked up.

6 Q. Okay. Thank you.

7 MR. HATFIELD: No other questions,
8 Judge.

9 JUDGE DIPPELL: Is there redirect?

10 MR. FISCHER: Just very briefly, Judge.

11 REDIRECT EXAMINATION BY MR. FISCHER:

12 Q. Mr. Maffett, I'd like to refer you to
13 this Exhibit 13.

14 A. Yes, sir.

15 Q. Have you got a copy of that?

16 A. I do.

17 Q. There's a reference there to -- you were
18 asked a question about the statement, Just in case
19 anyone tries to tout propane as being safer. Do you
20 see that?

21 A. Yes, sir.

22 MR. HATFIELD: I'm just going to object.
23 We've gone beyond the redirect. I don't know what the
24 Commission's policy is on that.

25 MR. FISCHER: Judge, I haven't had

1 any --

2 JUDGE DIPPELL: This --

3 MR. FISCHER: -- redirect at all.

4 JUDGE DIPPELL: -- is redirect on the

5 entire --

6 MR. HATFIELD: Oh, the redirect --

7 JUDGE DIPPELL: -- cross-examination.

8 MR. HATFIELD: -- all the way back?

9 JUDGE DIPPELL: Yeah.

10 MR. HATFIELD: I'm sorry. I withdraw my

11 interruption.

12 JUDGE DIPPELL: It's all right.

13 MR. FISCHER: Not a problem.

14 BY MR. FISCHER:

15 Q. Is -- which is heavier, propane or

16 natural gas?

17 A. Propane.

18 Q. And does that affect any safety issues?

19 A. It does have the potential to pool in

20 low-lying pockets.

21 MR. HATFIELD: I'm going to object that

22 this question calls for speculation. The witness

23 previously testified he didn't have any idea. So I

24 think the record is that he has no basis to make this

25 testimony.

1 THE WITNESS: Your Honor, he asked me
2 about the propane industry.

3 JUDGE DIPPELL: Well, let your attorney
4 argue for you.

5 THE WITNESS: Sorry.

6 MR. FISCHER: Yeah. I think he did ask
7 about the propane industry generally. And I'm just
8 asking what -- whether propane is heavier than air, and
9 whether that affects a safety issue. He is a
10 professional engineer. He can -- is competent to
11 answer that.

12 JUDGE DIPPELL: I'm going to overrule
13 your objection. You can answer.

14 THE WITNESS: Propane is heavier than
15 air and heavier than natural gas, and has a tendency
16 to -- or the potential to pool in low-lying pockets.

17 BY MR. FISCHER:

18 Q. There's also a discussion in the last
19 sentence here -- or the next to the last, Please note,
20 however, that Exhibit D is a financial summary and is
21 filed under confidential seal and is not available to
22 the general public.

23 Do you see that?

24 A. Yes, sir.

25 Q. That was in reference to what you were

1 providing to the City; is that correct?

2 A. That is correct.

3 Q. Did you have a confidentiality agreement
4 with the City?

5 A. Yes. We did.

6 Q. Would you explain that?

7 A. The City -- in April of 2006, the City
8 issued a standard RFP, request for proposals, to 20
9 plus or minus gas companies, requesting proposals to
10 develop and expand into Lebanon. As part of that RFP,
11 there was a confidentiality clause or agreement within
12 the terms of that. We submitted our response in May of
13 2006. It is stamped confidential on the cover, and
14 everything in there is confidential, including these --
15 the application for the CCN was not, because there was
16 not at that time an application.

17 So this -- and the two recipients of
18 this e-mail -- one is Scott Shumate who is the director
19 of Public Works for the City; the other Lebl is the
20 mayor of Lebanon, both City employees who would be
21 under the confidentiality of the RFP.

22 Q. So it was your expectation that that
23 information would be kept confidential pursuant to that
24 agreement?

25 A. Yes, sir.

1 Q. Mr. Maffett, does that answer indicate
2 that you didn't approach the City, they approached you
3 about natural gas?

4 A. That is correct.

5 Q. The Public Counsel asked you about the
6 gross receipts tax, the 5 percent on revenues. Is that
7 your understanding?

8 A. In each -- again, in each city, they can
9 vary, but as -- on average it's 5 percent. Yes, sir.

10 Q. And that's determined by the franchise
11 in each of the cities?

12 A. That's negotiated within the terms of
13 the franchise agreement.

14 Q. And I believe you indicated that is a
15 pass-through; you just --

16 A. Collect it.

17 Q. -- put it on a bill and then give it to
18 the city.

19 A. That's correct.

20 Q. Whatever they say it is, that's what you
21 give them?

22 A. That's correct.

23 Q. Okay.

24 MR. FISCHER: That's all I have, Your
25 Honor. Thank you.

1 JUDGE DIPPELL: Thank you.

2 Let's go back to the proprietary
3 classification of Exhibit 4 and get that cleared up.

4 Mr. Hatfield --

5 MR. HATFIELD: You know, Judge, I don't
6 want to slow things down. I'm just going to withdraw
7 my objection on that.

8 JUDGE DIPPELL: Okay. Then Exhibit
9 No. 4 will remain proprietary.

10 Thank you.

11 MR. HATFIELD: No problem.

12 JUDGE DIPPELL: All right, then. I
13 believe that concludes Mr. Maffett's testimony, with
14 the exception of if there are further Commissioner
15 questions later, I may recall him.

16 So Mr. Maffett, you may step down.

17 Let's go ahead and break for lunch.

18 Mr. Fischer, you look like you were
19 about to say something.

20 MR. FISCHER: I was just going to make
21 sure that all the exhibits that were associated with
22 his testimony had been offered and received. I believe
23 they have.

24 JUDGE DIPPELL: You know, the only thing
25 that wasn't offered was Mr. Hatfield's Exhibit No. 14.

1 Mr. Hatfield, were you wanting to offer
2 that website?

3 MR. HATFIELD: Oh, thank you, Judge.
4 Yes. I move the admission of Exhibit 14, which was the
5 website.

6 JUDGE DIPPELL: Would there be any
7 objection to Exhibit No. 14?

8 Seeing none, then I will receive it into
9 evidence.

10 (EXHIBIT NO. 14 WAS RECEIVED INTO
11 EVIDENCE.)

12 JUDGE DIPPELL: Okay. Could the --

13 MR. THOMPSON: Your Honor, is
14 Mr. Hatfield going to supply additional copies of that
15 exhibit?

16 JUDGE DIPPELL: I will be certain that
17 Mr. Hatfield supplies that, as well as --

18 MR. THOMPSON: Thank you.

19 JUDGE DIPPELL: -- copies of Exhibit
20 No. 11.

21 And if I can get Mr. Fischer to get
22 copies of No. 1, which was -- we took official notice
23 of, as well.

24 MR. FISCHER: Judge, that's already
25 attached to the application that was received into

1 evidence.

2 JUDGE DIPPELL: It is attached --

3 MR. FISCHER: Do you need --

4 JUDGE DIPPELL: -- to the application?

5 MR. FISCHER: Do you need -- I can make
6 extra copies, too.

7 JUDGE DIPPELL: If you would make at
8 least a copy for the court reporter and myself.

9 MR. FISCHER: I'll be glad to do that.

10 JUDGE DIPPELL: All right, then. Let's
11 get ahead and break for lunch. Let's come back at
12 1:30.

13 MR. FISCHER: Just for purposes of the
14 folks in the room, we'd like to call the city
15 administrator next because they do have other
16 obligations today.

17 JUDGE DIPPELL: All right.

18 Let's go ahead and go off the record.

19 (A LUNCH RECESS WAS TAKEN.)

20 JUDGE DIPPELL: Let's go ahead and go
21 back on the record. Okay. Returning after our lunch
22 break. And we're ready to go on to Southern Missouri
23 Gas's next witness.

24 MR. FISCHER: Judge, at this time, we
25 would call Joe Knapp to the stand.

1 (Witness sworn.)

2 JUDGE DIPPELL: Okay. If you could
3 spell your name for the court reporter.

4 THE WITNESS: J-o-e K-n-a-p-p.

5 JUDGE DIPPELL: Go ahead, Mr. Fischer.

6 JOE KNAPP testified as follows:

7 DIRECT EXAMINATION BY MR. FISHER:

8 Q. Please state your name and business
9 address for the record.

10 A. My name is Joe Knapp. My business
11 address is P.O. Box 111, 400 South Madison, Lebanon,
12 Missouri 65536.

13 Q. What is your current position?

14 A. I am the city administrator for the city
15 of Lebanon.

16 Q. Would you briefly described your --
17 describe your educational background and your current
18 duties with the city of Lebanon?

19 A. Sure. I have an undergraduate degree
20 from Drury University in business administration, and I
21 received my masters in business administration from
22 Missouri State University. Currently as the city
23 administrator, I'm responsible for the oversight of the
24 municipal operations of both the government side and
25 the Public Works side, as well.

1 Q. Regarding the Public Works side, can you
2 elaborate on what you do in that regard with --
3 particularly with regard to utilities?

4 A. Well, this is a recent transition that
5 we did in the city. But basically we have a water,
6 sewer, and electric utility. And, therefore, I'm
7 responsible for any of the operations and ongoings
8 there. I have a Public Works director who is directly
9 responsible, but in turn we have meetings and he
10 reports to me and a council.

11 Q. Do you also have any role in relation to
12 economic development activities for the city of
13 Lebanon?

14 A. Absolutely. That would be considered a
15 primary function of my responsibility. Yeah.

16 Q. Okay. Have you, in your role as city
17 administrator, had the occasion to investigate the need
18 for public utility services such as natural gas?

19 A. Yes.

20 Q. Mr. Knapp, do you believe there's a need
21 for natural gas and transportation services in the city
22 of Lebanon?

23 A. Yes. I do.

24 Q. Would you explain the public benefits
25 that would result if the Commission granted the

1 application in this case to -- for Southern Missouri
2 Natural Gas to serve Lebanon?

3 A. I believe it will boil down to two major
4 components. One would be competitive position and
5 quality of life for our citizens. The primary public
6 benefit, I believe, would be to facilitate our existing
7 industry and potential future industries to have a
8 competitive marketplace for energy resources. And in
9 turn, they would also provide primary jobs. And
10 perhaps the most important resource that I can offer to
11 my citizens is primary jobs. With good jobs, then a
12 quality of life is usually accompanied with that.

13 Q. Has the City of Lebanon, to your
14 knowledge, ever been approached by potential employers
15 considering locating in Lebanon?

16 A. I know that in working with -- we also
17 partner in with AHEP, which is an economic development
18 organization that the city was a part of helping get
19 established a couple of years ago, which is a public
20 joint private venture. And in working with Ben Jones,
21 who is the director of AHEP and also is the
22 president-elect of the Missouri Economic Development
23 Council, most of the leads either hit my office via the
24 phone or come directly from the Missouri Department of
25 Economic Development to Ben.

1 And in visiting with Ben, yes, there
2 have been at least three projects that the City of
3 Lebanon may have had the opportunity to submit
4 proposals to, but a specific requirement to those
5 potential industry needs was natural gas and the
6 availability of it.

7 That constitutes -- that in itself is a
8 major public benefit. Had we been able to submit a
9 proposal, and maybe even possibly land one of those
10 industries, the three combined could've equaled up to
11 200 jobs and perhaps \$180 million in capital
12 investment. We never really even had the opportunity
13 to pursue those leads because we don't have natural gas
14 availability in Lebanon.

15 Q. How old a town is Lebanon?

16 A. We're 125 to 130 years old. I think
17 we're going to be celebrating our 130th anniversary
18 here in a couple of years.

19 Q. Okay. Has the City of Lebanon adopted
20 an ordinance giving Southern Missouri Natural Gas a
21 municipal franchise to serve the City of Lebanon?

22 A. Yes. We have.

23 Q. And have you also scheduled a
24 ratification election to approve that -- or potentially
25 approve that ordinance?

1 A. Yes. We have.

2 Q. When would that election occur?

3 A. August the 7th, 2007.

4 Q. To your knowledge, has the City Council
5 for Lebanon previously expressed a desire to obtain
6 natural gas?

7 A. Yes. In looking back through some of
8 the records, and whenever we was moving along in the
9 process of looking at natural gas, sometime back in the
10 '60s the Council actually passed an ordinance
11 authorizing natural gas -- a natural gas franchise back
12 then. For whatever reason -- before my time -- that
13 had not been exercised.

14 Q. So it would be -- would it be correct
15 that the City has expressed an interest in natural gas
16 probably nearly 40 years ago?

17 A. Yes.

18 Q. Have you also had the occasion to talk
19 to suppliers of other services like electricity that
20 serve the City of Lebanon?

21 A. Yeah. Well, we -- the City of Lebanon
22 is the municipal electric provider. We buy our power
23 wholesale, and we are the distribution system, and we
24 are the municipal provider of electricity. And so,
25 yes, in conversations with our supplier, we meet

1 with --

2 MR. HATFIELD: Judge, he's actually
3 answering a different question than was asked. So I
4 want to object to that. But I also need to object to
5 any hearsay that he appears to be ready to offer.

6 JUDGE DIPPELL: Okay.

7 MR. HATFIELD: The question was: Have
8 you had any conversations with suppliers? So I guess
9 I'd just ask you --

10 THE WITNESS: Yes.

11 MR. HATFIELD: -- to instruct the
12 witness to limit his answers so that I can object if I
13 need to.

14 JUDGE DIPPELL: All right.

15 BY MR. FISCHER:

16 Q. As the city administrator of Lebanon,
17 what do you expect to occur in the future regarding the
18 price of electricity in your area?

19 A. We expect to see somewhere in the
20 neighborhood of 30 to possibly 40 percent increase in
21 electricity costs passed to the City of Lebanon, which
22 would, in time, have to be passed to our citizens.

23 Q. Do you have any other comments you'd
24 like to make to Commissioner Appling or Judge Dippell
25 regarding the public need for natural gas in the City

1 where we probably spend more effort on, has approached
2 us multiple times about natural gas. They have to be
3 competitive in the world, and so they have been asking
4 and inquiring and pushing us to provide them with the
5 ability to be competitive in the marketplace, and to
6 provide them at least the opportunity to have an
7 alternative resource that would make it -- the
8 marketplace more competitive and, thus, allow them to
9 compete better on the bottom line.

10 I think if we can work with our existing
11 industry and provide expansion and additional jobs and
12 help them be more competitive, attract new industry
13 with additional jobs and help them be competitive, then
14 the quality of life for our citizen goes up, because
15 they have good jobs, stability, and an income stream to
16 provide those things that are necessary for a quality
17 of life. That's what I have to offer.

18 MR. FISCHER: Judge, that's all I have.
19 I would tender the witness for cross-examination.

20 JUDGE DIPPELL: Okay. Is there
21 cross-examination from Staff?

22 MR. THOMPSON: No. There's not.

23 JUDGE DIPPELL: And Mr. Poston indicated
24 to me on the break that he was not going to be joining
25 us for the remainder of the afternoon.

1 Is there cross-examination from the
2 Propane Gas Association?

3 MR. HATFIELD: Yes, Judge. Just a few
4 questions.

5 CROSS-EXAMINATION BY MR. HATFIELD:

6 Q. Good afternoon, Mr. Knapp.

7 A. Sir.

8 Q. I'm not sure if I have the terminology
9 right, so maybe you can help me.

10 A. Okay.

11 Q. How many companies bid on the city's
12 franchise?

13 A. If I remember correctly, we solicited
14 some 20 probably potential bidders, and we received two
15 responses to our proposals.

16 Q. Okay. So now, help me understand that.
17 You solicited 20. How did you select the 20?

18 A. I would probably have to defer a comment
19 from the bid proposal process to the Public Works
20 director at the time --

21 Q. Okay.

22 A. -- that handled that.

23 Q. Yeah. But basically you -- I mean, is
24 it fair to say that you sent out proposals to 20
25 natural gas suppliers, or request for proposal?

1 A. I would say that would be an accurate
2 statement. But there again, I did not necessarily
3 handle that specific piece of this process.

4 Q. And only two responded at all?

5 A. Yes.

6 Q. All right. And why did you select
7 Southern Missouri Natural Gas?

8 A. Of the two that we received, they
9 appeared to have the most qualifications, and the most
10 ability to bring natural gas to Lebanon, and to perform
11 adequately for our citizens.

12 Q. But you didn't award two franchises.
13 Right? You just awarded the one?

14 A. Just awarded the one.

15 Q. So is it fair to say the other one
16 wasn't really qualified to meet the requirements?

17 A. From our vantage point, that would be
18 correct.

19 Q. All right. And we've talked about the
20 franchise fee, and I think it's in evidence. The
21 franchise fee that will be charged, as I understand it,
22 is 5 percent on residential users.

23 A. Yes, sir.

24 Q. Is that correct? And then a 1 percent
25 fee on -- what do you call it? Industrial users?

1 A. Industrial load, probably.

2 Q. And why is there a lower fee on the
3 industrials than there are on just normal residential
4 users?

5 A. Well, the purpose, as Mr. Maffett had
6 brought up earlier, it was a negotiated franchise fee
7 that we made with SoMo Gas. Part of it was, was to
8 facilitate the -- to offset some of the costs in
9 bringing natural gas to Lebanon. The industrial
10 customers are going to be, obviously, a heavy load.

11 And so from the City of Lebanon's
12 standpoint, we were willing to negotiate with the
13 franchise portion with the industrial piece of this as
14 they ramp up -- as they ramp up over the course of, I
15 believe it was four years or five years, so --

16 Q. So what are you going to do with the
17 proceeds from that franchise fee?

18 A. Those fees go into the general fund, as
19 do all other franchise fees that we collect from all of
20 the utility providers in the City of Lebanon.

21 Q. And has the City made any projections as
22 to what that franchise fee will be?

23 A. We are very fiscally conservative. My
24 understanding based -- it would have to be based off of
25 Mr. Maffett's probably thoughts. 100,000. We don't

1 know. When we develop a budget and whenever we look at
2 those kinds of things, we typically -- like I said,
3 we're very conservative fiscally. We budget what we
4 bring in the last year. So we never depend on those
5 revenues. It was never really built into that. The
6 decision to bring natural gas was not predicated on
7 those franchise fees.

8 Q. Okay. But just so I'm clear, then.

9 A. Sure.

10 Q. So you don't have a franchise fee in the
11 city's upcoming budget?

12 A. Sure. Not for natural gas. I have
13 franchise fees from my city electric --

14 Q. Yeah. My bad.

15 A. -- from my -- I mean, we --

16 Q. Right.

17 A. -- even collect franchise fees from
18 within our own municipality for the general fund.

19 Q. Got it.

20 A. The phone companies, the cable
21 companies, we have budget line items for that. But for
22 natural gas, no, sir, we do not.

23 Q. Okay. Makes sense. But the natural gas
24 franchise fee, just to be clear, then --

25 A. Uh-huh.

1 Q. -- you don't need that to offset some
2 city cost; it's just going to go into general revenue?

3 A. Well, it goes into the general revenue
4 fund, which also provides a public benefit to our
5 citizens. And it is used to help cover administrative
6 costs -- things such as taking care of the
7 right-of-way. Anybody that locates utilities inside of
8 our right-of-way is required to pay a franchise fee.

9 Q. All right. And you would agree with
10 Mr. Maffett's testimony, it's just going to be a
11 straight pass-through?

12 A. Yes.

13 Q. Okay. Now, did -- during the bidding
14 process on the franchise, you engaged a consultant to
15 analyze the proposals; is that right?

16 A. Yes.

17 Q. And that was RW Beck & Associates; is
18 that right?

19 A. Yes.

20 Q. And who is Mr. Scott Shumate?

21 A. He was the public director and my
22 contemporary at that time.

23 Q. Your contemporary?

24 A. The City of Lebanon organization was
25 sort of split in half.

1 Q. Okay.

2 A. And I held one side, which tended to
3 take care of the governmental side. The Public Works
4 director handled the Public Works end of it.

5 Q. Got it.

6 A. Since that time we've kind of remerged
7 the organization. Okay. But at the time, we were --
8 we had equal standing, equal footing in the
9 organization.

10 Q. Okay. Let me hand you what we're going
11 to mark as Exhibit -- next.

12 JUDGE DIPPELL: Fifteen.

13 MR. HATFIELD: Fifteen.

14 (EXHIBIT NO. 15 WAS MARKED FOR
15 IDENTIFICATION.)

16 BY MR. HATFIELD:

17 Q. And can I ask if you've ever seen that
18 before?

19 A. Yes. I'm sure I have.

20 Q. What is that?

21 A. It says that it's a response to question
22 and comments from a draft natural gas feasibility
23 study. It was addressed to Mr. Shumate.

24 Q. All right. And is this a document the
25 City then received through Mr. Shumate?

1 A. Yes.

2 Q. All right. I just had a question about
3 this document. And you got to turn all the way to the
4 back, I think.

5 A. Okay.

6 Q. The last -- well, next to the last
7 page -- the last page doesn't have anything on it, so
8 the next to the last page.

9 A. Uh-huh.

10 Q. Sub 2 there. You see where it -- it's
11 indented?

12 A. Yes.

13 Q. Says: "Since we're proposing a partial
14 system, the residential/commercial customers in those
15 areas not served will have a potential or perceived
16 negative impact. They will question the economic
17 impact on them by not having natural gas."

18 Do you see that?

19 A. Yes, sir.

20 Q. Let me ask you about that. Did you
21 have -- were you involved in any discussions about the
22 negative impact on those who were not served with RW
23 Beck?

24 A. I was a part of most of the discussions
25 with -- regarding natural gas.

1 Q. And what were the -- what were the --
2 what was the perceived negative impact on those who
3 were not served that was discussed?

4 A. I don't know that I actually recall a
5 specific discussion on this particular point.

6 Q. Okay.

7 A. I'm reading it here for a second.

8 Q. Well, I want to ask you about the next
9 sentence --

10 A. Okay.

11 Q. -- sort of separately.

12 A. Okay.

13 Q. And maybe this will help. But --

14 A. Okay.

15 Q. -- it says: "The residential folks will
16 have the loudest voice."

17 A. Uh-huh.

18 Q. And then the next sentence says, "We
19 have done some economic studies on propane, et cetera."

20 A. Uh-huh.

21 Q. Next sentence: "This shows a very small
22 increased cost to the all-electric homes."

23 What does that mean?

24 A. I would have to defer that to Scott
25 Shumate who was the Public Works director. He did most

1 of the technical analysis of these bids and the
2 conversations with RW Beck.

3 Q. All right.

4 A. That would be more of a technical
5 question from a numbers calculation standpoint.

6 Q. Are you aware of any studies or
7 information that shows an increased cost to
8 all-electric homes?

9 A. Nothing other than what I'm looking at
10 here --

11 Q. Don't recall?

12 A. -- that I recall.

13 Q. Any -- you didn't discuss that in this
14 decision?

15 A. Not that I recollect.

16 Q. All right. All right.

17 MR. HATFIELD: I guess I'll just move
18 the admission of Exhibit 15.

19 MR. THOMPSON: I'm going to object.

20 JUDGE DIPPELL: Your objection,
21 Mr. Thompson?

22 MR. THOMPSON: Well, it's hearsay. This
23 guy didn't receive the letter. He didn't know anything
24 about the part of it that he was questioned about. I
25 don't think it's been authenticated. I don't think

1 that it's been shown to be admissible.

2 MR. FISCHER: I'll join in the
3 objection.

4 JUDGE DIPPELL: Mr. Hatfield, do you
5 have any response?

6 MR. HATFIELD: Well, I think I've got it
7 there. I can maybe ask him one more question, I guess.

8 JUDGE DIPPELL: All right. I will
9 sustain the objection as it is now.

10 If you'd like one more shot, I'll let
11 you do that.

12 BY MR. HATFIELD:

13 Q. All right. As the city administrator,
14 are you responsible for records of the City?

15 A. Yes. I am.

16 Q. And is this a record of the City?

17 A. I would believe it to be. Yes.

18 MR. HATFIELD: Then I'd move its
19 admission.

20 MR. THOMPSON: I would --

21 JUDGE DIPPELL: You further object?

22 MR. THOMPSON: He said he believes it to
23 be. I think he has to know it to be.

24 JUDGE DIPPELL: Mr. Hatfield.

25 MR. HATFIELD: I think I've got it,

1 Judge. Maybe you could rule.

2 JUDGE DIPPELL: Your objection is
3 sustained.

4 MR. HATFIELD: All right.

5 JUDGE DIPPELL: It's not admitted.

6 BY MR. HATFIELD:

7 Q. Let me -- who is Lane Starnes (ph)?

8 A. That would be the city clerk.

9 Q. And what is her responsibility?

10 A. She is actually the official keeper of
11 the records.

12 Q. Okay. Let me show you what we're going
13 to mark as Exhibit 16, I guess.

14 JUDGE DIPPELL: Sixteen.

15 (EXHIBIT NO. 16 WAS MARKED FOR
16 IDENTIFICATION.)

17 BY MR. HATFIELD:

18 Q. Ask you if you can identify that for us.

19 MR. THOMPSON: I wonder if I could have
20 a look at that.

21 JUDGE DIPPELL: I was going to say, can
22 you show --

23 MR. HATFIELD: Well, it never occurred
24 to me that Staff would object to the admission of a
25 letter that it is admitted to be to an employee of the

1 City from RW Beck, so I didn't bring any copies.

2 JUDGE DIPPELL: Can you -- before you
3 question the witness about it, I would like you to show
4 it to the attorneys.

5 MR. HATFIELD: Sure.

6 MR. THOMPSON: Thank you.

7 MR. FISCHER: Thank you.

8 THE WITNESS: Thank you, sir.

9 BY MR. HATFIELD:

10 Q. I don't remember where we were. Did you
11 tell me whether you've ever seen that?

12 JUDGE DIPPELL: No. He hadn't.

13 THE WITNESS: What's that?

14 BY MR. HATFIELD:

15 Q. What is it? I asked what is it and
16 somebody objected to that question. But what is it?

17 A. What is this?

18 Q. Yes.

19 A. This is a letter responding to
20 Ms. Heisinger, submitting public documents that was
21 requested via the Sunshine Law.

22 Q. And are you familiar with Ms. --

23 A. Ms. Starnes, yes.

24 Q. -- Starnes' signature?

25 A. Yes.

1 Q. Is that Ms. Starnes' signature?

2 A. Yes, sir. It is.

3 Q. All right.

4 MR. HATFIELD: That's all I have. I'll
5 save the rest for another witness I'm going to need to
6 call, then.

7 JUDGE DIPPELL: Okay.

8 MR. HATFIELD: Thank you.

9 JUDGE DIPPELL: Can you at least tell
10 me -- I'm sorry. That was a letter -- that was as far
11 as I got -- from Ms. Starnes.

12 MR. HATFIELD: I believe he identified
13 it as an Sunshine Act request from --

14 JUDGE DIPPELL: Okay. Thank you.

15 MR. HATFIELD: I can leave that up here.

16 JUDGE DIPPELL: That's fine. That's
17 fine.

18 MR. HATFIELD: I have nothing further
19 for this witness, Judge.

20 JUDGE DIPPELL: Okay. Are there
21 Commission questions?

22 Commissioner Appling?

23 COMMISSIONER APPLING: I think I have
24 one question.

25 QUESTIONS BY COMMISSIONER APPLING:

1 Q. Joe.

2 A. Yes, sir.

3 Q. Out of the existing industries --

4 A. Uh-huh.

5 Q. -- can you give me an approximate number

6 that's in Lebanon right now that has the possibility of

7 hooking up natural gas? Five? Ten? I mean, a number?

8 A. I would say somewhere probably around in

9 Lebanon we have about 6,000 jobs. I can name them for

10 you.

11 Q. Okay.

12 A. Emerson, Durham, St. John's, Carr

13 Industries, DTE Metal Products, Precision -- which

14 would be Carmeco -- or Carmeco would be another one.

15 There would be -- we've got several boat factories;

16 Bass Tracker, Landau Boats, G3 Boats. I'm going

17 through my list. I'm going around --

18 Q. That's good enough. Thank you.

19 A. There's several industries, sir. 6,000

20 jobs.

21 Q. I suppose I can assume that all of the

22 land owners that this line is going to be running

23 across has already been cleared and they have agreed to

24 run the line?

25 A. Are you talking about from between

1 Marshfield to Lebanon?

2 Q. Yes. You don't have that?

3 A. I would not have the answer to that
4 question, sir.

5 Q. How about inside of the city?

6 A. Inside the city, we have dedicated
7 right-of-ways that SoMo Gas would be allowed to use as
8 a part of their franchise agreement, as -- along with
9 our other utilities -- water, sewer, electric, phone,
10 cable.

11 Q. Gotcha.

12 COMMISSIONER GAW: Judge, that's all I
13 have.

14 JUDGE DIPPELL: Thank you.

15 Mr. Knapp, I know you have some other
16 responsibilities. I'm -- there could be some further
17 Commission questions for you, but I don't know at this
18 time. I'm waiting to hear back. So I can't excuse you
19 from that --

20 THE WITNESS: Sure.

21 JUDGE DIPPELL: -- at this point.

22 THE WITNESS: I understand.

23 JUDGE DIPPELL: But I will as soon as I
24 know.

25 THE WITNESS: I understand.

1 JUDGE DIPPELL: Is there further
2 cross-examination based upon Commissioner Appling's
3 questions from Staff?

4 MR. THOMPSON: No, ma'am.

5 MR. HATFIELD: No.

6 JUDGE DIPPELL: Public Gas
7 Association -- or Propane Gas Association?

8 MR. HATFIELD: No. I'm sorry.

9 JUDGE DIPPELL: Is there redirect?

10 MR. FISCHER: Just briefly.

11 REDIRECT EXAMINATION BY MR. FISCHER:

12 Q. Those franchise fees that you
13 discussed --

14 A. Uh-huh.

15 Q. -- that you obtained from other public
16 utilities like electric --

17 A. Uh-huh.

18 Q. -- water, sewer --

19 A. Yes.

20 Q. -- telecom --

21 A. Uh-huh.

22 Q. -- are those fairly common in Missouri,
23 or in Lebanon?

24 A. They have been in Lebanon. They've been
25 in place since before my tenure.

1 Q. Do they represent reimbursement for the
2 use of the public right-of-way?

3 A. I believe that that was the purpose that
4 they were established. Yes.

5 Q. Okay.

6 MR. FISCHER: That's all I have.

7 Thanks.

8 JUDGE DIPPELL: Thank you.

9 All right. Mr. Knapp, you may step down
10 for now, but I will ask you to remain until I excuse
11 you.

12 THE WITNESS: Yes.

13 MR. FISCHER: Judge, unless there are
14 questions from the bench for other company witnesses,
15 in the effort to move this proceeding along, we would
16 defer any other witnesses until a later time, if there
17 are any questions that we need to address. But I
18 really would rest at this point. And I guess I'd
19 reserve the right, though, to call someone back if
20 something comes up later on in the day that we need to
21 address.

22 JUDGE DIPPELL: And your other -- the
23 other witnesses on your list were Mr. Allen --

24 MR. FISCHER: I also have Matt Gimble,
25 Michael Lewis, and Michael Lumby here from the company.

1 JUDGE DIPPELL: Those are all from
2 Southern Missouri Gas?

3 MR. FISCHER: That's correct.

4 JUDGE DIPPELL: Mr. Allen is from the
5 city?

6 MR. FISCHER: He's the mayor.

7 JUDGE DIPPELL: Well, I'm not going to
8 call them for you.

9 MR. FISCHER: I just wanted to make the
10 offer, if the Commissioners do have any questions of
11 these folks.

12 JUDGE DIPPELL: At this point, I do not
13 have any indication from the Commissioners that they
14 have specific questions for any of those individuals,
15 so we can go ahead and move on.

16 We agreed earlier that we would have the
17 Propane Gas Association witness go next.

18 MR. HATFIELD: Yes, Judge. I'd call Ed
19 Simmons, please.

20 (Witness sworn.)

21 JUDGE DIPPELL: If you could spell your
22 name for the court reporter.

23 THE WITNESS: It's Ed S-i-m-m-o-n-s.

24 JUDGE DIPPELL: Go ahead, Mr. Hatfield.

25 ED SIMMONS, testified as follows:

1 DIRECT EXAMINATION BY MR. HATFIELD:

2 Q. Just to make sure you stated your name,
3 like, four times, would you please state your name and
4 your business address, please, for the record.

5 A. My name is Ed Simmons. My business
6 address is 1603 East North Street, Eldon, Missouri.

7 Q. And what is it you do for a living,
8 Mr. Simmons?

9 A. I'm a propane gas retailer/wholesaler.

10 Q. And what does that mean?

11 A. I sell propane and propane-related
12 appliances.

13 Q. And how long have you done that?

14 A. Forty-plus years.

15 Q. And do you have a particular company
16 you're with now?

17 A. Yes.

18 Q. And what's the name of that company?

19 A. GASCO Energy Supply, LLC.

20 Q. And what's your position with that
21 company?

22 A. I'm the owner.

23 Q. All right. And have you held any other
24 positions with other gas companies?

25 A. Yes. I have.

1 Q. What were those?

2 A. I was the general manager of Redigas
3 Propane Service.

4 Q. Where was that located?

5 A. Eldon, Missouri.

6 Q. Any others?

7 A. No.

8 Q. All right. And now, as you know, the
9 Missouri Propane Gas Association is an intervener in
10 this case. Do you have any positions with the Missouri
11 Propane Gas Association?

12 A. I'm a director on the Propane Gas Board,
13 District 3, and I'm the chairman of the FERC
14 Commission.

15 Q. All right. And what do you do as the
16 chairman of District 3?

17 A. Well, as a board member of District 3,
18 it's my responsibility to try to keep current on
19 regulatory -- any issues dealing with propane gas and
20 communicate with the members in my district.

21 Q. And you said try. I'm hoping you
22 accomplish that.

23 A. Yes.

24 Q. Okay. And are you familiar with the
25 propane gas industry in the Lebanon, Missouri area?

1 A. Yes. I am.

2 Q. And how are you familiar with that?

3 A. Well, I grew up 50 miles from Lebanon
4 and I've had some accounts in that area over the years
5 at different times. And currently I have just a
6 handful of accounts in that market area.

7 Q. All right. How many -- I'm sorry.

8 A. A handful. A half a dozen.

9 Q. Okay. How many propane suppliers
10 service Lebanon?

11 A. I know of seven dealers in the City of
12 Lebanon itself, and there's five or six in outlying
13 areas that come into Lebanon. It's a real competitive
14 market in Lebanon.

15 Q. That was my next question. Thank you.
16 And do you have experience with the
17 interaction between propane suppliers and natural gas
18 suppliers?

19 A. Some, yes, I have.

20 Q. And how is that?

21 A. A lot of natural gas suppliers have peak
22 shaving plants, standby facilities.

23 Q. I'm sorry to interrupt you. We're going
24 to get there in just a minute.

25 A. All right.

1 Q. But have you ever served a community
2 where natural gas was also available?

3 A. Yes. I do now.

4 Q. And what community is that?

5 A. Eldon, Versailles, Tipton.

6 Q. All right.

7 A. Jefferson City.

8 Q. And then have you also had occasion to
9 ever bid on any projects that -- in areas where natural
10 gas was available?

11 A. Yes.

12 Q. And what were those?

13 A. Peak shaving plants, standby plants.

14 Q. And explain a little bit, just so we're
15 clear on the record, what that means. Did you say
16 plants?

17 A. Plants.

18 Q. Plants.

19 A. Plants.

20 Q. Okay. Go ahead.

21 A. It's what I refer to them as. Standby
22 plants are plants that typically belong to big
23 institutions, factories, schools, nursing homes that
24 are on natural gas. But during the cold winter months,
25 they may be interrupted, so they have propane tanks to

1 supplement the natural gas going into their entity.

2 A peak shaving plant, like Springfield
3 has, is a series of propane tanks, and they mix the
4 propane with natural gas to keep enough supply in their
5 lines to service their accounts -- keep the pressure up
6 on the lines and keep enough volume to service their
7 accounts.

8 Q. So based on your experience, are you
9 aware of any areas in Southern Missouri where there has
10 not been enough volume of natural gas to service
11 accounts?

12 A. In Southern Missouri?

13 Q. Yes.

14 A. Springfield just put in a million-gallon
15 peak shaving plant.

16 Q. And I think you may have explained it,
17 but now, did you have a contract on that?

18 A. I bid on that contract for the supply of
19 propane gas.

20 Q. Okay. And are you aware of any other
21 problems in the southern half of Missouri?

22 A. Waynesville, Fort Leonard Wood area.
23 And particularly Fort Leonard Wood; they have a peak
24 shavings plant from a natural gas supplier to
25 supplement their natural gas needs with propane.

1 Q. And based on the bids you submitted and
2 the documents you've seen, is that something they do
3 just because they want to, or is that something they
4 have to do to meet demand?

5 A. I think it's a necessity to meet their
6 peak demand.

7 Q. And said another way, then, at peak
8 demand times, they don't have enough natural gas in
9 those areas?

10 A. That's my understanding.

11 Q. Do you have any understanding of why
12 that is?

13 A. I believe it's an issue of pressure and
14 having enough pressure in their mains to push the gas
15 through fast enough, hard enough to the consuming
16 industrial industry.

17 Q. All right. And let's talk -- so when
18 you had those contracts where you had to provide
19 propane gas, what is the effect on that contract -- of
20 that contract on the price that you have to charge your
21 other consumers of propane gas?

22 A. Well, typically -- and I've never had
23 any of those contracts. I've bid on those contracts.

24 Q. Bid on those contracts.

25 A. But typically, their demand is at the

1 same time that my customers' demands are.

2 Q. All right.

3 A. So when they have to go out in the
4 market and acquire propane in December, January, and
5 February, overnight it raises the price of propane on
6 the wholesale market for my suppliers. So we end up
7 paying more for propane December, January, and
8 February, because of more demand. We've seen outages
9 of pipeline terminals that I think are related to that.
10 And I think we've seen closures of some terminals in
11 the past because of that.

12 Q. And what's the problem with the closure
13 of a terminal?

14 A. Well, I think when natural gas comes
15 into an area, it lowers the demand for propane in that
16 area, so there's less supply needed. It's not
17 cost-effective for the pipeline supplier, terminal
18 supplier of propane to keep maybe a terminal open.
19 That's my opinion.

20 Q. And then what -- so what's the effect on
21 your cost to deliver in that scenario you just
22 described, on your cost to deliver propane to a current
23 propane user?

24 A. Ultimately, it costs my customers more
25 money. It's just more expensive for them to buy their

1 propane because of the higher demand for propane on the
2 natural gas industry in a couple ways: Through the
3 futures market as well as through the supply and
4 demand.

5 Q. And I guess that's half of it. The
6 other question I wanted to make sure I got answered
7 was: If a terminal were to shut down, for example,
8 because of reduced demand --

9 A. Then we would have to travel farther to
10 pick up our propane to bring into that community, which
11 costs money. It costs more money in transportation.

12 Q. And I think you said it. But who ends
13 up paying for that?

14 A. The customer, the consumer. The
15 consumer pays all the bills in the world.

16 Q. So based on your -- what you just talked
17 about and your understanding of how those contracts
18 works, what would be the effect on propane consumers in
19 Lebanon if half of them moved to natural gas? What
20 would be the effect on the 50 percent that stayed with
21 propane?

22 MR. FISCHER: Objection. Calls for
23 speculation.

24 JUDGE DIPPELL: I believe he said based
25 on his experience. I'm going to overrule the

1 objection.

2 THE WITNESS: I believe it would cost
3 those consumers more money to buy their propane.

4 BY MR. HATFIELD:

5 Q. Now, we've heard a lot of discussion
6 today about the cost of natural gas -- you've been here
7 all day, I think; is that right?

8 A. Yes.

9 Q. About the cost of natural gas versus the
10 cost of propane. Were you here for testimony earlier
11 about that?

12 A. Yes. I was.

13 Q. Do you have any knowledge of any recent
14 contracts that were let in the City of Lebanon for
15 commercial propane?

16 A. The Laclede County School District just
17 did their school bids.

18 Q. And were you a bidder on that?

19 A. Yes. I was.

20 Q. And what were the results of that bid?

21 A. I believe the supplier that got it got
22 it for \$1.29 per gallon.

23 Q. And do you pay any franchise fees to the
24 City of Lebanon on your propane sales?

25 A. No. I do not.

1 Q. Are you guaranteed any rates of return
2 on your propane sales?

3 A. No.

4 Q. Are you allowed any gas purchase
5 adjustment as a propane dealer?

6 A. My customer does that for me. He tells
7 me when I'm too high.

8 Q. All right. Are you aware of any other
9 propane dealers who are guaranteed a rate of return?

10 A. No.

11 Q. Are you aware of any other propane
12 dealers who have to pay a franchise fee to provide
13 service?

14 A. No.

15 Q. All right. Now, you heard the testimony
16 about converting and when a natural gas company has to
17 convert -- I'm sorry -- go in and convert a household
18 from propane to natural gas?

19 A. Yes. I did.

20 Q. Have you ever had occasion to have to
21 convert anybody back from natural gas to propane?

22 A. Yes. I have.

23 Q. And how much does that cost, usually?

24 A. On a home?

25 Q. Yes.

1 A. 250, \$300, perhaps, in that area.

2 Q. And --

3 A. We get into galvanized piping and PVC
4 with tape on it and all kinds of stuff. You wouldn't
5 believe what we see.

6 Q. Sort of like -- you mean those natural
7 gas guys sometimes?

8 A. Yeah.

9 Q. Yeah.

10 MR. HATFIELD: Actually, I have no
11 further questions. I'm going to tender this witness.

12 JUDGE DIPPELL: Thank you. Is there
13 cross-examination by Southern -- or I'm sorry, by
14 Staff?

15 CROSS-EXAMINATION BY MR. THOMPSON:

16 Q. Good afternoon, sir. What would be the
17 effect on your business if half of your customers
18 converted to natural gas?

19 A. I would have to lay about seven people
20 off. I would lose employment with the people that I
21 have with me. I'd have to lower my equipment
22 expense -- liquidate trucks, tanks, equipment.

23 Q. Is it fair to say the effect on your
24 business would be catastrophic?

25 A. Yes.

1 Q. And --

2 A. Survival will be catastrophic.

3 Q. Yes, sir. Based on your testimony of
4 the negative impact of natural gas entering a community
5 where people are using propane, do you see any place
6 for natural gas service in the state of Missouri?

7 A. Ask the question again.

8 Q. In other words, do you believe the
9 Commission should shut down all the natural gas
10 providers in the state of Missouri?

11 A. No. I don't think so.

12 Q. So what role do you see for natural gas?

13 A. I think the same role as any energy
14 product. I believe that if natural gas wants to come
15 into a town, let them have at it. I'll be glad to
16 compete with them on a level playing field.

17 Q. So --

18 A. But I don't think when you grant a
19 franchise and you guarantee a profit to a private
20 entity -- not a public utility, but a private entity
21 that that's a level playing field. That would be my
22 response. Give me a level playing field and I'll
23 compete with anybody.

24 Q. Thank you.

25 MR. THOMPSON: No further questions.

1 JUDGE DIPPELL: Is there
2 cross-examination by Southern Missouri Gas?

3 MR. FISCHER: Yes. There is, Your
4 Honor.

5 CROSS-EXAMINATION BY MR. FISCHER:

6 Q. Just let me follow-up real quick. It's
7 your impression, sir, that this company would be
8 guaranteed a profit by this Public Service Commission
9 if a franchise was grant -- or the certificate was
10 granted to them?

11 A. Yes.

12 Q. What's that's based on?

13 A. On the testimony I heard this morning.

14 Q. Okay. And that's all it's based on?

15 A. Yes.

16 Q. Okay. Just so I have an understanding
17 about your background, I wanted to ask you a couple
18 questions. Are you holding yourself out as an expert
19 witness on the operation of natural gas --

20 A. No.

21 Q. -- local distribution companies, or
22 natural gas pipelines?

23 A. No.

24 MR. HATFIELD: I'm going to --

25 BY MR. FISCHER:

1 Q. Or the regulation of natural gas
2 companies or pipelines?

3 A. No.

4 Q. Or natural gas pipeline safety issues?

5 A. No.

6 Q. Have you ever reviewed any of the rules
7 of the Missouri Public Service Commission on natural
8 gas pipeline safety --

9 A. Yes.

10 Q. -- requirements? You have?

11 A. Yes. I have.

12 Q. Have you reviewed 4CSR240-40.030 on
13 safety standards for transporting gas by pipelines?

14 A. The most current edition I have is about
15 20 years old.

16 Q. Okay. So that's about as current as you
17 are?

18 A. Yeah. On natural gas regulations.

19 Q. Do you know if those rules address the
20 topic of minimum and maximum pressures permitted on
21 natural gas pipelines?

22 A. I believe they do.

23 Q. And do you know if those rules address
24 the topic of pipeline design?

25 A. I believe they do.

1 Q. Do you know if these rules address the
2 topic of the operation of natural gas pipelines and
3 local distribution companies?

4 A. Ask again.

5 Q. Do you know if those particular rules
6 also address the topic of operations of natural gas
7 pipelines and natural gas local distribution systems?

8 A. No. I don't know that.

9 Q. Okay. Are you holding yourself out as
10 an expert witness on the topic of the level of natural
11 gas pipeline capacity required to serve a particular
12 community?

13 A. No.

14 Q. Are you holding yourself out as an
15 expert on any engineering issues?

16 A. No.

17 Q. You're not a licensed professional
18 engineer. Correct?

19 A. No.

20 Q. Are you holding yourself out as an
21 expert witness on the topic of economics?

22 A. No.

23 Q. Do you have a degree in economics?

24 A. No.

25 Q. Have you ever taken a course in

1 economics at a college or university?

2 A. Yes.

3 Q. Have you ever taken a college course or
4 seminar on the topic of the operation of natural gas
5 markets?

6 A. Ask the question again.

7 Q. Natural gas markets.

8 A. What kind of a course?

9 Q. An economics course.

10 A. No.

11 Q. Have you ever taken a college course on
12 the topic of the effects of competition on the price of
13 substitute goods?

14 A. Yes.

15 Q. Okay. What was the name of that course?

16 A. I can't remember. That's been 40 years
17 ago.

18 Q. Okay. Forty. And that's about as
19 current as you'd be on that topic?

20 A. Yeah. I'm familiar with competition.

21 Q. Okay. Do you hold any degrees in
22 finance or accounting?

23 A. No. I have successively successfully
24 ran a business for 30 years.

25 Q. Okay. And that's the area that you're

1 principally testifying on, is the -- your personal
2 experiences in running a propane business?

3 A. That's correct.

4 Q. You don't have any experience running a
5 local distribution company or a natural gas pipeline;
6 is that correct?

7 A. Well, a propane business is a local
8 distribution company, except we use trucks.

9 Q. Okay. And it's your impression that
10 this Commission is guaranteeing a profit to Southern
11 Missouri Gas Company; is that right?

12 A. That's what I believe.

13 Q. Okay. What topics are you holding
14 yourself out as an expert on today?

15 A. Propane.

16 MR. HATFIELD: Judge, I'm going to
17 object. It's not relevant. I'm holding him out as an
18 expert. What he thinks he's an expert on doesn't
19 really matter.

20 MR. FISCHER: Let me rephrase the
21 question.

22 BY MR. FISCHER:

23 Q. What do you think you're an expert on
24 today?

25 A. Propane.

1 Q. Propane. And that's exclusively the
2 topic you're an expert witness on?

3 A. I believe I am.

4 Q. Okay. As I understood your statement
5 today, you're the owner of GASCO Propane in Eldon?

6 A. Yes.

7 Q. And you're appearing on behalf of the
8 Missouri Propane Gas Association?

9 A. Yes.

10 Q. And I know you -- is it correct that you
11 own several other related companies -- Simmons Tank
12 Leasing, LLC; Simmons Real Estate, LLC; Simmons
13 Equipment Leasing, LLC; and GASCO Energy Supply, LLC?

14 A. Yes. All single entities.

15 Q. Are they all related to the provision of
16 propane?

17 A. No.

18 Q. No? Okay. According to the application
19 to intervene in this proceeding filed by the Missouri
20 Propane Gas Association, your organization is a
21 non-profit organization and existing under the
22 not-for-profit corporation laws in the state of
23 Missouri. Do you know?

24 A. No. I don't believe that's correct.

25 Q. You don't think that's right?

1 A. No. I don't know that I have knowledge
2 to speak to that. I'm definitely not a not-for-profit
3 organization.

4 Q. Okay.

5 A. I need to make a profit.

6 Q. Well, I think the record will reflect
7 that that's what your association suggested in their
8 application to intervene in this case.

9 A. I don't think that would be correct.

10 Q. Okay. Well, good.

11 A. I'm not a not-for-profit operation. I
12 think that was the question, wasn't it?

13 Q. No. I'm sorry. Let me rephrase it. I
14 was asking about the Missouri Propane Gas Association.

15 A. I think that's true.

16 Q. Okay. And according to the application
17 to intervene, the NPGA represents the interests of
18 propane gas retailers throughout the state of Missouri;
19 is that right?

20 A. That's correct.

21 Q. And according to that application, it
22 also stated that the NPGA has several members in the
23 area of proposed service that will be directly and
24 economically impacted by any order of this Commission.

25 A. That's correct.

1 Q. I noticed on the NPGA website that
2 there's a page that allows the user to type in a zip
3 code, and then the website produces all the propane
4 companies that provide propane in that area; is that
5 true?

6 A. I think maybe you have to register to
7 get on that website. But yeah, more or less, that's
8 true.

9 MR. FISCHER: Your Honor, I'd like to
10 have an exhibit marked.

11 JUDGE DIPPELL: We're up to No. 17.

12 MR. FISCHER: Yes, ma'am.

13 (EXHIBIT NO. 17 WAS MARKED FOR
14 IDENTIFICATION.)

15 JUDGE DIPPELL: Mr. Fischer, if you
16 could give me two more.

17 MR. FISCHER: I'm sorry?

18 JUDGE DIPPELL: If you have two more
19 copies.

20 MR. FISCHER: Oh, certainly.

21 BY MR. FISCHER:

22 Q. Mr. Simmons, does this appear to be a
23 page out of the Missouri Propane Gas Association
24 website?

25 A. I think it does. Yes.

1 Q. Whenever I typed in the zip code for
2 Lebanon, which is 65536, this page came up. And would
3 this happen to be the list of the propane suppliers in
4 the Lebanon area as far as you know?

5 A. Well, it would be some of them. I don't
6 see all the companies that service the Lebanon area on
7 here, but most of them.

8 Q. Well, according to this exhibit, would
9 you agree there at the top, it says a total of 11
10 propane retailers who provide those services were found
11 servicing zip code 65536?

12 A. It says that.

13 Q. Okay. Would you agree with me that some
14 of the large national propane companies like
15 Ferrellgas, Allstar Gas, and AmeriGas, which according
16 to that website, indicates the -- it's the nation's
17 largest propane company or serving Lebanon?

18 A. Yes.

19 Q. Are these the companies in your
20 application to intervene that you were referring to,
21 that you're representing in this proceeding?

22 A. I think I'm representing the dealers in
23 District 3 and the Propane Gas Association. Yes.

24 Q. Is Lebanon in your district?

25 A. No. Lebanon is not in my particular

1 district.

2 Q. I didn't see GASCO Propane on that list
3 of propane dealers, either.

4 A. We haven't registered to be in the -- on
5 the website for the Lebanon area. I think I have six
6 accounts in that area.

7 Q. Okay. What type of accounts are those?
8 Are they residential or industrial?

9 A. Residential and small commercial. But
10 we have sold gas to the school district in Lebanon in
11 the past, on a bid basis, and some of the manufacturing
12 plants.

13 Q. Are the companies that are listed on
14 this exhibit paying the cost of participation in this
15 proceeding?

16 A. I don't -- I can't answer that. I don't
17 know.

18 Q. Okay. Your District 3, you said,
19 doesn't include Lebanon. Does it include Houston or
20 Licking?

21 A. No.

22 Q. Did the Missouri Propane Gas Association
23 board members review or approve any of your testimony
24 in this case?

25 A. I don't recall them approving or

1 reviewing any of my testimony.

2 Q. So no one specifically reviewed your
3 testimony from the NPGA in this case?

4 A. I believe that would be correct. No.

5 Q. When were you first contacted about
6 testifying in this proceeding?

7 A. Maybe Thursday, Friday of last week,
8 something like that.

9 Q. Okay. And who suggested that you
10 testify in this case?

11 A. I think the Association -- Steve Ahrens;
12 the attorney, Chuck.

13 Q. Okay.

14 A. It came up pretty quick. It might have
15 been Monday of this week.

16 Q. You were the closest board member?

17 A. I think so.

18 Q. Okay. At the time you were contacted
19 about participating in this proceeding, what were you
20 asked to do?

21 MR. HATFIELD: I'm going to object. It
22 calls for privileged communication.

23 JUDGE DIPPELL: I'll sustain the
24 objection.

25 BY MR. FISCHER:

1 Q. The NPGA application to intervene
2 indicates that although the NPGA has only limited
3 information concerning the application at issue, based
4 upon publicly available information and feedback from
5 its members, NPGA anticipates it will oppose the
6 application; is that correct?

7 A. I think so.

8 Q. Would it be correct to conclude that at
9 the time the NPGA filed its application to intervene in
10 this case, the NPGA assumed it would oppose the
11 application here even though you hadn't reviewed any of
12 the information in the case?

13 MR. HATFIELD: I'm going to object. It
14 calls for speculation on what --

15 THE WITNESS: That's a long question.
16 I'm not sure what you said, either.

17 BY MR. FISCHER:

18 Q. Well, let me break it down. At the time
19 you filed the application to intervene, you indicated
20 that the Association was going to oppose the
21 application; is that correct?

22 MR. HATFIELD: I'm going to object. It
23 assumes facts not in evidence. He didn't file it.

24 BY MR. FISCHER:

25 Q. You're a board member; is that correct?

1 A. That's correct.

2 Q. Would you have approved the filing of an
3 application to intervene in this proceeding as a board
4 member?

5 A. Yes.

6 Q. At the time you approved the filing of
7 the application to intervene in this case, did you
8 assume that you would be opposing this particular
9 application?

10 A. Yes.

11 Q. And that was at a time that the
12 Association had only limited information concerning the
13 application; is that correct?

14 A. I wouldn't have any knowledge of that.

15 Q. Okay. Mr. Simmons, have you filed a
16 non-disclosure agreement that's required by the
17 Missouri PSC rules to review confidential materials?

18 A. No.

19 Q. Is it correct, then, that you haven't
20 reviewed any highly confidential or proprietary
21 information in this case?

22 A. That would be true.

23 Q. So you haven't reviewed the economic
24 feasibility studies supporting Southern Missouri
25 Natural Gas's application in this case?

1 A. I have not.

2 Q. Nor have you reviewed the financial
3 information supporting the application in the
4 consolidated cases?

5 A. No. It kind of sounded like it was
6 closed to the public. You couldn't look at that. I
7 would like to see it, though.

8 Q. I asked whether you had filed a
9 non-disclosure agreement, and you indicated you have
10 not; is that correct?

11 A. I haven't.

12 Q. So you have not reviewed that
13 information?

14 A. No.

15 Q. Do you personally know any of the
16 managers or officers of Southern Missouri Natural Gas
17 Company?

18 A. No.

19 Q. Is it correct to conclude that you've
20 not expressed an opinion regarding the competence or
21 technical ability of the managers, officers, or
22 employees of Southern Missouri Gas Company in your
23 testimony today?

24 A. You'll have to ask that question again.
25 That was long.

1 Q. Is it correct that you're not testifying
2 about the competence or the technical abilities of
3 Southern Missouri Gas or its employees?

4 A. That's correct.

5 Q. Is it your understanding that the
6 Commission Staff has filed a Staff recommendation
7 recommending the conditional grant of a certificate of
8 convenience and necessity to the Southern Missouri Gas
9 Company?

10 A. I kind of thought you two guys were
11 together, if that's Staff.

12 Q. Is that your understanding?

13 A. Yes.

14 Q. That they have filed --

15 A. Yes.

16 Q. -- to approve the application?

17 A. Yes.

18 Q. Is it your understanding that the
19 Commission Staff does not have a financial or a
20 pecuniary interest in this proceeding?

21 A. I don't have any understanding either
22 way, but I guess that's probably right.

23 Q. Is this the first case before the
24 Missouri Commission that you've ever personally
25 submitted testimony opposing a grant of a certificate

1 to a natural gas company?

2 A. Yes.

3 Q. Do you believe it would ever be in the
4 economic interests of members of the Missouri Propane
5 Gas Association to permit a natural gas company to
6 enter a new market?

7 A. Ask the question again, please.

8 Q. Yes. I'm sorry, I'm going a little
9 fast.

10 A. Well, and they're long questions.

11 Q. Do you believe it would ever be in the
12 economic interest of your members to permit a natural
13 gas company to enter one of your markets?

14 A. No.

15 Q. So you can't conceive of any
16 circumstance that the Missouri Propane Gas Association
17 would actively support the approval of a natural gas
18 company to come into one of your areas?

19 A. I don't know that we would support it.
20 I don't know that we would necessarily oppose it every
21 time.

22 Q. But you've chosen to oppose it going
23 into Lebanon?

24 A. Yes.

25 Q. Are you being paid to present testimony

1 in this case?

2 A. No.

3 Q. When you were asked to testify in this
4 case, were you given any written or oral instructions
5 on what to say?

6 A. No.

7 Q. So this has been your own idea to
8 testify the way that you're testifying today?

9 A. Yes.

10 Q. If you had presented testimony
11 recommending the grant of the certificate to Southern
12 Missouri Gas Company in this case, do you believe you
13 would've been fulfilling the responsibilities to your
14 association?

15 A. If I was doing -- if -- what's the
16 question again?

17 Q. If you had recommended that the
18 Commission grant the applications in this case --

19 A. If I had recommended that?

20 Q. Yes.

21 A. I don't know why I would do that.

22 Q. I understand. There's -- I believe you
23 raised concerns about pipeline capacity and pressure
24 problems with natural gas companies generally in
25 Southern Missouri; is that right?

1 A. I don't know that it was generally
2 Southern Missouri. I know of some in Southern
3 Missouri.

4 Q. You weren't talking about specifically
5 Southern Missouri Natural Gas Company; is that right?

6 A. That's correct.

7 Q. Are you aware that Southern Missouri Gas
8 Company has substantially increased its pipeline
9 capacity in order to serve the areas that it's seeking
10 to serve in this case?

11 A. I heard that testimony.

12 Q. Mr. Simmons, did you discuss with anyone
13 at Southern Missouri Natural Gas the company's level of
14 pipeline capacity before you testified today?

15 A. No.

16 Q. Have you conducted any pressure tests on
17 any part of the local distribution system owned by
18 Southern Missouri Natural Gas Company?

19 A. No.

20 Q. Is it correct that your testimony here
21 today related to pressure problems is not based upon
22 any firsthand personal observations or inspections of
23 Southern Missouri Gas Company?

24 A. Ask the question again, please.

25 Q. Yes. Is it correct that your testimony

1 here today related to pressure problems is not based on
2 any firsthand personal observations or inspections of
3 the Southern Missouri Natural Gas Company --

4 A. Yes.

5 Q. -- pipeline system?

6 A. That's correct.

7 Q. Are you aware that the Commission Staff
8 annually reviews the amount of capacity that Southern
9 Missouri Natural Gas has under contract?

10 A. I heard that testimony today.

11 Q. Are you aware that one of the purposes
12 of the ACA process is to examine the reliability of
13 local distribution company's gas supplies?

14 A. Yes.

15 Q. Do you know what the ACA process is?

16 A. No.

17 Q. Are you aware that the staff reviews the
18 LDC's plans and decisions regarding estimated peak day
19 requirements and capacity levels to meet those
20 requirements, peak day reserve margins and the
21 rationale for those reserve margins?

22 A. No.

23 Q. Are you aware that the Commission has a
24 pipeline safety staff that inspects the construction
25 and operation of natural gas systems in the Southern

1 Missouri system?

2 A. No.

3 Q. Mr. Simmons, would you agree with me
4 that energy companies compete with one another on more
5 than just price?

6 A. Absolutely. Yes.

7 Q. Service?

8 A. Yes.

9 Q. Reliability?

10 A. Yes.

11 Q. Convenience?

12 A. Yes.

13 Q. Even when the energy costs are the same,
14 would you agree with me that some consumers may prefer
15 natural gas over propane because they don't have a --
16 need to have a propane tank?

17 A. Would I agree with what now?

18 Q. Would you agree that even if the energy
19 costs are the same, some consumers may prefer natural
20 gas over propane because they don't have to have a
21 propane tank in their backyard?

22 A. I don't know that I would agree with you
23 there.

24 Q. You don't have personal knowledge of
25 that?

1 A. I have knowledge of putting underground
2 propane tanks at natural gas customers' accounts,
3 because I have a service department that will take care
4 of their appliances, and they have gas in the tank that
5 they store and will run their houses for a full year
6 without having to worry about supply and reordering. I
7 have done that.

8 Q. Okay. But you're not a --

9 A. So I --

10 Q. -- you're not aware that some customers
11 would prefer to have natural gas just because they
12 don't have to have a tank?

13 A. There might be some.

14 MR. FISCHER: I'd like to have another
15 exhibit marked.

16 JUDGE DIPPELL: We're on No. 18.

17 (EXHIBIT NO. 18 WAS MARKED FOR

18 IDENTIFICATION.)

19 BY MR. FISCHER:

20 Q. Mr. Simmons, does this appear to be
21 another page from the Missouri Propane Gas
22 Association's website?

23 MR. HATFIELD: I'm going to object to a
24 lack of foundation, and just point out to the
25 Commission that this web page does have an address on

1 it. And on its face, this is not such a page. So I
2 don't know whether this witness has such knowledge or
3 not. I'm going to object on lack of foundation.

4 JUDGE DIPPELL: I'll sustain the
5 objection.

6 Mr. Fischer, if you'd like to try to lay
7 a foundation.

8 BY MR. FISCHER:

9 Q. Mr. Simmons, do you know -- have you
10 seen this website page before?

11 A. No. I can't say I have.

12 MR. FISCHER: Okay. I think I'm going
13 to just move on.

14 BY MR. FISCHER:

15 Q. What is your average price of propane
16 today in the retail market?

17 A. \$1.61 per gallon.

18 Q. Do you know what that would -- what the
19 equivalent cost per million BTU would be at that price?

20 A. No. I can't say that I do without
21 calculating it.

22 Q. Do you have an estimate of what it would
23 be?

24 A. I'd probably need a calculator. 91 --
25 no. No. I don't.

1 Q. Okay. Typically, consumers must either
2 rent or own a propane tank if they want propane
3 service; is that right?

4 A. Well, you can buy your tank.

5 Q. Okay.

6 A. A lot of consumers own their own.

7 Q. Is propane heavier than air?

8 A. Yes.

9 Q. Mr. Simmons, are the propane dealers
10 that you represent in this proceeding willing to
11 compete with Southern Missouri Natural Gas head-to-head
12 in the marketplace?

13 A. I think yes. We can compete with
14 anybody if the playing field is level.

15 Q. Is the Missouri Propane Gas Association
16 philosophically opposed to competition with the natural
17 gas industry?

18 A. No.

19 Q. Do you know how old the town of Lebanon
20 is?

21 A. Yes.

22 Q. How old is it?

23 A. 130 years old.

24 Q. After nearly 130 years, isn't it about
25 time the citizens of Lebanon have the same energy

1 sources as other Missourians?

2 A. Lebanon is a very vital community -- a
3 lot of manufacturing, a lot of employment. It's a heck
4 of a nice little town. I don't know that denying
5 natural gas to Lebanon is hindering the growth or the
6 citizens in the town.

7 Q. You're not an expert in economic
8 development, are you?

9 A. No.

10 Q. Let me ask it again: After nearly 130
11 years, isn't it about time for the citizens of Lebanon
12 to have the same energy choices as other consumers in
13 Missouri?

14 A. Okay. Yes.

15 MR. FISCHER: I think that's all I have,
16 Your Honor.

17 JUDGE DIPPELL: Thank you. Before we
18 move on, I just wanted to let Mr. Maffett know that
19 there weren't any additional questions for him and he
20 may be excused. As well as Mr. Knapp. There weren't
21 any additional questions for him and he may be excused.
22 And there weren't any questions for the mayor, either.
23 So he --

24 MR. FISCHER: Thank you.

25 JUDGE DIPPELL: If you all need to

1 leave, you may do so.

2 MR. FISCHER: Your Honor, I would move
3 for the admission of No. 17.

4 JUDGE DIPPELL: Is there any objection
5 to Exhibit No. 17?

6 MR. HATFIELD: I don't think there was a
7 foundation for 17, but I could be educated on that by
8 argument of counsel.

9 MR. FISCHER: I think he identified it
10 as the Missouri Propane Gas Association website and
11 that there was a web page that shows how -- the
12 retailers that are available on the -- on each of the
13 zip codes.

14 MR. HATFIELD: Well, the record will be
15 what it will. I mean, I'd like to -- what do you call
16 it? I'd like to make an offer of proof on this one by
17 asking the witness --

18 JUDGE DIPPELL: Okay.

19 MR. HATFIELD: -- two questions.

20 JUDGE DIPPELL: Okay.

21 BY MR. HATFIELD:

22 Q. Mr. Witness, does NPGA have a website?

23 A. Yes.

24 Q. Do you know what the address is?

25 Actually, no. Tell us the address. I got to have two

1 questions.

2 A. Tell us the address. NPGA.com, I think.

3 But I'm not sure of that.

4 Q. So do you know for a fact whether this
5 is a page from the NPGA website?

6 A. No. I really don't.

7 Q. Thank you.

8 MR. HATFIELD: That was a third
9 question. I'm sorry.

10 JUDGE DIPPELL: As I recall, he did
11 testify that there was a page like this available on
12 the website.

13 MR. HATFIELD: I agree. I don't know if
14 this is it or not. But I don't know if the record
15 shows that, but I'll defer to your --

16 JUDGE DIPPELL: I'm going to --

17 MR. HATFIELD: -- ruling, of course.

18 JUDGE DIPPELL: -- go ahead and overrule
19 your objection.

20 Were there any other objections?

21 I'll receive that into evidence.

22 (EXHIBIT NO. 17 WAS RECEIVED INTO
23 EVIDENCE.)

24 JUDGE DIPPELL: Okay. I lost my place.

25 Are there any questions from Commissioner Appling?

1 COMMISSIONER APPLING: I don't think I
2 have any questions.

3 JUDGE DIPPELL: Chairman Davis.

4 QUESTIONS BY CHAIRMAN DAVIS:

5 Q. Mr. Simmons, good afternoon.

6 A. Good afternoon.

7 Q. Do you recall, have we ever met?

8 A. Well, you look vaguely familiar. I
9 don't recall, though.

10 Q. You look vaguely familiar to me, too.
11 You're on the Board of the Missouri Propane Gas
12 Association; is that right?

13 A. That's correct.

14 Q. And do you recall that -- do you recall
15 any discussions the NPGA might have had regarding
16 legislation about how propane inspections would be
17 funded and how the program would be continued, whether
18 it would be administered by the Department of
19 Agriculture, this agency, or another separate
20 regulatory group?

21 A. Yes. I do. Now, I recall.

22 Q. Okay. Now, do you recall Mr. Fischer's
23 question about -- that -- being aware that -- I think
24 Mr. Fischer asked you, are you aware that Southern
25 Missouri Gas gets inspected regularly by the pipeline

1 safety department. Do you recall that question?

2 A. Yes.

3 Q. Do you recall your answer to that
4 question?

5 A. I think I replied yes. I was aware.

6 Q. Mr. Simmons, is there a limit on your
7 profit margin?

8 A. None.

9 Q. None.

10 CHAIRMAN DAVIS: No further questions.

11 JUDGE DIPPELL: Okay. I just wanted to
12 clarify one thing. Mr. Fischer mentioned an acronym
13 that we use around here, ACA. And that stands for
14 actual cost adjustment.

15 Is that correct, Mr. Fischer?

16 MR. FISCHER: That's what I was
17 referring to. Yes.

18 JUDGE DIPPELL: All right.

19 Is there any further cross-examination
20 based on questions from the Commission?

21 From Staff?

22 MR. THOMPSON: No, ma'am.

23 JUDGE DIPPELL: From Southern Missouri?

24 MR. FISCHER: No. Thank you. Thank you
25 for your patience.

1 JUDGE DIPPELL: Is there redirect? And
2 that's based on all of the questions.

3 MR. HATFIELD: No, ma'am.

4 JUDGE DIPPELL: All right.

5 Mr. Simmons, then you may be excused.

6 THE WITNESS: Thank you.

7 JUDGE DIPPELL: Thank you very much.

8 Does the Propane Gas Association have
9 any further witnesses?

10 MR. HATFIELD: We do not, Judge.

11 JUDGE DIPPELL: Okay. Let's see. Let's
12 go ahead, then, and begin with Staff's first witness.

13 MR. THOMPSON: Thank you, Your Honor.

14 Staff calls Tom Solt.

15 (Witness sworn.)

16 JUDGE DIPPELL: If you could also spell
17 your name for the court reporter.

18 THE WITNESS: S-o-l-t.

19 TOM SOLT testified as follows:

20 DIRECT EXAMINATION BY MR. THOMPSON:

21 Q. Mr. Solt, how are you employed?

22 A. I'm employed as an auditor in the Energy
23 Department of the Missouri Public Service Commission.

24 Q. And how long have you been so employed?

25 A. Coming up on 15 years.

1 Q. And in the course of your employment
2 have you had occasion to review or look at or have any
3 involvement with the three applications that are before
4 the Commission in this case?

5 A. Yes. I have.

6 Q. What exactly was your involvement with
7 those applications?

8 A. Basically to review the applications
9 that were combined into a single application for
10 feasibility.

11 Q. Feasibility. Now, Mr. Solt, are you
12 aware that Staff filed a recommendation in this case
13 about June 13th, 2007?

14 A. Yes. I am.

15 Q. And did you have any involvement in
16 producing that recommendation?

17 A. Yes. I did.

18 MR. THOMPSON: I'd like to mark this as
19 Exhibit 19, Your Honor.

20 (EXHIBIT NO. 19 WAS MARKED FOR
21 IDENTIFICATION.)

22 MR. THOMPSON: And I apologize, but this
23 is the only copy I brought with me.

24 MR. FISCHER: Is that the Staff rec?

25 MR. THOMPSON: Yes. It is.

1 MR. FISCHER: I've got some copies here,
2 if you'd like them.

3 MR. THOMPSON: This is the memorandum
4 part, but sure.

5 MR. HATFIELD: Thank you.

6 MR. THOMPSON: Thank you.

7 And we'll put that in front of you.

8 MR. FISCHER: Here are six copies.

9 JUDGE DIPPELL: Thank you.

10 MR. THOMPSON: Do you have a copy for
11 them, by any chance?

12 MR. FISCHER: I've already given them
13 one.

14 MR. THOMPSON: Thank you.

15 BY MR. THOMPSON:

16 Q. Take a look at the memorandum in front
17 of you there that we marked as Exhibit 19, Mr. Solt.
18 Do you recognize that?

19 A. Yes. I do.

20 Q. That's your name up towards the top of
21 that?

22 A. It is.

23 Q. Did you have a hand in preparing that
24 document?

25 A. Yes. I did.

1 Q. Were you the only staff member who
2 worked in preparing that document?

3 A. No. I was not.

4 Q. Who else was involved, if you know?

5 A. Dave Murray, Dave Summer, and Lera
6 Shemwell. And there may be others, as well, that don't
7 come to mind right now.

8 Q. But you remember those three?

9 A. Yes.

10 Q. Okay. And what exactly was your
11 contribution, if you recall?

12 A. Basically the recommendation regarding
13 the certificate of convenience and necessity.

14 Q. And if you remember, what was that
15 recommendation?

16 A. The recommendation was that the
17 certificate for convenience and necessity be granted
18 but with caveats.

19 Q. What are the caveats, if you remember?

20 A. If I could have a second just to review
21 here.

22 Q. Would it refresh your memory to take a
23 look at that memo?

24 A. Yes. I am.

25 Q. Please go ahead and do so.

1 A. Thanks. Okay.

2 Q. Is your memory now refreshed?

3 A. Yes.

4 Q. What were the caveats?

5 A. Basically that -- this is not a
6 guarantee. You know, our recommendation the
7 certificate be granted is not a guarantee that this
8 will be successful. They do -- the company does face
9 competition from propane in its area, and propane is
10 unregulated service product. And depending on where
11 that competition goes, you know, depends on whether
12 ultimately the company can be successful in extending
13 service.

14 Q. Okay.

15 A. Also, I wanted to call attention to --
16 the Commission's attention to the fact that the
17 predecessor company to Southern Missouri Natural Gas,
18 which was Tartan Energy, had a -- I guess part of the
19 order that granted it its certificate, stated that it
20 was to provide only retail service and not wholesale
21 service.

22 Q. Okay. What certificate was that?

23 A. The case number?

24 Q. I mean, was that a certificate to serve
25 Lebanon?

1 A. Oh, no. It was not.

2 Q. Was it a certificate to serve Houston?

3 A. It was a certificate to serve the cities
4 that they currently serve, as well as Houston and
5 Licking and Mountain View.

6 Q. Okay. But Southern Missouri Natural
7 Gas, in fact, is seeking authority to serve Houston and
8 Licking today, aren't they?

9 A. Yes. They are.

10 Q. And they're seeking authority to serve
11 Lebanon, aren't they?

12 A. Yes. They are.

13 Q. Okay. Now, did you perform any analyses
14 in the course of reviewing these applications in
15 formulating your part of the recommendation?

16 A. Yes. I did.

17 Q. What analyses did you perform?

18 A. Basically it was a sensitively analysis
19 on the model that was submitted by the company to see
20 whether it, in fact, would be feasible to see -- look
21 at the reasonableness of the estimates that were used
22 that were inputs to the model.

23 Q. Okay. Now, these models of which you
24 speak in fact were presented as appendices to two of
25 the applications; isn't that correct?

1 A. Yes.

2 Q. They're called feasibility studies; is
3 that right?

4 A. They are.

5 Q. And I think they're both either highly
6 confidential or proprietary; isn't that right?

7 A. Highly confidential, I believe. Yes.

8 Q. And these are, in fact, in evidence now
9 as Exhibits 4 and 6; is that correct, as far as you
10 know?

11 A. I am not exactly sure how they're
12 marked. I can check.

13 Q. Never mind.

14 A. Yes.

15 Q. Okay. Okay. So you agree they are. So
16 when you say sensitivity studies, what does that mean?

17 A. Basically what I did was very certain
18 inputs -- changed certain inputs that perhaps weren't
19 as conservative as I thought they should be to see what
20 happened to the results of the model.

21 Q. So the model you've mentioned several
22 times, is that a mathematical model?

23 A. Yes. It is.

24 Q. And it's a projection over some period
25 in the future?

1 A. Yes. It runs for 20 years.

2 Q. Twenty years. And it examines or
3 purports to show whether or not the proposed project
4 will be economically viable over that period; is that
5 correct?

6 A. That is correct.

7 Q. And after examining that model and
8 making some changes to the inputs, what was your
9 conclusion?

10 A. My conclusion was that it is
11 economically feasible.

12 Q. Okay. Now, Staff's recommendation is
13 that the certificates be granted with conditions; isn't
14 that right?

15 A. Yes. It is.

16 Q. Do you recall what conditions Staff has
17 recommended?

18 A. The most significant one is that the
19 financing be taken care of before any final decision is
20 made.

21 Q. And you were not the analyst on the
22 financial part of this, were you?

23 A. I was not.

24 Q. Do you know who was?

25 A. I believe that was Dave Murray.

1 Q. Okay. So as far as that condition goes,
2 you were simply accepting the work of another Staff
3 member?

4 A. Yes.

5 Q. Now, wasn't there also a proposed
6 condition having to do with the election in Lebanon?

7 A. Yes. That's correct, as well.

8 Q. What was that condition, if you know?

9 A. That the outcome of the vote of the
10 ratification of the franchise agreement be positive.

11 Q. And why did Staff include that
12 recommendation?

13 A. Basically to ensure that -- using the
14 most -- to have an abundance of caution that everything
15 was okay as far as the franchise was concerned.

16 Q. Okay. Now, you're not an attorney, are
17 you, Mr. Solt?

18 A. I'm not.

19 Q. And do you know whether or not an
20 election -- a ratification election is required for the
21 franchise to be valid?

22 A. I do not know.

23 Q. Did you hear Mr. Fischer's statement
24 earlier today that the company doesn't believe it's
25 required?

1 A. I did hear that. Yes.

2 Q. Is there any reason why -- in your
3 opinion, is there any reason why Staff could not change
4 its position such that that condition would not be
5 required?

6 A. Assuming there was a determination made
7 that it was not necessary, no, there's no reason that
8 Staff could not make that determination. Again,
9 assuming that our legal staff said that it was not
10 necessary.

11 Q. Staff's concern was simply to be
12 absolutely certain that the franchise was legal.
13 Correct?

14 A. That is correct.

15 Q. Okay.

16 MR. THOMPSON: I have no further
17 questions. I'll tender the witness.

18 JUDGE DIPPELL: Thank you. Is there
19 cross-examination by Southern Missouri Gas?

20 MR. FISCHER: Just briefly, Your Honor.

21 CROSS-EXAMINATION BY MR. FISCHER:

22 Q. Mr. Solt, as I understand your
23 testimony, you reviewed the company's applications in
24 the certificate cases; is that right?

25 A. Yes, sir. I did.

1 Q. And Staff has concluded that there is a
2 public need for natural gas in Lebanon, Houston, and
3 Licking; is that true?

4 A. I believe so. Yes.

5 Q. The Commission and the Staff have been
6 regulating Southern Missouri Natural Gas since it was
7 certificated in 1994; is that true?

8 A. That's correct. Yes.

9 Q. And so you're very familiar with the
10 operations of Southern Missouri Natural Gas?

11 A. Yes, sir.

12 Q. And you're recommending that the
13 Commission authorize the Company to expand its -- or
14 excuse me, recommending to the Commission that the
15 company be permitted to expand its service as its
16 proposed in the application, subject to the conditions
17 that you've suggested here today?

18 A. Yes, sir.

19 Q. So Staff believes that Southern Missouri
20 has the technical, managerial, and financial
21 qualifications to serve as a regulated company in
22 Lebanon, Houston, and Licking; is that right?

23 A. I won't speak to financial, but the
24 others, yes.

25 Q. Okay. And as the expert Staff witness,

1 you believe that a grant of the certificate of
2 convenience and necessity to Southern Missouri Natural
3 Gas, under the conditions set forth in your Staff
4 recommendation, would be reasonable and in the public
5 interest?

6 A. I think so. Yes.

7 MR. FISCHER: That's all I have. Thank
8 you very much.

9 JUDGE DIPPELL: Is there
10 cross-examination from Propane Gas Association?

11 MR. HATFIELD: Yes, Judge. Thank you.

12 CROSS-EXAMINATION BY MR. HATFIELD:

13 Q. Good afternoon, Mr. Solt.

14 A. Hi.

15 Q. You've been here all day; is that right?

16 A. I have.

17 Q. Okay. You've got Exhibit 19 in front of
18 you?

19 A. Yes.

20 MR. HATFIELD: And, Judge, is it in
21 evidence or --

22 JUDGE DIPPELL: No. It was not offered.

23 MR. THOMPSON: Well, I'll go ahead and
24 offer it now.

25 MR. HATFIELD: I second that motion.

1 JUDGE DIPPELL: Would there be any
2 objection?

3 MR. FISCHER: No objection.

4 JUDGE DIPPELL: Then I will receive
5 Exhibit 19, the Staff recommendation memo, into
6 evidence.

7 (EXHIBIT NO. 19 WAS RECEIVED INTO
8 EVIDENCE.)

9 BY MR. HATFIELD:

10 Q. Let me direct you, Mr. Solt, to
11 Paragraph 1 of the Staff recommendation, please.

12 A. Okay.

13 Q. It says that information in the
14 application -- well, Staff has determined that some
15 items have not yet been submitted; is that right?
16 Paragraph 1 of the -- oh, I'm sorry. You don't have
17 the cover. We just admitted the memorandum.

18 JUDGE DIPPELL: Yeah.

19 BY MR. HATFIELD:

20 Q. I'm sorry.

21 A. I have the cover here, but --

22 Q. Are you familiar with the cover for the
23 Staff recommendation?

24 A. Yes. And I'm not seeing --

25 Q. I'm sorry. It's the Staff's response to

1 the Commission order directing filing of list witnesses
2 and synopsis of testimony.

3 MR. HATFIELD: Let me withdraw this
4 whole line of questioning. I'm going to confuse
5 everybody.

6 BY MR. HATFIELD:

7 Q. Mr. Solt, is it true that Staff's
8 position is that some items required by this
9 Commission's regulations have not been yet submitted
10 with this application?

11 A. That is no longer true.

12 Q. And when did that happen?

13 A. Within the last 24 hours, I think.

14 Q. All right. And those items, do you know
15 whether they've been delivered to the intervener to
16 review or not?

17 A. They were filed in EFIS which makes them
18 available to anyone involved in the case.

19 Q. All right. What were those items? I'm
20 aware of the fictional name registration.

21 A. Yeah. That's the only one that I
22 actually have. I had asked for a partnership operating
23 agreement, but I'm told that that's not necessary
24 with -- that a limited partnership is actually a
25 corporation and, therefore, it's not a necessary item.

1 Q. All right. To your understanding, does
2 the application require submission of a plat map
3 similar to MoDOT quality?

4 A. That is a requirement of the rule. Yes.

5 Q. Has that been submitted?

6 A. There was a map submitted. Yes.

7 Q. And was it a MoDOT-quality plat map?

8 A. I -- honestly, I don't know what a
9 MoDOT-quality plat map is, so I don't know.

10 Q. Surely the Commission's rules aren't
11 vague on that issue.

12 MR. HATFIELD: I'm sorry. I'll withdraw
13 that question.

14 BY MR. HATFIELD:

15 Q. The only map you're aware of that's been
16 submitted is that -- the map we referred to earlier,
17 which is, I think, Exhibit 2 to the application; is
18 that right?

19 A. That is -- no. I mean, there was
20 another map submitted as well that's somewhat more
21 detailed than that. I don't know where that was -- if
22 you're talking about filed in the case, yes, that's
23 correct.

24 Q. Okay. Just one more time, because I
25 just got to make sure I understand this. So your

1 position today is different than what your records
2 submission was, that everything has been submitted now?

3 A. Yes.

4 Q. All right.

5 A. Because filings have been made since the
6 recommendation -- or since the statement of position
7 came out.

8 Q. All right. And just a couple other
9 background questions. Were you here on Commission
10 Staff when the Houston and Licking certificate of
11 needs -- or certificate -- C -- the certificates of
12 necessity were granted?

13 A. From the Tartan Energy?

14 Q. Yes.

15 A. Yes. I believe I was.

16 Q. And did Staff recommend the granting of
17 those?

18 A. Yes.

19 Q. But Houston and Licking never got
20 service. Why is that?

21 A. This is going back a ways. If you want
22 my understanding of what happened.

23 Q. Yes.

24 A. There was a prison going in, I believe,
25 in Houston. And the company decided -- there was a --

1 I guess the prison had -- those responsible for the
2 prison made a statement that they didn't want natural
3 gas at the prison. And I think that ended the ambition
4 to send natural gas to, you know, to those cities.

5 Q. So let me make sure I understand that.
6 So when they applied for Houston and Licking -- I
7 understand it was different ownership -- but they
8 agreed to deliver service to all areas. Correct?

9 A. Within limits, yes.

10 Q. Within limits. That included
11 residential service. Correct?

12 A. Uh-huh. Uh-huh.

13 Q. And that included the prison?

14 A. Right.

15 Q. Correct? And when the State decided not
16 to hook the prison up to natural gas, they didn't put
17 in the service?

18 A. That is --

19 Q. Is that what --

20 A. -- true.

21 Q. -- you're telling us?

22 A. That is true.

23 Q. All right. And do you have an
24 understanding as to why that was from an economic
25 standpoint?

1 A. At the time, I mean, the ownership at
2 that time decided that they didn't want to pursue it at
3 the time.

4 Q. So let's talk about the financing
5 information for a minute. As I understand the data
6 request, Staff has asked for financing information on
7 several occasions; is that correct?

8 A. That would be more properly addressed by
9 Mr. Murray.

10 Q. Fair enough. I'll be happy to.
11 So let me ask -- we've talked a lot
12 about Staff's recommendation here. Is it Staff's
13 position on the vote, then, that whether the people
14 vote yes or no has no impact on whether there's any
15 need for the service in Lebanon?

16 A. No. I don't -- I --

17 Q. I asked a really bad question, because I
18 don't know what no means in light of my question. So
19 let me try it again.

20 A. All right.

21 Q. I mean, I think I understood you to say
22 that the only reason Staff suggested that this
23 Commission wait until the people of Lebanon have had an
24 opportunity to vote on this was to make sure that all
25 the legal requirements were met; is that right?

1 A. Yes. My understanding is that there's
2 three sections of law that cover whether or not a
3 ratification vote is required for something that a city
4 does.

5 Q. Right.

6 A. And I believe that it is our legal
7 opinion that a vote is not required in this particular
8 case.

9 Q. And that's what confused me. So I guess
10 I had assumed that the reason you -- Staff was
11 recommending that it be contingent on the vote was that
12 Staff was curious to know whether the people of Lebanon
13 actually wanted natural gas. But you're telling me you
14 don't care?

15 MR. THOMPSON: Objection. I don't think
16 that anything that Mr. Solt testified to suggested that
17 Staff included that condition because they were or were
18 not concerned about whether the people of Lebanon
19 wanted natural gas. He stated, as he's just stated
20 right now, that Staff's concern was to be certain that
21 the franchise was valid.

22 JUDGE DIPPELL: I'll sustain your
23 objection.

24 You can restate the question if you
25 like.

1 MR. HATFIELD: I'm not trying to be
2 difficult. I'm not sure I understand the grounds of
3 the objection so that I can restate it properly.

4 JUDGE DIPPELL: I --

5 MR. THOMPSON: The ground was you
6 mischaracterized his testimony.

7 MR. HATFIELD: Gotcha. Okay.

8 BY MR. HATFIELD:

9 Q. Does Staff care whether the people of
10 Lebanon want -- or whether the people of Lebanon vote
11 yes or no on this issue?

12 A. Well, yeah. I think we care.

13 Q. Okay. And will that give you -- will a
14 vote give Staff any indication of whether the people
15 believe there's a need for the service?

16 A. Well, I mean, the people are represented
17 by their elected officials. Their elected officials
18 are here. Their elected officials are the ones that
19 initiated the bids to bring natural gas service to the
20 City of Lebanon, so I would assume that, you know,
21 unless there's some disconnect I'm missing, that the
22 people of Lebanon do want natural gas service. Hence
23 the presence of -- former presence of their elected
24 officials.

25 Q. Okay. All right. And you would agree

1 on your review of the application that if Southern
2 Missouri Natural Gas does not obtain financing, they
3 will not be able to accomplish this expansion?

4 A. Again, I would defer that question to
5 Mr. Murray.

6 Q. All right. Fair enough.

7 MR. HATFIELD: No further questions of
8 this witness.

9 JUDGE DIPPELL: Thank you.

10 Are there questions from the
11 Commissioners?

12 Commissioner Appling, any questions?

13 QUESTIONS BY COMMISSIONER APPLING:

14 Q. How you doing, Tom?

15 A. Fine, sir. Thank you.

16 Q. I'm going to take a stab at a couple of
17 questions, and it's mainly for background, not so much
18 for the cases which we have here, just for my own
19 edification.

20 A. Yes, sir.

21 Q. During your analysis and sensitivity
22 study, you're considering two things. You're
23 considering propane and then you're considering natural
24 gas. Am I correct so far?

25 A. Yes and no. I mean, the sensitivity

1 study did not involve propane. What I did after I
2 looked at the results of the sensitivity study was to
3 look at the competitiveness of propane to natural gas,
4 and to see -- I mean, we know what the price to the
5 customers in Lebanon would be of natural gas -- and to
6 see how that compared to propane and just how
7 competitive it was.

8 Q. In your analysis and when you say, yes,
9 we should give Southern Gas Company a certificate, is
10 there any consideration that natural -- not natural --
11 but propane would probably in some cases be put out of
12 business?

13 A. No. I did not consider that at all.

14 Q. Okay. Has there been any time in
15 Staff's recommendation in the past that they have
16 thought it was in the best interests of the public to
17 not recommend natural gas? Has there ever been an
18 application for certificate in front of y'all that
19 y'all have said, maybe at this time it's not in the
20 best interests of the public to recommend natural gas?

21 A. I'm not sure. I can't state that with
22 complete certainty, sir.

23 Q. So you don't -- you haven't -- you -- as
24 far as Staff is concerned, you haven't had that arise?

25 A. I have not.

1 Q. Okay.

2 A. I've not made that recommendation.

3 Q. Thank you.

4 COMMISSIONER APPLING: That's all the
5 questions I have.

6 JUDGE DIPPELL: Thank you.

7 Mr. Chairman, did you have questions?

8 CHAIRMAN DAVIS: Yes.

9 QUESTIONS BY CHAIRMAN DAVIS:

10 Q. Okay. Mr. Solt, just in response to
11 your last query from Commissioner Appling.

12 A. Yes, sir.

13 Q. How long have you been at the
14 Commission?

15 A. I started here in 1992, so about 15
16 years with --

17 Q. Okay. At that time, had Missouri
18 Pipeline Company been certificated to serve Rolla or
19 Fort Leonard Wood? Do you know?

20 A. I don't know.

21 Q. So you wouldn't know in that case if the
22 Missouri Public Service Commission Staff had actually
23 recommended that that pipeline expansion be approved or
24 disapproved, would you?

25 A. I don't recall that, sir.

1 Q. Don't recall. Okay. Thank you.

2 CHAIRMAN DAVIS: No further questions.

3 JUDGE DIPPELL: Okay. Mr. Solt, you
4 mentioned -- there was a question you had about the
5 maps. And I thought I understand your answer to say
6 maybe that there were some additional maps that were
7 submitted that were not part of the application.

8 THE WITNESS: They were not --

9 JUDGE DIPPELL: Did I --

10 THE WITNESS: -- filed as part of the
11 application. They were submitted, probably in response
12 to data requests.

13 JUDGE DIPPELL: Okay. I just wanted to
14 clarify that.

15 Okay. I'm pretty sure that Commissioner
16 Gaw has questions for you. I believe you're the one
17 that was going to address the -- is that true?

18 THE WITNESS: I can go ahead and address
19 that, if you like. The duty to serve?

20 JUDGE DIPPELL: I think I'd rather wait.

21 THE WITNESS: Okay.

22 JUDGE DIPPELL: I know that he is
23 listening in upstairs, but he's also had another call.
24 And I want to make sure that he's able to ask you any
25 further questions that he might have about that topic.

1 So let's just go ahead and we'll go
2 ahead with further cross from the bench and redirect as
3 it is now, and then we may call Mr. Solt back after we
4 take a short break and Commissioner Gaw can join us
5 again.

6 So is there further cross-examination
7 from Southern Missouri based on questions from the
8 bench?

9 MR. FISCHER: No, thank you, Your Honor.

10 JUDGE DIPPELL: Is there further cross
11 from the Propane Gas Association?

12 MR. HATFIELD: I think I just have one
13 follow-up on Commissioner Appling's question.

14 RE-CROSS-EXAMINATION BY MR. HATFIELD:

15 Q. Mr. Solt, in the sensitivity study when
16 you were comparing price -- you know, you were
17 comparing the price of natural gas and the price of
18 propane gas, did you figure in the franchise fee?

19 A. Well, first of all, I did not do that as
20 part of the sensitivity analysis. However, no, I --
21 the franchise fee is a pass-through and -- as is gas
22 price for natural gas. It's a pass-through. So that
23 was not looked at. It doesn't affect -- and when I
24 compared the two, I did not use any taxes like --

25 Q. Okay. But did --

1 A. -- sales tax or anything.

2 Q. You would agree it affects the end cost
3 of the consumer?

4 A. Yes. It would.

5 Q. All right. Thank you.

6 JUDGE DIPPELL: Is that all?

7 MR. HATFIELD: That's all.

8 JUDGE DIPPELL: Is there redirect?

9 MR. THOMPSON: No, Judge. I will
10 reserve my redirect until after he's finished answering
11 questions from Commissioner Gaw.

12 JUDGE DIPPELL: Okay.

13 In that case, let's go ahead and take a
14 15-minute break. Let's return by that clock at 3:25.
15 We can go off the record.

16 (A RECESS WAS TAKEN.)

17 JUDGE DIPPELL: I think we are ready to
18 go ahead and go back on the record.

19 We're back on the record after a break.

20 (Witness sworn.)

21 MR. THOMPSON: Staff calls David Murray.

22 JUDGE DIPPELL: And Commission Gaw has
23 some more questions for Mr. Solt, but we're just going
24 to go ahead until he rejoins us.

25 MR. THOMPSON: Thank you, Your Honor.

1 JUDGE DIPPELL: Go ahead, Mr. Thompson.

2 DAVID MURRAY testified as follows:

3 DIRECT EXAMINATION BY MR. THOMPSON:

4 Q. Mr. Murray, how are you employed?

5 A. I'm employed as an auditor in the
6 financial analysis department.

7 Q. And in the course of your duties, did
8 you happen to have any involvement with any of the
9 three applications that are before the Commission
10 today?

11 A. Yes. I have.

12 Q. What was that involvement?

13 A. My primary responsibility was with the
14 financing application. However, I also corresponded
15 and worked with the other Staff witnesses on the
16 certificate cases since these are so closely
17 intertwined.

18 Q. Now, are you aware that Staff filed a
19 recommendation in this case on or about -- whenever it
20 was. Pardon me. It looks like about June 13th of this
21 year.

22 A. Yes.

23 Q. And that's been received as Exhibit 19.
24 Is there still a copy of that up there?

25 A. Actually, I brought my own.

1 Q. You brought your own. Better yet.

2 Did you have any -- did you contribute
3 anything to that recommendation?

4 A. Yes. I did.

5 Q. And what did you contribute?

6 A. Of course, reviewed Tom Solt's write-up.
7 But I also added in my own portion of the
8 recommendation, which had, you know, more to do with
9 the financing. I also discussed a little bit on the
10 background of the investors and Southern Missouri
11 Natural Gas.

12 Q. I noticed that on the last two pages of
13 the memorandum, there's a bold heading, Financing
14 Recommendation, and then it looks like three paragraphs
15 of text. This is on Pages 4 and 5. Did you contribute
16 those three paragraphs?

17 A. Yes. Actually, I'm the one that
18 originally drafted that language, and that was reviewed
19 and I received input and revised as necessary.

20 Q. And if you recall, what was your
21 recommendation with respect to the financing
22 application?

23 A. To not -- to withhold approval at this
24 point in time, just because I did not feel like I had
25 the detailed information that I needed to make an

1 informed, educated recommendation for this case.

2 Q. And that's one of the conditions that
3 Staff has recommended be attached to the certificate,
4 is it not?

5 A. Yes.

6 Q. That the certificate be contingent upon
7 Southern Missouri Natural Gas obtaining acceptable
8 financing?

9 A. Yes. Actually, I list very specific
10 things that should be filed in the future as a
11 supplement amendment to the application. So that is
12 something that the company has said they will do, and
13 we're just awaiting that filing.

14 Q. Okay. So in the absence of detailed
15 information, you were not even able to perform any
16 analyses, were you?

17 A. Oh, no completely true. No. I was able
18 to perform some analysis. They have provided general
19 terms and conditions that they received from their
20 placement agent. And I'll try to not get into the
21 details of the identities of any of these parties.

22 But they provided some general terms and
23 conditions. Some of those same general terms and
24 conditions were put into the feasibility study. That
25 is part of the interest costs that are put into the pro

1 JUDGE DIPPELL: Thank you.

2 Is there cross-examination from Southern
3 Missouri?

4 MR. FISCHER: Just briefly.

5 CROSS-EXAMINATION BY MR. FISCHER:

6 Q. Mr. Murray, your recommendations are
7 still the same as you filed them in Exhibit 19?

8 A. Yes. They are.

9 MR. FISCHER: Okay. That's all I have.
10 Thanks.

11 JUDGE DIPPELL: Propane Gas Association?

12 MR. HATFIELD: Just a couple of
13 questions.

14 CROSS-EXAMINATION BY MR. HATFIELD:

15 Q. I'm looking at the memorandum. I think
16 it's 19.

17 JUDGE DIPPELL: Yes.

18 BY MR. HATFIELD:

19 Q. And you were just talking about the
20 financing recommendations section.

21 A. Yes.

22 Q. And I had a question there. See if I
23 can get you the right page, maybe you can explain it.

24 It says that Staff has a concern about
25 the accounting treatment of the acquisition of Southern

1 Missouri Gas by Sendero.

2 A. What page -- I mean, what paragraph are
3 you in?

4 Q. I'm in, Financing Recommendation,
5 Paragraph 2.

6 A. The middle or towards the end?

7 Q. Third -- second full sentence.

8 A. Second. Can you read that to me real
9 quick?

10 Q. Staff believes this information -- are
11 you with me? -- was important considering the pro
12 forma.

13 A. Okay.

14 Q. And Staff -- and then, What Staff
15 understood to be the purchase accounting treatment of
16 the acquisition.

17 A. Yes.

18 Q. However, based on Staff's review of
19 current audited financial statements, this transaction
20 was accounted for in a different manner.

21 A. Yes.

22 Q. Can you explain? I didn't really
23 understood (sic) what that means, not having been privy
24 to that acquisition case.

25 A. I wasn't directly assigned to the

1 acquisition case, but I was overseeing an individual we
2 had working in our department at the time, John Keibel
3 (ph), who worked on that case. And I had seen that the
4 ratios that he was reviewing to determine if the
5 company was going to be in compliance on a pro forma
6 basis. And, of course, as we all know, pro formas are,
7 you know -- that's a hope-for or hopefully, you know,
8 at least a base case scenario, never necessarily
9 materializes. We all hope it does.

10 But as far as -- the intent of that
11 statement was, we looked at a different valuation basis
12 back in the acquisition case. And the financial
13 statements we have in this case showed a different
14 valuation basis that we were not -- we were not looking
15 at in the acquisition case. So there was some concern
16 because -- with that because the covenants in the GMAC
17 credit agreement looked to be more consistent with a
18 purchase accounting type of valuation.

19 Q. All right. Let me break that into two
20 parts. So are you saying, then, that the figures, if
21 you will, that were presented to the Commission at the
22 acquisition, in terms of what the basis would be, are
23 not the same as what you're seeing in current
24 accounting reports?

25 A. They're not -- what was submitted as a

1 from an economic standpoint; what makes sense from
2 looking at things based on their economic value. And
3 my experience with some of my studies and just
4 experience with looking at financial statements is that
5 after an acquisition occurs, a purchase accounting type
6 method is used, and that results in a write-down of the
7 assets.

8 Q. But it's not what you expected by
9 looking at the acquisition documents?

10 A. It's -- yeah. Well, what I expected
11 was -- was what was in the acquisition documents.

12 Q. Exactly.

13 A. What happened and what was filed in this
14 case was not what I expected.

15 Q. All right. And I guess I didn't
16 understand why it's important for you to see the
17 financing documents as it relates to that issue you
18 just described. That seems to be what you said in the
19 memo.

20 A. Oh, it's important because I want to
21 know what the investors -- how they're looking at it.
22 I want to make sure that they are looking at the
23 economics of this proposal, of the existing Southern
24 Missouri Natural Gas properties and the proposed
25 expansion. I just want to make sure that they don't

1 feel like that there is this much equity based on the
2 \$45 million historical cost. I want to make sure they
3 don't think that there's that much equity in this
4 property. I just -- I don't believe that that's the
5 case.

6 And actually, I think Randy Maffett
7 earlier indicated -- he talked about the equity
8 percentage being in the teens. That was based on
9 purchase price accounting. Or -- I -- no, not -- let
10 me not say purchase price accounting. But let me just
11 say based on the purchase price.

12 And so if you'd use the historical cost,
13 their equity value would be closer -- it's over 50
14 percent. But that was based on the cost to put this
15 plant into the ground. And they bought it at a
16 significant discount -- 15 million versus the 40-plus
17 million that was booked on the -- you know, on the
18 statements, originally.

19 Q. Okay. I understand. And you agree -- I
20 think we've talked about it a lot. But you agree that
21 based on your analysis of the financial statements that
22 this particular plan for Lebanon and Licking and
23 Houston cannot go forward without additional infusion
24 of capital; is that correct?

25 A. Oh, they -- yeah. They need outside

1 capital. There's no -- I don't think there's any
2 argument about that.

3 Q. Now, are you aware of any other time
4 when -- or any time when the Commission has granted a
5 certificate of need and necessity conditioned on
6 financing -- and I'm talking about natural gas -- and
7 the financing did not come through?

8 A. I have no personal knowledge.

9 Q. I think I understand that --

10 A. I don't have any knowledge.

11 Q. -- your not familiar with the cases that
12 have happened here.

13 A. Yeah. I don't have any knowledge. I
14 mean, this is -- we don't have a lot of -- we don't
15 have a lot of expansion proposals come in here,
16 especially with smaller companies. I don't -- I
17 typically don't participate much in the CCN cases,
18 other than on the financing aspect. And I think some
19 of your small natural gas systems came around in the
20 '90s, and that's before my time. I wasn't here, as
21 Mr. Solt was.

22 MR. HATFIELD: I don't have any further
23 questions.

24 JUDGE DIPPELL: Thank you.

25 Are there questions for Mr. Murray?

1 Commissioner Gaw?

2 QUESTIONS BY COMMISSIONER GAW:

3 Q. Mr. Murray, it's -- is it a relief to
4 you not to have to bear the burden of being an
5 accountant?

6 A. Well, I don't know. Each one of them
7 has their pluses and minuses. So --

8 Q. Well, you got away with the accountant
9 bit and the lawyer bit, both, in your testimony this
10 time. So I thought I'd just check.

11 A. Hey, I'll -- you know, sometimes I think
12 I'd be happy to turn over the rate of return issues to
13 others, but --

14 Q. Yeah. I heard that little comment, too.
15 So let's -- down to the issues here.

16 Let me ask you: From the standpoint of the financing
17 questions, is it important from Staff's standpoint --
18 and I know -- that you know exactly what the financing
19 is before there's a final okay over this whole CCN
20 question?

21 A. Yeah. I think it's important to look at
22 the final terms and conditions, especially in light of
23 the fact that -- and what I looked at in the last
24 acquisition case. I think there may have been some
25 other understanding as to how the covenants were going

1 to apply going forward. And it turned out not to be as
2 Staff had expected. So I -- and that can play a factor
3 as to whether or not a lender is going to put a company
4 into bankruptcy.

5 Q. Okay. Now, in regard to the importance
6 of this question here, on -- I want to explore a couple
7 of fronts. First of all, in regard to the question of
8 how this potentially impacts existing customers of this
9 company, I would -- would it be true to say that if the
10 financing that can be procured is -- causes there to be
11 a potential for increasing rates in order to take care
12 of that financing over and above what ratepayers are
13 currently experiencing, that Staff would have a concern
14 about that?

15 A. Well, I think it would just like dealing
16 with our troubled utility on the western side of the
17 state. I can only speak from a cost of capital
18 standpoint. We're -- we would look at whether or not
19 the cost of the capital for Southern Missouri Natural
20 Gas -- even as it is right now, they are -- they
21 wouldn't be considered investment grade.

22 So we would have to look at what is
23 reasonable for cost of capital for this entity,
24 especially, you know, considering how it chooses to
25 capitalize itself. There's no doubt they chose to

1 acquire this entity in a very leveraged situation where
2 they had maybe, like, equity in the teen percentages.

3 And they have revolving interest rate
4 loans and -- but they -- I understand that they did use
5 some interest rate hedging mechanisms, which would fix
6 some of that variable rate debt. But -- and then they
7 also have, you know, a margin over LIBOR. That's one
8 of the things that once we get the final terms, we'll
9 know, you know, what is that true commitment as to how
10 much of a margin over LIBOR are they going to end up
11 paying.

12 For example, Aquila had a margin over
13 LIBOR of 350 basis points, and they were single B
14 rated. That's a similar margin to what Southern
15 Missouri Gas is expecting, based on the general terms
16 and conditions. And there's been some tightening up
17 in -- everybody is aware of the subprime issues.
18 There's been some tightening up. And Randy may be able
19 to speak more about this than I am because he talks to
20 the capital providers as to what the final terms may
21 end up being.

22 Q. Is it a concern for Staff -- back to my
23 question -- as to how this acquisition and the
24 financing that goes along with it may impact current
25 customers of the company?

1 A. I -- it -- I don't have that concern
2 from the standpoint of the rate-making issue, because
3 we can control that. As I said, with Aquila, we've
4 done that. But I am concerned -- and this is just
5 because we just haven't had a dead body, if you will,
6 on a bankruptcy. I think the closest we've got maybe
7 is Galton (ph) and Hamilton, where they refuse to --
8 the lender that took over was supposedly refusing to
9 provide natural gas for the upcoming winter months.
10 And we got a buyer to come in, and thank God things
11 worked out.

12 But, you know, that's uncharted
13 territory. I -- and I'm not a bankruptcy expert. I --
14 who knows. I mean, I'm not sure.

15 Q. Well, let's go through the possible
16 scenarios, in hopefully not too much time here. When
17 you're looking at the possibility of an expansion, if
18 the expansion here caused there under the financing
19 terms to be a -- there to be a need to raise rates in
20 order to maintain the financial integrity of the
21 company, is that potentially a detriment to the current
22 ratepayers?

23 A. If we allow those increased costs to go
24 through, yes, it is.

25 Q. All right.

1 A. But that's up to us.

2 Q. But -- I'm going to get there.

3 A. Okay.

4 Q. So there is a -- is that a concern as
5 far as the Staff is concerned?

6 A. It's a concern that they would try to
7 push it through with these increased -- obviously, they
8 feel pressures when --

9 Q. All right.

10 A. -- if the margin is tight.

11 Q. Now, let's look at the alternative that
12 you were talking about. Let's say that the Staff --
13 and perhaps the Commission agreed with them, if you
14 were walking down that line of scenarios, that there
15 would not be an allowance for that additional increase
16 in rates because of the acquisition and the financing
17 causing there to be a need for additional revenues.
18 Let's say that occurred. Okay.

19 Now, let's assume that because of that
20 the company was forced into a bankruptcy situation.
21 And I'm not saying that would happen here. I'm not
22 suggesting that's the case that's going to happen.
23 Under that scenario, is there not another risk to the
24 existing ratepayers, or a series of risks to the
25 existing ratepayers?

1 A. I wish I could answer that, but I just
2 don't know. I don't know what would happen because
3 something like with Gambelton -- Hamilton and Gallenton
4 (ph) where somebody purchased the property, even though
5 they were getting ready to shut off the gas.

6 Q. Well, let's say that there was an
7 inability to find anyone who would operate the system
8 under those rates that had been approved by the
9 Commission and the Commission refused -- had refused to
10 approve higher ones. Let's assume that scenario.

11 Would there be a detriment to the
12 existing consumers of the company?

13 A. They would no longer have safe and
14 reliable service. I don't know how you could come to
15 any other conclusion.

16 Q. Okay. Now let's assume that -- another
17 possibility, which again may not -- which may not be a
18 legal possibility, but it's not impossible, either.
19 Let's assume that the bankruptcy court that you're
20 dealing with suggested that under these circumstances,
21 they have superior authority over this Commission to
22 ensure that the creditors have their adequate return
23 under some sort of a system to resolve the case, and
24 the rates will be raised.

25 Would that be a detriment to the

1 ratepayers in that event -- this acquisition with the
2 financing that caused all of this?

3 A. If that cost -- if the rates put into
4 place are higher than a reasonable cost of service,
5 yes, I would say that would be a detriment.

6 Q. Okay. So all I'm trying to get to here
7 is that the -- there is a significant importance in
8 regard to what this financing arrangement may be.
9 Correct?

10 A. Yes.

11 Q. And that financing arrangement is
12 something that the staff needs to be able to fully
13 evaluate before they can fully evaluate the public
14 interest of this acquisition.

15 A. Of the -- or the certificate, yes.

16 Q. Yes. I'm sorry. That's correct.
17 You're correct. I misspoke.

18 So in that event, how much time do you
19 anticipate that analysis taking once you receive
20 information on this matter?

21 A. If Missouri American goes well, it
22 shouldn't take too long. Otherwise, I don't know.
23 Well, there -- that's -- I'm being serious, that
24 there --

25 Q. I understand.

1 A. -- are demands on your time. But the --
2 I mean, first of all, it's going to depend on when I
3 can get the information from Randy.

4 Q. Okay.

5 A. And then how quickly we could get, you
6 know, DR responses back. And to the extent they're
7 satisfactory, you know, I could -- assuming I don't
8 have other significant demands on my time at the time,
9 you know, I could see, once I receive the information
10 that I think I need to finish the recommendation, a
11 couple weeks.

12 Q. Okay. Now, let me go back and take the
13 second part of what I wanted to ask you about. And
14 that has to do with -- let's assume that there is a
15 grant with a condition on the approval of the financing
16 arrangement in an order from the Commission.

17 Should there be some sort of a time
18 frame on being able to complete up or down an approval
19 of a financing arrangement that might be proposed or
20 submitted?

21 And let me tell you why I'm asking that
22 question, if you want, before I -- before you answer
23 it. And that is this: The grant of a certificate is
24 an exclusive grant, is it not, for serving an area?

25 A. I'd have to defer to my operations

1 folks.

2 Q. Generally, isn't it your understanding
3 that a certificate granting the authority or ability to
4 serve a certain area, service territory by a monopoly
5 utility --

6 A. It's exclusive.

7 Q. -- is an exclusive grant of authority?

8 A. That's been my understanding. Yes.

9 Q. So if a grant was made to a utility, but
10 that utility did not provide the service, for the time
11 that that service was not provided and that certificate
12 was in effect, it would -- arguably, would it not
13 preclude others from attempting to serve that area?

14 A. That's -- I'm not comfortable with --

15 Q. Answering?

16 A. Yeah. I just -- I really don't know
17 enough about that aspect.

18 Q. Okay. Well, if -- so has Staff proposed
19 some sort of a time limitation on this review and
20 submission of financing? Do you know?

21 A. No. There's no specific timeline. I
22 believe in Southern Missouri Gas's response to Staff's
23 recommendation they said, I think, 30 to 45 days to get
24 the terms to us. Of course, you know, that -- we've
25 already gone a little bit past that. So there are

1 things that happened, and that caused the time to be
2 pushed out even a little bit more.

3 And so, I mean, once I get that and get
4 the DRs out as quickly as possible, yeah, I think it
5 makes sense to go ahead and do that, especially
6 considering some of the concerns on getting the
7 construction going. So, yeah, I would make a
8 commitment to try to process that and still do a good
9 job on it as quickly as possible. Like I said, within
10 two weeks of when I have all the information, I think I
11 could probably do that.

12 Q. Well, the proposal that's in front of
13 us, would it allow a submission to you that you would
14 disapprove, but then a continuing effort to approve
15 subsequent proposals for financing?

16 A. I -- the language specifically asks them
17 to file supplemental information to this application.
18 As far as, you know, whether or not this could be
19 separated out, or if they, you know, did something down
20 the road, once again, I'd have to defer --

21 Q. Someone else?

22 A. -- to legal counsel as to how they
23 thought procedurally that should work.

24 Q. Well, we are dealing with three
25 applications -- or the three certificate areas here.

1 Correct?

2 A. Three certificate areas. Yes. That's
3 correct.

4 Q. And two of those areas have a previous
5 certificate that has been granted. Correct?

6 A. Yes.

7 Q. And yet those two areas have yet to
8 receive any service for natural gas. Correct?

9 A. That's correct.

10 Q. So we already have a history here where
11 there's been a certificate granted but the people in
12 those areas have not seen any service subsequent to the
13 grant of that certificate. Correct?

14 A. Yes.

15 Q. So should we not be concerned to some
16 degree -- not because of who this is, but because we
17 know it's possible and we've seen examples of it --
18 about granting a certificate without having some sort
19 of a ending date to ensure that that certificate is
20 going to actually be utilized?

21 A. The way I understand the concern is you
22 don't want to hold it hostage. It's difficult. I know
23 how the rules are written, and the rules are written
24 that they just have to provide a financing plan for
25 their CCN. And so this -- a financing plan is a much

1 more general requirement. So I understand your
2 concern, but we were operating under the instructions
3 of the rules. And the financing plan is there.

4 And the financing plan, I -- it is --
5 actually makes sense because they're going to put more
6 equity into the -- into the operation with the
7 expansion; however, there's going to be new equity
8 owners -- actually a significant change in equity
9 ownership. But yeah, I understand your concern. And I
10 think I would have the same concern about holding an
11 area hostage without some assurance that this is
12 actually going to go through.

13 Q. Okay. And you're not suggesting in your
14 last statement, are you, that this -- that the Staff
15 believes it's appropriate to go ahead and approve this
16 CCN without any condition about a thorough review of
17 the financing in more detail than what you've currently
18 received?

19 A. No. Not at all. That's the full
20 intent, is to do a thorough review of the financing
21 once it's received. I think this was kind of a
22 compromise to allow for the CCN to get out there
23 because of the fact they want -- the investors are
24 wanting to, you know, have some type of -- some type of
25 assurance that this Commission believes this is a good

1 thing, if you will, I mean for lack of a better term.

2 Q. Okay.

3 COMMISSIONER GAW: I think that's all I
4 have.

5 THE WITNESS: Thanks.

6 COMMISSIONER GAW: Thank you.

7 JUDGE DIPPELL: Thank you.

8 Commissioner Appling, did you have
9 questions?

10 COMMISSIONER APPLING: Judge, I don't
11 think I have any questions.

12 THE WITNESS: Thank you, sir.

13 JUDGE DIPPELL: Thank you.

14 Mr. Murray, I just had one question for
15 you. And that was you used the term margin over LIBOR.

16 THE WITNESS: Yeah.

17 JUDGE DIPPELL: Can you --

18 THE WITNESS: It's just --

19 JUDGE DIPPELL: -- explain that to me?

20 THE WITNESS: -- a -- it's just -- well,
21 350 basis points, 3.5 percent, 3 percent. That's --
22 that is what I believe is on the margin over LIBOR for
23 their senior secure. They have a couple different
24 types of securities that they're proposing. And like I
25 said, I've seen similar margins -- basis points,

1 additional return over -- LIBOR -- three-month LIBOR is
2 right around 5.3 percent, somewhere around that right
3 now.

4 So if you had add 3.5 percent margin
5 over LIBOR, you're looking 8.8. Is that right? I
6 believe so.

7 JUDGE DIPPELL: Can you tell me what
8 LIBOR is, though?

9 THE WITNESS: London Interbank Offer
10 Rate.

11 JUDGE DIPPELL: Okay.

12 THE WITNESS: It's -- the term says
13 London, but it's an American-used interest rate.

14 JUDGE DIPPELL: All right.

15 THE WITNESS: It's used -- in a lot of
16 cases, it's used for hedging.

17 JUDGE DIPPELL: Okay. Thank you.

18 COMMISSIONER GAW: Just real quick, to
19 follow-up.

20 BY COMMISSIONER GAW:

21 Q. That -- the very basic premise that you
22 were discussing in regard to the current credit rating
23 of this company, or where you think it lies, how much
24 concern does Staff have if that -- with what you told
25 me about the credit rating and its comparability to

1 another utility about allowing any kind of an expansion
2 until that credit rating improves?

3 A. It is a big concern, and that's why I am
4 really wanting to see the final terms and conditions of
5 what these investors are -- you know, what they see
6 and, you know, how much -- you know, how much
7 restriction are they going to put on Southern Missouri
8 Natural Gas with its use of funds. GMAC, who is the
9 current creditor, has -- I know Randy indicated they
10 haven't received any distributions. But GMAC said,
11 You're not going to take any distributions for three
12 years.

13 And so I would be interested to see
14 what -- you know, what type of restrictions are they
15 going to put on this company going forward to ensure
16 that they don't just let this, you know, company do
17 whatever it wants.

18 Q. The -- and the issue with the gas
19 company -- and this was touched a little earlier
20 today -- is made slightly more complicated or somewhat
21 more complicated, I suppose, because of their need to
22 be able to purchase gas, you know, and not -- with the
23 fact being that they cannot immediately recover the
24 costs of that. Correct?

25 A. Yeah. Working capital is a very big

1 issue. That's why part of this application is asking
2 for a fairly -- a very significant increase in the
3 working capital line of credit that they had. They --
4 I think some of this had to do with the ACA case that I
5 have, you know, just familiarity with from talking to
6 Dave Summerer, that they needed -- you know, they
7 needed to cover themselves for the purchase of gas.

8 And they maxed out their current working
9 capital line that they had with GMAC and they had to
10 actually tap their -- one of their partners, who is
11 their limited partner, Alex Cranberg, for an additional
12 400,000. And they wrote a note for that 400,000. And
13 then they renegotiated with GMAC to increase their line
14 of credit from 1.5 to I believe 3.5 million.

15 And the working capital that they're
16 asking for with this expansion is up to 25 million. So
17 it's a very significant increase. Whether or not they
18 need all that, you know, that's something that I'm sure
19 we could have some discussions about. But it -- I
20 mean, it does allow them flexibility, but it's a very
21 significant increase.

22 Q. And the amount of necessary capital
23 under a hedging program for purchasing gas probably
24 makes it -- is also an additional risk, is it not,
25 because of the fact that if you're actually purchasing

1 gas even farther in advance of its use and then the
2 return on the amount you paid for it from the consumer,
3 you're adding to the amount of risk that you have?

4 A. Yes. Yes.

5 Q. In essence under those circumstances?

6 A. Yes. And I think that that's why when
7 Aquila started selling off its gas properties, it was
8 actually considered to be positive for their credit
9 quality because of the working capital issues you have.
10 You depend much more on short-term capital with natural
11 gas operations, without a doubt.

12 COMMISSIONER GAW: And that is all I
13 have. I apologize for coming back. Thank you.

14 JUDGE DIPPELL: That's all right.

15 Okay. Let's go ahead, then, and do
16 further cross-examination based on questions from the
17 bench.

18 Is there anything from Southern Missouri
19 Gas?

20 MR. FISCHER: Just briefly.

21 RE-CROSS-EXAMINATION BY MR. FISCHER:

22 Q. Mr. Murray, one of the express concerns
23 Staff has regarding the financing is just really who
24 the identity of the investor will be; is that correct?

25 A. The identity and the final terms and

1 conditions.

2 Q. And the specific final terms and
3 conditions. And you reviewed, at least preliminary
4 filed -- preliminary terms and conditions that we
5 expect to have introduced into this as part of the
6 final terms?

7 A. I believe Mr. Maffett e-mailed me
8 something that showed the general terms that they --
9 maybe have been communicated to them by their placement
10 agent.

11 Q. And you've heard Mr. Maffett testify
12 here today that assuming that those terms and
13 conditions come forward that it will actually improve
14 the financial health of the company?

15 A. Well, I indicated -- well --

16 Q. Or equity arrangement.

17 A. -- the capitalization may be
18 appropriate. I wouldn't say that the financial health
19 of the company, because there's still a lot of
20 uncertainty with this company.

21 Q. Okay. At least the equity ratio, that I
22 believe you talked to the Commissioner about?

23 A. Yes. The capital -- if you looked at
24 purely just the capital structure and zero debt, you
25 know, in a vacuum, it would be a better capital

1 structure.

2 Q. And I believe you heard Mr. Maffett
3 testify when he expected to get those terms and
4 conditions, and that he'd be providing that to the
5 Staff; is that right?

6 A. Yes.

7 Q. Under the -- as Mr. Maffett testified
8 that he was going to be doing that, were the terms that
9 he was describing and how he would go about doing that
10 acceptable to Staff -- getting the information to you
11 as quickly as possible so that you could --

12 A. Yes.

13 Q. -- get that reviewed?

14 A. That's acceptable. Obviously, he's in a
15 hurry to get this done. And, you know, I assume he's
16 going to get it to us as soon as possible.

17 Q. And is it also your understanding as far
18 as this holding an area hostage that the certificate
19 that is granted by the Commission does lapse after two
20 years if it's not exercised by a utility?

21 A. Well, there's been some debate on
22 that --

23 Q. Okay.

24 A. -- already today.

25 Q. I understand.

1 A. So --

2 Q. Okay.

3 A. And it's been debated amongst the
4 attorneys, and I don't mean to pass the buck, but --

5 Q. Yeah. But I have -- I don't know of any
6 area where the Commission does have two distribution
7 companies serving, whether it's an exclusive
8 certificate or not, from a legal standpoint.

9 A. Can I add something?

10 Q. Sure.

11 A. I think that's the case, but I remember
12 Southern Union cross-examining me at one time and asked
13 me if I knew that a natural gas provider was in one of
14 their service territories. Now, I never did follow-up
15 on that, but I just --

16 Q. Really? Okay. I did want --

17 A. So --

18 Q. -- to ask you, does this Commission
19 guarantee the rates of return of a public utility like
20 Southern Missouri Gas Company?

21 A. Does it -- repeat that question, please.

22 Q. Does it guarantee a rate of return for a
23 natural gas company like Southern Missouri Gas?

24 A. I don't believe that's an accurate
25 characterization. It authorizes a rate of return.

1 Q. Okay. It gives them a reasonable
2 opportunity to earn it?

3 A. It attempts to. Yes. We do.

4 Q. Okay.

5 MR. FISCHER: I think that's all I have.
6 Thank you.

7 COMMISSIONER GAW: Mr. Fischer, can we
8 quote you on that two-year certificate thing in some
9 other cases? You don't --

10 MR. FISCHER: Just questioning, Judge.
11 Just questioning.

12 COMMISSIONER GAW: You don't have to
13 answer that question.

14 JUDGE DIPPELL: Is there any further
15 cross-examination based on questions from the bench
16 from the Propane Gas Association?

17 MR. HATFIELD: Yes. Just to follow-up
18 on these questions and this issue of how long to wait
19 on financing, basically.

20 RE-CROSS-EXAMINATION BY MR. HATFIELD:

21 Q. This application was filed in December.
22 How many times did you ask for financing documents?

23 A. I issued a DR -- and I could research
24 this for you, if you'd like me to. I issued a DR, I
25 think, early on, asking for the general terms and

1 conditions. That's when they provided information that
2 showed the general terms and conditions that they had
3 from the placement agent.

4 It got a little more specific with some
5 documentation and what have you. They did have general
6 terms and conditions attached to the application at the
7 very beginning. And like I said, once again, those
8 were general.

9 But it wasn't until we really started,
10 you know, feeling like we needed to move this along
11 that I really pressured them to provide me with the
12 final terms and conditions. I don't think I -- I'll
13 say I don't think I expressed the importance of needing
14 that until probably -- I don't know, it was probably
15 May or something, somewhere around there, because of
16 the fact that we started talking about maybe doing a
17 conditional approval of the CCN and then getting the
18 financing later.

19 So it was -- it had been requested. I
20 never told them that -- at that time that I wanted more
21 than the general terms that were provided. But once
22 I -- we hit this roadblock, I said, This is what we
23 need. We need exactly what we had in the acquisition
24 case. And I felt like that was reasonable to request
25 that.

1 Q. And in terms of the final terms and
2 conditions -- I think you mentioned this -- but you
3 were promised at one point you'd have those in 30 to 45
4 days; is that right?

5 A. I don't know if I want to characterize
6 it as a promise. It's in a filing. It's in writing.
7 I think it was a response to Staff's recommendation.

8 Q. And that 30 -- I think you mentioned
9 this. The 30 to 45 days that were mentioned before
10 have passed or pass today, or --

11 A. I don't know the exact dates. Like I
12 said, I just know when the Staff's recommendation was
13 filed, and I know something was filed shortly
14 thereafter --

15 Q. All right.

16 A. -- saying that that's what their
17 intention was.

18 Q. Thank you.

19 MR. HATFIELD: No other questions.

20 JUDGE DIPPELL: Thank you.

21 Is there redirect from Staff?

22 MR. THOMPSON: Very briefly, Your Honor.

23 REDIRECT EXAMINATION BY MR. THOMPSON:

24 Q. Mr. Murray, would you be surprised if I
25 told you that whether or not a service area certificate

1 is exclusive is entirely at the discretion of the
2 Commission?

3 A. I wouldn't be surprised. I --

4 Q. Would you have any reason to doubt that
5 if I told you that was the case?

6 A. No.

7 Q. And the cities of Houston and Licking
8 are certainly not going to see any service if a
9 certificate is not granted in this case, are they?

10 A. Not to my knowledge.

11 Q. Thank you.

12 MR. THOMPSON: No further questions.

13 JUDGE DIPPELL: All right.

14 Then, Mr. Murray, you did also use a
15 term, a DR. And that's a data request in Public Service
16 speak; isn't that correct?

17 THE WITNESS: Yes. And I apologize.

18 JUDGE DIPPELL: Okay. All right, then.

19 I think that's everything for you. And with that, you
20 may be excused.

21 THE WITNESS: Thank you.

22 JUDGE DIPPELL: I'd ask Mr. Solt to come
23 back to the witness stand.

24 And Mr. Solt, you were previously sworn
25 in and you remain under oath. And I believe you had

1 the answers to some questions that Commissioner Gaw was
2 interested in.

3 TOM SOLT further testified as follows:

4 QUESTIONS BY COMMISSIONER GAW:

5 Q. Mr. Solt, I think what I was trying to
6 get to earlier in the day was, I understand Staff's
7 position on the obligation to serve requirement within
8 a certificated area.

9 A. Yes, sir.

10 Q. And if you could give me some response
11 or feedback on that.

12 A. Would you like the long answer or the
13 short answer?

14 Q. Why don't you start out with the short
15 one, and then we'll see if we need more.

16 A. The short answer is, it's covered in
17 their tariff, just like it is in most local
18 distribution company tariffs. And basically, there's
19 three sections.

20 You have -- if it's just a -- Example 1
21 would be the main comes in front of someone's house,
22 but their house is -- you know, they have a huge lot
23 and it's 500 feet back to the house. Okay.

24 Another situation would arise where you
25 have a main on one street and someone, you know, in a

1 rural area, you know, a mile away, wants service,
2 although it's still in the service -- you know, the
3 certificated area.

4 And then the third instance that they
5 have in their tariff is if a development comes up --
6 there's a subdivision being built, but it's away from
7 the main.

8 Q. Okay.

9 A. Okay. And so, basically, each of those
10 situations is addressed in their tariff. For the
11 service line, basically they'll provide 125 feet. If
12 it's longer than that, the person requesting, you know,
13 the 500-foot -- the person that's 500 foot away is
14 going to be paying \$6.60 a foot up to, but not less
15 than \$3.00 a foot to get that service line to their
16 house.

17 In the case of a main, someone is -- if
18 it's more than 120 feet that they have to extend the
19 main, that's going to cost them \$12.50 a foot to get
20 the main to a location that they can get a service line
21 to that person -- that customer.

22 And then the third case is where you
23 have a subdivision that is being developed that's off.
24 And what happens there is that the developer says, you
25 know, How many -- how many residences are planned to be

1 here? Costs are determined as to how much it would
2 cost to get service to those people -- to that
3 subdivision.

4 And then you would divide that by the
5 number of -- you know, divide those costs by the number
6 of people that are going to be there. And basically,
7 the developer would have to up-front those costs, and
8 then the -- as people came on the system -- you know,
9 the company would go ahead and develop a system to
10 them -- develop a system to them. But then as people
11 came on, the developer gets reimbursed, you know, the
12 total cost divided by the number of people times the
13 number of people that are hooked up.

14 Q. Okay. So the bottom line here is
15 that -- from Staff's standpoint -- would it be fair to
16 say that the company has an obligation to serve
17 everyone in its service territory that requests
18 service, subject to the provisions of their tariff on
19 who pays to extend the infrastructure?

20 A. I would say yes. And I would put it
21 another way. They have an obligation to serve every --
22 anyone in their service area but not at any cost.

23 Q. Yeah. But the cost provisions are
24 contained in the tariff?

25 A. Uh-huh.

1 Q. So, in essence, the obligation to serve
2 still exists subject to those provisions?

3 A. Yes, sir. That would be correct.

4 Q. Okay. That answers my question. Thank
5 you.

6 A. You're welcome.

7 COMMISSIONER GAW: That's all I think I
8 had.

9 JUDGE DIPPELL: Okay. Is there any
10 further cross-examination based on Commissioner Gaw's
11 questions from Southern Missouri Gas?

12 MR. FISCHER: No, Your Honor. Thank
13 you.

14 JUDGE DIPPELL: From the Propane Gas
15 Association?

16 MR. HATFIELD: Just briefly.

17 FURTHER CROSS-EXAMINATION BY MR. HATFIELD:

18 Q. On the issue of obligation to serve
19 everyone, are you aware of what's called a
20 non-interruption guarantee in contracts?

21 A. I'm sorry. Non-interruption guarantee
22 in contracts?

23 Q. Yes.

24 A. I don't think so. No.

25 Q. Is it your understanding that Southern

1 Missouri Natural Gas will be required to provide
2 uninterrupted service to everyone in the service area
3 or not?

4 MR. THOMPSON: Objection. This is
5 beyond the scope of the Commissioner's question.

6 JUDGE DIPPELL: I think he's relating it
7 back to the Commissioner's question.

8 MR. THOMPSON: I don't recall any
9 question about interruptible or non-interruptible
10 service in the Commissioner's question.

11 JUDGE DIPPELL: Well, he's talking about
12 the obligation to serve. I'll overrule your objection.

13 THE WITNESS: Would you repeat the
14 question, please?

15 BY MR. HATFIELD:

16 Q. Well, I think -- I'm trying to figure
17 out whether they're -- when you say they're obligated
18 to serve everybody in the area, whether they're
19 obligated to serve everybody in the area all the time.
20 In other words, if a commercial person -- my
21 understanding is that sometimes there's what's called a
22 non-interruption guarantee in these contracts, so that
23 I'm entitled to get my natural gas all the time.

24 Are you aware of whether they would be
25 required to provide non-interrupted service to their

1 customers?

2 A. I suppose you're talking about larger
3 customers. There's a category of customer generally
4 that is called interruptible because they are willing
5 to be able to take interruptions, if necessary.

6 Q. Right.

7 A. However, I am not aware of -- again, if
8 you're talking about a commercial customer, generally
9 speaking, there is -- there are rules in place that
10 cover if -- let's say that there's some sort of
11 pipeline capacity problem. Residential come first.
12 Residential customers keep the gas flowing. There's
13 other people that have priority, like hospitals and
14 nursing homes and that sort of thing. I don't know if
15 that answers your question or not.

16 Q. Actually, it does a better job of
17 presenting my question than I did.

18 My understanding is that if there is
19 some sort of supply problem, residential customers have
20 to continue to be supplied, which means that commercial
21 operators might be interrupted; is that correct?

22 A. That is correct. But that also has not
23 happened anywhere in Missouri that I'm aware of.

24 Q. Got it. Thank you.

25 JUDGE DIPPELL: Thank you.

1 Is there redirect?

2 MR. THOMPSON: There is no redirect.

3 JUDGE DIPPELL: And that was based on
4 all questions.

5 MR. THOMPSON: That was based on all
6 questions, Your Honor.

7 JUDGE DIPPELL: Yes. Okay. Thank you.

8 All right, then, Mr. Solt, I believe
9 that concludes your testimony and you may be excused.

10 THE WITNESS: Thank you.

11 MR. THOMPSON: Staff has no further
12 witnesses, Your Honor.

13 JUDGE DIPPELL: Thank you.

14 Okay.

15 MR. HATFIELD: Judge, I'm sorry, I
16 don't --

17 JUDGE DIPPELL: Yes, sir.

18 MR. HATFIELD: I'm not quite aware of
19 your procedure. But I thought Summerer was going to
20 testify. I just wanted to get a DR in with him.

21 Can I move the admission of a DR, or --

22 JUDGE DIPPELL: You can ask.

23 MR. HATFIELD: I would like to move the
24 admission of Data Request Number 3, please.

25 JUDGE DIPPELL: It's a -- it would be

1 marked as Exhibit No. 20.

2 And Mr. Thompson --

3 (EXHIBIT NO. 20 WAS MARKED FOR
4 IDENTIFICATION.)

5 MR. HATFIELD: This is just a data
6 request related to -- well, it is -- it speaks for
7 itself, I think.

8 MR. FISCHER: Here. You gave me
9 several.

10 MR. THOMPSON: Thank you.

11 MR. FISCHER: No objection.

12 MR. THOMPSON: No objection from Staff.

13 JUDGE DIPPELL: All right, then. I will
14 admit Exhibit No. 20.

15 (EXHIBIT NO. 20 WAS RECEIVED INTO
16 EVIDENCE.)

17 MR. HATFIELD: Thank you.

18 JUDGE DIPPELL: Is there anything -- any
19 other procedures or motions or anything pending that we
20 need to take care of on the record?

21 All right. I've already set a briefing
22 schedule. I asked for an expedited transcript. And
23 those transcripts may get on EFIS before paper copies
24 are out. But if you need copies, you need to let the
25 court reporter know.

I believe that's it. Thank you all for
your attendance. We can go off the record.

(WHEREUPON; the hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, LISA M. BANKS, a Certified Court Reporter, within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Lisa M. Banks, CCR

I N D E X

	PAGE
1	
2	
3	RANDY MAFFETT
4	Direct Examination by Mr. Fischer 41
5	Cross-Examination by Mr. Thompson 71
6	Cross-Examination by Mr. Poston 73
7	Cross-Examination by Mr. Hatfield 76
8	Questions by Commissioner Murray 106
9	Questions by Commissioner Gaw 116
10	Questions by Commissioner Clayton 142
11	Further questions by Commissioner Gaw 158
12	Questions by Judge Dippell 160
13	Recross-Examination by Mr. Thompson 162
14	Recross-Examination by Mr. Poston 163
15	Recross-Examination by Mr. Hatfield 164
16	Redirect Examination by Mr. Fischer 170
17	JOE KNAPP
18	Direct Examination by Mr. Fischer 178
19	Cross-Examination by Mr. Hatfield 186
20	Questions by Commissioner Appling 198
21	Redirect Examination by Mr. Fischer 201
22	
23	ED SIMMONS
24	
25	Direct Examination by Mr. Hatfield 204

1	Cross-Examination by Mr. Thompson	214
2	Cross-Examination by Mr. Fischer	216
3	Questions by Chairman Davis	242
4	TOM SOLT	
5	Direct Examination by Mr. Thompson	244
6	Cross-Examination by Mr. Fischer	253
7	Cross-Examination by Mr. Hatfield	255
8	Questions by Commissioner Appling	264
9	Questions by Chairman Davis	266
10	Recross-Examination by Mr. Hatfield	268
11	Questions by Commissioner Gaw	305
12	Further Cross-Examination by Mr. Hatfield	308
13		
14	DAVID MURRAY	
15		
16	Direct Examination by Mr. Thompson	270
17	Cross-Examination by Mr. Fischer	274
18	DAVID MURRAY (continued)	
19	Questions by Commissioner Gaw	281
20	Recross-Examination by Mr. Fischer	297
21	Recross-Examination by Mr. Hatfield	301
22	Redirect Examination by Mr. Thompson	303
23		
24		
25		

	E X H I B I T I N D E X		
	EXHIBITS	Marked	Rcv'd
1			
2			
3	EXHIBITS	Marked	Rcv'd
4			
5	Exhibit No. 1		
6	Order approving tariffs, Case		
7	No. GA-94-127	23	
8			
9	Exhibit No. 2		
10	Application of Southern Missouri Gas Co.	43	51
11	Exhibit No. 3		
12	Appendix F	44	51
13			
14	Exhibit No. 4P		
15	Appendix D to feasibility study	45	52
16	Exhibit No. 5		
17	Application	47	52
18	Exhibit No. 6HC		
19	Feasibility study	48	52
20	Exhibit No. 7		
21	Financial application	48	53
22			
23	Exhibit No. 8P		
24	Appendix B	49	53
25	Exhibit No. 9		

1	Mainline pressure chart	68	71
2			
3	Exhibit No. 10		
4	Ownership structure chart	79	81
5	Exhibit No. 11		
6	Response to Staff recommendation	89	
7			
8	Exhibit No. 12		
9	E-mail from Randy Maffett to Mr. shumate	98	100
10	Exhibit No. 13		
11	E-mail from Randy Maffett to Mr. Shumate	102	105
12			
13	Exhibit No. 14 Copy page of SMNG website	165	176
14	Exhibit No. 15		
15	Exhibit No. 16 Sunshine Act request	196	
16			
17	Exhibit No. 17 Copy page from propane website	223	241
18	Exhibit No. 18		
19	Copy page from propane website	236	
20			
21	Exhibit No. 19		
22	Staff memorandum	245	256
23	Exhibit No. 20		
24	Data Request	312	312
25			