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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
October 3, 2012
Jefferson City, Missouri
Volume 22

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

MORRIS L. WOODRUFF, PresidingCHIEF REGULATORY LAW JUDGE

KEVIN D. GUNN, Chairman
TERRY M. JARRETT
ROBERT S. KENNEY
STEPHEN M. STOLL
COMMISSIONERS

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1 (MARKED MIEC EXHIBIT NOS. 516-519, 527)

2 (Whereupon, the hearing began at 8:34 a.m.)

3 JUDGE WOODRUFF: Let's come to order
4 please.

5 Welcome back for the next day of the
6 Ameren rate case hearing, ER-2012-0166. As some of you
7 may have noticed yesterday I'd issued an order scheduling
8 an oral argument concerning a discovery dispute between
9 Ameren and MIEC and this morning I got a call from Russ
10 Mitten indicating that the two parties have worked out
11 their disagreement and that there would not be any need
12 for on oral argument today so we can go ahead and get
13 started on the next issue which is the FAC.

14 MR. BYRNE: Your Honor, could we take a
15 couple of minor procedural issues up first?

16 JUDGE WOODRUFF: Absolutely.

17 MR. BYRNE: The lawyers have been
18 discussing this and we don't believe we need to address,
19 and I'm looking at the revised hearing schedule, the
20 second joint revised hearing schedule under item 10 FAC
21 tariff we've resolved those issues in principle and
22 expect to resolve them formally so we don't think we need
23 to take up A, B and I think there are two Fs at least on
24 the version I have, we do not need to take up A, B and
25 both of the Fs as in Frank which would leave C, D and E

1 on item 10 and we also discussed that we thought it would
2 be more efficient just to the extent there are common
3 witnesses on 9 and 10 just to take up the cross
4 examination of the witness on 9 and 10 at the time the
5 witness takes the witness stand instead of having them
6 march up there and then back and then again. If that
7 would be all right with you.

8 JUDGE WOODRUFF: That should be fine.

9 MR. BYRNE: I would also note that Mr.
10 Oligschlaeger's name is not on the schedule but he was
11 the actual person who testified regarding the tracker on
12 Friday and he would be on the schedule as well.

13 MR. THOMPSON: And he would come right
14 after Ms. Mantle.

15 JUDGE WOODRUFF: Okay.

16 MR. BYRNE: You know Kevin I don't feel
17 strongly one way or the other, so.

18 MR. THOMPSON: Okay.

19 JUDGE WOODRUFF: A, B and both Fs we don't
20 need to take up so just C, D and E under that?

21 MR. BYRNE: Yes.

22 JUDGE WOODRUFF: And we're taking those
23 with the witnesses with the, with 9. So people are going
24 to be able to ask them all questions so if they come up
25 once and then they gEt to sit down.

1 MR. BYRNE: That's right. And Mr.
2 Thompson I think we were just discussing that maybe to
3 reconfigure the order do Barnes, Neff, Haro, Mantle,
4 Oligschlaeger and Dauphinais, is that what you were
5 suggesting?

6 MR. THOMPSON: Yes.

7 MR. BYRNE: That's acceptable to us.

8 MR. MILLS: Wait, Oligschlaeger and
9 Dauphinais?

10 MR. THOMPSON: Yes, Oligschlaeger would be
11 after Mantle and Dauphinais would be hitting cleanup.

12 JUDGE WOODRUFF: So the first witness
13 would be Barnes?

14 MR. THOMPSON: That's correct.

15 MR. BYRNE: That's correct.

16 The other minor housekeeping issue I'd
17 like to take up and this was a request of the staff that
18 we agreed to accommodate, Ms. Ferguson on the voluntary
19 service issue that was scheduled for I believe next
20 Wednesday, she is out of town and unavailable next week
21 which threw us a little bit of a curve but we've agreed
22 that we would take her up out of order just on Friday if
23 that would be acceptable. I would suggest just after
24 lunch, wherever we are after lunch we take her up on
25 Friday. We don't anticipate our issue consuming the

1 entire afternoon.

2 JUDGE WOODRUFF: Okay. That will be fine.

3 MR. THOMPSON: Thank you Judge.

4 JUDGE WOODRUFF: Mr. Byrne?

5 MR. BYRNE: Yes Judge, a couple of other
6 things. One is we are planning on having Mr. Weiss
7 available tomorrow to talk about, there were a couple of
8 issues for Mr. Weiss, one was the 10, I guess it was the
9 10-Q, no, yeah, 10-Q filing that was entered as an
10 exhibit and we needed somebody to explain it who knew
11 what they were talking about more than I did and secondly
12 there are, there are some charts and a reconciliation we
13 were asked to prepare I guess yesterday and Mr. Weiss
14 will have that and be available to explain it and answer
15 questions tomorrow so maybe we could do that first thing
16 in the morning tomorrow. If that works.

17 JUDGE WOODRUFF: That works fine.

18 MR. MILLS: When will we get these charts?

19 MR. BYRNE: I can get them for you now if
20 you want.

21 MR. MILLS: I'd just as soon get them
22 before we put Mr. Weiss on the stand.

23 MR. BYRNE: I'll get them to you Lewis.

24 MR. MILLS: Okay.

25 MR. BYRNE: The other minor thing Judge I

1 asked and you suggested that I ask the Commissioners if
2 they're going to be in Jefferson City on Friday because
3 in cross examination I'm probably going to have some
4 exhibits, if Commissioners are going to be in St. Louis I
5 can arrange for when the exhibits are passed out and
6 stuff to have them passed out in St. Louis but if the
7 Commissioners are going to be here in Jefferson City then
8 I won't need to do that. I don't need to know right now
9 but if the Commissioners could tell me if they're going
10 to be here or in St. Louis that would be very helpful.

11 COMMISSIONER KENNEY: I'll be here.

12 CHAIRMAN GUNN: I'll be here.

13 COMMISSIONER STOLL: I'll be here.

14 COMMISSIONER JARRETT: I'll be here.

15 JUDGE WOODRUFF: Well I may just go to St.
16 Louis. The Cardinals may be playing.

17 Okay. We'll all be here on Friday.

18 MR. BYRNE: Thank you.

19 JUDGE WOODRUFF: Not happy about it but
20 we'll be here on Friday.

21 MR. JARRETT: Judge, I just wanted to
22 follow up, I had asked Mr. Thompson to check on that rate
23 case expense work docket, working docket, the report and
24 he had indicated it was completed but not filed and I
25 just wanted to know if you had any additional information

1 for me on that?

2 MR. THOMPSON: Probably not as much
3 information as you would like. It's my understanding
4 that a final edit and review is being made and that the
5 report can be available on very short notice.

6 MR. JARRETT: Okay. So when you told me
7 it was done a couple days ago really you've gotten
8 additional information and it wasn't done?

9 MR. THOMPSON: That's exactly right.

10 MR. JARRETT: Okay. So I would like that
11 as soon as possible.

12 MR. THOMPSON: I'm not the one doing that.

13 MR. JARRETT: I understand. But if you
14 could pass along I'd like to see that as soon as
15 possible.

16 MR. THOMPSON: Yes, sir, I will.

17 JUDGE WOODRUFF: Okay.

18 MR. MILLS: Judge before we go ahead with
19 the witnesses the settlement of these four FAC issues I
20 was just informed of that this morning and I don't know
21 the basis of that, I have questions about those, I was
22 going to talk about them in my opening statement. Can I
23 have five or 10 minutes to talk to the attorneys who
24 settled that issue to figure out what's going on with it?

25 JUDGE WOODRUFF: Sure.

1 Let's go ahead and take a break, which we
2 take breaks like this all the time. We'll take a 10
3 minute break and come back at 8:45.

4 MR. MILLS: Thank you.

5 (RECESS TAKEN BY PARTIES)

6 JUDGE WOODRUFF: Let's go ahead and get
7 started and we'll take up the fuel adjustment clause
8 issues as was discussed earlier and we'll start with any
9 openings on the issue beginning with Ameren.

10 MR. LOWERY: Good morning again, may it
11 please the Commission.

12 There are two issues related to the fuel
13 adjustment clause to be tried today as we believe that
14 all of the other fuel adjustment clause issues have in
15 principle been resolved. The first issue concerns the
16 sharing percentage in the fuel adjustment clause and the
17 second issue involves MISO transmission charges.

18 First issue sharing percentage. Three
19 rate cases ago this Commission approved the Company's
20 fuel adjustment clause and at that time included a 95/5
21 percent sharing mechanism. In the next case the MIEC
22 advocated for a change to 80/20 percent and the
23 Commission rejected that proposal. In doing so the
24 Commission noted quote, no evidence was produced to show
25 that AmerenUE had acted imprudently with regard to its

1 procurement of fuel and off system sales since the fuel
2 adjustment clause went into effect in March 2009, end
3 quote. That statement remains true today just as it was
4 then. There's no such evidence in this case either and
5 there wasn't in the last case. In the last case, in the
6 next case the staff as they do here proposed an
7 experiment. Staff's proposed experiment was to change
8 the FAC sharing mechanism from 95/5 to 85/15. The
9 Commission rejected the Staff's experiment about a year
10 ago, a little more than a year ago both because the Staff
11 did not produce a shred of evidence that supports the
12 need to change it and because to use the Commission's
13 words doing so would simply have imposed a quote, heavy
14 burden, end quote, on the Company by requiring it to
15 absorb more prudently incurred fuel costs and thereby
16 would make it even harder for the company to have a
17 reasonable opportunity to earn a fair return. Now in
18 that case the Commission characterized the heavy burden,
19 that heavy burden was an additional 22.5 million of
20 prudently incurred, and it's important to recognize these
21 would be prudently incurred fuel costs that would have
22 been incurred had that sharing mechanism proposal been in
23 effect since the FAC started. In this case that burden
24 has gotten even greater, it would be 30 million if you
25 applied the same test. In other words the burden of the

1 staff's experiment has gotten heavier but the evidence is
2 as weak as ever and the Company continues to have
3 difficulty having that opportunity to earn a fair return.
4 There continues to be no substantial and competent
5 evidence to support a change in the sharing percentage.
6 As was true in the last case staff witness Leta Mantle's
7 testimony on this issue amounts to nothing more than
8 theories and supposition. Ms. Mantle freely admits that
9 she doesn't really have any idea if the change in the
10 sharing percentage would induce any change in behavior
11 that she claims but does not prove might be needed. She
12 freely admits that she doesn't even know if a change is
13 needed, she apparently just want to somehow find out on
14 the shareholder's dime. The evidence will show that
15 there's no proof of imprudence on the Company's part in
16 how it buys fuel, procures power, makes off system sales
17 and operates its power plants or otherwise.

18 In summary the record will reflect that
19 there's no sound basis upon which the Commission would
20 justify a change in the sharing percentage.

21 As Company witness Lynn Barnes will
22 testify and as this Commission on more than one occasion
23 itself has noted having a fuel adjustment clause is a
24 privilege, it is not a right, it's a privilege, company
25 is subject to prudence reviews and the Company knows

1 this, recognizes that and that is incentive enough.

2 Now the second issue we're going to take
3 up on the FAC this morning deals with MISO transmission
4 charges. As the Commission knows as evidenced by the
5 three times that it has approved the company's MISO
6 participation MISO participation has significant benefits
7 for customers. In this case the margins from
8 approximately \$350 million of off system sales, margins
9 that are higher because of those MISO market benefits are
10 reflected in a lower revenue requirement than would
11 otherwise exist but as the saying goes there's no such
12 thing as a free lunch. In order to gain those benefits
13 the Company must incur costs from the MISO and MISO
14 transmission charges are one of those costs. The simple
15 truth is the Company has to pay those charges including
16 charges that based upon reasonable transmission projects,
17 MVPs as I know you're familiar with in order for the
18 company to gain those benefits and to take power from the
19 MISO to serve its customers. The charges are
20 unavoidable, they are uncertain, they are essentially
21 uncontrollable and they are rising and are rising rapidly
22 and are expected to rise rapidly in the future, they're
23 expected to double by 2015 from where they are in the
24 trued up test year in this case. Some of these costs
25 were being incurred even before the FAC was initiated and

1 the FAC has provided for their inclusion since the day it
2 was proposed and approved.

3 Now the staff of MIEC want to change the
4 FAC to prevent these transmission charges from the MISO
5 from being included in the FAC. As Ameren Missouri
6 witness Jaime Haro will testify removing these costs from
7 the FAC is inappropriate. Just as it is appropriate to
8 include the cost of moving coal or gas in a gas pipeline
9 to the Company's power plants it's also appropriate to
10 continue to include MISO transmission charges in the FAC
11 incurred for the power the Company takes from the MISO to
12 serve its load. Now if, however, the Commission for some
13 reason were to determine that these costs should not
14 remain in the FAC it's critical that the Commission
15 implement a transmission cost and revenue tracker so that
16 the company could defer increases in these net costs
17 between rate cases so they could be accounted for in a
18 future rate proceeding and the Company would recommend
19 amortize over five years. In this case MIEC for reasons
20 that I would submit on their face don't withstand
21 scrutiny opposes this. The Staff also opposes it but the
22 Staff discusses conditions that if the Commission agreed
23 the tracker was appropriate should be imposed. The
24 Staff's opposition is a bit curious because the Staff in
25 the recent past supported just such a transmission cost

1 and revenue tracking for costs that are extremely similar
2 in nature for SPP transmission charges to KCPL and GMO
3 driven by primarily regional transmission projects in the
4 SPP footprint. Staff recognized at the time and
5 recognizes now that the costs are much less controllable
6 than other utility costs, they are, they are uncertain,
7 they're likely to rise substantially and they're large.
8 The thing Staff said about why its ordered a tracker in
9 the recent past for KCPL and GMO apply with equal force
10 here. In fact there's an even more compelling reason why
11 a transmission cost and revenue tracker should be adopted
12 here if these don't remain in the FAC and that is there
13 is a MISO market that customers as I mentioned get
14 benefits from. There was no such market, there is no
15 such market in the FTP.

16 Now we'll address as the morning or maybe
17 the afternoon as well progresses the Staff's proposed
18 conditions but I want to point out briefly that the Staff
19 we believe has made a significant conceptual mistake with
20 respect to two of their conditions, conditions 4 and 5
21 which are directed towards the fact that Ameren Missouri
22 has an affiliate that intends to build MVPs and we also
23 believe that Staff's last condition, condition number 6
24 is a proposal that is frankly illogical and we will
25 explore that problem this morning as we proceed with the

1 testimony.

2 The bottom line is that if these
3 mandatory, uncertain, large and uncontrollable rapidly
4 rising MISO transmission costs do not remain in the FAC
5 or they were not allowed to be deferred through a tracker
6 then the Company would bear an even greater and
7 fundamentally unfair burden caused by MISO costs that it
8 must pay in order to gain benefits that customers get
9 from its participation in the MISO and adoption of such a
10 tracker would not harm customers at all. There's no
11 revenue requirement impact in this case, it's a deferral
12 accounting mechanism like an AAO effectively, in a later
13 rate case the Company would simply ask that any
14 regulatory asset be amortized and the result of that
15 would be the customers would end up paying costs, the
16 transmission charges that the company can't avoid and
17 can't control to gain the benefits that the customers get
18 from the participation in MISO.

19 To summarize the FAC issues, the evidence
20 does not support a change in the sharing percentage, in
21 fact it supports just the opposite, leaving it alone, the
22 evidence demonstrates that MISO transmission charges and
23 associated revenues do belong in the FAC and the evidence
24 demonstrates that at a bare minimum there should be a
25 transmission cost and revenue tracker and that some of

1 Staff's proposed conditions related to that tracker are
2 flawed and inappropriate.

3 Thank you very much.

4 CHAIRMAN GUNN: I have a quick question.

5 The MISO charges have been in there since
6 the fuel adjustment charge clause has been approved?

7 MR. LOWERY: Yes.

8 CHAIRMAN GUNN: And in the subsequent rate
9 cases where the FAC has been reapproved or continued the
10 MISO charges have been in there.

11 MR. LOWERY: Yes they have.

12 CHAIRMAN GUNN: All right.

13 I don't have anything further.

14 JUDGE WOODRUFF: Mr. Kenney?

15 COMMISSIONER KENNEY: Mr. Lowery thank
16 you.

17 Sir, I want to be sure I understand the
18 theme of the argument that the charges are mandatory,
19 uncertain, rapidly rising and uncontrollable.

20 MR. LOWERY: That's correct.

21 COMMISSIONER KENNEY: I want to ask about
22 the last descriptor that they're uncontrollable. MISO, I
23 mean Ameren's a significant market for discipline and
24 stakeholder in the MISO community?

25 MR. LOWERY: Ameren is one of 25

1 transmission owners, Ameren's one of, I don't know how
2 many market participants but there are quite a number of
3 them.

4 COMMISSIONER KENNEY: And Ameren's
5 participation in MISO is not Ameren Missouri, it's a
6 transmission owner but who's the representative, which
7 corporate entity is the corporate representative in the
8 MISO?

9 MR. LOWERY: Well, Ameren Missouri is in
10 fact directly the transmission owner, Ameren Missouri is
11 represented if you want to call it that by Ameren
12 Services Company as its agent.

13 COMMISSIONER KENNEY: Ameren Services
14 represents both Ameren Illinois and Ameren Missouri as
15 market participants in MISO?

16 MR. LOWERY: Well, when you say market
17 participants, I don't know that that's exactly right.
18 There are Ameren Missouri personnel, for example Mr. Haro
19 that, and his folks who are Ameren Missouri employees who
20 participate in the stakeholder groups and are very active
21 in the market participant side of things. There are also
22 Ameren Services employees who also participate in those
23 groups.

24 COMMISSIONER KENNEY: But only the Ameren
25 Missouri representative is able to vote, is that right?

1 MR. LOWERY: I don't know that I can
2 answer that question. I don't know that I know the
3 answer to that necessarily.

4 COMMISSIONER KENNEY: Ms. Barnes or Mr.
5 Haro would know?

6 MR. LOWERY: I don't know.

7 COMMISSIONER KENNEY: Okay. If the
8 charges aren't placed in FAC and are not tracked through
9 a tracker would that give Ameren Services or Ameren
10 Illinois or Ameren Missouri any greater incentive to, I
11 don't know, aggressively advocate for the projects that
12 are the MVPs and/or aggressively advocate for whatever
13 charges are occurring in MISO? Are they treated like any
14 other expense?

15 A. I think the evidence in this case
16 demonstrates that these charges are essentially beyond
17 the

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1 Company control and things that are beyond somebody's
2 control giving them more incentive really doesn't have
3 any affect.

4 COMMISSIONER KENNEY: So that is the
5 position then that Ameren has no ability to control MISO
6 costs.

7 MR. LOWERY: The, for example on the
8 planning advisory committee which is really the advisory
9 committee and I think Commissioner Kenney you're probably
10 pretty familiar with this given that you're the
11 Commission's representative, I think there are nine
12 seats, there are 25 TOs, the TOs have one vote on that
13 committee so Ameren Missouri or Ameren as a whole doesn't
14 have any direct vote on that committee. I think your
15 question presupposes that there's, well I'm not entirely
16 sure what your question presupposes but I think the
17 bottom line is Ameren Missouri, Ameren as a whole can't
18 significantly change the outcome of the MISO IMTA
19 process. The MISO board of directors approves these
20 projects, there are a lot of competing stakeholders as
21 you well know, they don't always see eye to eye, in fact
22 the TOs don't always see eye to eye with the MISO board
23 of directors.

24 COMMISSIONER KENNEY: And so who's going
25 to be the party offering testimony that will demonstrate

1 that those charges are uncontrollable?

2 MR. LOWERY: Well, Commissioner, even the
3 Staff would say that, I don't think Staff would say that
4 they are completely uncontrollable but even the Staff
5 would say that they are significantly less controllable
6 than the other costs that the Company has.

7 COMMISSIONER KENNEY: But you guys are
8 making the assertion so who's Ameren's representative?

9 MR. LOWERY: Mr. Haro will be testifying
10 and he has testimony on this point.

11 COMMISSIONER KENNEY: And then final
12 question, you made a comment about the existence of the
13 day two market adding an additional compelling reason for
14 keeping the MISO charges in the FAC or at least in a
15 tracker. What, and I think you were distinguishing
16 MISO's day two market from at least SPP's lack of one at
17 the time that we made the decision for KCP&L and Empire.
18 What does the existence of the day two market add to the
19 arguments which were made?

20 MR. LOWERY: Well, because the Company has
21 to pay these charges, these transmission charges because
22 it's in the MISO. The Company's in the MISO principally
23 to gain those market related benefits and customers get
24 essentially all of those benefits. It certainly seems
25 unfair for the Company to bear costs that the company

1 would assert are essentially uncontrollable or nearly
2 uncontrollable increases that are coming down the pike
3 that the Company can't really do anything about and at
4 the same time for customers to get the benefits that the
5 participation is giving the customer.

6 COMMISSIONER KENNEY: And then my final
7 question and then I'll stop talking. Legally can a state
8 commission disallow FERC approved or FERC tariffed
9 charges?

10 MR. LOWERY: A state commission could not
11 legally fail to account for those in the rate making
12 process. So you could for example if we go to the next
13 rate case and we have historic test year charges of,
14 transmission charges, I'm just making this up, \$45
15 million you can't say I'm just going to ignore those or I
16 don't like how they were calculated or I don't like the
17 fact that they include, they somehow indirectly were
18 calculated based on an ROE that you don't think is
19 appropriate the file rate doctrine will prevent you from
20 doing that but I don't think it means, unfortunately I
21 suppose, from our perspective, I don't think it means
22 that you have to track dollar for dollar changes between
23 your rate cases. We would concede that you don't have to
24 do that. We are asking you to do that.

25 COMMISSIONER KENNEY: All right.

1 Thank you.

2 JUDGE WOODRUFF: Opening for Staff.

3 MR. THOMPSON: Thank you.

4 Today we take up the fuel adjustment
5 clause and related issues and this is a big deal. As
6 you've heard from Mr. Lowery the fact that Ameren
7 Missouri has a fuel adjustment clause is a privilege.
8 You have to reauthorize it in every rate case. Now no
9 one to my knowledge has suggested that it not be
10 reauthorized and certainly that's not Staff's position.

11 Maybe Mr. Coffman has made that
12 suggestion, I apologize.

13 It is not Staff's position that it should
14 not be reauthorized. Staff is, however, suggesting that
15 it be changed. We're suggesting that the sharing
16 mechanism be changed from the current 95/5 to 85/15. The
17 very statute that authorizes the fuel adjustment clause
18 also authorizes the Commission to build an incentive
19 mechanism in to it and that's what the sharing mechanism
20 is intended to be. We know how a 95/5 split works, we
21 know how a 100/0 split works, we don't know how an 85/15
22 would work, we can talk about it theoretically but we've
23 never seen it in action. Staff's witness Lena Mantle
24 will tell you there are several reasons why Staff thinks
25 it would be better, better for the ratepayers and believe

1 it or not better for the Company. The amount of fuel
2 costs that the company would shoulder would still not
3 exceed 3.3 percent of its net energy costs. 3.3 percent
4 under 95/5 those costs have been 1.1 percent, under 85/15
5 they'd be three times larger, we estimate 3.3 percent.
6 And that would give ratepayers a benefit of about \$30
7 million less that they would pay.

8 With respect to the variant of off system
9 sales margins the Company would keep more of those
10 margins. That's the benefit to the Company. We believe
11 that the 85/15 mechanism would provide a greater
12 incentive to Ameren Missouri to control its costs and to
13 make OSS sales. We believe it would provide a greater
14 incentive to accurately measure the net base energy
15 costs.

16 With respect to the fuel adjustment clause
17 tariff which you're also going to hear about today Staff
18 proposes to exclude certain MISO transmission charges
19 from the fuel adjustment clause and it would take a
20 tariff change to do that. The first consideration
21 probably should be the statute that authorizes the fuel
22 adjustment clause in the first place, this is Section
23 386.266.1. That statute limits the FAC to fuel and
24 purchase power costs including transportation.
25 Transportation, I think you'll recall that I told you the

1 other day in the general opening that Staff considers the
2 word transportation to mean wheels. But that's really a
3 decision for a court because who is it that tells us what
4 the words in a statute mean. It's a court and I think
5 you're probably going to see an appellate action finding
6 out just what that word transportation in that statute
7 means, probably arising out of this case. But Staff's
8 position is that it does not include transmission.

9 Now, you've heard that those transmission
10 charges, those MISO transmission charges are required and
11 that they have been in the FAC since its inception and
12 that's absolutely true. First of all if they are there
13 unlawfully then it doesn't matter how long they've been
14 there. Number one. The fact that they have been in the
15 FAC since it was first approved doesn't matter if in fact
16 they should never have been there at all. Secondly, and
17 this I think is a point of importance, what about the
18 MISO revenues? You will have noticed from Mr.
19 Oligschlaeger's testimony that the net impact of the MISO
20 transmission charges and the MISO transmission revenues
21 is insignificant, currently less than a million dollars.
22 The amounts are large but when you net them they are
23 insignificant, the remainder is insignificant.

24 So where are those MISO transmission
25 revenues? If the charges have been in the FAC from the

1 inception and that is true, they have been, guess what,
2 the revenues have not. The revenues have not been in the
3 FAC from the inception. It's Staff's position that they
4 should go together and if you grant this tracker that
5 Ameren has requested one of the conditions that Staff
6 requests is that it be a two-way tracker that both the
7 MISO charges and the MISO revenues go in to that tracker.

8 Among those conditions are frequent
9 reporting on the part of Ameren as to exactly what's
10 going on, what's coming in, what's going out, that rate
11 making treatment be reserved for the next general rate
12 case and here's an important issue: The initials ATX and
13 ATXI. Those are nonregulated affiliates that have been
14 created and are owned by Ameren Corporation and their
15 purpose is to own and operate FERC regulated transmission
16 in Missouri. Those MISO revenues Staff fears will be
17 assigned to those unregulated entities while the MISO
18 transmission charges are still charged against the
19 ratepayers, either through the FAC as has been happening
20 up to now or through a tracker if you choose to grant the
21 tracker or just in base rates if you don't grant the
22 tracker and remove those charges from the FAC. In that
23 event Staff believes that the Commission should impute
24 those revenues to the tracker so that the ratepayers
25 would still have the benefit of the revenues that come

1 with MISO participation as well as the burden of the
2 charges.

3 In summation Staff believes you should
4 reauthorize the FAC for this company but with an 85/15
5 sharing mechanism. Staff believes you should direct
6 Ameren to change its FAC tariff to exclude MISO
7 transmission charges and that you should simply put them
8 in base rates. However, if you grant Ameren Missouri's
9 request to establish a tracker then Staff believes
10 conditions must be imposed on it including and
11 particularly the condition that MISO transmission
12 revenues be included in the tracker for the benefit of
13 ratepayers.

14 Thank you.

15 JUDGE WOODRUFF: Questions?

16 CHAIRMAN GUNN: A couple.

17 How are the revenues treated now, how are
18 the MISO revenues treated now?

19 MR. THOMPSON: I do not know. I believe
20 they will go to the benefit of shareholders.

21 CHAIRMAN GUNN: And is there an
22 explanation as why Staff doesn't know or just recently
23 found out that the MISO transmission charges were in the
24 FAC?

25 MR. THOMPSON: I think the explanation

1 that there's an awful lot of stuff involved and Staff
2 simply did not know that. But Ms. Mantle will be on the
3 stand and you'll have an opportunity to ask her.

4 CHAIRMAN GUNN: All right.

5 I don't have anything further.

6 MR. JARRETT: I wanted to ask Mr. Lowery
7 that question because I think he wanted to jump in on
8 that whether it all goes to shareholders.

9 MR. LOWERY: And I don't attribute any
10 dishonesty to Mr. Thompson at all but his statement in
11 fact is not true, those transmission revenues have been
12 reflected in base rates, every rate case, they have been
13 relatively stable and they didn't change very much
14 between rate cases and they're not asked to change very
15 much between rate cases but customers have gotten the
16 full criteria for the trued up test year amount of
17 transmission revenues and every revenue requirement that
18 we've had over these last four rate cases.

19 MR. THOMPSON: I appreciate the question
20 and I'm sorry that I misspoke.

21 JUDGE WOODRUFF: Mr. Kenney.

22 MR. KENNEY: They're not an edit against
23 the charges that have been flown to the FAC.

24 MR. LOWERY: Well, effectively
25 Commissioner they are because they really don't change

1 very much so the charges were in the FAC but the revenue
2 requirement in each rate case is already lowered by the
3 amount of revenue in the test year. So it is true that
4 if they did go up between rate cases, and I don't
5 believe, I think the evidence is they don't go up or
6 change very much but if they went up, let's say they went
7 up a million dollars then it is true shareholders would
8 keep that million dollars of increased revenue, that's
9 true.

10 COMMISSIONER KENNEY: Mr. Thompson?

11 MR. THOMPSON: Yes, sir.

12 COMMISSIONER KENNEY: Let's assume, you
13 heard the discussion I was having with Mr. Lowery, let's
14 assume that these charges are uncontrollable. Once the
15 board of directors at MISO approves a set of projects and
16 the file rate doctrine would prevent us from disregarding
17 those charges Ameren doesn't have a lot of control over
18 those charges and once it's taken at face value that they
19 are completely uncontrollable why shouldn't these charges
20 either flow through the FAC or at least be tracked?

21 MR. THOMPSON: Staff is not recommending
22 that those charges not be recovered. You are absolutely
23 right to understand Mr. Lowery to say that lawfully this
24 Commission can not refuse to allow Ameren to recover
25 those charges and it's absolutely true that the filed

1 rate doctrine does require their recovery. The question
2 is how and when. Staff's position is that they should go
3 in to base rates where we now learn the associated
4 revenues have been all along.

5 MR. KENNEY: That's what I'm saying.
6 These charges are very much like fuel charges, they're
7 the type that are contemplated by that, why not just flow
8 it through the FAC?

9 MR. THOMPSON: Well, the FAC is for
10 charges that are volatile. Fuel charges can be volatile.
11 They can change rapidly based on market conditions. You
12 know a hurricane can destroy a refinery or put the oil
13 rigs out of business, I mean things can happen
14 unexpectedly that will change fuel costs overnight. On
15 the other hand these FAC charges do not have volatility,
16 they are expected to increase and there is a chart in Mr.
17 Haro's surrebuttal testimony I think on page 10 setting
18 out projected increases for the next five or six years.
19 That's not volatility, that's a trend, that's an increase
20 but it's not volatile. It's expected, it's known, it's
21 predictable. So in fact these are not the kind of
22 charges that should go through the FAC because they're
23 not going to change without warning, they're not going to
24 change suddenly.

25 CHAIRMAN KENNEY: So to the extent that

1 you said, you said if these had been, these had been
2 flown through the FAC and it doesn't matter that Staff is
3 now catching them if they were unlawful, I think you
4 referred to the charges as being unlawful.

5 MR. THOMPSON: I believe that to be true.

6 COMMISSIONER KENNEY: Is that the basis to
7 the assertion that the charges flowing through the FAC
8 are unlawful, that they're stable, certain, not volatile,
9 not contemplated by FAC? What makes them unlawful?

10 MR. THOMPSON: If they're unlawful it's
11 because they are not within the meaning of the word
12 transportation.

13 COMMISSIONER KENNEY: Okay.

14 That's all I have.

15 MR. THOMPSON: Thank you, sir.

16 JUDGE WOODRUFF: Opening for Public
17 Counsel.

18 MR. MILLS: Good morning, may it please
19 the Commission.

20 As I understand the landscape which as you
21 know has changed because some of the FAC issues have
22 settled there really are three issues and those are what
23 should the sharing percentage be, should the MISO charges
24 flow through the FAC and if they don't flow through the
25 FAC should a tracker be established. And I'll address

1 those in that order. And I think, with all due respect
2 to the drafters of the list of issues and in fact I
3 contributed to this so this is as much my fault as
4 anyone, I think the issue as it's drafted is incorrect.
5 That the issue with respect to sharing reads should the
6 sharing percentage and Ameren Missouri's fuel adjustment
7 clause be changed to 85/15 and I really think it's a
8 broader question than that. The question really is what
9 should the sharing percentage be because if you all will
10 go back and look at the earlier cases, the first case,
11 the Aquillo case in which the FAC was established there
12 was no evidence to establish 95/15, no party took the
13 position that the sharing percentage should be 95/15,
14 there were parties, I'm sorry, my math is off this
15 morning as well, 95/5, thank you. There was no evidence
16 for 95/5, there was a great deal of evidence that it
17 should be 100 percent passed through, there was a great
18 deal of evidence that it should be in the neighborhood of
19 50 percent or perhaps even 70 percent but there was no
20 evidence on either 85/15 or 95/5 and so the Commission
21 arbitrarily in this case took a range that was within the
22 range of the testimonies and took, as then Chairman Davis
23 said, he plucked that number out of the air and the
24 Commission voted on it. There is despite the fact that
25 the Commission has so far not changed the 95/15 there

1 still is no particularly strong evidence that 95, that
2 95/5 is the right percentage and that 85/15 is the wrong
3 percentage. In effect we've had a several year long
4 experiment with the 95/5 sharing and it seems to work, we
5 don't have any evidence that it works optimally or that
6 it works as well as it should for the benefit of
7 shareholders or ratepayers as Mr. Thompson pointed out
8 and in fact one of the reasons that the Commission
9 established a sharing percentage at all was because,
10 because of the recognition that there really are two
11 aspects that can keep fuel costs under control if you use
12 a fuel adjustment clause. One is a sharing percentage
13 which puts an incentive on the Company to control costs
14 and the second mechanism is the prudence adjustment
15 which, the prudence review and possible prudence
16 adjustments which puts in part it puts some pressure on
17 the Company because they know someone's looking over
18 their shoulder and it also is sort of a, what I would
19 call the secondary affect is that it's a fall back
20 provision, if the Company does in fact do something wrong
21 despite the inherent incentives such as they are then
22 there is at least a chance that someone will catch the
23 fact that something was done wrong or done imprudently
24 and that will be adjusted in one of the prudence cases.
25 The problem with relying on the prudence adjustment and

1 in saying this I have to emphasize that I have a great
2 deal of respect for the Staff people who look at these
3 things, who review them, who go through the details but
4 they're simply overworked and overwhelmed and you've seen
5 evidence of that in the fact that the Staff was not aware
6 that the MISO transmission charges were in fact flowing
7 through the FAC. I think that really highlights a
8 significant issue with relying on after the fact prudence
9 reviews from an overworked and overwhelmed Staff to try
10 and catch things that the Company was not properly
11 incented [sic] to do right in the first place. So the
12 inadequacy of the prudence review I think strongly
13 mitigates looking at and trying out as we have tried out
14 the 95 percent sharing percentage, trying out a higher
15 sharing percentage to see if that comes up with a better
16 result both for ratepayers and for shareholders.

17 Now, with respect to the other issues, the
18 question of the MISO costs going through either the FAC
19 or a tracker, I think, and Mr. Thompson sort of touched
20 on this but he didn't really phrase it this way. What we
21 have, we call it the FAC but technically is it is fuel
22 and purchased power adjustment mechanism but it is not a
23 fuel purchased power and regional nongovernmental agency
24 membership cost adjustment mechanism. That's not part of
25 the name, it's not part of the concept, those costs are

1 not fuel costs, they are not transportation costs and
2 they are not purchased power costs. They are a different
3 kind of cost that was never contemplated to be included
4 in the FAC. As Mr. Thompson points out there is even an
5 argument that they are not lawfully to be included in the
6 FAC. The question came up in, and I must say that
7 although I'm going to participate in this issue I don't
8 think anyone should assume that I have waived my
9 objection that I don't believe that this tracker issue is
10 rightfully in this case and that the Commission's going
11 to be able to have an adequately developed order on this
12 but the question came up from Commissioner Kenney this
13 morning about whether or not UE will have a greater
14 incentive to try to control MISO costs if those costs are
15 neither in the FAC or a tracker and I think, I think
16 that's a very legitimate question and I think the answer
17 is yes, of course they would have a greater incentive.
18 We don't unfortunately have much in the way of evidence
19 that shows whether or not that incentive could lead to
20 actual action and I think that's one of the unfortunate
21 factors of bringing this issue late in the case is that
22 we don't have evidence about whether, if these costs were
23 tracked whether there would actually be an ability for UE
24 to affect outcomes at MISO based on the incentives that
25 they would be given. The only three parties that are

1 filing testimony on that are the three parties of course
2 that Public Counsel opposed in the UE MISO case
3 ER-2011-0128 so I don't think you're going to get a, the
4 kind of record on what we believe that UE can do if MISO
5 affects those costs and I think the Commission should
6 take that into account when it's considering this issue
7 and that's all I have.

8 Thank you.

9 CHAIRMAN GUNN: Do you agree that we are
10 required because these are FERC approved costs to include
11 them somewhere?

12 MR. MILLS: Within certain limitations,
13 yes.

14 CHAIRMAN GUNN: What are those
15 limitations?

16 MR MILLS: Well, between for example, and
17 this sort of goes back to the time rate doctrine, if the
18 Commission concludes that it was proper to take these
19 actions then the cost of those actions must be included
20 in rates. If the Commission were to conclude in a later
21 case that participation in the MISO for example was not
22 in ratepayer's best interest then the Commission could
23 perhaps include those costs. But having concluded that
24 participation in MISO is in the best interest then the
25 Commission can't according to the file rate doctrine trap

1 the Company by saying yeah, you did that right, we just
2 don't like what you paid for that and so we're not going
3 to cause our Missouri ratepayers to pay for that.

4 CHAIRMAN GUNN: I mean I agree with you
5 and so, and I get your point about the tracker but we've
6 got to put them somewhere so we don't put them in the FAC
7 and we don't have a tracker, what do we do?

8 MR. MILLS: They're base rates, you put
9 them in base rates just like every other cost except for
10 a very few exceptional costs for which trackers or
11 adjustment mechanisms are granted or authorized by the
12 legislature.

13 CHAIRMAN GUNN: I'm going to move to the
14 sharing percentage.

15 At one point, and I can't remember which
16 rate case this was, there wasn't a whole lot of testimony
17 on the 95/5 pass through.

18 MR. MILLS: Yes.

19 CHAIRMAN GUNN: And we actually instituted
20 an order and basically we're like hey, are you guys going
21 to talk about the sharing mechanism.

22 MR. MILLS: Yes.

23 CHAIRMAN GUNN: And essentially everybody
24 declined. They basically said look, it's, it is what it
25 is and we don't really, are not going to dump a lot of

1 testimony in here to talk about it. Do you recall that?

2 MR. MILLS: I recall that there was a
3 case, I think it was the second case after the 95/5 was
4 established for this Company which parties did not
5 challenge that. I thought that the parties did in fact
6 put in additional testimony on different sharing
7 percentages.

8 CHAIRMAN GUNN: But it wasn't, obviously
9 it was late, no one thought it was important enough to
10 bring up in their first instance.

11 MR. MILLS: And I will agree with that
12 characterization. I think what, at least from my
13 perspective and I can't speak to the other parties but
14 from Public Counsel's perspective we can't get in to
15 every issue in every case and from our perspective the
16 fact that the Commission had just in a previous case
17 literally months before issued an order establishing 95/5
18 we felt that it was not a good battle to fight to
19 challenge that immediately after the Commission had just
20 ordered it. We had no way of knowing that the Commission
21 might even consider changing something that they had just
22 ordered in the previous case. Had we known that we
23 certainly would have addressed a different sharing
24 percentage from the outset in that case rather than being
25 prompted to by the Commission.

1 CHAIRMAN GUNN: All right. And initially
2 when the FAC was set up you said there was a lot of
3 evidence that the sharing mechanism should be, or there
4 shouldn't be a sharing mechanism there should be 100
5 percent pass through.

6 MR. MILLS: Right.

7 CHAIRMAN GUNN: And currently the way the
8 fuel adjustment clauses work in other jurisdictions
9 that's clearly the normal where you have a fuel
10 adjustment clause, correct?

11 MR. MILLS: I think that is generally the
12 case.

13 CHAIRMAN GUNN: So just that you get 100
14 percent pass through so they're not having the same sort
15 of fights we're having about whether for example the
16 short term contracts that a majority of the Commission
17 determined should flow back through the fuel adjustment
18 clause to the benefit of the ratepayers, they're not
19 having those discussions because there is no fall back to
20 the ratepayers. Correct?

21 MR. MILLS: Well, I think that the
22 question that the short term contracts and whether those
23 should be in the FAC in the first instance is sort of a
24 different issue from the sharing issue but with respect
25 to issues like that I think one thing you have to keep in

1 mind is that Missouri is quite late coming to the fuel
2 adjustment cost clause mechanism, we had it back in the
3 '70s but haven't had it for a long time. I think many
4 other jurisdictions have had those sort of issues hashed
5 out literally decades ago and so the fuel adjustment
6 clause is operating perhaps more smoothly in those states
7 because, you know, once an issue like that comes up once
8 the Commission decides it it tends not to recur over and
9 over again because the parties understand how it's
10 supposed to be resolved.

11 CHAIRMAN GUNN: And the vast majority of
12 those have decided that 100 pass through is appropriate.
13 And I'm not -- don't make any correlation that I think
14 that's appropriate here, I just want to say all those
15 kind of mature jurisdictions if we assume that that's the
16 case have said that 100 percent pass through is
17 appropriate for our jurisdiction.

18 MR. MILLS: And I think in that last
19 statement you said all and I certainly don't think that's
20 true but I would certainly agree that the majority of
21 them do.

22 CHAIRMAN GUNN: Fair.

23 MR. MILLS: But what we don't know is the
24 kind of resources that those jurisdictions devote to
25 prudence reviews and whether they have a much more robust

1 prudence review than we do in Missouri to really, I mean
2 because a prudence review you have to recall in an FAC is
3 very, very different for example than a PGA where there
4 is a relatively small universe of options. When you're
5 talking about an FAC, you know, there are literally
6 minute by minute decisions, 8760 hours every year those
7 decisions are going on and in any given hour there is a
8 universe of decisions that is fairly large that can be
9 played so prudence reviews are problematic in FACs, and.

10 CHAIRMAN GUNN: All right.

11 I'm going to save my rest of the questions
12 for the witnesses. But I appreciate the response.

13 JUDGE WOODRUFF: Mr. Jarrett?

14 MR. JARRETT: It's been a tough week for
15 Staff.

16 MR. MILLS: It's been a tough few years
17 for Staff.

18 COMMISSIONER JARRETT: Let's see, Staff in
19 the working docket, workshop docket on the rate case
20 expense we have nothing filed in almost a year and a half
21 and they're still working on the final report. Mr.
22 Thompson can correct me if I'm wrong but I think what he
23 said, what I understood him to say in his opening was
24 when we were talking about the transmission cost flow
25 through Staff just hasn't caught it until now and you

1 come in your opening statement and say we really can't
2 fully rely on prudence reviews for these fuel costs
3 because Staff is overworked and they're not giving us
4 their optimum so my question to you is is there anything
5 in any of Staff's testimony in this case that we can rely
6 on if that's the case?

7 MR. MILLS: Sure. You know, as I said,
8 and I've said that when we were first debating fuel
9 adjustment costs that the first notion, that any entity
10 that has a handful of people to devote prudence reviews
11 that the notion that they can adequately review the
12 decisions made by an entire department at a complicated
13 utility over the course of a year or two, you know, with
14 a tenth of the people and, you know, looking at it after
15 the fact it's problematic and I think this is just, this
16 is evidence that my cautions from the outset were
17 adequate. Prudence reviews are never going to be
18 adequate unless you have literally dozens of people
19 devoted to them and the Commission staff has got some
20 great people devoted to it but not nearly enough and
21 they've got way too many other things to do. It's not
22 the Staff's fault, it's the structure of prudence reviews
23 and the fact that there's not sufficient resource devoted
24 to it.

25 MR. JARRETT: Wow.

1 I don't have any further questions.

2 JUDGE WOODRUFF: Okay. Thank you.

3 Opening for MIEC.

4 MR. DOWNEY: Good morning and may it
5 please the Commission.

6 We're here this morning to address a
7 number of issues, the first of which is the sharing
8 mechanism, the 85/15 versus the 95/5. The MIEC did not
9 provide testimony in this case on that issue, we did
10 provide testimony in prior cases and most recently,
11 February of 2010, provided testimony, Mr. Brubaker who's
12 in the back of the room provided testimony that the
13 sharing mechanism should be 80/20. We obviously support
14 Staff's move from 95/5 to 85/15.

15 The next issue involving the MISO charges
16 and the FAC clause actually I'm going to divide in to
17 three subparts, the first is what does the FAC tariff now
18 reflect and what did Ameren propose in this case that it
19 reflect. Next, what should it reflect, should it reflect
20 those, the pass through of these MISO capacity charges
21 under contracts with the term greater than one year, and
22 then the next question is assuming that the charges
23 should not flow through the FAC should Ameren be granted
24 a tracker mechanism.

25 On the first and second issues the MIEC is

1 of the opinion that the current FAC tariff does not allow
2 the pass through of the charges that we are objecting to
3 and we are only objecting to the pass through of
4 transmission, MISO transmission capacity charges under
5 contracts of greater than one year in duration. And the
6 reason we think the current tariff and the one proposed
7 by Ameren does not allow those is found in the words of
8 the tariff and I've provided a copy to the Commissioners
9 and to counsel. This is actually from Ameren witness
10 Lynn Barnes's direct testimony, I think it's her third
11 exhibit and it's the third out of six pages and you're
12 going to find the answer to what the tariff provides in
13 the definition of CPP. And it's the first sentence you
14 focus on and so the first question is what is included
15 and the first part of the sentence and the last part of
16 the sentence tells you what is included. There's two
17 exclusions in the middle of the sentence, I wouldn't
18 draft something this way but that's the way it's drafted
19 so the question is are these costs of purchase power
20 reflected in FERC account numbers 555, 565 and 575, the
21 answer is yes. And then if you go to the end of the
22 sentence incurred to support sales to all Missouri retail
23 customers and off system sales allocated to Missouri
24 retail electric operations and the answer to that is yes.
25 But the question is do either of the exclusions apply and

1 if you look at the sentence the second exclusion is for
2 capacity charges for contracts with terms in excess of
3 one year. So the MISO transmission charges that we are
4 talking about here fit that exclusion, they are
5 transmission capacity charges and they are under
6 contracts having a term of greater than one year. I
7 don't think anyone really disputes that. And as to why
8 maybe Staff and other witnesses didn't notice these
9 charges, these charges relate to FERC account 26A and
10 it's my understanding and you'll hear evidence on this,
11 those charges were not passed through until January 1 of
12 this year so these charges were never passed through the
13 FAC, the 26A charges prior to January of this year. And
14 they're fairly large charges so that's why everybody's
15 looking at them now and maybe didn't look at them a year
16 ago.

17 So it's our opinion that it is Ameren that
18 seeks to change the status quo here. Here are, these
19 particular transmission charges never should have been
20 passed through the FAC.

21 Now what is Ameren's response to the
22 MIEC's argument in that regard? Well Ameren says well
23 we've been passing them through for years so there's
24 precedent here. You have to continue to allow us to pass
25 them through. The next thing Ameren argues is well, when

1 the Commission says capacity what the Commission meant
2 was generating capacity so Ameren reads a word in to the
3 tariff that simply is not there and I know the lawyers on
4 the Commission certainly recognize that one of the
5 cardinal rules of construction is you don't add words to
6 the language you're construing, you're changing it when
7 you do that, you're not construing it so I would submit
8 to you that at least the charges that the MIEC wants to
9 exclude from the FAC, that we believe always were
10 excluded and should have been excluded, I mean should be
11 excluded. And it is Ameren who's seeking to change the
12 status quo here, not the MIEC and not the Staff, although
13 I admit that I just heard Mr. Thompson say they are
14 seeking to change the status quo.

15 Respectively I suggest if you read the
16 tariff closely these charges should not have been flown
17 through the FAC.

18 Okay. So the next question is should
19 these charges flow the FAC because it's up to the
20 Commission to decide how the tariff is written and we
21 submit and Mr. Dauphinais supports this in his testimony
22 the charges should not flow through the FAC. These are
23 not the types of charges contemplated by the legislature
24 when it enacted the charges authorizing this FAC, these
25 are not the type of charges that I think this Commission

1 intended to flow through the FAC, these are not charges
2 related to the types of sales or purchases that are
3 related to fuel adjustment. I mean these charges are
4 more akin to construction charges, fixed O&M charges or
5 taxes.

6 Mr. Haro is the witness on behalf of
7 Ameren, he also makes an argument that there is a
8 particular paragraph taken out of the, a report in order
9 involving GMO and he argues that that paragraph provides
10 some sort of precedent for the Commission that these
11 types of charges should flow through the FAC, I urge the
12 Commission to carefully review that paragraph, I think it
13 is totally irrelevant to this issue, I don't think it
14 supports us but it certainly does not support Ameren
15 either.

16 Okay. In summary it never hurts to
17 clarify a tariff but we think the tariff as it exists now
18 and as it is currently proposed by Ameren in Ms. Barnes'
19 testimony would not allow the specific MISO capacity
20 transmission charges under contracts greater than one
21 year to flow through it. And we don't believe that the
22 FAC tariff should be modified to allow that.

23 Okay. So the next question is the
24 proposed transmission tracker. The MIEC's biggest
25 objection to this tracker is that it's illegal, it's

1 single issue rate making, that has always been our
2 position on trackers. It's single issue rate making
3 under the UCCM case. In addition we think it's bad
4 policy because what you do is you allow the utility to
5 pick a cost, cherry pick a cost that it knows is going up
6 and we track that cost, we're not tracking costs that the
7 utility knows is going down, we're not tracking revenues
8 that the utility maybe knows is going up and so we have
9 this imbalance and it really results in detriment to
10 ratepayers. During periods between rate cases when you
11 track one expense and you don't track everything else
12 you've just got imperfect comparisons and so that's bad
13 policy. We understand the Commission has adopted
14 trackers so I want to talk about the standards, the
15 criteria that you have focused on when you have adopted a
16 tracker. And they're three fold and I think the parties
17 agree on the criteria. The first is are the charges at
18 issue substantial enough to have a material impact upon
19 the revenue requirements and financial performance of
20 Ameren Missouri. Second issue is are the charges at
21 issue the type within the control of Ameren Missouri and
22 the third issue is are the charges volatile, are they
23 unpredictable, do they vary widely over time and in this
24 regard I would ask you to look closely at Mr.
25 Dauphinais's testimony, he believes that Ameren doesn't

1 meet any of these criteria, the charges at issue, and
2 you'll hear testimony on this between the time the rates
3 in this case become effective and the time the rates are
4 likely to be effective under the next case these charges
5 will go up maybe \$12 million, \$6 million a year. That is
6 not significant enough to justify this single issue rate
7 making tracker. Secondly, Ameren is a member of MISO, it
8 has as a member it has some input on what MISO does,
9 Ameren of course says it's not enough to control costs,
10 Mr. Dauphinais says it is enough and I'd ask you to
11 carefully consider his testimony in that regard.

12 As to the third issue are these costs
13 volatile, they're not. They are not unpredictable, they
14 do not, we're not talking about wide swings up and down,
15 we know the costs are going up, Ameren knows they're
16 going up, that's why they're asking for a tracker here.
17 They know they can only win with this tracker. It's not
18 like a fuel adjustment clause where, you know, in some
19 situations off system sales profits may actually benefit
20 ratepayers, this will never benefit ratepayers and this,
21 because Ameren knows what these costs are Ameren can plan
22 for them, Ameren can time its rate cases.

23 For these reasons we would ask the
24 Commission to deny the 11th hour request for a
25 transmission tracker.

1 JUDGE WOODRUFF: Thank you.

2 Questions?

3 CHAIRMAN GUNN: And so you agree with the
4 Public Counsel that since we'd have to account for these
5 the way we would do it would be base rates.

6 MR. DOWNEY: I think Public Counsel and
7 Staff, that these will be recovered, there's no question
8 about that, it's just a question of are they recovered in
9 base rates or do we set up some extraordinary single
10 issue rate making mechanism for these charges.

11 CHAIRMAN GUNN: All right.

12 I don't have anything further. Thank you.

13 JUDGE WOODRUFF: Thank you.

14 MR. DOWNEY: Thank you.

15 COMMISSIONER KENNEY: Wait.

16 JUDGE WOODRUFF: Sorry.

17 COMMISSIONER KENNEY: So MIEC's position
18 is that the term, you're looking at the definition of CPP
19 in this tariff sheet that you handed us, right?

20 MR. DOWNEY: Yes.

21 COMMISSIONER KENNEY: And the capacity
22 charges for contracts with a term in excess of one year
23 is the language that you're arguing already includes
24 transmission charges.

25 MR. DOWNEY: Yes.

1 COMMISSIONER KENNEY: So, and you said
2 that, you know, it's a common maxim of contract
3 construction that you give to the meaning of the terms in
4 the contract but arguably capacity charges could be an
5 ambiguous term and in that situation wouldn't we look to
6 the intent of the contracting parties to define their
7 meaning?

8 MR. DOWNEY: I'm going to respectfully
9 agree that the word is ambiguous. I think we know what
10 capacity is, I think the question is --

11 COMMISSIONER KENNEY: There's capacity on
12 a transmission line, there's generating capacity. In the
13 absence of specifying what you meant doesn't that create
14 an ambiguity?

15 MR. DOWNEY: Well I would say it's
16 capacity charge so if it's a generating capacity charge
17 it's excluded, if it's a transmission capacity charge
18 it's excluded, I don't know enough about the business to
19 say whether there could be any other type of capacity
20 charge but it would be excluded. And I don't know, did
21 Ameren draft this, probably Ameren did and then the
22 Commission approved it so if there is ambiguity I think
23 it should fall at Ameren's feet not the ratepayers.

24 COMMISSIONER KENNEY: You should construe
25 it against the drafter?

1 MR. DOWNEY: I would suggest that, I
2 would suggest don't read a word in to a tariff that's not
3 there. I recognize that your job in this case is to
4 figure out how you want the tariff to read but I don't
5 want the Commission to operate under the misconception
6 that it is, it is the Staff or it is the MIEC that is
7 proposing to change the status quo. We think the tariff
8 as it has existed and is actually proposed in this case
9 by Ameren excludes these very costs. And it's Ameren
10 that now after it filed the case is saying well we've
11 been including these costs, of course the 26-A MISO
12 transmission charges it couldn't have included prior to
13 January of this year because they weren't being charged
14 those.

15 COMMISSIONER KENNEY: All right. Thank
16 you.

17 MR. DOWNEY: Thank you.

18 JUDGE WOODRUFF: Thank you.

19 Opening then for other counsel, the AARP.

20 MR. COFFMAN: Thank you.

21 May it please the Commission. On behalf
22 of AARP and the Consumer's Counsel of Missouri I am
23 recommending that the Commission discontinue, that is
24 reject the application for a fuel adjustment clause for
25 Ameren Missouri in this case. No witness who has

1 prefilled testimony has thus far recommended that but the
2 statute that grants the authority of the Commission to
3 approve a fuel adjustment clause tasks the Commission in
4 each general rate case to make a decision whether to
5 approve, modify or reject and we believe that the intent
6 of the law which was passed in 2005 is that the
7 Commission reevaluate it in each case. The law in
8 Missouri also contemplates that if there is to be a fuel
9 adjustment clause that it includes incentive mechanisms.
10 Why other parties have not recommended this I suppose is
11 a factor that sometimes folks on the consumer side feel
12 overwhelmed. It seems as if any change is made to the
13 rate making process it is usually at the behest of the
14 utility company and usually is for a mechanism that
15 serves their interest and tends to protect their business
16 risk, shield their corporate profits at the expense of
17 the rest of us who pay the rates rather socializing the
18 business risk of the monopoly. In Missouri we have a
19 rather long period of time without a fuel adjustment
20 clause so we know how a zero percent 100 percent
21 mechanism works. In my mind the best incentive for low
22 efficient, cost efficient rates is the rate of return,
23 cost of service rate making formula that has been
24 primarily in place for 100 years. This is the method of
25 setting a level of rates at our best guess going forward,

1 setting an expense or an activity at a certain level and
2 then challenge the utility to beat that and for every
3 dollar that it can cut its costs based on what it
4 expected it to be it gains a dollar and there's the
5 absolute best incentive is in the normal process.
6 Every single surcharge and tracker that the Commission
7 approves awakens that incentive, awakens the theory
8 behind rate of return rate making. My clients have
9 always been opposed to the fuel adjustment clause for the
10 many unfair aspects of it, of piecemealing out those
11 things that tends to go up. You know, I suppose it will
12 be in consumer's favor to propose a surcharge for
13 employee costs if there was any time the utility laid off
14 an employee rates went down or every time they automated
15 a system in some manner rates would go up but invariably
16 these surcharges, these single issue mechanisms, these
17 piecemeal chips away at the cost of service rate making
18 work to the advantage of the utility and we fight them
19 every year, sometimes we lose and then it seems once a
20 new mechanism is put in place it's set in concrete and
21 even just assumes that's the new normal and that's what
22 we have to live with and there's no chance to go back
23 again in a pro consumer direction. About the only
24 instance that I know of where something went the other
25 way was in 1979 consumer's counsel changed the fuel

1 adjustment clause which the Missouri Commission had been
2 implementing without authorization under the law and the
3 Missouri Supreme Court struck it down so between 1979 and
4 2005 or 2007 we had an experiment that I think worked
5 very well and I believe you're aware of this exhibit that
6 was discussed during openings from witness Mike Gorman's
7 testimony which shows some history going back to 1996
8 when utilities earnings were doing well, it was during
9 that period without a fuel adjustment clause that the
10 utility thrived and in the 1990s the Union Electric CEO
11 even acknowledged that having no fuel adjustment clause
12 had been a strong incentive for the utility to be
13 efficient with its fuel and purchase power contracts and
14 in fact was boasting that that had made the utility
15 better perhaps in getting better fuel deals than other
16 utilities. So we believe that the testimony when the
17 record is closed will show that the utility does have
18 some control over these costs and that it would be in the
19 benefit of the public to have a greater incentive whether
20 it's no fuel adjustment clause or a larger sharing
21 percentage being placed upon the utility. Again there
22 was no specific magic item in the evidence that led to
23 the original 95/5 split and I would suggest that as you
24 are re-initiating if you are deciding to go ahead with
25 the fuel adjustment clause and modifying it under the law

1 that you would consider the greater percentage. Lena
2 Mantle's testimony I think is strong in suggesting that
3 that would work better and it would provide a better
4 incentive.

5 I have to I think point to the fact that
6 the, that there are things in here as Mr. Thompson
7 acknowledged, there's a lot of stuff in here that has not
8 been rooted out. The fuel adjustment clause prudence
9 review cases, they don't have as many cases, they don't
10 have as many parties in them as a general rate case, the
11 utility obviously controls all the information or almost
12 all the information that is relevant and it's sometimes a
13 struggle to get that evidence out and in to the record
14 and I think our current experiment shows that relying
15 almost completely on a prudence review process, a system
16 that places all of the public's trust in a series of
17 government auditors is not as good as the system that has
18 worked so well in the past where we simply set a level
19 and say as an incentive and say go forward, see what you
20 can do. It doesn't require extensive government
21 resources to audit and it's produced good results. When
22 companies have that incentive they tend to perform well.

23 So we know the greater amount of this risk
24 that is placed on consumers we know that there will be
25 less incentive. We also know that it allows unfair

1 changes in rate, that is it allows an increase for this
2 one single item even though the overall cost of the
3 utility may be going down.

4 Now I know in recent years fuel costs are
5 going up and a lot of energy utility costs are going up
6 but that's not always the case. This could work the
7 other way. We're advocating for a 50/50 sharing and that
8 might mean that rates actually go up higher at different
9 times and it might not be in the consumer's interest but
10 I'm telling you from my client's perspective in reviewing
11 the past experiment in Missouri and in several other
12 states we believe consumers will be treated better if a
13 greater skin in the game is asked of the Company and of
14 course obviously we know that the greater the amount of
15 cost is hoisted upon it or the risk of a change in fuel
16 costs is placed upon consumers the more volatile rates
17 will be and you know consumers don't like that, just
18 having their rates change up and down outside of this
19 thorough rate case process.

20 Mr. Lowery claimed that, moving on to the
21 transmission cost area, that these costs are beyond their
22 control and I think just with regard to fuel and purchase
23 power costs they would argue that they have very little
24 control but we don't believe that with fuel purchase
25 power or with these transmission costs these are items

1 that are beyond the control of the utility. They
2 certainly, it's certainly not true that they have no
3 control, they may have no control over the weather but we
4 normalize that, we factor that in to the rates and I
5 think that it will be undisputed that consumers have no
6 control over these items. From my client's perspective
7 it is unfair that any percentage of this cost be placed
8 on them when they have undeniably no control. Obviously
9 less control than the utility has over these items.

10 So again we ask that you go back to
11 placing all of these costs in the base rates, if you are
12 going to continue forward with the fuel adjustment clause
13 increase the percentage, we see nothing more fair than
14 50/50 if you're going to continue down the fuel
15 adjustment clause route and we agree with the Office of
16 Public Counsel that transmission costs are not
17 appropriate for this mechanism. Please hold the line on
18 any new mechanisms.

19 That's all I have. Thank you.

20 CHAIRMAN GUNN: On occasion the fuel
21 adjustment clauses have reduced rates and isn't it better
22 to have the fuel adjustment clause which passes on some
23 of those savings to consumers faster than it would
24 normally in a normal rate case?

25 MR. COFFMAN: My clients would choose --

1 no. We would rather have the rates set in a way that
2 provides the greatest incentive for cost efficiency than
3 have that opportunity for the occasional down. We would
4 not choose the up and down to the stable rates that we
5 believe provide the best incentive.

6 CHAIRMAN GUNN: All right.

7 I don't have anything further.

8 JUDGE WOODRUFF: Thank you.

9 I believe that's all the openings then for
10 this issue. Let's take a short break before we get in to
11 the first witness and we'll come back at 10:10.

12 (RECESS TAKEN BY PARTIES)

13 JUDGE WOODRUFF: Let's come to order
14 please. We're back from our break and we're ready to
15 begin discussing fuel adjustment clause issues. I
16 understand we'll bring up Lynn Barnes first to testify
17 for the Company.

18 I also want to let you know that the
19 Commission is having its agenda meeting at noon, we're
20 going to break at about 20 minutes till 12 so if I break
21 in the middle of somebody's cross examination that's the
22 reason for it. And then we'll come back at about 1:15
23 after lunch.

24 MR. THOMPSON: Thank you, Judge.

25 MR. LOWERY: Your Honor while Ms. Barnes

1 is coming to the witness stand she has a correction to
2 her testimony that's already been admitted to the regard
3 and that correction is driven by the fact that Mr. Neff
4 is going to have a correction in his, she essentially
5 cited to a figure in his testimony, it's actually highly
6 confidential so if it pleases the Commission I'd like to
7 have her make that correction in camera before and then
8 she can be cross examined.

9 JUDGE WOODRUFF: Okay.

10 Welcome back Ms. Barnes and you are still
11 under oath.

12 MS. BARNES: Absolutely.

13 JUDGE WOODRUFF: Okay. At this point then
14 we would go in camera.

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18 (WHEREUPON, at this point an in-camera session was held
19 which is contained in Volume 23, pages 1143-1145 of the
20 transcript)

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1 JUDGE WOODRUFF: And for cross examination
2 we would begin with looks like AARP would be first.

3 MR. COFFMAN: I just have a couple of
4 questions Your Honor. And when I say that I actually
5 mean it, I know a lot of attorneys say it. Usually the
6 first thing out of the mouth is the least true, I just
7 have a few questions. An hour later.

8 CROSS EXAMINATION
9 QUESTIONS BY MR. COFFMAN:

10 Q. Good morning.

11 A. Good morning.

12 Q. Would you agree with me that Ameren
13 Missouri has some control over its fuel and purchase
14 power costs?

15 A. To the extent that we enter into long term
16 contracts we have the ability to negotiate the best price
17 we can.

18 Q. So yes.

19 A. Yes.

20 Q. And would you agree with me that the
21 consumers of your company have no control over fuel and
22 purchase power costs?

23 A. Well they don't work for us so they
24 wouldn't have the ability to negotiate those contracts,
25 so yes, they don't.

1 **Q. Thank you.**

2 MR. COFFMAN: That's all I have.

3 JUDGE WOODRUFF: Thank you.

4 For MIEC.

5 MR. DOWNEY: No cross.

6 JUDGE WOODRUFF: And for Public Counsel.

7 MR. MILLS: I also just have a few.

8 CROSS EXAMINATION

9 QUESTIONS BY MR. MILLS:

10 **Q. Ms. Barnes is part of your total**
11 **compensation package characterized as incentive**
12 **compensation?**

13 A. Yes.

14 **Q. And if it's not highly confidential what**
15 **percentage of your overall compensation for the most**
16 **recent calendar year was incentive?**

17 A. I know you find this hard to believe but I
18 actually don't know.

19 **Q. Was it higher than five percent?**

20 A. I don't know what the exact percentage is,
21 I really don't.

22 MR. MILLS: I have no further questions.

23 JUDGE WOODRUFF: Okay.

24 And for Staff?

25

1 CROSS EXAMINATION

2 QUESTIONS BY MR. THOMPSON:

3 Q. Good morning Ms. Barnes, nice to see you
4 again.

5 A. Nice to see you.

6 Q. Would you agree with me that if an 85/15
7 sharing mechanism was adopted in the event that OSS sales
8 margins were higher than anticipated that the Company
9 would keep more of that windfall?

10 A. Yes, under your hypothetical that all
11 system sales would go up we would keep, and it's not a
12 windfall but we would keep the margins.

13 Q. I apologize for that characterization but
14 you would keep more of that margin.

15 A. Yes.

16 Q. Thank you.

17 MR. MILLS: No further questions.

18 JUDGE WOODRUFF: And questions from the
19 bench and Mr. Chairman?

20 EXAMINATION

21 QUESTIONS BY CHAIRMAN GUNN:

22 Q. Compared to three or four years ago the
23 volatility of fuel prices in the last year, in the period
24 of time in which we're talking about has it been greater
25 or relatively stable?

1 A. Are you just asking about fuel prices or
2 fuel and off system sales that go into it?

3 **Q. You can answer on both.**

4 A. I would say on the fuel side, and I'm not
5 the expert and Mr. Neff and Mr. Haro are coming behind me
6 and they actually have the data that can really give you
7 details but as I understand it from the fuel perspective
8 I would say natural gas prices have been extremely
9 volatile in the last 12 months or so mostly getting
10 lower, dropping lower because of the shale gas and on the
11 off system sales I would say our market prices have been
12 declining and causing volatility as well.

13 **Q. So smaller off system sales, what about on**
14 **coal or uranium?**

15 A. You know Mr. Neff would have to give you
16 the details on the coal prices. We are typically, our
17 process and it's always been our process when we enter in
18 to long term contracts and so I guess I don't pay as much
19 attention to the volatility because we try and optimize
20 the price as best we can and we then earn a contract for
21 six or seven years.

22 **Q. And at least a portion of all of those**
23 **fuel costs are hedged, right?**

24 A. Yes. I believe so.

25 **Q. So you have policies and procedures in**

1 place in order to try and take out some of the
2 volatility.

3 A. That's right. That's always been our
4 purpose in entering in to the contracts is to keep it not
5 volatile.

6 Q. Right.

7 CHAIRMAN GUNN: I don't have anything
8 else. Thanks.

9 JUDGE WOODRUFF: Commission Jarrett?

10 MR. JARRETT: Good morning.

11 I don't have any questions, thanks.

12 JUDGE WOODRUFF: Mr. Kenney.

13 COMMISSIONER KENNEY: Good morning, I have
14 a few.

15 A. Okay.

16 EXAMINATION

17 QUESTIONS BY COMMISSIONER KENNEY:

18 Q. Are you able to talk about MISO's, I mean
19 Ameren's participation in MISO?

20 A. Not really.

21 Q. All right.

22 A. Sorry.

23 Q. Then let me ask you then about off system
24 sales. When we talk about off system sales we're talking
25 about excess energy that's sold.

1 A. That's correct.

2 Q. Is it sold in to the MISO market or to
3 whom is it sold, where is it sold?

4 A. That's a detailed question that Mr. Haro
5 can probably answer better than me. My understanding
6 that all of our power is sold in to the MISO market and
7 we buy back what we need for native load and then sell
8 the rest to whoever.

9 Q. All right. Can you talk about, ATX and
10 ATXI don't own or operate any transmission facilities
11 yet, right?

12 A. That's correct.

13 Q. But the expectation is that they will at
14 some point.

15 A. Yes, that's correct.

16 Q. And that won't be limited just to
17 transmission facilities in Missouri, presumably it would
18 be able to operate wherever.

19 A. Yeah, actually I think their initial
20 construction at this point is in Illinois.

21 Q. Okay. And revenues from ATX or ATXI, how
22 will that impact Ameren Missouri, or will it at all?

23 A. It shouldn't impact it at all.

24 Q. Okay. So what about for transmission
25 facilities that ATX potentially may own and operate that

1 **are in Missouri?**

2 A. As I understand it, you know, ATX is just
3 like any other company that would choose to build
4 transmission in Missouri and so I guess if Ameren
5 Missouri needs to secure transmission for any reason then
6 we participate with them just as we participate with any
7 other entity that owns transmission in a state where we
8 are wielding power.

9 Q. Is it the plan then that ATX, or ATXI
10 would potentially construct and then own and operate
11 transmission facilities that are approved in the MISO
12 in-depth process and Ameren Missouri would just be
13 charged the prorata share of those?

14 A. You know, I don't know enough about that
15 whole MISO process to know about that for sure.

16 Q. Might Mr. Haro?

17 A. Might. I can't speak for him, you'll have
18 to ask him.

19 Q. All right.

20 COMMISSIONER KENNEY: Okay. I don't have
21 any other questions.

22 JUDGE WOODRUFF: Mr. Stoll?

23 COMMISSIONER STOLL: I have no questions
24 Your Honor.

25 Thank you Ms. Barnes.

1 JUDGE WOODRUFF: All right. Moving back
2 to recross based on those questions from the bench
3 beginning with AARP?

4 MR. COFFMAN: No questions.

5 JUDGE WOODRUFF: MIEC?

6 MR. DOWNEY: No, sir.

7 JUDGE WOODRUFF: Public Counsel?

8 MR. MILLS: No further questions.

9 JUDGE WOODRUFF: Staff?

10 RECROSS EXAMINATION

11 QUESTIONS BY MR. THOMPSON:

12 Q. Ms. Barnes, would you agree with me that
13 an expected price increase is not volatility?

14 A. Yes.

15 Q. And did you happen to read Mr.
16 Oligschlaeger's sur-sur-surrebuttal testimony?

17 A. Actually I did not.

18 Q. Okay.

19 MR. THOMPSON: I have no further
20 questions. Thank you.

21 JUDGE WOODRUFF: All right.

22 Redirect?

23 REDIRECT EXAMINATION

24 QUESTIONS BY MR. LOWERY:

25 Q. Ms. Barnes would whether or not an

1 **expected increase reflect volatility depend upon how**
2 **rapid and how great the changes might be?**

3 A. Well I guess directionally too just
4 because I can expect it to go up or go down it's going to
5 be changed, it will be different so it can, yes. And the
6 significance is always a factor.

7 Q. **So if it's rapid and significant it might**
8 **be volatile even if expected versus if it's small and**
9 **slow it might not be volatile.**

10 A. That's correct.

11 MR. LOWERY: That's all I have Your Honor.

12 JUDGE WOODRUFF: All right.

13 Ms. Barnes you can step down.

14 MS. BARNES: Thank you.

15 JUDGE WOODRUFF: Is Mr. Neff next then?

16 MR. LOWERY: That's what we said Your
17 Honor.

18 MR. THOMPSON: I believe that to be true.

19 JUDGE WOODRUFF: That's what I have
20 written down but I'll be flexible.

21 MR. LOWERY: I'm looking at my notes and I
22 think that's what we said.

23 JUDGE WOODRUFF: Okay. All right.

24 MR. LOWERY: And Your Honor I don't know
25 if you want to go in camera just when he makes his

1 correction or if you want to go in to camera for the
2 whole --

3 JUDGE WOODRUFF: We'll deal with it on the
4 record.

5 MR. LOWERY: Okay.

6 JUDGE WOODRUFF: Good morning. Please
7 raise your right hand.

8 (Whereupon, the Witness was sworn)

9 JUDGE WOODRUFF: You may inquire.

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. LOWERY:

12 Q. Please state your name for the record.

13 A. Robert Neff.

14 Q. Mr. Neff did you cause to be prepared for
15 filing in this docket rebuttal testimony that's been
16 marked for identification as Exhibits 18HC and NP?

17 A. I did.

18 Q. Do you have any corrections to that
19 testimony?

20 A. Yes, I have a correction on page 7, it's
21 highly confidential numbers.

22 MR. LOWERY: We will need to go in camera
23 for this correction.

24 JUDGE WOODRUFF: All right. We'll go in
25 camera at this time.

1 (WHEREUPON, at this point an in-camera session
2 was held, which is contained in Volume 23, pages
3 1156-1158 of the transcript)

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1 JUDGE WOODRUFF: All right. Mr. Neff is still on
2 the stand, we're back in regular session. While we were
3 in camera he was tenured for, or actually Exhibit 18HC
4 and NP was offered.

5 Any objections to the receipt of Exhibit
6 18?

7 Hearing no objections it will be received.

8 And ready for cross examination then?

9 Mr. Lowery? Ready for cross examination?

10 MR. LOWERY: Yes, I thought I tendered him
11 Your Honor, I apologize.

12 JUDGE WOODRUFF: I wasn't sure.

13 Okay. Beginning with AARP.

14 CROSS EXAMINATION

15 QUESTIONS BY MR. COFFMAN:

16 Q. Good morning Mr. Haro.

17 A. Mr. Neff.

18 Q. I'm sorry, Mr. Neff. I apologize.

19 Can you tell me how many employees are on
20 salary for Ameren Missouri that, who are involved in
21 managing the fuel and purchase power activities of this
22 utility?

23 A. I could tell you the number that are
24 involved with coal supply which is my area of
25 responsibility. Eight employees involved with the

1 acquisition and transportation of coal.

2 Q. I suppose I should have asked this
3 question of Ms. Barnes but is there a similar number of
4 individuals who also work for the utility to manage gas
5 supply?

6 A. A lesser number, I think there are more
7 like four or five.

8 Q. That's all that I have. Thank you.

9 JUDGE WOODRUFF: All right. For MIEC?

10 MR. DOWNEY: No, sir.

11 JUDGE WOODRUFF: Public Counsel?

12 MR. MILLS: I have no further questions of
13 this witness.

14 JUDGE WOODRUFF: Staff?

15 MR. THOMPSON: No questions.

16 JUDGE WOODRUFF: Questions from the bench.
17 Chairman Gunn?

18 CHAIRMAN GUNN: No questions.

19 JUDGE WOODRUFF: Mr. Jarrett?

20 COMMISSIONER JARRETT: No questions.

21 JUDGE WOODRUFF: Mr. Kenney?

22 COMMISSIONER KENNEY: No questions Your
23 Honor.

24 JUDGE WOODRUFF: Okay. And then no need
25 for recross.

1 Any redirect?

2 MR. LOWERY: Just briefly Your Honor.

3 REDIRECT EXAMINATION

4 QUESTIONS BY MR. LOWERY:

5 Q. Mr. Neff how many tons of coal does the,
6 do those eight folks buy or manage in a given year?

7 A. Our typical burn would be between 21 and
8 22 million tons a year.

9 Q. How many I guess hundreds of millions of
10 dollars of coal purchases does the Company make in a
11 year?

12 A. Approximately 750 million.

13 Q. When you gave those figures for the gas
14 supply folks would that include, would that include
15 purchasing gas for the local distribution company, the
16 gas operations, the natural gas utility that Ameren
17 Missouri has?

18 A. Yes, that's what I was referring to.

19 MR. LOWERY: I have no further questions.

20 JUDGE WOODRUFF: Mr. Neff you can step
21 down.

22 A. Thank you.

23 JUDGE WOODRUFF: And I believe we'll call
24 Mr. Haro then for Ameren.

25 Mr. Haro I believe this is your first time

1 on the stand.

2 A. Yes.

3 JUDGE WOODRUFF: I'll swear you in.

4 (Whereupon, the Witness was sworn)

5 JUDGE WOODRUFF: You may inquire.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. LOWERY:

8 Q. Please state your name.

9 A. Jaime Haro.

10 Q. Mr. Haro, did you cause to be prepared in
11 filing of this document direct rebuttal and
12 sur-surrebuttal testimony that's been marked for
13 identification as Exhibits 24 to 26?

14 A. Yes.

15 Q. Do you have any changes or corrections to
16 that testimony?

17 A. No, I don't.

18 Q. If I were to ask you the same questions
19 that are posed then your answers today would be the same?

20 A. Yes, they would.

21 Q. Those answers are true and correct to the
22 best of your knowledge and belief, is that true?

23 A. That's correct.

24 MR. LOWERY: Your Honor with that I'd
25 offer 24 through 26 and tenure Mr. Haro for cross

1 examination.

2 JUDGE WOODRUFF: 24, 25 and 26 have been
3 offered, any objections to the receipt?

4 Hearing none they will be received.

5 Cross examination again leading with
6 Consumer's Counsel and AARP.

7 MR. COFFMAN: Thank you.

8 CROSS EXAMINATION

9 QUESTIONS BY MR. COFFMAN:

10 Q. Good morning Mr. Haro.

11 A. Good morning.

12 Q. Pleasure to meet you.

13 A. Nice to meet you.

14 Q. Can you tell me how many individuals are
15 employed by Ameren Missouri to manage fuel and purchased
16 power costs?

17 A. Aside from the ones that Mr. Neff
18 mentioned we have probably about 10 managing the energy
19 side, power and electricity.

20 Q. That's for purchase power?

21 A. Yes.

22 Q. Are there additional employees that manage
23 gas or other resources other than coal in addition to
24 those 10 and the other eight?

25 A. Well he mentioned the gas people. We have

1 about three people buying gas for the gas generation and
2 we have one of the traders that is in charge of power
3 also trades uranium as well.

4 Q. Is that three employees in addition to the
5 eight --

6 A. No, no. Within the eight he mentioned.

7 Q. Okay.

8 A. Which is actually not really eight but
9 it's a lesser number, three of them do gas regeneration.

10 Q. Would it be approximately 18 employees
11 that are involved with the actual managing of the fuel
12 and purchase power costs, approximately?

13 A. Yes.

14 Q. And how many of those individuals have as
15 part of their compensation an incentive component to
16 their pay?

17 A. You're asking how many of them have a
18 variable portion of their income, that's your question?

19 Q. Yes. And I'm assuming, how much, how many
20 of those employees have a variable component that is
21 based on their performance of fuel and purchase power
22 activity?

23 A. All of them.

24 Q. Okay. And do you as well have an
25 incentive component to your compensation based on fuel

1 **and purchased power performance?**

2 A. Indirectly, yes.

3 MR. COFFMAN: That's all I have.

4 JUDGE WOODRUFF: All right.

5 MIEC?

6 MR. DOWNEY: No questions.

7 JUDGE WOODRUFF: Public Counsel?

8 MR. MILLS. No questions.

9 JUDGE WOODRUFF: Staff?

10 MR. THOMPSON: Thank you Judge.

11 CROSS EXAMINATION

12 QUESTIONS BY MR. THOMPSON:

13 **Q. Mr. Haro did you read the**
14 **sur-sur-surrebuttal testimony of Mr. Oligschlaeger?**

15 A. Yes, I did.

16 **Q. The testimony responsive to your**
17 **transmission tracker suggestion?**

18 A. Yes, I did.

19 **Q. Okay. And it's true isn't it that the**
20 **amount of MISO transmission revenues received annually**
21 **more or less offset the amounts of MISO transmission**
22 **charge?**

23 A. In what year?

24 **Q. In any year.**

25 A. No, it's not true.

1 Q. Okay. So what's the net difference for
2 example for the present year?

3 A. I think it changes. It changes, the first
4 year is about a million but that increases dramatically
5 10 up to maybe \$25 million.

6 Q. Okay. So are you telling us today that
7 the net difference for 2012 is \$25 million?

8 A. No.

9 Q. Okay. What time period, if you know,
10 would the net difference be \$25 million?

11 A. I don't have the numbers in front of me, I
12 don't exactly recall them but I think within the next
13 five years it will be a large difference.

14 Q. Okay. So that's an anticipated change in
15 the future, is that correct?

16 A. That is correct. It's a projection.

17 Q. Okay. Well let's talk about actual
18 historical experiment. What's the difference for this
19 year on a year-to-date basis, if you know?

20 A. I believe this year is pretty flat.

21 Q. Pretty flat? So it's pretty even?

22 A. Pretty even.

23 Q. Okay. And how about next year, what do
24 you expect?

25 A. I expect the revenues to stay flat and the

1 charges to increase.

2 Q. How much do you expect the charges to
3 increase by?

4 A. Couple of million.

5 Q. Okay. So if the transmission tracker is
6 granted then the net difference that that tracker would
7 be tracking for next year would be about 2 million, would
8 you agree with that?

9 A. That is correct.

10 Q. Okay. And what about the following year?
11 I'm talking now about 2014. What do you anticipate for
12 2014?

13 A. I think it should be in the order of 10
14 million.

15 Q. So you would expect it to jump from 2 to
16 10 million, is that correct?

17 A. Well those are the current projections,
18 yes.

19 Q. Okay. So you don't really even know, is
20 that right?

21 A. Correct, they may change.

22 Q. Okay. And you may get more revenue or you
23 may have higher expenses, is that correct?

24 A. It's highly unlikely that the revenues
25 will change because resurgence of transmission it's

1 highly likely that the costs will carry because they're
2 pretty volatile.

3 Q. Okay. So you expect the costs to go up
4 but not the revenue. So if the transmission tracker is
5 established and if it's in effect for 2013 and 2014 you
6 would expect it to track about \$12 million of costs, is
7 that correct?

8 A. We would track \$12 million of costs that
9 otherwise we would not recover, yes.

10 Q. That you would not recover, I understand.

11 A. Correct.

12 Q. Okay. Now do you agree with what Mr.
13 Lowery said earlier, that the transmission revenues are
14 in base rates?

15 A. Yes.

16 Q. Okay. So in other words those have been
17 used as an offset to revenue requirement and so
18 ratepayers have received the benefit of those revenues?

19 A. Correct.

20 Q. Okay. And you indicated that you expect
21 those revenues to be flat in the future, is that correct?

22 A. That's correct.

23 Q. What if anything could make them go up?

24 A. In particular when we're speaking about
25 Schedule 26 it would be because Ameren Missouri decides

1 to build transmission.

2 Q. And if you know what's an MVP project?

3 A. Multi value project.

4 Q. And is that a type of transmission
5 project?

6 A. Yes, that is correct.

7 Q. And if you know does Ameren Missouri plan
8 to build any MVP projects in the future?

9 A. Not to the best of my knowledge.

10 Q. If you know does Ameren Corporation plan
11 to build any MVP projects in the future, either itself or
12 through a subsidiary?

13 A. I believe so but I don't know specifics.

14 JUDGE WOODRUFF: We were having some
15 technical difficulties and we had to restart the
16 recording, I apologize.

17 Q. (By Mr. Thompson) If an MVP project were
18 built either by Ameren Corporation or by an unregulated
19 subsidiary of Ameren Corporation would the MISO revenues
20 realized from that project benefit the ratepayers of
21 Ameren Missouri?

22 A. No because they wouldn't incur the cost
23 either.

24 Q. Okay. So neither the costs nor the
25 revenues would impact the ratepayers, is that correct?

1 A. A portion of the cost will be reflected
2 in, it's a complex model that MISO has but they analyze
3 what's a benefit that we would receive and they would
4 allocate certain costs to the Missouri, to the Missouri
5 customers.

6 Q. Okay. And where would the other costs go?

7 A. Through other transmission users.

8 Q. So would those be other companies or other
9 participants in the MISO system?

10 A. Yes. People that are using the
11 transmission lines.

12 Q. So for example ratepayers in Ohio might
13 pay a portion of those costs?

14 A. I don't know if there's anything left in
15 Ohio in MISO.

16 Q. Okay. I was just guessing because I don't
17 know exactly what MISO is. How about Indiana, is there
18 any MISO participation in Indiana?

19 A. You can call Illinois, yeah, customers in
20 Illinois.

21 Q. Illinois?

22 A. Yeah. But as far as their using the
23 transmission they're transporting from Kansas to Ohio
24 they would pay some portion of that.

25 Q. Okay. You understand what I'm trying to

1 do is understand what happens to those costs?

2 A. Yeah. Whoever gets the benefit from the
3 usage of the transmission pays for the costs.

4 Q. Okay. So we've established that some
5 percentage of the costs would be imposed on Missouri
6 ratepayers but the rest of the costs would go elsewhere,
7 correct?

8 A. Based on the benefits, yes.

9 Q. Okay. What about the revenues, where
10 would they go?

11 A. To whoever built the line. It could be
12 anybody.

13 Q. If the line was built by the entity
14 referred to as ATX, are you familiar with that entity?

15 A. Yes.

16 Q. Okay. If ATX built the line would any of
17 those revenues so far as you know benefit Missouri
18 ratepayers?

19 A. The revenues?

20 Q. The revenues.

21 A. No. The project may but the revenues will
22 go to, when you say benefit you mean the money would
23 flow, that's what you mean?

24 Q. Right.

25 A. Yeah, they would receive some revenues for

1 the investment they made, yes.

2 Q. The ratepayers would?

3 A. No, the company, ATX Company or it could
4 be AVP or anybody else.

5 Q. Okay. I'm not trying to confuse you and
6 I'm certainly not trying to confuse the Commission.
7 We've established that presently the MISO charges, there
8 are MISO charges and there are MISO revenues and the
9 revenues are in base rates of Ameren Missouri, correct?
10 I think you told me that somewhat earlier.

11 A. Yes.

12 Q. Okay.

13 A. For projects that have already been built.

14 Q. For projects that have already been built,
15 I understand. But for new projects that would be built
16 by ATX none of those revenues would go in to the rates of
17 Ameren Missouri, correct?

18 A. Correct.

19 Q. But some percentage of the costs would,
20 isn't that correct?

21 A. As far as reaping a benefit from using the
22 transmission line in this regional transmission system
23 they'll bear some of the costs.

24 Q. Okay. What if Ameren Missouri built that
25 transmission instead of ATX?

1 A. They would have to get financing, they
2 would have to get approval, I mean it's a fairly complex
3 project plus they would have to withdraw that investment
4 from other parts of the Company as well like current
5 generation that we have or distribution needs.

6 **Q. I understand it wouldn't be easy but if**
7 **Ameren Missouri built that transmission wouldn't the**
8 **revenues then flow to the ratepayers of Ameren Missouri?**

9 A. For that portion, yes.

10 **Q. Okay. Now, what is schedule 26A?**

11 A. I think 26A is the way that MISO recovers
12 the investment in those transmissions.

13 **Q. Okay.**

14 A. In those transmission investment, the MVP
15 project that we're talking about.

16 **Q. Okay. And were you here for Mr. Downey's**
17 **opening statement?**

18 A. Yes.

19 **Q. Okay. And when he indicated that charges**
20 **under schedule 26A have only been flowing through the FAC**
21 **since January of 2012 do you agree or disagree with that**
22 **statement?**

23 A. I agree.

24 **Q. Okay. And if you can say it in open**
25 **hearing what is the magnitude of those charges? How**

1 much?

2 A. For '12 I think it's around 20 million, 25
3 million.

4 Q. Okay.

5 A. I'm not sure about the number now.

6 Q. And would you agree with me that that is
7 by far the largest part of the MISO transmission charges
8 that are in dispute in this case?

9 A. Yes.

10 Q. Now, when those charges started going
11 through the FAC in January of 2012 if you know did Ameren
12 Missouri provide any kind of notice or notification to
13 the Staff?

14 A. Yeah, we provide reports for everything
15 that flows through the FAC.

16 Q. Okay. And that would have been reflected
17 in those reports.

18 A. Absolutely, yes.

19 Q. Okay.

20 MR. THOMPSON: I have no further
21 questions. Thank you.

22 JUDGE WOODRUFF: All right.

23 Questions from the bench. Mr. Chairman?

24 CHAIRMAN GUNN: I'm going to follow up on
25 some of those questions just so I can get it straight in

1 my head.

2 EXAMINATION

3 QUESTIONS BY CHAIRMAN GUNN:

4 Q. The MISO revenues are derived from Ameren
5 Missouri's transmission assets, correct?

6 A. Correct.

7 Q. And so they offset any transmission assets
8 that, or costs for Ameren Missouri expanding their
9 transmission assets.

10 A. Correct.

11 Q. So with the existence now of ATX who may
12 or may not compete, or try to build transmission assets
13 in Missouri Ameren Missouri would not own or operate
14 those transmission, or they might operate them, or MISO
15 would operate those transmission assets but Ameren
16 Missouri would not own them.

17 A. Any new built you mean?

18 Q. Any new built built by ATX.

19 A. Correct.

20 Q. Does Ameren Missouri have any plans to
21 build new transmission or is that being done solely
22 through ATX? In Missouri.

23 A. I am not aware of Ameren Missouri having
24 any plans to build transmission for, that would go
25 through the MVP project or IMTA process.

1 Q. So revenues from MISO are going to stay
2 flat.

3 A. Correct.

4 Q. And if any transmission assets, and I'm
5 not implying that they are, if any transmission assets
6 were transferred to ATX you would have an even further
7 decrease in the level of revenues from those transmission
8 assets.

9 A. Well I would assume that there's a
10 transfer there has got to be some revenues coming from
11 the transfer.

12 Q. But it would be a one, if that were to
13 happen it would be a one shot deal or would it be
14 ongoing?

15 A. It's a hypothetical, I haven't even
16 considered, I don't know how that would work.

17 Q. Fair enough. But there is no anticipation
18 that MISO revenues for Ameren Missouri will increase.

19 A. There is not.

20 Q. But because of the nature of these MISO
21 charges the MISO charges actually potentially will
22 increase or are almost certainly to increase because of
23 the cost allocation methodology that's being used within
24 MISO.

25 A. Correct. And if I may the way that that

1 happens is we purchase power from the MISO and that's a
2 cost of buying power from MISO so it's a schedule that
3 comes with the transmission that we use to sell off
4 system sales or to buy power for our native load.

5 **Q. And AARP in Missouri is a, are represented**
6 **by one person at, on the MISO committees, correct?**

7 A. No. It's a lot more complicated than
8 that. There's multiple committees so when we have a
9 market subcommittee which is the one that we represent at
10 least I have two or three people in every committee.

11 **Q. Let me rephrase my question because I**
12 **think you're right, you're absolutely right but that's**
13 **not what I was trying to get to. Ameren Missouri does**
14 **not have a single representative, every representative**
15 **represents more than one Ameren entity at MISO, correct?**

16 A. In general, yes, but I think there's the,
17 there's some instances for example in the, in the, what
18 they call the TOC, there's three votes that Ameren, that
19 Ameren has and one of them is for Ameren Missouri in
20 specific, that would be the exception.

21 **Q. It's three vote, in one committee.**

22 A. Yes.

23 **Q. But, and all the other ones Ameren**
24 **Missouri is represented, the interests of Ameren Missouri**
25 **are represented along the same lines as Ameren Illinois.**

1 A. Or, yes, or their subsidiaries, yes.

2 Q. And does Ameren Transmission Company have
3 that same sort of representation?

4 A. I believe so.

5 Q. So if you're an Ameren representative and
6 on any other committee other than the one where you have
7 three votes the Ameren representative is representing
8 Ameren Missouri, Ameren Illinois as well as Ameren, or as
9 well as ATX.

10 A. Correct.

11 Q. And there could even be more entities
12 within that regulated, or within that representation of
13 space?

14 A. Yes.

15 Q. Okay.

16 CHAIRMAN GUNN: That's all the questions I
17 have. Thank you.

18 JUDGE WOODRUFF: Mr. Jarrett.

19 MR. JARRETT: I don't have any questions.
20 Thank you.

21 JUDGE WOODRUFF: Mr. Kenney.

22 COMMISSIONER KENNEY: Just a few.

23 EXAMINATION

24 QUESTIONS BY COMMISSIONER KENNEY:

25 Q. So the committee that you talked about on

1 **which Ameren has three votes is the transmission owner's**
2 **committee.**

3 A. Correct.

4 Q. But if the AC, the advisory committee is
5 **just Ameren, it's one Ameren vote, right?**

6 A. Well I don't think it's even one Ameren
7 vote. It's three votes for the transmission owners just
8 like the state representation have as well, it's the same
9 kind of voting.

10 Q. Okay. So it's three votes exercised by
11 **Ameren Services, right?**

12 A. No, no. No. I think it's three votes for
13 all the transmission owners within MISO, that's my
14 understanding.

15 Q. The transmission owner's committee has
16 **three votes?**

17 A. Yes.

18 Q. Just like the state regulators have three
19 **votes.**

20 A. Exactly.

21 Q. Independent power producers have their
22 **amount of votes.**

23 A. So we can control that committee as much
24 as the state can.

25 Q. So the three votes that are exercised, all

1 the transmission owners will direct how those three votes
2 are cast.

3 A. That is correct.

4 Q. Okay.

5 Ameren Transmission Company -- let me back
6 up.

7 We were talking earlier about this, the
8 definition of cost of purchased power reflected in FERC
9 accounts 555, 565 and I think this was the language in
10 schedule LNB E3, page 3 of 6. And Mr. Downey referred to
11 this in his opening where it refers to the exclusion of
12 capacity charges for contracts with terms in excess of
13 one year?

14 A. Yes.

15 Q. What does that mean to you?

16 A. Capacity is the generation of ability to
17 generate megawatts so usually it's a nameplate of the
18 plants. Transmission is included in the transportation
19 side and that's why we include, and of course this
20 language has 565 because it always tried to, account 565
21 is transmission of electricity by others so it always had
22 the intention of including transmission costs in there.

23 Q. So when capacity is referred to here is
24 not the capacity on a transmission line? I mean do you
25 refer to the capacity of a transmission line the amount

1 of megawatts that can be transmitted against that line at
2 any given time?

3 A. No, we call it transmission availability.

4 Q. Okay. Do people refer to the capacity of
5 a transmission line, is that a proper term?

6 A. I think MIEC but we don't.

7 Q. All right.

8 If for some reason the Commission decided
9 to change the status quo and not allow transmission
10 charges, MISO transmission charges to flow through the
11 FAC and didn't allow through a tracker Ameren would still
12 recover those charges, right, they would just be in base
13 rates?

14 A. We would not recover the 12 million that
15 we were just talking about because that's a change that
16 would happen in between rate cases so we would not
17 recover those changes.

18 Q. But then what about on a going forward
19 basis?

20 A. We will still have a lag because those
21 costs are increasing so we would not recover any of the
22 increase in between rate cases.

23 Q. But you would recover it eventually just
24 not in the rate cases.

25 A. Not the 12 million, the 12 million are

1 gone for good.

2 Q. That's the 12 million you're referring to
3 today but I'm talking about on a going forward basis,
4 with changes going forward and you begin recovering
5 charges through base rates rather than an FAC or tracker.

6 A. But it's a catch up game because we will
7 recover, if it goes from 12 to 25 million I will lose
8 the 13 million in between and then I would get 25 but
9 then it would go to 38 and I would lose another 13 million
10 and if it keeps growing the difference in between rate
11 cases I never recover, I just reset the base.

12 Q. Okay.

13 I don't have any questions. Thank you.

14 JUDGE WOODRUFF: Mr. Stoll?

15 COMMISSIONER STOLL: I have no questions
16 Your Honor.

17 I apologize I just remembered I was going
18 to ask you one question, just a clarifying question.

19 EXAMINATION

20 QUESTIONS BY COMMISSIONER STOLL:

21 Q. Because I'm confused about, these MISO
22 charges only began to flow through the fuel adjustment
23 charge in January of 2012?

24 A. The schedule 26A was only applicable
25 beginning this year because MISO started doing this MVP

1 project only this year. Before that we had schedule 26
2 and before that the fuel adjustment clause had a, had
3 this language where it will allow us to pass transmission
4 charges so sometimes I have, well usually I have
5 reservation for more than one year so I can get another
6 for my up system sales so I buy transmission from MISO to
7 PJM or MISO to Entergy and those are five year purchases
8 because if you don't buy them like that you cannot get
9 them so that's an outlet I get for my, for the power of
10 the up system sale and those are usually longer than five
11 years, than one year, so they're usually five year
12 reservations. So all those charges have been going
13 through the fuel adjustment clause through account 565,
14 that's specifically transmission of electricity by
15 others. So those charges were there. The new charge was
16 26A that MISO just started charging the, whoever used the
17 transmission in January this year.

18 Q. All right. And are, are we making a
19 distinction between what we're, what we are asking to
20 continue from the MISO charges and the other charges, the
21 reservations?

22 A. It depends. If we leave the FAC the way
23 it is then we don't need a distinction, it will still
24 flow through it because those are included in there. Now
25 if we talk about a tracker then that's where the

1 distinction's going to be very clear on how those charges
2 are being allocated.

3 Q. So if we change it then MISO, because
4 we're only talking MISO here the MISO charges will be
5 included in a tracker what will we do with the
6 reservations?

7 A. The reservations are MISO charges, we pay
8 those reservations to MISO.

9 Q. All right.

10 Thank you, I don't have anything further.

11 JUDGE WOODRUFF: I have a question I'd
12 like to follow up on also.

13 EXAMINATION

14 QUESTIONS BY JUDGE WOODRUFF:

15 Q. If we were to put these costs, these
16 transmission costs in to the base rates is there anything
17 in the record right now that says what that amount would
18 be that would go in to base rates?

19 A. I think it is because there's something in
20 the net base fuel cost that accounts for them.

21 Q. Okay. Do you know how much that would be?

22 A. The true up that I have ending in July
23 31st, 2012 was 25.9 million.

24 Q. Okay. So the 25.9 million would be the
25 amount put in to base rates?

1 A. I believe so. I would need to confirm
2 that.

3 Q. And if the Commission were to implement a
4 tracker would that same 25.9 million be used as the base
5 level?

6 A. Well it depends because now we're talking
7 including the revenues so if we include the revenues that
8 number will be reduced.

9 Q. Okay. Your net revenues against the cost,
10 the charge?

11 A. Yes, we'll have to net them which we
12 haven't in the past because the revenues are flat and may
13 have changed.

14 Q. Okay. Thank you.

15 A. Sure.

16 JUDGE WOODRUFF: All right.

17 Recross based on questions from the bench. Beginning with
18 AARP?

19 MR. COFFMAN: No questions.

20 JUDGE WOODRUFF: MIEC?

21 MR. DOWNEY: Yes.

22 EXAMINATION

23 QUESTIONS BY MR. DOWNEY:

24 Q. Okay. I want to follow up regarding some
25 questions about the increases in your costs in 2013 and

1 2014 and I think you confirmed what I said in my opening
2 statement that you expect these transmission costs to go
3 up about \$12 million during those two years?

4 A. Yes.

5 Q. Now in my opening did you hear me say that
6 that would average to 6 million per year?

7 A. Yes.

8 Q. Okay. But it really is kind of skewed
9 towards 2014 rather than 2013, right, because it's 2
10 million in 2013, 10 million in 2014?

11 A. Yeah, due to the volatility of the
12 numbers, yeah, they change, yeah. The change is not
13 constant, it's volatile.

14 Q. Okay. And assume that Ameren files for a
15 rate increase in March of 2014, okay?

16 A. Uh-huh.

17 Q. And assume the test period, trued up test
18 period ends in August of 2014.

19 A. Uh-huh.

20 Q. Okay? How much of the 10 million increase
21 in 2014 would then be baked in to rates in that rate
22 case?

23 A. So the 10 million that I didn't earn will
24 be lost. I will not recover and then the total will be
25 accounted starting at the end of the year and the 35

1 million will be the next base.

2 Q. Okay. But the 10 million increase in
3 2014, the bulk of that, a lot of it, will be in your base
4 rate that is set in that rate case, right?

5 A. Yes.

6 Q. Okay. Somebody asked you about reports to
7 Staff and you indicated that you had disclosed their 26A
8 charge in those reports. Do you have any of those
9 reports with you today?

10 A. No, I don't.

11 Q. Do you know anybody in this room that has
12 any of those reports with them today?

13 A. I don't think so.

14 Q. Okay. If Mr. Dauphinais was of the
15 opinion that you identified these charges under Schedule
16 26 not 26A would you have any reason to doubt that?

17 A. I -- no. I don't know. I would have to
18 look at the report myself.

19 Q. Okay. Does your background include
20 experience in transmission planning or transmission
21 operations?

22 A. No.

23 Q. Neither?

24 A. Nope.

25 Q. I'm sorry, you're going to have to answer

1 **yes if it's neither.**

2 A. Yes.

3 Q. **Okay. Thank you.**

4 **Is it correct that you do not work for**
5 **Ameren Missouri's transmission organization?**

6 MR. LOWERY: Objection, I think these are
7 beyond the scope of my questions that were asked of Mr.
8 Haro.

9 JUDGE WOODRUFF: I'm going to overrule the
10 objection.

11 You can answer.

12 A. Can you ask again?

13 Q. **(By Mr. Downey) Sure. Is it correct that**
14 **you do not work for Ameren Missouri's transmission**
15 **organization?**

16 A. Yes.

17 Q. **Is it correct that MISO schedule 7 and 8**
18 **charges are billed on the basis of reserve capacity?**

19 A. I'm not sure if it's reserved or if it's
20 actual usage. I think it has usage.

21 Q. **Okay. But capacity.**

22 A. No, it's energy.

23 Q. **Okay.**

24 **Nothing further. Thank you.**

25 JUDGE WOODRUFF: Public Counsel?

1 CROSS EXAMINATION

2 QUESTIONS BY MR. MILLS:

3 Q. Mr. Haro, Chairman Gunn asked you whether
4 representatives of MISO represent the interests of Ameren
5 Missouri, Illinois, ATX and the other unregulated
6 companies, do you recall that?

7 A. Yes.

8 Q. And you said the answer was yes?

9 A. Yes.

10 Q. Wouldn't a more accurate way to look at it
11 be that the Ameren reps represent the interests of the
12 Ameren holding company as a whole when they're at MISO?

13 A. I guess the answer is yes.

14 Q. Okay. Now Commissioner Kenney asked you
15 about how people refer to capacity in your line of
16 business, do you recall that question?

17 A. I do.

18 Q. In your line of business do people refer
19 to transporting electricity?

20 A. Well, the way we transport electricity is
21 through transmission but it's very similar to gas, yes.
22 Gas is transporting.

23 Q. Well let's talk about that. You have a
24 degree in engineering, correct?

25 A. Yes.

1 Q. How exactly does electricity flow through
2 transmission lines?

3 A. I guess the electrons are moving.

4 Q. Does one electron for example start at
5 your Callaway plant and that particular electron end up
6 somewhere in Indiana?

7 A. I guess there's a chain of different
8 electrons are moving just like gas molecules are pushing
9 the other ones in front of them, yes.

10 Q. But when you produce gas in a field that
11 gas eventually ends up at a different destination,
12 correct?

13 A. The molecule, yes.

14 Q. When you produce electricity at a power
15 plant does that electricity not simply excite the next
16 electron in the line which excites the next one but the
17 original electron does not actually move?

18 A. I guess.

19 MR. MILLS: That's all the questions I
20 have.

21 JUDGE WOODRUFF: For Staff?

22 CROSS EXAMINATION

23 QUESTIONS BY MR. THOMPSON:

24 Q. Now, I wanted to follow up on Chairman
25 Gunn's question to you about the starting of the 26A

1 charge in January 2012. Are you responsible for
2 producing the reports of FAC activity?

3 I apologize. Are you responsible for
4 producing the reports of FAC activity that come to the
5 Staff?

6 A. Not for producing them but I review them.

7 Q. You review them.

8 A. Yes.

9 Q. Okay. So when you say that the 26A
10 charges were included were they separately stated?

11 A. I don't specifically recall.

12 Q. You don't recall.

13 MR. THOMPSON: May I approach?

14 JUDGE WOODRUFF: You may.

15 MR. LOWERY: May I see what you're showing
16 him Kevin please?

17 MR. THOMPSON: Yeah. And that's the only
18 one I got.

19 MR. LOWERY: Anyone else? It's a highly
20 confidential page.

21 MR. DOWNEY: I'd like to see it too.

22 MR. THOMPSON: I'll bring it around.

23 Q. (By Mr. Thompson) I'm going to show you a
24 highly confidential schedule that sets out information, I
25 believe, provided by the Company to Staff having to do

1 with FAC purchase power, cost, flowing through FERC
2 account 545 for the month ending April 30th, 2012.

3 A. (Reviewing document).

4 Q. And I don't know if that's the form in
5 which you provide the information to Staff or not, maybe
6 you can tell us. Have you ever seen anything like that
7 before?

8 A. Yes.

9 Q. Okay. You recognize that form?

10 A. Yes.

11 Q. And is that in fact the form produced by
12 Ameren Missouri and provided to Staff?

13 A. Yes, that's correct.

14 Q. Okay. And April of 2012 would you agree
15 with me that the MISO transmission charges on Schedule
16 26A were being charged at that time?

17 A. Were being charged in here, yes.

18 Q. Okay. I wonder if you could point to me
19 where those are on that form?

20 A. MISO day two excluding admin account 565.

21 Q. Okay. And does the phrase or the
22 identification 26A occur on there anywhere?

23 A. No.

24 Q. Okay. So how would Staff know, if you can
25 answer this, how would Staff know that that includes MISO

1 **transmission charges under Schedule 26A?**

2 A. Because it only excludes admin charges.

3 **Q. Excuse me?**

4 A. Because it only excludes administrative
5 charges, it includes all the other charges.

6 **Q. Let me make sure I understand your answer,**
7 **sir. What you're saying is Staff would know this because**
8 **26A charges are not excluded by the tariff.**

9 A. Correct.

10 **Q. Okay. But that report nowhere identifies**
11 **specifically 26A charges.**

12 A. No. But it identifies account 565 which
13 is transmission charges.

14 **Q. So it includes them.**

15 A. Yes.

16 **Q. But it doesn't specifically state them or**
17 **identify them.**

18 A. No, it does not.

19 **Q. Okay.**

20 MR. THOMPSON: And I can make this
21 available as an exhibit if the Commission would like.

22 COMMISSIONER KENNEY: Please.

23 MR. THOMPSON: Okay.

24 **Q. (By Mr. Thompson) One last question. If**
25 **you know did this report change in any way after January**

1 1, 2012 when the Schedule 26A charges began?

2 A. I guess it started including the charges.

3 Q. It started including the charges. But was
4 there, if you know, was there any notification on the
5 face of the form that --

6 A. I'm not aware, I don't think so.

7 Q. Okay.

8 Thank you very much.

9 MR. THOMPSON: And I guess Staff's next
10 number --

11 JUDGE WOODRUFF: Would be 239.

12 MR. THOMPSON: We'll call this Staff's
13 Exhibit 239 Judge and it is highly confidential, I only
14 have one copy at this time, do you want me to go ahead
15 and offer it now and then get copies to provide to
16 everyone or do you want me to offer it when I have the
17 copies?

18 JUDGE WOODRUFF: Why don't you go ahead
19 and offer it now and then you can provide copies to us
20 later since the other parties have already seen it.

21 MR. THOMPSON: Okay. Accordingly I will
22 offer Staff Exhibit 239 which is a highly confidential
23 schedule showing charges through FERC account 565 for the
24 month ending April 30th, 2012.

25 JUDGE WOODRUFF: All right. 239 HC has

1 been offered. Any objection to its receipt?

2 MR. DOWNEY: No objection.

3 JUDGE WOODRUFF: It will be received.

4 MR. THOMPSON: And I will provide copies
5 after the lunch break.

6 Thank you judge.

7 JUDGE WOODRUFF: Anything further from
8 Staff?

9 MR. THOMPSON: No. Thank you very much.

10 JUDGE WOODRUFF: All right.

11 Then redirect.

12 REDIRECT EXAMINATION

13 QUESTIONS BY MR. LOWERY:

14 **Q. Mr. Haro do you know whether or not**
15 **Schedule 26 charges have been included in the FAC from**
16 **its inception?**

17 A. They have been.

18 **Q. Are you aware of any claim by the Staff**
19 **that FAC reporting does not comply with the FAC rules in**
20 **some fashion?**

21 A. No, I think they've been in compliance and
22 they're in agreement with it.

23 **Q. Is Staff's position in this case that not**
24 **only should 26A charges not be reflected in the FAC but**
25 **the Schedule 26 charges specifically called out in the**

1 report also should not be included?

2 A. Yes, that's correct.

3 Q. I'm going to try and go in reverse order
4 for a question out of recency [sic] I guess.

5 Mr. Mills asked you about interests of
6 Ameren as a whole in terms of representing MISO, do you
7 remember that question?

8 A. Yes.

9 Q. In general do you think that MVPs that
10 have been approved in the MISO in general, would you
11 agree, or do you have an opinion about whether or not
12 those MVPs are in the interest of each of the various
13 Ameren Companies that participate in the MISO?

14 A. Yeah, MISO has a very thorough process
15 where they have those projects and they only build them
16 if they're beneficial for the whole region. So they're
17 beneficial for Ameren Missouri as much as they are for
18 anyone else.

19 Q. Does that suggest that there isn't any
20 conflict between the interests of the various Ameren
21 Companies at MISO on this issue?

22 A. I don't necessarily see a conflict.

23 Q. I believe you were asked by Mr. Downey
24 about whether you worked for the Commission organization
25 for Ameren Missouri, do you remember that question?

1 A. Yes.

2 Q. These MISO transmission charges that we've
3 been talking a lot about this morning, whose budgets are
4 they included in, who has responsibility in terms of
5 budgeting and paying the charges, having them reflected
6 in the budget?

7 A. For Ameren Missouri?

8 Q. Yes.

9 A. I am.

10 Q. Is that why you're testifying on this
11 issue?

12 A. That is correct.

13 Q. Mr. Downey asked you a hypothetical about,
14 hypothetical rate case filing and then a hypothetical
15 true up cutoff period I think in August of some year, do
16 you recall that?

17 A. Yes.

18 Q. In the rate making process if you use a
19 level of costs or revenues, either one as of the end of
20 the trip period what happens with respect to change in
21 those between the end of true up cutoff period and when
22 rates actually take affect?

23 A. It's a Company loss.

24 Q. If you assume that it's a net increase the
25 Company loses that amount of money in those months of

1 difference, is that true?

2 A. That is correct.

3 Q. Judge Woodruff asked you about whether
4 there were numbers in the record and you said you thought
5 there were with respect to these issues?

6 A. Yes.

7 Q. And you were talking about a netting, do
8 you remember that?

9 A. Yes.

10 Q. Is it your understanding that there is a
11 number for both historical transmission revenues and
12 historical transmission costs, a separate number in the
13 record?

14 A. Yes, there is.

15 Q. Commissioner Kenney asked you some
16 questions about voting at MISO or stakeholder committees,
17 those kinds of things at MISO, do you remember that?

18 A. Yes.

19 Q. I just want to make sure the record's
20 clear. On the advisory committee does Ameren Missouri or
21 even Ameren have a vote at all of their own or its own?

22 A. No.

23 Q. Same question about the planning advisory
24 committee.

25 A. Ameren doesn't have a vote on its own.

1 Q. Commissioner Kenney was also asking you
2 questions about this PP definition in the fuel adjustment
3 clause tariff that Mr. Downey talked about in his opening
4 statement, do you remember that?

5 A. Yes, I do.

6 Q. Does MISO have a capacity market?

7 A. Yes, they do.

8 Q. Is there a particular kind of capacity
9 that is dealt with in that market?

10 A. Yeah, it's the generating capacity.

11 Q. Chairman Gunn was asking you questions
12 about an offset of transmission costs by transmission
13 revenues, do you recall that?

14 A. Yes.

15 Q. Are all of the transmission charges in
16 account 565 related to Ameren Missouri transmission?

17 A. No, they're not.

18 Q. Do you know if the transmission charges
19 over time in their reflecting of account 565 for Ameren
20 Missouri do you know if over time you would expect those
21 to be offset by transmission revenues?

22 A. No. Over time the charges will be larger
23 than the revenues.

24 Q. Are you aware of roughly what the
25 proportion of the IMTA 11 MVP dollars that have been

1 approved, are you aware roughly of what proportion of
2 those are expected to be built in Missouri as opposed to
3 built elsewhere?

4 A. I think it's about eight percent but I'm
5 not sure.

6 Q. And I don't know if it's eight percent or
7 not but let's assume it's eight percent. Would that mean
8 that, well let me ask it this way: If eight percent of
9 the investment is being built in Missouri would you
10 expect that about eight percent of the revenues might be
11 associated with that investment?

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

13 Q. Yeah. If eight percent of the cost of the
14 entire MVP portfolio is being constructed in Missouri
15 would you expect that about eight percent of all the
16 revenues associated with the entire MVP portfolio would
17 then flow back to Missouri, flow back to whoever built
18 the transmission in Missouri?

19 MR. MILLS: I object, this is calling for
20 speculation on top of hypothetical because there's
21 nothing in the record that establishes eight percent.
22 He's asking him to speculate if this number
23 hypothetically is true, it's asking him to speculate
24 about revenues that go along with it.

25 MR. LOWERY: I can ask an expert witness a

1 hypothetical question.

2 MR. MILLS: But my point is he's asking to
3 speculate on the basis of a hypothetical.

4 JUDGE WOODRUFF: I'll overrule the
5 objection.

6 You can answer.

7 A. I don't think the eight percent of the
8 revenues will come to Ameren Missouri.

9 Q. (By Mr. Lowery) I think Mr. Gunn asked
10 you and it was a hypothetical and he indicated he wasn't
11 suggesting there was any contemplation of transferring
12 transmission assets from Ameren Missouri to ATX or any
13 other company for that matter. Are you aware of there
14 being any plans or suggestion to transfer any Ameren
15 Missouri transmission assets to anyone?

16 A. None at all.

17 Q. Mr. Thompson at the very beginning of his
18 cross examination asked you a number of questions about
19 revenues and costs and are they about equal at the
20 present time, do you remember that?

21 A. Yes.

22 Q. And then there were a number of other
23 questions about what may be happening in the future and
24 you couldn't remember specifically some of those numbers,
25 is that fair?

1 A. Yeah, that's correct.

2 **Q. Is there anything that would refresh your**
3 **recollection?**

4 A. I think there's a DR, 567 is one, I think
5 it's a number.

6 MR. LOWERY: May I approach Your Honor?

7 JUDGE WOODRUFF: You may.

8 **Q. (By Mr. Lowery) Is this the document that**
9 **you're talking about?**

10 A. Yes, that's correct.

11 **Q. And if you were to look at that document**
12 **would it refresh your recollection about what the actual**
13 **projections are?**

14 A. Yes, it would.

15 MR. LOWERY: And Your Honor, I probably
16 should have spoken up before and we might have to go back
17 and change the record but I think these numbers are
18 actually highly confidential as we get further out so I
19 think if he's going to testify about this document we
20 probably need to go in camera.

21 JUDGE WOODRUFF: All right. Let's go in
22 camera then.

23 And if there's anyone in the room that
24 needs to leave please do so.

25

1 (WHEREUPON, at this point an in-camera session
2 was held which is contained in Volume 23, pages 1204-1205
3 of the transcript)

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1 JUDGE WOODRUFF: That completes the in
2 camera session, we're back in regular session and while
3 we were in camera Mr. Lowery indicated that he had no
4 further questions for Mr. Haro so you can step down.

5 A. Thank you.

6 JUDGE WOODRUFF: And I believe the next
7 witness you indicated would be Ms. Mantle for the Staff?

8 MR. THOMPSON: Ms. Mantle, that is correct
9 Judge.

10 JUDGE WOODRUFF: Okay.
11 And while she's taking the stand I will
12 remind everyone that we will be taking a break in about
13 20 minutes for lunch for the Commission's agenda session.

14 And Ms. Mantle this is I believe the first
15 time you've testified?

16 A. Yes.

17 JUDGE WOODRUFF: All right.

18 (Whereupon, the Witness was sworn)

19 JUDGE WOODRUFF: You may inquire.

20 MR. THOMPSON: Thank you, Judge.

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. THOMPSON:

23 Q. State your name please.

24 A. My name is Lena M. Mantle.

25 Q. I wonder if you could spell your last name

1 **for the court reporter please?**

2 A. M-a-n-t-l-e.

3 **Q. Ms. Mantle how are you employed?**

4 A. I'm employed by the Missouri Public
5 Service Commission as a manager of the energy unit of the
6 staff.

7 **Q. Now Ms. Mantle are you the same Lena**
8 **Mantle that prepared or caused to be prepared certain**
9 **contributions to the Staff Revenue Requirement Cost of**
10 **Service Report, the Staff Rate Design Cost of Service**
11 **Report and also is your rebuttal testimony numbered**
12 **Exhibit 224?**

13 A. Yes.

14 **Q. Do you have any changes or corrections to**
15 **those pieces of testimony?**

16 A. I do have a change to my surrebuttal
17 testimony.

18 **Q. And what is that change?**

19 A. On page 16 I'd like to strike starting on
20 line 8 the sentence that starts with while Ms. Barnes
21 states through the rest of that paragraph. That's
22 through line 14.

23 **Q. Okay. Do you have any other corrections?**

24 A. No. That's all.

25 **Q. With that correction in mind is your,**

1 would you answer those questions the same way today if I
2 was to ask them?

3 A. Yes.

4 Q. And is your testimony true and correct to
5 the best of your knowledge and belief?

6 A. Yes.

7 MR. THOMPSON: At this time I will offer
8 Staff Exhibit 224.

9 JUDGE WOODRUFF: 224 has been offered, any
10 objections to it being received?

11 Hearing none it will be received.

12 MR. THOMPSON: I will tender Ms. Mantle
13 for cross examination.

14 JUDGE WOODRUFF: Okay.

15 For cross examination we again begin with
16 AARP.

17 MR. COFFMAN: No questions.

18 JUDGE WOODRUFF: MIEC?

19 MR. DOWNEY: Yes.

20 CROSS EXAMINATION

21 QUESTIONS BY MR. DOWNEY:

22 Q. Good morning Ms. Mantle.

23 A. Good morning.

24 Q. Is it Staff's position that it's bad
25 policy to flow these long term transmission capacity

1 **charges through the FAC?**

2 A. Yes.

3 **Q. Why?**

4 A. Because they are, well they are costs of
5 providing electricity to the customers, they are not fuel
6 and purchase power costs nor is it transportation costs.

7 **Q. All right. And what is Staff's position**
8 **for flowing these same costs through a tracker mechanism?**

9 A. It's Staff's position that will be
10 presented by Mr. Oligschlaeger later today that there
11 should not be a tracker for these costs.

12 **Q. And why is that?**

13 A. Because the costs are not volatile,
14 they're small, the incremental change I should say, not
15 the total cost, the incremental change over the next
16 three, two to three years is not great and it's not
17 volatile.

18 **Q. Okay. And I want to ask you about what**
19 **I'll call transmission capacity charges under contracts**
20 **that are less than a year. What is Staff's position on**
21 **flowing those charges through the FAC?**

22 A. Those are, if our position is they should
23 be flowed through they're likely to be, because they will
24 be connected to a short term contract, bilateral contract
25 and so that is part of the price of purchase power.

1 **Q.** And do you know whether that position is
2 **consistent with the MIEC position of Mr. Dauphinais?**

3 **A.** I believe that's consistent with Mr.
4 Dauphinais' position.

5 **Q.** **Thank you.**

6 MR. DOWNEY: Nothing further.

7 JUDGE WOODRUFF: Public Counsel?

8 MR. MILLS: Just a few.

9 CROSS EXAMINATION

10 QUESTIONS BY MR. MILLS:

11 **Q.** And the first one is sort of
12 **administrative. I didn't get my copy of your testimony**
13 **out quickly enough to get your correction, can you do**
14 **that again for me?**

15 **A.** On page 16 of the surrebuttal starting on
16 line 8, the sentence that starts while Ms. Barnes states,
17 I want to strike through the end of that paragraph.

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

19 **As the manager of the energy unit does the**
20 **group that reviews the electric utility companies of**
21 **Missouri FAC filings fall under your responsibility?**

22 **A.** Yes.

23 **Q.** And speaking strictly for just Ameren
24 **Missouri how many staff people are devoted 100 percent to**
25 **FAC prudence reviews of Ameren Missouri?**

1 A. We do not have any staff that are
2 completely dedicated to prudence reviews of Ameren
3 Missouri.

4 Q. Okay. How many staff do you have that in
5 general are devoted 100 percent to prudence reviews of
6 all of the electric utilities?

7 A. We do not have any staff that's devoted
8 100 percent to prudence reviews of all the utilities.

9 Q. Have you ever attempted to calculate on
10 sort of a full time equivalent employee basis how many
11 full time equivalent employees are devoted to reviewing
12 Ameren Missouri's fuel adjustment clause for prudence?

13 A. No. We have not.

14 Q. Okay. How many people total on staff
15 spend part of their time looking at fuel adjustment
16 clauses for the electric utilities?

17 A. That spend time looking at the clause or
18 prudence of the clause?

19 Q. Prudence of the clause.

20 A. Say four or five.

21 Q. And roughly what percent of their time in
22 a given year would be given up to, if you can calculate
23 this or estimate it, would be given up to review of the
24 prudence of Ameren's practices under, Ameren Missouri's
25 practices under its fuel adjustment clause?

1 A. I really can't say. It depends on what
2 other work we have to do, what else is on our plate. We
3 try to commit resources to that and set priorities based
4 on what our total workload is.

5 Q. So is it fair to say that the resources
6 devoted to that task are not necessarily directly related
7 to the importance of that task, that they're also
8 influenced by other important tasks?

9 A. They are influenced by, we do believe that
10 the review of the prudence of all the FACs is a very
11 important task and it's something that the customers of
12 Missouri are counting on us to do. We do think they are
13 very important and we try to emphasize them that we often
14 have other conflicts that come in also.

15 Q. Do you believe that you are sufficiently
16 staffed to do a perfect job of reviewing Ameren
17 Missouri's prudence under its fuel adjustment clause?

18 A. To do a perfect prudence review, no.

19 Q. Okay. Now, were you here when, for the
20 testimony of Mr. Neff and Mr. Haro who identified some 10
21 or 20 employees, somewhere in that neighborhood at Ameren
22 Missouri who are in charge of fuel purchase power and off
23 system sales?

24 A. Yes.

25 Q. Do you have any way of calculating the

1 number of decisions that all of those people make in any
2 given year?

3 A. No.

4 Q. Are they making decisions sometimes on an
5 hourly or even more frequent basis?

6 A. I would say an even more frequent basis.

7 Q. When the folks on the staff do a prudence
8 review of those decisions do they necessarily know all of
9 the options that the people at Ameren had when they made
10 a given decision in a given hour?

11 A. No, they do not.

12 Q. So for some of these decisions you don't
13 really even have information as to what the alternative
14 course of action might have been, is that correct?

15 A. That is correct.

16 Q. Now turning to the, away from the prudence
17 reviews and towards the, sort of the ongoing monitoring.
18 How often does staff receive the, from Ameren Missouri
19 the report that includes what we've marked as Exhibit
20 239?

21 A. It receives a report every month.

22 Q. Okay. And can you describe the review
23 that Staff does of that report compared to the kind of
24 review you do when you're doing a prudence review?

25 A. The amount of review would have to do with

1 how much other work we have at that given time in that
2 month. There's a certain amount of trust that we give
3 whether it's deserved or not to the utilities to really
4 provide what we've asked for. Sometimes they get looked
5 at closer than others, I really can't, but we do do a
6 more thorough job in the prudence review looking at those
7 numbers. That's probably when we look at them the most
8 closely. We may start, we may change that and start
9 looking at them a little quicker.

10 **Q. From your perspective was the, as of --**
11 **let me back up and ask it this way: When would you have**
12 **received the first report that would have included**
13 **charges pursuant to schedule 26A?**

14 A. I believe we get the January report in
15 March.

16 **Q. Okay. So the January report that you**
17 **received in March would have been the first one that**
18 **reflected those costs.**

19 A. Yes.

20 **Q. Okay. And you stated a moment ago that**
21 **you operate with a certain level of trust. From your**
22 **perspective would you have expected the Company to have**
23 **highlighted such a change?**

24 A. With the cost being at the large
25 magnitude, yes.

1 **Q. Okay.**

2 MR. MILLS: That's all the questions I
3 have.

4 JUDGE WOODRUFF: All right. It's now
5 11:30, I'll ask Mr. Lowery do you anticipate more than 10
6 minutes of cross?

7 MR. LOWERY: Yes.

8 JUDGE WOODRUFF: All right. I thought you
9 might.

10 We'll take a break now then for lunch and
11 we'll come back at 1:15.

12 (LUNCHEON RECESS TAKEN BY THE PARTIES)

13 JUDGE WOODRUFF: Let's go ahead and get
14 started then. We're back from lunch and when we left off
15 Ms. Mantle was on the stand and was being cross examined
16 and we were about to begin with Ameren's cross
17 examination.

18 CROSS EXAMINATION

19 QUESTIONS BY MR. LOWERY:

20 **Q. Good afternoon Ms. Mantle.**

21 A. Good afternoon.

22 **Q. Ms. Mantle, the Staff isn't claiming that**
23 **Ameren Missouri has not been providing all of the**
24 **information that the FAC rules required for the monthly**
25 **reports, is it?**

1 A. We hadn't but at lunch I did go and look
2 in the monthly report for January of 2012, there is
3 requirement in Chapter 3 in the reporting requirements of
4 the, for the FAC 5D I believe it is that requires the
5 Company to provide notice of any significant changes in
6 expense or revenues in, on that page. That page did have
7 a reference to plant outages but it did not say anything
8 about schedule 26A costs being included.

9 **Q. And in fact there weren't, there wasn't a**
10 **significant cost from schedule 26A in January of 2012,**
11 **isn't that true?**

12 A. I don't know.

13 **Q. So what that also means is you don't know**
14 **whether or not that significant material event change**
15 **provision you're talking about was triggered, isn't that**
16 **true?**

17 A. I believe that Ameren Missouri believed it
18 was going to be significant, I don't know if you wait, if
19 it's going to be incremental every month a little bit
20 more. What point, because it's incremental then you
21 never report it? I mean there's --

22 **Q. My question was do you know whether or not**
23 **that provision was triggered or not, that was my simple**
24 **question, do you know?**

25 A. I believe that it was because Ameren knew

1 that this was going to be significant costs and that they
2 were running it through the FAC.

3 Q. So in your opinion it was.

4 A. Yes.

5 Q. This is the second case in a row that
6 you've recommended the sharing percentage be changed from
7 95/5 to 85/15, is that correct?

8 A. That is correct.

9 Q. As you sit here today is it fair, it's
10 fair to say is it not that you don't actually know
11 whether Ameren Missouri does or does not have a
12 sufficient incentive to manage its fuel costs and make
13 off system sales, is that right?

14 A. I don't believe anyone does, that's
15 including me, no.

16 Q. You've not produced any evidence that if
17 the sharing percentages changed to 85/15 the Company will
18 behave any differently than it has been behaving or as it
19 behaves now with respect to managing the components of
20 that fuel costs, have you?

21 A. No I have not.

22 Q. The Staff has conducted two prudence
23 reviews regarding Ameren Missouri's fuel adjustment
24 clause since it started and has filed prudence review
25 reports in both of those cases, isn't that right?

1 A. That is right.

2 Q. Aside from the AEP & Wabash issues in
3 neither of those reports has the staffed alleged any
4 imprudence of any kind, isn't that true?

5 A. That is true.

6 Q. The AEP & Wabash issues first came up in
7 the ER-2010-0255 case, the first prudence review, is that
8 right?

9 A. That is correct.

10 Q. And the PSC ruled against the Company in
11 that case, is that right?

12 A. That is correct.

13 Q. But you are not arguing in this case that
14 what happened in the AEP & Wabash contracts, what
15 happened with them, supports the argument that Ameren
16 Missouri needs a larger financial incentive, that's not
17 the argument you're making, is it?

18 A. I put that information before the
19 Commission to do with as they want to, I did not use it
20 to argue.

21 Q. Was the answer to my question no, that
22 you're not making that argument in this case?

23 A. That's correct.

24 Q. And one of the reasons you're not making
25 that argument is because, is because of the Commission's

1 **report and order in the last rate case ER-2011-0028?**

2 A. I believe they said in that order that
3 they did not find it, or for that case a reason to change
4 from 85, to 85/15, I believe that's correct.

5 MR. LOWERY: May I approach Your Honor?

6 JUDGE WOODRUFF: You may.

7 **Q. (By Mr. Lowery) Handing you a document,**
8 **ask you if you recognize it?**

9 A. It has the cover page of the report and
10 order from ER-2011-0028 and it looks like it starts page
11 74 through page 86.

12 **Q. And you recognize that to be essentially**
13 **the fuel adjustment clause portion of the report and**
14 **order from the last rate case, is that correct?**

15 A. (Reviewing document). Yes.

16 **Q. Would you turn to page 82 of that**
17 **document, please?**

18 A. Okay.

19 **Q. Would you agree that paragraph 13 is**
20 **talking about the argument that you made in the last case**
21 **regarding the relevance or lack of relevance of the**
22 **EO-2010-0255 case to the sharing percentage issue that**
23 **was going on in that last rate case?**

24 A. Yes.

25 **Q. Would you read the last two sentences of**

1 paragraph 13 which are over on page 83?

2 A. That starts with however?

3 Q. That starts with despite disagreeing.

4 A. That start -- despite disagreeing with
5 Ameren Missouri regarding the proper interpretation of
6 provision of the fuel adjustment cost tariff the
7 Commission did not find that Ameren Missouri had acted
8 imprudently in deciding to enter in to those replacement
9 contracts. In short the Commission's decision in
10 EO-2010-0255 does not support the argument that Ameren
11 Missouri needs a larger financial incentive within the
12 fuel adjustment clause.

13 Q. Now, you also mention in your part of the
14 Staff's cost of service report you mentioned the
15 EO-2010-0274 case which was a true up proceeding but
16 you're not claiming that anything about that case or
17 about the mistake that led to it supports your
18 recommendation to support, to change the sharing
19 percentage in this case, are you?

20 A. No.

21 Q. In those two prudence review reports that
22 the Staff has filed in the two prudence reviews the Staff
23 hasn't alleged any imprudence regarding coal or coal
24 transportation, coal purchasing or procurement, has it?

25 A. No, it has not.

1 Q. The Staff has not alleged in those reports
2 any other, any imprudence regarding any other procurement
3 activities relating to fuel for generation, is that true?

4 A. That is true.

5 Q. There's been no allegation of imprudence
6 about the Company's purchase power activities, is that
7 true?

8 A. That is true.

9 Q. And there have been no allegations of
10 imprudence regarding how or when or at what prices the
11 Company makes off system sales, correct?

12 A. That is correct.

13 Q. There's been no allegation of imprudence
14 regarding plant maintenance or anything of that nature
15 from the running or operating or maintaining of the
16 generating units, is that correct?

17 A. That is correct.

18 Q. In fact you don't know whether Ameren
19 Missouri's behavior in the areas of net fuel costs which
20 would include fuel, purchase power, off system sales, how
21 it operates or maintains its generating units, you don't
22 know whether the company behavior over the last three and
23 a half years would have been any different had the
24 sharing percentage been 85/15, do you?

25 A. No.

1 Q. You don't even know if it had been up to
2 you and you alone whether you would have even filed your
3 testimony in this case recommending the 85/15, isn't that
4 right?

5 A. Decisions such as this are not a single
6 staff person's to make. I don't know what I would have
7 done had it just been me, no. It is a Staff position,
8 it's not, and I adopted it and I wrote testimony on it.

9 Q. The answer to my question was no?

10 A. I'm not for sure what your question was.

11 Q. You don't know if it had been up to you
12 alone whether you would have filed your testimony in this
13 case recommending 85/15 or not, correct?

14 A. Correct.

15 Q. In fact you might not have had you been
16 the decision maker, isn't that true?

17 A. That's true.

18 Q. And you were not the decision maker on
19 whether to propose the change to 85/15, were you?

20 A. No, I was not.

21 Q. In fact either Natelle Dietrich or Cherlyn
22 Voss or both initiated the idea of once again
23 recommending the 85/15, isn't that true?

24 A. It was in a staff meeting where we
25 determined what the staff position would be of which they

1 were there and I would say they were the main decision
2 makers, yes.

3 Q. You actually expressed concern to them
4 about making the same argument that had just been
5 rejected less than a year earlier, didn't you?

6 A. Yes.

7 Q. But based on your discussions with them it
8 was determined that you agreed enough with the 85/15 that
9 they believed that you could go ahead and write testimony
10 in support of it, is that right?

11 A. Yes.

12 Q. There's no magic to the 85/15 is there?

13 A. No, there is not.

14 Q. It was really just Ms. Dietrich's and Ms.
15 Voss's collective judgement that the recommendation
16 should be 85/15, isn't that true?

17 A. Well, I believe there was input probably
18 from Kevin Thompson and Bob Shallenberg also. But they
19 were the main decision makers, yes.

20 Q. To your knowledge neither Ms. Dietrich or
21 Ms. Voss or I'll include Mr. Thompson and Mr.
22 Shallenberg, to your knowledge none of them have ever
23 bought or sold fuel, is that true?

24 A. Not to my knowledge.

25 Q. Or bought or sold power.

1 A. Not to my knowledge.

2 Q. So the Staff is in effect again asking the
3 Commission to engage in an experiment, isn't this true?

4 A. If your definition of an experiment is
5 trying something different, yes. Just the same as 95/5
6 is an experiment.

7 Q. In fact it's an experiment that could be
8 very expensive for the Company, isn't that right?

9 A. It could.

10 Q. In the last case you in fact calculated
11 that had your 85/15 percent been in place for the first
12 five accumulation periods that you looked at in that case
13 the Company would have failed to recover an additional
14 \$22 million, correct?

15 A. I believe so.

16 Q. And the Commission talked about that \$22
17 million in its report and order, did it not?

18 A. Did you take that back?

19 Q. I don't believe so. Did you set it up on
20 the ledge there, or?

21 I have another copy if you've misplaced
22 it.

23 A. Thank you. And your question was about
24 the \$22 million?

25 Q. The Commission discussed that \$22 million

1 that you had calculated in its report and order, isn't
2 that right, pages 85 to 86 of the report and order?

3 A. Thank you. The Commission does state if
4 the proposed 85/15 sharing mechanism had been in place
5 since the fuel adjustment clause was put into effect
6 instead of the actual 95/5 sharing mechanism Ameren
7 Missouri would have been required to absorb an additional
8 22 million in net fuel costs.

9 Q. And how did the Commission characterize
10 that 22 million in the next sentence?

11 A. That would be a heavy burden on a company
12 that is already having difficulty earning its allowed
13 rate of return.

14 Q. Now, you performed similar calculations in
15 this case but you examined more accumulation periods,
16 correct?

17 A. I dropped off the first partial
18 accumulation period which was actually a negative amount
19 and added the accumulation periods since, that had
20 occurred since the rate case.

21 Q. And what those calculations that you
22 performed for this case show, they show that had the
23 85/15 percent been in place for the accumulation period
24 you examined the Company would have failed to recover an
25 additional 30 million beyond what it already didn't

1 recover with the five percent sharing, is that right?

2 A. When you say beyond are you saying beyond
3 the 22 million or does it include the 22 million?

4 Q. Well, it wouldn't exactly include 22 since
5 you have a slight difference in the sharing, in the
6 mechanism, in the accumulation period you looked at,
7 right?

8 A. That's correct. But I didn't know if you
9 were saying in addition to the 22 million.

10 Q. Let me repeat the question.

11 For the accumulation period you looked at
12 had the sharing percentage been 85/15 during those
13 accumulation periods the additional fuel costs that would
14 not have been recovered by the Company would have been
15 \$30 million beyond what the five percent sharing imposed,
16 isn't that true?

17 A. Again are you saying 30 million in
18 addition to what it would have been if it was a 95/5,
19 or --

20 Q. Yes.

21 A. Yes, I believe it was 30.6 million.

22 Q. So if history were to repeat itself, and I
23 realize this is a hypothetical, but if history repeats
24 itself and everything else remains the same in the future
25 as it was in the historical period you looked at, those

1 accumulation periods, the impact of your sharing
2 percentage proposal would be to propose an additional 30
3 million of under recoveries on the Company, isn't that
4 right?

5 A. If everything was the same as it has been
6 since March 2009, yes.

7 Q. Now, we've already I think, I guess the
8 change you made to your testimony earlier today already
9 clears up the mistake that you had made on those pages
10 where you had mistakingly talked about a number that Ms.
11 Barnes had put in her testimony, isn't that right?

12 A. That is correct.

13 Q. As we discussed a minute ago had your
14 85/15 percent been in place for the accumulation period
15 you examined in this case the Company would have absorbed
16 in total about \$45 million in fuel cost increase, right?
17 That's on your work paper I believe that was Exhibit 1 in
18 your deposition, do you recall that?

19 A. It's also in my, in the direct report on
20 page 164, it's, or 45.9 million.

21 Q. Now, under the 95/5 percent the Company
22 already absorbed, I think it's 15.29 million, is that
23 right?

24 A. That's correct.

25 Q. How much is 15.29 million per month during

1 the 32 months that you examined?

2 A. It's about \$475,000.

3 Q. So that's about \$5.7 million per year on
4 average?

5 A. Yes.

6 Q. Now the Company has proposed to re-base
7 its net fuel cost in every case it has filed since it
8 received the FAC, is that true?

9 A. That is true.

10 Q. And in each case including this one at
11 least as it relates to fuel purchase power and off system
12 sales the net fuel cost has been settled except in one
13 case there was one component that was not settled and
14 that was nuclear fuel costs in the ER-2010-0036 case, is
15 that right?

16 A. That is correct.

17 Q. Now, in that case regarding nuclear fuel
18 the Company advocated for including in the re-base 11
19 million of higher nuclear fuel costs, is that right?

20 A. That's my understanding.

21 Q. And staff at MIEC opposed including that
22 11 million in the fuel costs, in the re-base, correct?

23 A. Yes.

24 Q. But the Commission disagreed and said that
25 11 million should be included, right?

1 A. Yes.

2 Q. And the impact of the Company, on the
3 Company of not being, if it had not been allowed to
4 include that 11 million in the re-base would have been
5 five percent of 11 million or 550,000 annually, right?

6 A. Yes.

7 Q. So in that case the prospect of having to
8 bear or being able to bear \$550,000 less of fuel costs on
9 an annual basis was plenty of incentive for the Company
10 to try to minimize the changes that it was going to
11 experience in the FAC, isn't that true?

12 A. I don't know if that's what was the
13 incentive for the, them to, for you to go ahead and push
14 that issue through.

15 Q. Do you have your deposition with you Ms.
16 Mantle?

17 A. Yes, I do.

18 Q. Would you please turn to page 106? Take a
19 look at lines 15 to 23. And I'm going to ask you to
20 confirm I'm reading this correctly when you're there.

21 A. Okay.

22 Q. So in that case, the 0036 case, the
23 prospect of being able to bear 550,000 less of fuel costs
24 because by putting it in the base the Company wouldn't
25 have to bear five percent of that 11 million the prospect

1 of being able to bear 550,000 less of fuel cost was
2 plenty of incentive for the Company to try to minimize
3 the changes that it was going to experience in the FAC.
4 Right? Answer. Yes.

5 Did I read that correctly?

6 A. Yes. But then you go on --

7 Q. I didn't ask you another question, I asked
8 you if I read it correctly and you said yes, is that
9 right, did I read it correctly?

10 MR. THOMPSON: Objection, argumentive.

11 JUDGE WOODRUFF: Overruled.

12 Q. (By Mr. Lowery) Did I read it correctly?

13 A. Yes.

14 Q. So the Company had enough incentive to
15 fight for the 550,000 annually which was five percent of
16 11 million, isn't that true?

17 A. It did fight for it and as I later said in
18 my deposition it, there was the 550,000 but it also meant
19 you would get the \$11 million sooner than if you had
20 recovered through the FAC and that may have been the
21 reason, I don't know the incentive for doing that, I know
22 that you took that to hearing and I know that you would
23 not have recovered 550,000 a year.

24 Q. Take a look at page 107 of your deposition
25 if you would, lines 20 to 22.

1 Are you there?

2 A. Yeah.

3 Q. Confirm that I'm reading this correctly:
4 So apparently the Company had enough incentive to fight
5 for the \$550,000, isn't that true? Answer. Yes.

6 Did I read that correctly?

7 A. Yes, you did.

8 Q. Now, you have noted that mathematically if
9 the sharing percentage were 85/15 percent the Company
10 would get to keep 15 percent not five percent of the net
11 fuel cost decrease, right?

12 A. Yes.

13 Q. I want you to assume for purposes of these
14 next couple of questions that Mr. Neff's original
15 testimony accurately stated that from 2000 to 2017, and I
16 realize he changed his number because he dropped off
17 2017, but that his testimony was accurate that from 2013
18 to 2017 Ameren Missouri's delivered coal costs will
19 increase on average by \$66 million per year. Do you have
20 that assumption in mind?

21 A. Yes.

22 Q. And you're not claiming that through 2017,
23 you're not claiming that they're not going to increase on
24 average by \$66 million per year, are you?

25 A. No, I am not.

1 Q. Now, assuming that Mr. Neff is right then
2 it's reasonable to expect given how much coal fired
3 generation Ameren Missouri has that fuel costs for Ameren
4 Missouri are going to be trending up over the next few
5 years as they have been for the last few years. Isn't
6 that reasonable?

7 A. Given what Mr. Neff has said, yes.

8 Q. And while you point out that if all
9 systems sales margins go up in the future at 85/15 the
10 Company would get to keep three times as much of those
11 higher off system sales margins the Company would also
12 bear three times as much if any reduction, correct?

13 A. Yes.

14 Q. And the Company also would bear three
15 times as much of any increase in fuel costs, correct,
16 like coal?

17 A. Yes.

18 Q. You don't know what off system sales
19 margins are going to do in the future, do you?

20 A. No.

21 Q. You don't have an opinion about what power
22 prices are going to do, isn't that true?

23 A. No.

24 Q. Without an FAC the Company would have
25 failed to recover in excess of \$300 million just from

1 **March 2009 to January 2012, isn't that right, of higher**
2 **net fuel costs?**

3 A. What amount did you say, sir?

4 Q. **In excess of 300?**

5 A. My testimony said 306 million.

6 Q. **Now, you agree that the Commission could**
7 **if the Company doesn't do a good job of managing its net**
8 **fuel costs, could impose a greater sharing percentage,**
9 **couldn't it?**

10 A. It could even if the utility did a good
11 job.

12 Q. **If it chose.**

13 A. If it chose to.

14 Q. **But if the Commission, but it also,**
15 **there's another scenario and that is the Commission**
16 **certainly could do it if there was evidence that the**
17 **Company wasn't doing a good job, right?**

18 A. Yes.

19 Q. **You're not actually claiming that in fact**
20 **the Company has not done a good job, are you?**

21 A. No.

22 Q. **Now you have this discussion about, I**
23 **think you call it regulatory lag or you at least talk**
24 **about it in that context about the AEP & Wabash contract,**
25 **right, I think it's in your direct testimony?**

1 A. Yes.

2 Q. Now, in the first prudence review case the
3 Company was ordered to return about 17 million to
4 customers through the FAC, right?

5 A. Yes.

6 Q. And the Company either, I think the
7 Company has completed that but the Company has either
8 completed it or is completing it, is that fair?

9 A. That's fair.

10 Q. And the Company has done that with
11 interest, right?

12 A. Yes.

13 Q. And the initial order from the Commission
14 the Staff didn't feel like it was clear about interest
15 and actually approached the Company and Company agreed
16 yes, it should have interest on it, right?

17 A. I believe there was a joint filing made
18 asking for a clarification.

19 Q. And if Ameren Missouri loses the appeal of
20 the first prudence review and ultimately loses the
21 argument in the second prudence review involving those
22 contracts it would be your expectation that Ameren
23 Missouri would flow back the 26 million at issue and you
24 don't have any reason to believe there wouldn't be
25 interest applied to that as well, do you?

1 A. Unless the Commission didn't order
2 interest. I don't know what that order might look like.

3 Q. If the Commission didn't order interest
4 the Staff would certainly be pointing out the Commission
5 probably should wouldn't it?

6 A. Most likely, yes.

7 Q. And unless the Company does a 180 on you
8 the Company is probably going to be agreeing with you on
9 that point, isn't it?

10 A. I hope so.

11 Q. You hope so.

12 Now the regulatory lag you talk about in
13 connection with this AEP & Wabash issue that you say was
14 caused by Ameren Missouri deciding to litigate the second
15 prudence review case, it is not the same regulatory lag
16 Ameren Missouri experiences when it needs a rate increase
17 gets it but does not get to go back and recover the
18 revenue deficiency that existed before the new rates took
19 effect, is it?

20 A. It's a different type of regulatory lag.
21 No, it is not the same.

22 Q. So the fact that there may be a delay in
23 flowing dollars back through the fuel adjustment clause
24 to customers has nothing to do, as a result of the
25 ongoing litigation about AEP & Wabash, has nothing to do

1 with the sufficiency of the incentives Ameren Missouri
2 has to manage its net fuel costs, does it?

3 A. No, it does not.

4 Q. You claim that imposing a greater sharing
5 percentage on the Company will give the Company a greater
6 incentive to quote, look for better predictors, right?

7 A. I believe that was in response to Mr.
8 Haro's rebuttal testimony about how you can't predict
9 what prices will be electric prices and I did say yes, if
10 there is a greater, if it's 85/15 there will be a greater
11 incentive for the utility to look to ways to be a better,
12 to have better predictors of what will happen.

13 Q. Okay. The only basis you have for making
14 that contention is what's in your own mind, isn't that
15 true?

16 A. Yes.

17 Q. And you don't know yourself what a better
18 predictor would be, do you?

19 A. No.

20 Q. You can't tell me what better predictors
21 for figuring out an appropriate price to use to set the
22 level of off system sales and net base fuel costs, you
23 can't tell me what better predictors exist, can you?

24 A. No.

25 Q. And you agree with what Mr. Haro said in

1 his rebuttal testimony where he says that none of the
2 methods he talks about have been very accurate in
3 consistently and reliably predicting what those power
4 prices will be, you agree with that, don't you?

5 A. Yes.

6 Q. And let's say the Company believed that
7 forward prices, forward power prices were a better
8 predictor than using historical averages for example, the
9 Staff is not going to support the use of forward prices
10 to set the base energy price for net based fuel costs, is
11 it?

12 A. Not if I have a say so.

13 Q. Not if you have a say so.

14 Let's talk about one of the favorite
15 topics of the day, transmission a little bit.

16 A. Okay.

17 Q. Commissioner Kenney I think might have
18 perked up just then.

19 COMMISSIONER KENNEY: I'm always perky.

20 Q. (By Mr. Lowery) One of the transmission
21 charges that you take issue with in terms of whether it
22 should be included in the FAC or not are MISO schedule 26
23 charges, I'm not talking about 26A, I'm talking about 26
24 at this time, right?

25 A. Yes.

1 **Q. It's one of the ones you're concerned**
2 **about, is that true?**

3 A. When I was writing my surrebuttal
4 testimony I decided to be overly broad rather than
5 picking out certain ones so therefore yes, I did include
6 26 as one of the schedules, MISO schedules that should
7 not be included.

8 **Q. And it's still your position that 26**
9 **should not be included, right?**

10 A. As I sit here today, yes.

11 **Q. And it's still your position that it**
12 **wasn't the Staff's intention from the inception of the**
13 **FAC for schedule 26 charges to be included, is that true?**

14 A. Yes.

15 MR. LOWERY: I need to get an exhibit
16 marked Your Honor.

17 JUDGE WOODRUFF: Okay.

18 Your next number is 56.

19 MR. LOWERY: 56 Your Honor?

20 JUDGE WOODRUFF: Yes.

21 MR. LOWERY: Thank you.

22 (MARKED AMERENUE EXHIBIT 56)

23 **Q. (By Mr. Lowery) Ms. Mantle I've just**
24 **handed you what's been marked for identification as**
25 **Exhibit 56. You recognize this document, do you not?**

1 A. It is a response to data request that was
2 placed by Dana Eaves of the staff.

3 Q. And you agree do you not that -- well,
4 let me back up.

5 Isn't it true that in this report the
6 schedule 26 charges that were being included in the FAC
7 were called out specifically?

8 A. Yes. And when the supplemental sheets, I
9 don't know how far back in this it would be, such as the
10 exhibit that was given to the Commission this morning.

11 Q. I apologize for talking over you. The
12 actual response itself spells out in great detail exactly
13 where they are called out, does it not?

14 A. On the front page, yes, it does.

15 Q. And you are able to follow that and find
16 the charges, find the reference to them, find the
17 glossary that explains what they were, were you not?

18 A. Yes.

19 JUDGE WOODRUFF: I notice that these are
20 all marked highly confidential, are they highly
21 confidential?

22 MR. LOWERY: Honestly I think that since
23 it's historical they are not any longer.

24 JUDGE WOODRUFF: Okay.

25 (MARKED AMERENUE EXHIBIT NOS. 57-58)

1 Q. **(By Mr. Lowery) Ms. Mantle the report**
2 **that's attached to what's been marked as Exhibit 56, it**
3 **is from June of 2012, I'm sorry, yeah, from June 2012,**
4 **correct?**

5 A. That's what it says, yes.

6 Q. **You're not doubting that it's from June**
7 **2012, are you?**

8 A. No, I just haven't had a chance to check
9 it.

10 Q. **And that's before you filed your direct**
11 **testimony in this case, correct?**

12 A. Our direct testimony was filed on July 6th
13 so the data in this is before we filed direct, yes. We
14 didn't get this data response until September 14th.

15 Q. **The report, that may be true --**

16 A. We would have not got the report until
17 August.

18 Q. **It's before you filed your surrebuttal**
19 **testimony, I'm sorry, which you filed in September, is**
20 **that right?**

21 A. We've had so many filings it's hard to
22 remember what day was what, yes. Well, no, the
23 surrebuttal was filed on September 7th so we would have
24 got this data response after the surrebuttal was filed.

25 Q. **You got the report before you filed your**

1 **surrebuttal testimony, isn't that correct?**

2 A. I don't know how much before but it would
3 have been. August, yes.

4 Q. **It's due in August, right?**

5 A. Yes.

6 Q. **Mr. Winburg dated his affidavit August**
7 **29th, isn't that correct? It's the second page of**
8 **Exhibit 56.**

9 A. Yes, that's what's on the affidavit. So
10 it was eight days before our surrebuttal testimony was
11 due. If we received it that day.

12 Q. **Which you don't have any reason to believe**
13 **you didn't.**

14 A. I don't know one way or the other.

15 Q. **I've handed you what's been marked for**
16 **identification as Exhibits 57 and 58. Do you recognize**
17 **those documents?**

18 A. I believe I saw these in my deposition,
19 they're MISO invoices, one from March 6th, 2009 and one
20 from August 7th, 2008.

21 Q. **And --**

22 JUDGE WOODRUFF: If I could interrupt
23 again for a moment, which is which, which is 57 which is
24 58?

25 MR. LOWERY: The one labeled 4 with the

1 yellow sticker would be 57 and the one with the reply
2 would be 58.

3 Q. And Ms. Mantle given the dates of those
4 and the fact that they both reference 26 charges for
5 Ameren Missouri it's clear that schedule 26 charges were
6 being incurred by Ameren Missouri at the inception of the
7 FAC, is that true?

8 A. That's true.

9 Q. Now in Exhibit 56 and that data request
10 response Mr. Francis who answered it indicates that
11 transmission costs are being reflected in account 565, is
12 that correct?

13 A. I'm sorry, he reports what?

14 Q. He indicates transmission counts,
15 transmission costs are being reflected in FERC account
16 565, isn't that correct?

17 A. Yes.

18 Q. And you don't have any reason to disagree
19 with that, do you?

20 A. No.

21 Q. You agree that the FAC tariff for the
22 Company, the one that was proposed with Mr. Lyon's
23 testimony back in April 2008, the one that was approved
24 in March of '09 and every FAC tariff since then has had
25 the same definition factor CCP, is that correct?

1 A. I believe that's true.

2 Q. And in every one of those the reference to
3 565 has appeared, is that right?

4 A. Yes, and it stated which schedules were
5 excluded and did not say which schedules were included.

6 Q. My simple question now was charges in
7 account 565 have always been, that language has always
8 existed in the FAC tariff, right?

9 A. Yes.

10 Q. Staff has never claimed in this case that
11 charges reported in account 565 should not flow through
12 the FAC, has it?

13 A. No.

14 Q. Now, it's your claim prospectively that
15 schedule 26 and 26HR just should not be included in the
16 FAC, isn't that right?

17 A. Yes.

18 Q. You're not claiming that to the extent
19 those charges have been included in the FAC up until now
20 that the FAC did not allow that, are you?

21 A. I'm not making that claim, no.

22 Q. You aren't intending to make that claim,
23 are you?

24 A. I personally am not. Whether the staff
25 does or not that's a decision of the staff.

1 Q. You're also not sure that the capacity
2 reference in the FAC tariff refers to transmission
3 capacity, isn't that fair?

4 A. That is fair.

5 Q. In fact when you read that language you
6 were thinking it referred to generation capacity, didn't
7 you?

8 A. I was thinking in the light that the
9 tariff was written and we were thinking generation at the
10 time, not transmission, so that's why I would believe
11 that that meant, that whole section was on generation,
12 not transmission.

13 Q. And if in fact that language does refer to
14 generation capacity then it doesn't have anything to do
15 with the schedule 26 charges, isn't that true?

16 A. That's true.

17 Q. And it would be true if I said schedule
18 26A wouldn't have anything to with those either, would
19 it?

20 A. No.

21 Q. And it wouldn't have anything to do with
22 transmission charges generally even if they rose under
23 other MISO schedules, isn't that true?

24 A. That's right. Because I believe the fuel
25 adjustment clause is for fuel and purchase power, it is

1 not for transmission.

2 Q. But the reference to capacity in factor PP
3 or CPP I should say, if it's true that it refers to
4 generation capacity and that's what it was intended to
5 refer to it wouldn't have anything to do with
6 transmission charges at all, would it?

7 A. That's correct.

8 Q. You agree, do you not, that the Company
9 and its customers benefit from having access to the MISO
10 energy markets?

11 A. Yes.

12 Q. You agree that those markets create
13 incremental off system sales margins that you wouldn't
14 expect the Company to be able to realize if it was
15 operating say as an ICT or otherwise on a stand alone
16 basis?

17 A. Yes.

18 Q. If MISO membership wasn't beneficial as
19 compared to the cost of being in MISO you would have
20 expected the Commission, you would not have expected the
21 Commission to have approved the company participation in
22 MISO again a few months ago, would you?

23 A. That is correct.

24 Q. You understand, do you not, that the
25 transmission charges that the Company must pay as part of

1 its MISO membership are not expected to remain stable at
2 roughly the level they have been for say the last 12
3 months, you understand that, do you not?

4 A. It's like a lot of your other costs, no,
5 they would not remain stable.

6 Q. You'd agree that Ameren Missouri can't
7 control these transmission costs it gets from the MISO or
8 at least for the most part it can't control them, you'd
9 agree with that, right?

10 A. For the most part. It does have some say
11 so and some input in to it, I believe.

12 Q. You agree for the most part Ameren
13 Missouri can not control them, isn't that true?

14 A. Yes.

15 Q. If Ameren Missouri gets a bill from the
16 MISO that reflects higher transmission costs Ameren
17 Missouri has to pay it, isn't that right?

18 A. Yes.

19 Q. You talk about other costs like buying
20 easements, obtaining franchises in your surrebuttal I
21 think it is, is that right?

22 A. Yes.

23 Q. And the point of that discussion I think
24 is that there, from your perspective is that there are
25 all kinds of costs that don't run through the FAC so just

1 because there are transmission costs for the MISO that
2 Ameren Missouri has that doesn't necessarily mean they
3 should be in the FAC, is that your point?

4 A. The point is everything that Ameren does
5 should be to provide reliable electricity to its
6 customers. That does not mean that it should all flow
7 through the fuel and purchase power adjustment clause.

8 Q. But the transmission costs we're talking
9 about here are charges to Ameren Missouri that are
10 because of the load the Ameren Missouri has in the MISO,
11 isn't that right?

12 A. Yes.

13 Q. It's based on the energy needs of Ameren
14 Missouri's load in the MISO, that's what the charges are
15 based on, right?

16 A. Yes. So is the cost of generating plants.

17 Q. MISO doesn't charge Ameren anything
18 respecting the cost of Ameren's generating plants, does
19 it?

20 A. Not that I'm aware of.

21 Q. Not that you're aware of. So I'm going to
22 ask my question again. The cost of these transmission
23 charges it's based on the energy needs of Ameren
24 Missouri's load in the MISO, is that right or is that not
25 right?

1 A. It's based on the energy needs in MISO --

2 I'm sorry, would you restate your question?

3 Q. Do you have your deposition with you?

4 A. Yes.

5 Q. Would you turn to page 155? Line 15.

6 A. Okay.

7 Q. And the question was, I'll leave off the
8 word right, question was it's based on, it's being
9 transmission charges, would you agree that's what we're
10 referring to there?

11 A. Yes.

12 Q. It's based on the energy needs of Ameren
13 Missouri's load in the MISO, right? That's what these
14 charges are based on. Answer. Yes.

15 Did I read that correctly?

16 A. Yes.

17 Q. You don't calculate the cost of an
18 easement based on whether, we don't multiply 345 KB by
19 some factor to come up with the cost of the easement, we
20 don't multiply kilowatt hours or megawatt hours that will
21 flow over a line to come up with the cost of an easement,
22 do we?

23 A. No.

24 Q. Cost of an easement isn't based on some
25 multiple of a level of energy, is it?

1 A. Yes, it's based on the kilowatts of the
2 line it's going to go through. A higher voltage line
3 typically requires a larger easement.

4 Q. But you don't calculate the price you pay
5 the landowner based on kilowatt hours or megawatt hours,
6 do you?

7 A. No.

8 Q. But you do calculate the MISO transmission
9 charges based upon a measurement of energy, don't you?

10 A. Yes.

11 Q. When the Company gets a franchise or
12 renews one with some city, let's say Jefferson City, the
13 Company isn't paying a franchise fee based upon
14 multiplying a measurement of energy by some number, is
15 it?

16 A. I don't believe it is. I don't know for
17 sure.

18 Q. It's not your contention that MISO
19 transmission charges are just like payment for easements
20 and just like payments for franchises, is it?

21 A. They are like payments for easements and
22 payments for franchises because it's costs necessary to
23 meet the energy requirements of its customers.

24 Q. That could be said about every single cost
25 the Company has, isn't that true?

1 A. That's my point.

2 Q. I want to ask you about the case in which
3 Ameren Missouri's FAC was established. Isn't it true
4 that the proposal made by the Company in that case from
5 the beginning was that the sharing should be 95/5
6 percent?

7 A. I don't remember.

8 Q. I want you to assume that that's true.

9 A. Okay.

10 Q. Well, never mind.

11 MR. LOWERY: Those are all the questions I
12 have Your Honor.

13 JUDGE WOODRUFF: All right. Now, do you
14 wish to offer 56, 57 and 58?

15 MR. LOWERY: They don't need to be in the
16 record.

17 JUDGE WOODRUFF: Okay.

18 Calling for questions from the bench? Mr.
19 Chairman?

20 CHAIRMAN GUNN: I just have a couple.

21 EXAMINATION

22 QUESTIONS BY COMMISSIONER GUNN:

23 Q. When Staff takes positions in those cases
24 are there any issues that are not vetted through more
25 than one person or are there ones that are just done by

1 **one person?**

2 A. Issues of this magnitude are vetted across
3 our directors, staff is directed to take these types of
4 issues to our directors. There's, we don't take to the
5 directors what kind of model should we run for the
6 weather normalization, does this weather response curve
7 look fine but we would take issues of this magnitude to
8 the directors. So there's some issues that we don't take
9 to the directors but policy we do.

10 **Q. Okay.**

11 **I think that's all I have. Thank you.**

12 JUDGE WOODRUFF: Mr. Jarrett?

13 EXAMINATION

14 QUESTIONS BY COMMISSIONER JARRETT:

15 **Q. Good afternoon Ms. Mantle.**

16 A. Good afternoon.

17 **Q. I Just have a few questions too.**

18 **You were here during the many opening**
19 **statements on this issue, correct?**

20 A. Yes.

21 **Q. So you heard the counsel, specifically Mr.**
22 **Mills and Mr. Coffman give their openings?**

23 A. Yes, I did.

24 **Q. And I don't want to mischaracterize what**
25 **they said but I'll kind of paraphrase. Both of them said**

1 regarding prudence reviews that the Commission at least
2 should take them with a grain of salt because Staff
3 doesn't have enough manpower, they're overworked, that
4 they're not able to do the job as well as they could have
5 if they had more employees and more resources. Do you
6 remember that in their openings?

7 A. I remember them discussing that, yes.

8 Q. And I think Mr. Mills asked you a series
9 of questions about prudence and how many staff you have
10 devoted to prudence reviews.

11 A. Yes.

12 Q. Right? And he also asked you about,
13 questions about, you know, can you know every decision
14 that's being made by all of the employees purchasing fuel
15 at Ameren. Do you remember that?

16 A. Yes.

17 Q. And I think you said no because there's
18 several employees and an infinite number of decisions
19 that are made?

20 A. And they're not all documented, so. Yeah,
21 we can't know all those.

22 Q. My question to you is is staff able to do
23 adequate prudence reviews?

24 A. Staff looks at the high dollar, we look at
25 what we can. We, you know, we do a prudence review given

1 the resources that we've got, we have, and I hope they're
2 adequate. I can't say we haven't overlooked something or
3 we haven't missed something because we do have limited
4 resources. We try to be comprehensive, we try to look at
5 all of it, there's so many different aspects to fuel and
6 purchase power and off system sales and hedging and, I
7 mean we've got a wide variety of things that you have to
8 look at for an FAC prudence review. We do our best to
9 review all those areas and try to catch if there's
10 anything big that's outstanding there.

11 Q. And I believe you testified when you were
12 conversing with Mr. Mills that you treat the prudence
13 reviews with much importance and they're a priority for
14 staff.

15 A. Yes.

16 Q. Isn't it true that staff is able to ask
17 for any information that it feels is necessary to conduct
18 an adequate prudence review?

19 A. Yes.

20 Q. And I think Mr. Mills asked you something
21 about perfection, he said can you do a perfect review.
22 Has it been your experience that anything in life, if you
23 had a million employees could you do a perfect review?

24 A. No.

25 Q. Thank you.

1 MR. JARRETT: I have no further questions.

2 JUDGE WOODRUFF: Mr. Kenney?

3 EXAMINATION

4 QUESTIONS BY COMMISSIONER KENNEY:

5 Q. Ms. Mantle how are you?

6 A. Just fine.

7 Q. Just a couple of quick questions.

8 On the rider FAC, the document we were
9 discussing before, the definition of CPP where it
10 indicates that it's excluding capacity charges, your
11 understanding is that that was just referring to
12 generation capacity and not transmission capacity?

13 A. That's correct. This whole, all of the
14 FAC should be about generation and purchase power, off
15 system sales. I can see how it could be read as MIEC's
16 reading it but in the spirit of keeping with the intent
17 of the rider that's not how I would read it.

18 Q. You indicated that decisions at this level
19 regarding policy decisions come down from the directors.

20 A. We give them input.

21 Q. You all discuss together. Where do the
22 directors ultimately get their direction from?

23 A. I hope they take in to the advice of the
24 staff that's discussing it and, you know, these meetings
25 can go round and round and the place we start at the

1 beginning isn't where we're at the end so it's
2 discussions with each other and others than that I don't,
3 you know, I don't know where they get their direction
4 from.

5 Q. Okay. And you were given I think what was
6 marked Ameren's Exhibit 56?

7 A. Yes.

8 Q. I'm trying to figure out, is FERC account
9 565, and it's kind of like halfway through, it's a pretty
10 thick packet.

11 A. Yes.

12 Q. Are these reports that staffs receives?

13 A. Yes.

14 Q. On a monthly basis?

15 A. Yes.

16 Q. Okay. And so is it this FERC account 565
17 where the MISO charges are reflected and it looks like
18 its supplement page 6 of 9, it's this? (Indicating).

19 A. Yes, it's very similar to the exhibit that
20 Staff provided this morning that showed that 26A is not
21 differentiated, it's the same page.

22 Q. That was the exhibit that Mr. Thompson
23 had.

24 A. Yes.

25 Q. Okay. So that's my question, so how would

1 you know, it just says account 565, MISO day two and PJM
2 excluding admin. Is there something on here that would
3 distinguish between I guess what we've referred to as
4 account 26 and account 26A?

5 A. After the last rate case Ameren, so
6 starting last I believe September, Ameren started giving
7 us the detail that's on the right side of the page.

8 Q. Okay.

9 A. And there is a code page somewhere in the
10 back that tells what ACTV is and what RSDC means, what M,
11 you know, all these designations but when you get down to
12 SC01, SC02 it's my understanding that, now it's my
13 understanding that those are MISO schedules. So we do
14 have on here MISO schedule 26 which I believe, now
15 believe includes schedule 26A costs because they were
16 26A, it just falls under 26, they did not create another
17 category for us to see those costs.

18 Q. All right. What are the PJM charges, do
19 you know?

20 A. What are they for or where are they?

21 Q. No, what are they for?

22 A. I don't know.

23 Q. Okay. That was really more my curiosity,
24 what are PJM charges.

25 All right. Those are all the questions I

1 **have, thank you.**

2 JUDGE WOODRUFF: Mr. Stoll?

3 COMMISSIONER STOLL: I have no questions

4 Your Honor.

5 Thank you for your testimony.

6 EXAMINATION

7 QUESTIONS BY COMMISSIONER GUNN:

8 **Q. I apologize but I have a couple questions**
9 **about FAC and prudence reviews.**

10 **So since there are hedging programs in**
11 **place.**

12 A. Yes.

13 **Q. When you're doing an FAC only a percentage**
14 **of the fuel costs should have changed from previous**
15 **accumulation periods, right? Or have the potential to**
16 **change?**

17 A. It's according to the utility and I mean
18 Ameren has a, you know, the long term contract so that
19 shouldn't change a lot but there are a lot of other
20 decisions that are made.

21 **Q. Right. So, but you're still just looking**
22 **at a subset for Ameren in particular because, because**
23 **some of the fuel was on their long term contracts you**
24 **will look at those prices, those prices haven't changed**
25 **so there's no need to worry about, I mean a more**

1 **scrutinized review of those don't have to be made, right?**

2 A. I would, before talking about our auditors
3 in this case I would have agreed with you but after
4 talking with Lisa Hanneken apparently there's some
5 changes made. They sent us, allowed her as part of DR 80
6 to go and look at the coal contracts but then in DR 90
7 they said there were additional coal contracts that
8 weren't with the ones that they showed in 80. Like I
9 said I would have believed what you were, agreed with you
10 but from what she's saying, and those might have to do
11 with coal swaps surrounding this contract, some different
12 pieces of that so while they may have a contract that's
13 long term there are other things that are evolving around
14 those contracts at all times.

15 Q. Okay. And then you talked about, and Mr.
16 Mills along this line of questioning talked about there
17 are all these decisions that go in to the FAC, there are
18 literally what, hundreds of decisions a day, an hour or
19 what is the frequency of those decisions?

20 A. Well, because electricity is generated,
21 the commodity that's being sold is electricity that it's
22 using all these inputs to get the electricity, unlike
23 gas, natural gas where the customer buys the commodity
24 that is being flowed through here we've got decisions on
25 the mix of generation, whether or not things are

1 purchased, whether or not things are sold, there are,
2 there's just a multitude of decisions and that's what
3 makes it so difficult.

4 Q. And so is the prudence standard for,
5 applied to each one of those decisions as an individual
6 decision or is it overall outcome? So for example if you
7 have to make 50 decisions, right, 10 of them might in
8 hindsight or even reviewed might have been imprudent but
9 the other 40 more than offset any losses or bore any
10 detriment because of those imprudent decisions so do you
11 look at, so if that, if you were reviewing that and that
12 would be the case as a general matter would you say okay,
13 the Company acted prudently? Or do you do that kind of
14 level of detail where you're looking at each one of those
15 decisions?

16 A. We have several different parts to our
17 prudence report and we look at each one of those, coal
18 purchasing, gas, settlement, emission allowances, we look
19 at a lot of different things within our report. I can't
20 say within each one of those we look at every decision
21 that was made because we can't do that. We do apply the
22 standard that if something was imprudent but it caused no
23 harm to the customer then we do, we might report it but
24 it's not imprudent that an action needs to be taken.

25 Q. Right. There's no discipline or anything

1 **associated with it because it's no harm no foul.**

2 A. That's right. It's only those decisions
3 where we can, we believe that there was harm to the
4 customers that we bring to the Commission's attention.
5 And just because we say something, we don't say that it's
6 imprudent unfortunately does not mean it's prudent, it
7 means we just haven't found any improvements. We don't
8 have the time or a lot of times the resources to do --

9 Q. But that's, because there's an assumption
10 of prudence under all of this stuff, right? So you've
11 got the underlying assumption, you're looking for
12 mistakes, you're not, because of what the standard is.

13 A. We're looking for mistakes but we can't
14 say that we've caught every one.

15 Q. Sure. And I'm not implying that. I'm
16 just trying to figure out how, you know, there are micro
17 and macro ways of looking at things, just trying to get
18 my head around that.

19 Can you tell me the difference in real
20 dollars, let's say, let's take the last accumulation
21 period on the FAC.

22 A. Okay.

23 Q. Do you know what the difference would be
24 from the 85/15 to the 95/5? You don't have to look
25 specifically.

1 A. Let me look and just get -- (Reviewing
2 document).

3 The last one that I have here the
4 accumulation period ended January 31st, 2012, the part,
5 let's see. There was about \$2 million that the customers
6 did not pay. \$2.3 million. So it would have been 6.9.

7 **Q. If you tripled it.**

8 A. The customer responsibility was
9 33,603,000.

10 **Q. So the 2 million was the five percent that**
11 **the Company --**

12 A. Yes.

13 **Q. So you're looking at a difference between,**
14 **in just one accumulation period between 2 million and \$6**
15 **million.**

16 A. Yes.

17 **Q. And it's Staff's contention that \$2**
18 **million isn't enough skin in the game in order for them**
19 **to act as efficiently.**

20 A. Well, when you look at the fact that their
21 total energy costs for that accumulation period was \$84.5
22 million it sounds like a lot, it's a lot more than you
23 and I make but in the whole whelm of what they spend on
24 fuel --

25 **Q. Proportionately.**

1 A. Yeah, proportionately.

2 Q. All right. And, well to take that
3 argument a little bit further then is 6 million enough
4 because it's in the grand scheme of things --

5 A. That's a question and as long as we have
6 95/5 we'll never be able to tell. It's one of those, I
7 know Mr. Lowery calls it an experiment, I would call 95/5
8 an experiment. But we've just had it for so long that
9 it's no longer considered experimental.

10 Q. And the other experiences in other
11 jurisdictions have been 100 percent pass through, a vast
12 majority of those is 100 percent pass through with no
13 sharing mechanism.

14 A. Yes. But I think you need to remember
15 that our legislature put in Senate Bill 179 and I'm not
16 an attorney but I do know how to read and it says in
17 there that the Commission can put in incentives in to its
18 FAC. So, I mean, yeah, I don't know would those other
19 rules, those other laws say in those other states.

20 Q. We'll put the judgment of our legislature
21 aside, we won't discuss that on a variety of issues, but
22 I just, but -- I get your point.

23 I don't have anything further. Thank you.

24 JUDGE WOODRUFF: All right. We'll go to
25 recross based on questions from the bench beginning with

1 AARP.

2 RE CROSS EXAMINATION

3 QUESTIONS BY MR. COFFMAN:

4 Q. I'd like to ask some.

5 Good afternoon Ms. Mantle.

6 A. Good afternoon.

7 Q. In response to Chairman Jarrett, I'm
8 sorry, Commissioner Jarrett he was asking you to what
9 degree the lack of resources is an inhibitor I guess to
10 fully auditing and am I to understand that it is a
11 limitation?

12 A. Yes.

13 Q. For the Staff's ability to thoroughly
14 audit fuel and purchase power costs?

15 And let me ask you, how long have you
16 personally been involved with reviewing the fuel and
17 purchase power costs for the Missouri Commission?

18 A. Fuel adjustment or just fuel and purchase
19 power costs even before --

20 Q. Generally, under the fuel adjustment
21 clauses that have been approved since 2005 as well as
22 before without fuel adjustment clause?

23 A. When I started with the Commission in 1983
24 when my first task was looking at production supply,
25 production costing model. So I've been on and off with

1 looking at costs, fuel costs, purchase power costs, off
2 system sales in my career here.

3 Q. So you have a great deal of experience.

4 A. Yes.

5 Q. And have you noticed some general trends
6 compared with that period of time that you reviewed fuel
7 and purchase power practices of Missouri electric
8 utilities without a fuel adjustment clause and those that
9 have had afterwards?

10 A. There's been so many changes especially,
11 you know with FERCA order 888 and 2000 that have opened
12 the wholesale markets it's really hard to say whether
13 changes were due to the FAC or whether they were due to
14 the RTOs or other FERC orders. I wouldn't even venture
15 to say. There's changes because there's just been a
16 change in the industry overall.

17 Q. Let me get back to the questions that we
18 were discussing with Commissioner Jarrett's question.
19 Would you agree that resources aside, even assume that
20 you had adequate resources to perform these prudence
21 review audits, are there constitutional problems with the
22 fuel adjustment clause that inhibit the ability to ensure
23 that we are getting the least cost business practices?

24 A. I don't know. There's a lot to that
25 question.

1 Q. Are there difficulties in reviewing the
2 decisions made by the utility, Ameren Missouri in this
3 situation, and trying to understand all the other
4 possible decisions that could have been made and being
5 able to put together the evidence to show what may or may
6 not have been the least cost avenue?

7 A. I can think of at least two. Of course
8 one is the utilities hold all the cards, they have all
9 the information. Commissioner Jarrett is correct, we can
10 ask for whatever information we want and they are
11 required to give it to us. What we have found is if we
12 don't use the exact right words, for example I asked
13 Ameren for sub accounts and I got a DR response that
14 there were no sub accounts only to later find out they
15 were called minor accounts and if I had asked for minor
16 accounts I would have gotten a long list. So they hold
17 all the cards and from their answer I couldn't tell that
18 they didn't have sub accounts.

19 The other thing is probably more basic,
20 there's no documentation and I don't expect them to
21 document every decision that they made because they'd
22 spend more time documenting than they would making
23 decisions and some of these decisions aren't something
24 that you can, you have months to be able to do so we
25 don't have documentation to what was available to them at

1 the time or, you know, how come they made a certain
2 decision. Without that it's hard to really, those are
3 the limitations that we face.

4 Q. So are those examples of difficulties in
5 the process a part from your resources that make it very
6 difficult to ensure that the prudence review process
7 itself is ensuring the least cost practices?

8 A. Yes.

9 Q. Thank you.

10 JUDGE WOODRUFF: For MIEC?

11 MR. DOWNEY: A few, please.

12 RECROSS EXAMINATION

13 QUESTIONS BY MR. DOWNEY:

14 Q. Just because costs the Company incurs are
15 not challenged as imprudent does not mean does it that
16 the Company can't do a better job of managing its costs?

17 A. That's correct.

18 Q. Particularly if it's provided incentives
19 to do so.

20 A. That's correct.

21 Q. Okay. So when we were talking about what
22 costs, additional costs the Company would absorb if we
23 had this 85/15 split and you gave these answers about
24 well what the Commission found, \$22 million in one case
25 and possibly 30 million for a different period weren't we

1 **assuming that the Company's added incentive to control**
2 **costs yielded no benefit, no improvement in cost control?**

3 MR. LOWERY: Objection Your Honor, no
4 commissioner asked anything about the report and orders
5 for the 22 million had been discussed, whether the 30
6 million had been discussed, didn't ask any questions
7 about that at all.

8 JUDGE WOODRUFF: Response?

9 MR. DOWNEY: That's true.

10 JUDGE WOODRUFF: I'll sustain the
11 objection.

12 Q. **(By Mr. Downey) You were asked some**
13 **questions about the language about capacity in the**
14 **tariff.**

15 A. Yes.

16 Q. **I know you were asked some questions from**
17 **commissioners about that.**

18 MR. LOWERY: I'll stipulate to that.

19 Q. **(By Mr. Downey) And I believe what you**
20 **said is when you saw the word capacity you did not link**
21 **that word to transmission because you did not contemplate**
22 **transmission costs flowing through this particular FAC**
23 **provision?**

24 A. Yes.

25 Q. **Is that what you said?**

1 A. Yes.

2 Q. Okay. If you assumed that this term
3 capacity applied to both transmission and generation
4 since you now know that this provision of the tariff
5 applies to transmission charges, if we had long term
6 contracts of over one year and the costs were incurred
7 under those contracts, they were capacity transmission
8 charges, would those be excluded by this language?

9 A. If that variable included transmission I
10 don't think that it would.

11 Q. You think they would have been excluded?

12 A. I think they would have been excluded,
13 yes.

14 Q. Thank you.

15 JUDGE WOODRUFF: Public Counsel?

16 MR. MILLS: Just a couple.

17 RE CROSS EXAMINATION

18 QUESTIONS BY MR. MILLS:

19 Q. Ms. Mantle Chairman Gunn asked you some
20 questions about the difference in the amounts that Ameren
21 Missouri would not have recovered in the most recent
22 period if the split was 85/15 versus 95/5 and I believe
23 you calculated that at 95/5 the amount was 2.3 million
24 which means that it would have been 6.9 at 85/15, do you
25 recall that?

1 A. Yes.

2 Q. And doesn't that 6.9 assume that UE would
3 have made no changes in its fuel and off system sales
4 because of the greater incentive caused by the 85/15
5 split?

6 A. Yes, that's an assumption that would have
7 to be made.

8 Q. Do you believe that's a valid assumption?

9 A. I don't know whether it is or not. They
10 could very well be more efficient given a higher share of
11 the costs in off system sales.

12 Q. And isn't the premise behind you're
13 proposing a higher share is that that would in fact cause
14 them to be more creative, more efficient, do a better job
15 in terms of fuel and purchase power?

16 A. Yes.

17 Q. Okay.

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

19 JUDGE WOODRUFF: All right. Ameren?

20 RECROSS EXAMINATION

21 QUESTIONS BY MR. LOWERY:

22 Q. Go back to discussing Commissioner or
23 Chairman Gunn's since I don't think you've been promoted,
24 Chairman Gunn's questions about that very topic.

25 I think Chairman Gunn asked you whether

1 Staff position is that five percent is not enough skin in
2 the game or something along those lines, do you recall
3 those questions?

4 A. I don't believe he used those terms, but.

5 Q. But that was the gist of his question,
6 would you agree?

7 A. I don't really remember at this moment.

8 Q. Okay. Well I want you to assume that
9 Chairman Gunn asked you whether it was Staff's position
10 that five percent is not sufficient incentive, I'll get
11 rid of the skin in the game reference and I think you
12 might have said yes that is Staff's position. Is that
13 what you said?

14 A. We believe that it should be 15 percent
15 not five percent.

16 Q. But that's not the question that he asked
17 you and it's not the question I just asked you. Is it or
18 is it not Staff's position that five percent is not
19 enough incentive to get Ameren Missouri to manage its net
20 fuel costs the way that they should or do you just simply
21 not know whether five percent is sufficient incentive?
22 Isn't it the latter?

23 A. Yes.

24 Q. And in fact you haven't produced any
25 evidence that if the sharing percentage were changed that

1 Ameren Missouri would in fact behave any differently,
2 isn't that true?

3 A. It's because the only way that evidence
4 can be obtained is to do it.

5 Q. But the answer to my question is it's
6 true, you haven't produced any such evidence, have you?

7 A. No I have not.

8 Q. And you don't know whether or not any
9 change in behavior would take place, do you?

10 A. No, I do not.

11 Q. Now you indicated, you said Mr. Lowery
12 keeps calling it an experiment but you agree that your
13 85/15 proposal is an experiment, right?

14 A. Yes.

15 Q. And you agree that it's an experiment that
16 you're asking the Commission to engage in in the absence
17 of proof that a change is actually needed, isn't that
18 true?

19 A. Yes.

20 Q. Commissioner Kenney asked you some
21 questions about the DR response, I think it was marked
22 for identification as Exhibit 56 and I think he asked you
23 something along the lines of how would you know, maybe
24 asked you about schedule 26, schedule 26A, I don't
25 remember, he was looking at the page where account 565 is

1 **reported, do you recall that?**

2 A. Yes.

3 Q. I think he asked you how would you know
4 **about a particular transmission charge.**

5 A. Yes.

6 Q. Right? Isn't it true that account 565 is
7 **the FERC uniform system of account where transmission**
8 **charges are recorded?**

9 A. I don't know. I'm not an accountant, I
10 don't have the FERC system of accounts down. That is
11 where they're recorded I believe, I don't know what the
12 title of that account is or, so I'm kind of flying blind
13 here. I don't know for sure. But that is where you do
14 put them.

15 Q. Is it your testimony that the Staff agreed
16 **to the, to include charges in account 565 in the FAC**
17 **tariff back in the 0318 case and you didn't even check to**
18 **see what account 565 was for?**

19 A. Whether I did or not, I mean we did agree
20 to it and I do, as I said before transmission costs is
21 tied with purchase power or off system sales are a part
22 of those purchases and part of those sales and so Staff
23 believes those should be included, could be included and
24 flow through the FAC. I believe that's probably what we
25 thought it was going to be.

1 Q. But if in fact account 565 is the
2 transmission account then where else would you need to
3 look other than on the page in the report that says 565?

4 A. For transmission expenses?

5 Q. Yeah.

6 A. That's where you would look.

7 MR. LOWERY: I'm going to ask the
8 Commission to take administrative notice of the fact that
9 account 565 is the FERC USOA account for transmission
10 charges. And since the Commission has adapted the FERC
11 uniform system of accounts I think that would certainly
12 be something it can take notice of.

13 JUDGE WOODRUFF: Anyone have any response
14 to that?

15 MR. THOMPSON: Well I'm going to object
16 simply because he hasn't shown that it is or isn't. He
17 wants to bring it in and ask the Commission to take
18 notice of something that he places before it then that
19 might be a different thing.

20 MR. LOWERY: I'll be happy to bring the
21 uniform system of accounts in.

22 COMMISSIONER KENNEY: I have a question
23 about the uniform system of accounts since we're talking.

24 JUDGE WOODRUFF: All right.

25 COMMISSIONER KENNEY: Is there a

1 definition in the uniform system of accounts of what
2 would be included in the transmission charges in FERC
3 account 565?

4 MR. LOWERY: All FERC accounts have a
5 description of the account, yes, they do.

6 COMMISSIONER KENNEY: All right.

7 JUDGE WOODRUFF: Well I am hesitant to
8 take official notice of something where I'm not really
9 sure what it is so I think it would be helpful if you
10 could bring in that section of the accounts.

11 MR. LOWERY: I will do so.

12 Q. (By Mr. Lowery) But Ms. Mantle if in fact
13 that's the FERC uniform system of account where
14 transmission charges go then all the Staff really needed
15 to do was look at the page for 565 and have an
16 understanding that there would be transmission charges
17 there, isn't that true?

18 A. Yes.

19 Q. All right.

20 MR. LOWERY: I have no further questions.

21 JUDGE WOODRUFF: Redirect?

22 MR. THOMPSON: A lot of ground to cover
23 here Judge.

24

25

1 REDIRECT EXAMINATION

2 QUESTIONS BY MR. THOMPSON:

3 Q. First let me start Ms. Mantle with the
4 questions that were addressed to you by Commissioner
5 Jarrett and I think there was one or two from Chairman
6 Gunn along those lines and that has to do with the
7 adequacy of the job that Staff does with prudence
8 reviews. Do you recall those questions?

9 A. Yes.

10 Q. And in fact you and I were down here in
11 this room earlier this year on not one but two FAC
12 prudence review litigations, were we not?

13 A. Yes.

14 Q. One of those had to do with the Kansas
15 City Power and Light Greater Missouri Operations Company,
16 FAC prudence review, do you recall that case?

17 A. Yes.

18 Q. And the other one was in fact an Ameren
19 Missouri prudence review. Do you recall that case?

20 A. Yes.

21 Q. Now, you were in fact a principal Staff
22 witness in each of those cases, were you not?

23 A. Yes, I was.

24 Q. But you were not the only Staff witness in
25 either of those cases, were you?

1 A. No, I was not.

2 JUDGE WOODRUFF: Mr. Thompson, microphone?

3 MR. THOMPSON: I apologize, I thought I
4 was bellowing loud enough.

5 JUDGE WOODRUFF: They don't hear it
6 upstairs.

7 MR. LOWERY: You were.

8 Q. (By Mr. Thompson) In the GMO case as I
9 recall Mr. Eaves was also a witness, was he not?

10 A. And also Chuck Hineman.

11 Q. And that was going to be my next question,
12 Mr. Hineman and in the AMO case, or excuse me, the Ameren
13 Missouri case it was you and Mr. Eaves, isn't that right?

14 A. That is correct.

15 Q. Okay. One of those is still pending in
16 front of the Commission in that although it's been tried
17 and briefed there has been no decision, correct?

18 A. That would be the Ameren case.

19 Q. Okay. Let's talk about GMO case for a
20 minute. In that case there has been a decision hasn't
21 there?

22 A. Yes there was.

23 Q. And that decision was in fact there is no
24 imprudence.

25 A. That's the decision, yes.

1 **Q.** **Okay. Now, how many hours, if you know,**
2 **did you invest in that GMO FAC prudence case?**

3 **A.** Well one of the reasons that I was one of
4 the principle witnesses because of my history with the
5 FAC and writing the rules and the fact that I've been
6 involved with every one since they started, since Senate
7 Bill 179 was signed I've been working on the fuel
8 adjustment clause. As for particular to that case I
9 wrote testimony, we had staff meetings, reviewing the
10 report, I really can't say exactly how many hours but it
11 was a lot.

12 **Q.** **Would you agree that you had a substantial**
13 **time investment in that case?**

14 **A.** Yes.

15 **Q.** **And you supervise Mr. Eaves, don't you?**

16 **A.** He, there is a supervisor between me and
17 him, John Rogers, but in our unit those lines are often
18 blurred.

19 **Q.** **Okay. So if you know would you agree that**
20 **Mr. Eaves also had a substantial time investment in that**
21 **case?**

22 **A.** He probably had more than I did, yes.

23 **Q.** **And now I know Mr. Hineman, he is an**
24 **accountant, is he not?**

25 **A.** He's an auditor for the Staff, yes.

1 Q. Okay. And he's stationed in Kansas City,
2 isn't that right?

3 A. That is correct.

4 Q. So do you happen to have any idea as to
5 how much time Mr. Hineman devoted to that case?

6 A. No, I don't and he was brought in to the
7 case for his historical knowledge of what GMO had done
8 for hedging. So, I mean we had, he too wrote testimony,
9 we had calls, conference calls and meetings of which he
10 was involved so he spent quite a bit of time also.

11 Q. And there were also attorneys involved in
12 the case.

13 A. Yes.

14 Q. So the point is I guess that even now
15 Staff ultimately was not successful in showing that there
16 had been imprudence and achieving a disallowance if in
17 fact that's what Staff's goal was, Staff did invest a
18 great deal of time and expertise in that case, wouldn't
19 you agree?

20 A. Yes.

21 Q. Okay. So as far as that prudence review
22 goes would you agree with me that Staff made its best
23 effort on that case?

24 A. Yes.

25 Q. So do you feel that the ratepayers of

1 **Missouri need to be nervous that the Staff is unable to**
2 **do an adequate job with respect to FAC prudence reviews?**

3 MR. LOWERY: Your Honor I guess at this
4 point I'm going to interject an objection. Every
5 question Mr. Thompson is asking Ms. Mantle is a leading
6 question and I was going to give some latitude but it's
7 just a leading question and leading question which is not
8 appropriate on redirect.

9 JUDGE WOODRUFF: Well of course leading
10 questions are not appropriate on direct so I don't know
11 is the objection to that specific question or just in
12 general, but.

13 MR. LOWERY: Well I guess to that question
14 but I would prefer not to have to repeatedly make the
15 same objection but certainly to that question. To start.

16 JUDGE WOODRUFF: I'll sustain the
17 objection and try to be less leading in the future.

18 MR. THOMPSON: I will try, excuse me,
19 Judge.

20 **Q. (By Mr. Thompson) If you have an opinion,**
21 **do you feel Staff does an adequate or an inadequate job**
22 **in FAC prudence reviews?**

23 A. I think that the people, the ratepayers of
24 the state of Missouri get quite a bargain for what they
25 pay for when it comes to the staff in the Missouri

1 Commission. We do an adequate job, we put in a lot of
2 hours and a lot of effort in to what we do wanting to get
3 the best possible product for them.

4 MR. THOMPSON: I think that's all the
5 questions I have. Thank you.

6 JUDGE WOODRUFF: Okay.

7 Ms. Mantle you can step down.

8 We'll take a break before we come back and
9 we've got Mr. Oligschlaeger and Mr. Dauphinais left, is
10 that?

11 MR. THOMPSON: That is my understanding.

12 Let's take a break, we'll come back at 3
13 o'clock.

14 (RECESS TAKEN BY PARTIES)

15 JUDGE WOODRUFF: Let's come to order
16 please. We're back from the break and Mr. Oligschlaeger
17 is taking the stand.

18 Please raise your right hand I'll swear
19 you in.

20 (Whereupon, the Witness was sworn)

21 JUDGE WOODRUFF: You may inquire.

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. THOMPSON:

24 Q. State your name please.

25 A. My name is Mark L. Oligschlaeger.

1 **Q. And are you the same -- excuse me, how**
2 **are you employed Mr. Oligschlaeger?**

3 A. I am employed by the Missouri Public
4 Service Commission as the manager of the auditing unit.

5 **Q. And would you please spell your last name**
6 **for the court reporter?**

7 A. Sure. O-l-i-g-s-c-h-l-a-e-g-e-r.

8 **Q. And you are the same Mark Oligschlaeger**
9 **that prepared or caused to be prepared a piece of**
10 **testimony, I think it's designated sur-sur, maybe just**
11 **responsive to Mr. Haro's sur-surrebuttal.**

12 A. Yes, I did.

13 MR. THOMPSON: And Judge I'm sorry, I
14 don't know what number our next number is?

15 JUDGE WOODRUFF: It's 240.

16 (MARKED STAFF EXHIBIT NO. 240)

17 **Q. (By Mr. Thompson) 240. Let's call this**
18 **Staff's Exhibit 240. Do you have any changes or**
19 **corrections to that testimony?**

20 A. Yes, I do.

21 **Q. And what are those changes and**
22 **corrections?**

23 A. On page 2, line 18 the word transmission
24 should be inserted between the words system and operator
25 at the end of the line.

1 **Q. Do you have any other corrections?**

2 A. Yes. On page 3, line 14 the word revenues
3 should be struck and replaced with the word expenses.

4 **Q. Any other correction?**

5 A. Yes. Same page, page 3, line 21, the word
6 liability should be inserted between the words regulatory
7 and account near the end of that line.

8 **Q. Very well. Any other correction?**

9 A. Yes. I have one more correction on page
10 10 in order to clarify the Staff's intent in suggesting
11 this particular condition on line 11, starting with the
12 comma following the word mechanism, the comma should be
13 struck and so should the following words: So that no
14 financial loss.

15 **Q. Very well.**

16 A. And then in that place you should insert
17 the words to the extent necessary to ensure that no
18 additional revenue requirement resulting. And just to
19 make sure that that was caught and understood I will read
20 the new excerpt or condition for.

21 **Q. Please.**

22 A. That Ameren Missouri must impute the level
23 of transmission revenues earned by ATX, ATXI or other
24 unregulated affiliate for facilities in Ameren Missouri's
25 service territory and to its tracker mechanism to the

1 extent necessary to ensure that no additional revenue
2 requirement resulting from Ameren Corporation's decision
3 to transfer responsibility for transmission construction
4 activity from Ameren Missouri's regulated business is
5 passed on to retail customers through the tracker.

6 Q. Okay. Thank you.

7 Any further corrections?

8 A. That is the last correction.

9 Q. With those corrections in mind Mr.
10 Oligschlaeger, if I asked you those question today would
11 your answers be the same?

12 A. They would.

13 Q. And is your testimony true and correct to
14 the best of your knowledge and belief?

15 A. It is.

16 MR. THOMPSON: At this time I would offer
17 Staff Exhibit 240, HC.

18 JUDGE WOODRUFF: You say it's HC?

19 MR. THOMPSON: It is HC, yes, I'm sorry.
20 I don't think the words that you heard were HC, but.

21 JUDGE WOODRUFF: Right.

22 240HC has been offered, any objection to
23 its receipt?

24 MR. LOWERY: No objection.

25 JUDGE WOODRUFF: Hearing no objections it

1 will be received.

2 And for cross examination MIEC?

3 MR. DOWNEY: No cross.

4 JUDGE WOODRUFF: Public Counsel?

5 MR. MILLS: No questions.

6 JUDGE WOODRUFF: For Ameren?

7 MR. LOWERY: And Your Honor there's no
8 need for Mr. Oligschlaeger's testimony to be HC, he's
9 reporting historical numbers from the true up test year
10 in his testimony and we appreciate Staff being cautious
11 about that but there's nothing confidential about those
12 numbers.

13 MR. THOMPSON: So we can ahead and
14 declassify it in its entirety.

15 JUDGE WOODRUFF: That's my understanding.

16 MR. LOWERY: My quick look there was only
17 one place and that was the true up period of time that
18 you used, asked, Mr. Oligschlaeger I think that was the
19 only one.

20 JUDGE WOODRUFF: There was some followup
21 discussion to that as well.

22 JUDGE WOODRUFF: Bottom of page 6, top of
23 page 7 and then the middle of page 7 is what was marked
24 as HC.

25 MR. LOWERY: Yeah, but there's nothing

1 highly confidential about that information from the
2 Company's perspective.

3 JUDGE WOODRUFF: Okay. We'll make it
4 public then.

5 MR. LOWERY: Make it easier for us to deal
6 with.

7 MR. THOMPSON: Thank you.

8 JUDGE WOODRUFF: And did you have cross?

9 MR. LOWERY: I do.

10 JUDGE WOODRUFF: Okay.

11 MR. LOWERY: First I'd like to get some
12 exhibits marked, I'll just do three at once here. And I
13 guess I'm up to 59, is that correct, Judge?

14 JUDGE WOODRUFF: Correct.

15 (MARKED AMERENUE EXHIBIT NOS. 59-61)

16 MR. LOWERY: May I inquire Your Honor?

17 JUDGE WOODRUFF: You may.

18 CROSS EXAMINATION

19 QUESTIONS BY MR. LOWERY:

20 Q. Mr. Oligschlaeger I have given you what's
21 been marked for identification as Exhibits 59, 60 and 61.
22 Do you recognize those documents?

23 A. I do.

24 Q. In fact those documents reflect,
25 effectively reflect the Staff's proposal in the KCPL GMO

1 case a couple of years ago to establish a transmission
2 cost and revenue tracker, right?

3 A. Yes.

4 Q. And the Staff also made the same proposal
5 in the Castle case that was going on at the same time and
6 as far as you know the Staff's testimony in the KCPL case
7 is materially the same as the Staff's testimony on that
8 same issue in the GMO case, is that fair to say?

9 A. As far as I know.

10 Q. And there may have been some other
11 transmission costs and revenues to be tracked in the
12 tracker that had been recommended in those cases but
13 among the costs and revenues that the Staff was
14 recommending be tracked were charges for transmission
15 charges from SPP for newly planned transmission to be
16 constructed throughout the SPP region, isn't that right?

17 A. Can you point me to a particular place in
18 these exhibits, sir?

19 Q. I can. Page 10 of Exhibit 59, the Staff
20 Revenue Requirement Cost of Service Report -- I'm sorry,
21 actually I can point you to your deposition and find the
22 page.

23 You do have a copy of your deposition with
24 you by the way?

25 A. Yes, I do.

1 Q. In Exhibit 59, it's down on the last
2 paragraph on page 161. The Staff referenced the cost of
3 newly planned transmission throughout SPP region that
4 would be allocated to the Company, the Company in that
5 instance being GMO, correct?

6 A. Correct.

7 Q. And when I say GMO we all know I'm talking
8 about Kansas City Power or KCP&L Greater Missouri
9 Operations Company, right?

10 A. Yes.

11 Q. And it's your general understanding is it
12 not that the MISO MVP projects that you and I and Mr.
13 Dauphinais discussed a couple cases ago are similar in
14 nature to the SPP projects that were being dealt with in
15 the Staff's proposed transmission cost and revenue
16 tracker in the KCPL and GMO cases, is that right?

17 A. That is correct.

18 Q. In proposing that tracker the Staff noted
19 that approval of a large sum of SPP projects in the SPP
20 footprints would lead to an increase in future
21 transmission expense, is that right?

22 A. That is what it states.

23 Q. And you would expect the same change with
24 regard to the more than 5 billion of MISO MVPs that were
25 approved in 2011 by the MISO board, isn't that right?

1 A. That would be reasonable.

2 Q. The Staff's direct testimony report in the
3 KCPL and the GMO cases did not reflect any future
4 projection of transmission charges, did it?

5 A. Not in these documents themselves, no.

6 Q. Let me clarify what I think you just said.
7 You agreed with me earlier that Exhibits 59, 60 and 61
8 reflect all of the testimony that the Staff filed in that
9 case regarding the tracker, right?

10 A. Correct.

11 Q. And in none of Exhibits 59, 60 or 61 does
12 the Staff provide any information regarding future
13 projections of KCPL or GMO's future transmission charges
14 that it was expecting to receive, did it?

15 A. Beyond noting that those, that level of
16 expenses in the future had a high degree of uncertainty.

17 Q. So when the Staff said that it didn't know
18 how much the transmission charges would go up in the
19 future in the GMO case that appears to be true, isn't
20 that fair to say?

21 A. They did not express an opinion as to
22 specific number estimates, no.

23 Q. Well let me ask you this: If it was
24 significant to the Staff, if how much the charges would
25 go up in the future from SPP for these transmission

1 charges in the future, if that was a significant
2 consideration for the Staff's transmission tracker
3 recommendation in that case wouldn't it be expected that
4 the Staff would have at least mentioned that as a factor
5 it considered?

6 A. All I know is in discussions with Mr. Beck
7 I know that was part of our area of interest, it may not
8 have been a primary area of interest that led to these
9 recommendations.

10 Q. It must not have been a particularly
11 important area of interest else one would think the Staff
12 would have given the Commission information about that,
13 isn't that fair?

14 A. Well again our primary conclusion was
15 involving the uncertainty of future projections which
16 might lead to a decision that actual numbers would not be
17 that valuable in that context.

18 Q. So the amount by which the charges were
19 going up in the SPP region wasn't really the most
20 important thing, the most important thing was that there
21 was a lot of uncertainty about what those charges might
22 be in the future, is that fair to say?

23 A. In that narrow aspect, yes, as well as the
24 escalating costs that had been experienced by these
25 companies up to that point.

1 Q. Would it be fair to say that project, the
2 project cost estimates used in the 5 billion plus, for
3 the 5 billion plus of MISO MVPs that have been approved
4 that the project cost estimates could vary significantly
5 from the actual final cost of the projects when built?

6 A. I think that is inherent in any
7 construction project.

8 Q. And in fact that's the same thing in
9 effect that the Staff had to say about the project cost
10 estimates for SPP projects, correct?

11 A. I think they note the uncertainty of those
12 particular construction cost estimates.

13 Q. And the fact that those final project
14 costs could vary considerably from what the estimates we
15 have now are is one of the key reasons why there's
16 considerable uncertainty in the future about what the
17 level of transmission charges from the MISO will be,
18 isn't that fair?

19 A. I think that's fair.

20 Q. And you agree, do you not, that Ameren
21 Missouri has less control, I think you've told me
22 significantly less control inherently over MISO
23 transmission charges than it does over most of its other
24 costs?

25 A. Well, I said it had significantly less

1 control over MISO transmission projects over similar
2 projects that it would be responsible for, that it would
3 own and be in charge of managing the construction. I
4 would agree that in general it has lowest control over
5 these particular costs than most of its other costs.

6 Q. When the Staff proposed the GMO and KCPL
7 transmission costs and revenue tracker SPP did not have
8 an energy market, did it?

9 A. That's true.

10 Q. And it still doesn't.

11 A. That's my understanding.

12 Q. And MISO does, right?

13 A. Again, that's my understanding.

14 Q. And you understand that a principle
15 benefit of Ameren Missouri's ability to participate in
16 that market are the off system sales that Ameren Missouri
17 can realize, correct?

18 A. Yes.

19 Q. And you agree off system sales are
20 reflected in base rates, right?

21 A. Yes.

22 Q. The greater off system sales opportunities
23 that Ameren Missouri has by being a MISO market
24 participant is not a benefit that was or is available to
25 KCPL and GMO, is that fair to say?

1 A. Certainly not directly available.

2 Q. Now, with the benefit from participating
3 in the MISO charges you would agree come costs, right?

4 A. That's a truism in life, yes.

5 Q. And including MISO transmission charges
6 that we're talking about today, right?

7 A. Yes.

8 Q. Now, you've read Mr. Haro's September 19th
9 testimony on this tracker issue, is that right?

10 A. I have.

11 Q. You do have a copy of it?

12 A. Yes, I do.

13 Q. If you could turn to page 25, line 6 to
14 10. And I'll give you a moment.

15 MR. DOWNEY: What page?

16 MR. LOWERY: 25.

17 And while Mr. Oligschlaeger is looking for
18 that I will move for the admission of Exhibits 59, 60 and
19 61.

20 JUDGE WOODRUFF: 59, 60 and 61 have been
21 offered, any objection to their receipt?

22 Hearing none they would be received.

23 Q. (By Mr. Lowery) Are you there Mr.
24 Oligschlaeger?

25 A. I am.

1 Q. Now, while you didn't independently verify
2 what Mr. Haro had to say at line 6 to 10 on page 25 of
3 his testimony based on the numbers you have been provided
4 what he says there appears to be true, isn't that right?

5 A. Based solely on those numbers they reflect
6 a significant growth in MISO transmission charges to
7 Ameren.

8 Q. More specifically based on that what he
9 has to say there appears to be true, is that true?
10 You're not taking issue with what he says there based on
11 those numbers that you've seen, is that right, or not?

12 A. Those numbers in and of themselves without
13 any further investigation or review would tend to support
14 these contentions, yes.

15 Q. And one of the things he says is that MISO
16 transmission charges have been growing in recent years,
17 right?

18 A. Yes.

19 Q. And he says they're expected to continue
20 to grow at an even faster pace, correct?

21 A. That's what Mr. Haro's projections show,
22 yes. Yes.

23 Q. Says there's a lot of uncertainty
24 regarding by exactly how much, correct?

25 A. I'd say that's fair.

1 Q. And you don't disagree with that.

2 A. I don't disagree with that.

3 Q. There's almost no uncertainty that they
4 would grow significantly, would you agree with that?

5 A. I think there's a universal expectation
6 that they would grow probably significantly.

7 Q. Now Ameren Missouri agrees the
8 transmission revenues should also be included in the
9 tracker that is proposed as an alternative to keeping
10 them in the FAC if the Commission were to make that
11 decision, correct?

12 A. Correct.

13 Q. KCPL and GMO opposed including the
14 revenues in the tracker the Staff proposed, isn't that
15 correct?

16 A. That is correct.

17 Q. Now, leading up to the day that you filed
18 your responsive testimony you did have some information
19 from the Company about future transmission revenue
20 levels, is that right?

21 A. A data request response was received by
22 the staff prior, several hours prior to the filing of my
23 testimony, I did not review that response.

24 Q. And that's fair enough. And you
25 understand that that data request had been asked just two

1 **days earlier, correct?**

2 A. I think that's right.

3 **Q. And that response told you that the**
4 **expectation was the transmission revenues would not**
5 **materially change or increase over the next four years or**
6 **so, do you recall that?**

7 A. That is my recollection. Yes.

8 **Q. Since then you've been formally provided**
9 **information similar to that that you received during**
10 **settlement discussions last week, is that right, about**
11 **transmission revenues and costs?**

12 A. We received -- well let me explain. Ms.
13 Mantle received an e-mail from an Ameren official which
14 contained estimates of revenues, future transmission
15 revenues and expenses. Ms. Mantle mentioned to me on
16 Thursday and said it included revenue information, I took
17 the time to quickly look all the revenue information
18 because we hadn't seen any up to that point and did not
19 look at any of the other information so I did not know
20 that there were new transmission cost estimates until
21 probably over the weekend.

22 **Q. Okay. Fair enough.**

23 **Now, you heard the discussion I had with**
24 **Mr. Dauphinais the other day when he said there were**
25 **about 5.6 billion of MVPs approved in MISO IMTA 11?**

1 A. I remember that discussion.

2 Q. And we didn't have exact figures at that
3 time but I think he generally agreed that 5 billion or so
4 was outside Missouri, do you recall that?

5 A. That sounds right.

6 Q. And I'm going to ask him more specifically
7 about that but I want you to assume for purposes of my
8 questions that 250 million of the 5.6 billion is slated
9 to be built in Missouri. Do you have that assumption in
10 mind?

11 A. Okay.

12 Q. Now, if that's true you would agree then
13 that if there is a small percentage of planned MISO
14 construction projects in Missouri that any growth in
15 revenues even if Ameren Missouri were to build that 250
16 million would be less than the growth in the allocated
17 costs for MISO for the rest of that 5.35 billion of
18 investment to plan in the MISO, wouldn't you agree with
19 that?

20 A. I would generally agree if the assumption
21 is that the new MISO investment located in Missouri is
22 very small compared to the total new MISO investment over
23 the entire footprint.

24 Q. And if that assumption is correct, 250
25 million out of 5.6 billion, that would be about, that's

1 **pretty small, right, about 4.4 percent?**

2 A. I'll take your word for that.

3 Q. **Does that sound, around 4 percent sound**
4 **about right?**

5 A. 4 or 5 percent, I'll accept that.

6 Q. **Fair enough. In any event that's pretty**
7 **small in relation to the total, isn't it?**

8 A. I would generally agree, yes.

9 MR. LOWERY: Another exhibit marked Your
10 Honor, 62 I believe.

11 JUDGE WOODRUFF: That would be correct.

12 (MARKED AMERENUE EXHIBIT NO. 62)

13 Q. **(By Mr. Lowery) Mr. Oligschlaeger you**
14 **recognize what's been marked for identification as**
15 **Exhibit 62, do you not?**

16 A. I do.

17 Q. **And I'm not going to talk specifically**
18 **about the numbers, try to avoid going in camera, but**
19 **given the facts depicted on Exhibit 62 and given the fact**
20 **that whether you want to call it small or pretty small,**
21 **if my assumption of 250 million to 5.6 billion is**
22 **correct, given that small amount of transmission that's**
23 **slated to be built in Missouri under that assumption,**
24 **given those facts it makes sense that what we're seeing**
25 **on exhibit, on the third page of Exhibit 62 in particular**

1 are projections for substantial increases in transmission
2 charges from the MISO over the next four years with
3 little to no increase in transmission revenues. That
4 makes sense doesn't it?

5 A. Again based solely on these numbers and
6 doing no other investigation or research into their
7 validity, yes, that would make sense.

8 Q. Let me ask you about that. You're not
9 claiming this these numbers are inaccurate, are you?

10 A. No. We really haven't examined them in
11 any meaningful way.

12 Q. Fair enough. Does the Staff have access
13 to MISO's posted information about IMTA?

14 A. I wouldn't know.

15 Q. You don't know.

16 So that means the Staff might, you just
17 don't know, is that fair to say?

18 A. It might.

19 Q. Would you agree that Exhibit 62 reflects
20 the information that the Company has given the Staff
21 respecting the Company estimates of what its future
22 transmission charges through 2016 and its future
23 transmission revenues through 2016 are expected to be?

24 A. I'm sorry, could you repeat that?

25 Q. Would you agree that the information

1 depicted, and I'm particularly looking at the third page
2 of 62 reflects the information the Company has given to
3 the Staff respecting what it expects its transmission
4 charges from the MISO to be through 2016 and what it
5 expects its transmission revenues to be through 2016?

6 A. I believe this purports to be what Ameren
7 believes to be the most current estimates of those items.

8 Q. And you don't have any reason to believe
9 that that's not what it is, is that fair to say?

10 A. I have no reason, no.

11 Q. Is it fair to say that the information
12 shown on Exhibit 62 is very similar to the information
13 that you looked at I think you said last Thursday and
14 before your responsive testimony was, I guess at least
15 before it was filed?

16 A. Well again I really only looked at the
17 revenue information in what was sent to us last week. I
18 have after the fact done a comparison and this appears to
19 be the same information.

20 Q. Is it your testimony that before you filed
21 your responsive testimony you did not look at information
22 the Staff had about expected increases in MISO
23 transmission charges over the next few years?

24 A. Well, again to make it very clear it was
25 not communicated to me, I don't know even now if it was

1 known by Ms. Mantle that that reflected new cost
2 estimates. I quite frankly assumed it did not.

3 Q. Okay. Let me try to understand your
4 answer because I'm not sure I followed you entirely.

5 A. Right.

6 Q. Before you filed your responsive testimony
7 did you look at estimates that had been provided by the
8 Company of its future transmission expenses from the MISO
9 say over the next three or four years?

10 A. If I'm understanding your question, yes, I
11 looked at what was contained in Mr. Haro's
12 sur-surrebuttal testimony.

13 Q. Okay. And you recognize on page 3 of
14 Exhibit 62, you recognize the as filed columns and the
15 total for the transmission charges depicted there as
16 being either extremely close or the same as what Mr. Haro
17 has in his testimony, is that fair to say?

18 A. They look to be the same.

19 Q. And so at least in part in filing your
20 responsive testimony you relied on the transmission
21 revenue information that Ms. Mantle had been provided
22 that's the same as the transmission revenue information
23 on Exhibit 62?

24 A. I wouldn't say I relied upon that. Again,
25 that was given to us for settlement purposes and it was

1 not something I felt that was relevant for any testimony
2 I would file in this proceeding.

3 Q. And while I realize that you haven't, I
4 don't know whether you've had the opportunity or not, it
5 really doesn't matter but you indicate that the Staff has
6 not independently investigated or calculated its own
7 projections, you do now understand that the Company based
8 on information that it has received from the MISO has
9 revised upward the expected transmission charges it
10 thinks it's going to see from the MISO in the next few
11 years, correct?

12 A. Yes, that's my understanding where the new
13 numbers come from.

14 Q. And in fact if you look at the bottom of
15 this document you can see some percentages for each year
16 by which those prior estimates went up, can you not?

17 A. Yes.

18 MR. LOWERY: Your Honor with that I would
19 offer Exhibit 62.

20 JUDGE WOODRUFF: Exhibit 62 has been
21 offered. Any objection?

22 MR. MILLS: Yes. There hasn't been a
23 foundation laid that this witness can authenticate it.
24 The best he was able to do was say that the part of the
25 document that's labeled as filed on page 3 tied to Mr.

1 Haro's sur-surrebuttal testimony. It appears that the
2 Company is trying to get in some new information that has
3 arisen in this case at some point after the filing of
4 sur-sur-sur-surrebuttal testimony and this witness has
5 said not only has he not been able to verify it, he has
6 not tried to verify it, he doesn't know if he has any
7 access to these numbers and there simply has been no
8 foundation.

9 JUDGE WOODRUFF: Your response?

10 MR. LOWERY: The witness's inability, or I
11 don't know if it's inability, but the fact that he hasn't
12 verified these numbers goes to the weight the Commission
13 might want to give to the numbers but it doesn't mean
14 that the exhibit should not be admitted. This is a
15 response to data request the Staff asked the Staff's
16 transmission tracker proposal, of course discusses the
17 magnitude and the how certain or expected the changes in
18 that net transmission revenues are and this is evidence
19 that goes directly to, and this is information the Staff
20 had, some of it at least before they even filed the
21 responsive testimony and it's relevant to be evaluated in
22 the Staff's proposal.

23 MR. MILLS: It may be relevant but it was
24 requested by Dana Eaves who is not a witness in this
25 case, it was provided by Greg Gudman who is not a witness

1 in this case. There is no way that this witness can make
2 even a vague claim that there's some sort of implicit
3 accuracy in this information. It doesn't go to the
4 weight it goes to the admissibility. There is no
5 foundation that any of these numbers have any accuracy.

6 JUDGE WOODRUFF: I believe the Public
7 Counsel is correct, that there is no foundation for
8 these, for this information from this witness, so I'm
9 going to sustain the objection.

10 MR. LOWERY: Fair enough.

11 Q. (By Mr. Lowery) Mr. Oligschlaeger,
12 regardless of what the estimates that are Mr. Haro's
13 testimony, the estimates the Company has since provided
14 the Staff whatever estimates we have they certainly could
15 be wrong, isn't that true?

16 A. Of course.

17 Q. Particularly when you consider the fact
18 that, and again I'll ask Mr. Dauphinais this, but
19 particularly when you consider the fact that if I'm right
20 more than \$5 billion of these MVPs are going to be built
21 outside of Missouri by someone other than Ameren
22 Missouri.

23 A. I don't, I think that inherently leads to
24 the danger of some inaccuracy in estimation, yes.

25 Q. And the fact that they're preconstruction

1 estimates, probably preengineering estimates also leads
2 to a danger that the estimates could be inaccurate, isn't
3 that true?

4 A. The earlier the estimate in the stage of
5 the project the higher the degree of inherent inaccuracy.

6 Q. Now, were you here earlier when Mr. Haro
7 was discussing the \$12 million figure I think with
8 Commissioner Kenney?

9 A. I don't believe so.

10 Q. You did hear the discussion the other day
11 between Mr. Dauphinais and I about the fact that if you
12 had a hypothetical rate case filed in early 2014 and new
13 rates in early '15 that based on the estimates that we're
14 talking about we'd have an increase in that interim
15 period of about \$11 million, do you recall that?

16 A. I do recall that.

17 Q. You don't know if Ameren Missouri is going
18 to file another rate case, isn't that fair to say?

19 A. I don't know that for a fact, no.

20 Q. Now the Staff's primary position regarding
21 the tracker is that there shouldn't be one, correct?

22 A. Yes.

23 Q. Now, if the Commission disagrees with you
24 and determines a tracker is appropriate the Staff
25 recommends six conditions and you've amended one of them

1 today, right?

2 A. Correct.

3 Q. Let me ask about that amended condition.

4 Let me ask you this: Did our discussion the other night
5 have something to do with the fact that that amendment
6 was made?

7 A. It does, yes.

8 Q. And let me, I can probably cut 10 minutes
9 out of this discussion, maybe 15. What I had suggested
10 to you the other night is that perhaps what you had
11 literally written is not really what you meant because
12 what you had literally written might have meant that
13 Missouri customers would get 100 percent of the revenues
14 associated with an Ameren Missouri built MVP project in
15 Missouri but would only bear eight percent of the cost,
16 that was the suggestion I made to you, isn't that
17 correct?

18 A. That is correct.

19 Q. And you said at the time something along
20 the lines you might be right but I needed to think about
21 it. Is that fair to say?

22 A. That's fair.

23 Q. And you thought about it and you've
24 realized that I was at least partially right, isn't that
25 true?

1 A. Well, our discussion led to further
2 thinking on our part which we concluded that this
3 condition could use some clarification to be more clear
4 as to what our intent was.

5 Q. And let me state back, I know you gave a
6 specific amendment to the condition but let me try and
7 put it in terms that I understand and hopefully the
8 Commissioners will understand. What you're really, in
9 order to implement your amended condition what you're
10 really saying is that if let's say ATX built an MVP in
11 Ameren Missouri territory at a cost of \$200 million let's
12 say, in order to implement your condition what you would
13 have to do is you would have to figure out the revenue
14 requirement for ATX under whatever FERC rate making
15 treatment it's getting and that would give you a number
16 and you would have to do a hypothetical calculation based
17 on presumably allowed ROE, capital structure,
18 depreciation rates, tax rates, so on and so forth, debt
19 costs and so on for Ameren Missouri assuming Ameren
20 Missouri built that project and you've get a difference,
21 right?

22 A. Yes.

23 Q. And what you're saying in your amended
24 condition is if the difference is positive, in other
25 words if the ATX revenue requirement is higher by I'm

1 just making up numbers, half a million dollars that you
2 would recommend that the Commission impute in to the
3 tracker sort of as transmission revenues that half
4 million dollars, that's the bottom line affect of your
5 amended condition, isn't it?

6 A. I believe you have described it
7 accurately.

8 Q. That condition and conditions are being
9 recommended because Ameren Corporation, not Ameren
10 Missouri but because Ameren Corporation formed ATX, isn't
11 that right?

12 A. That's the genesis of our concern, yes.

13 Q. There's actually two entities but as you
14 and I discussed the other day, ATX, ATXI, didn't we agree
15 to call it ATX like we did the other night and that will
16 be collectively of the two entities, is that fair?

17 A. That's fine.

18 Q. Now on page 8 of your responsive testimony
19 you say that it is expected that Ameren Missouri will no
20 longer own transmission in the service territory, right?

21 A. Correct.

22 Q. But Ameren Missouri already, or at least
23 you would agree, you suspect that I might be right when I
24 say that Ameren Missouri already doesn't own all of the
25 transmission in service territory, isn't that fair?

1 A. Yes. Since that point I think I've been
2 informed that there may be some AECI transmission lines
3 that go through at least in part your service territory.

4 Q. Might be some central electric power
5 cooperative line from him?

6 A. I wasn't informed of that but I don't
7 doubt you.

8 Q. So your statement isn't 100 percent
9 accurate, isn't that fair to say?

10 A. It's not literally accurate, that's
11 correct.

12 Q. You also say that prior to the creation of
13 ATX it was quote, expected that Ameren Missouri would
14 build new required MISO projects like MVPs, right?

15 A. That's what I stated.

16 Q. And that was the Staff's expectation,
17 right?

18 A. Yes.

19 Q. In fact neither you nor the Staff actually
20 know for a fact whether Ameren Missouri would have ever
21 actually built any of these MVPs, isn't that fair?

22 A. It was an expectation, it is not an
23 established fact.

24 Q. And you're not contending for example
25 that Ameren Missouri has a right to build these MVPs that

1 is superior to ATX's right or any other company's right
2 for that matter, you are not contending that, are you?

3 A. I am not.

4 Q. You aren't aware of Ameren Missouri having
5 any ability to control what ATX does or does not build,
6 is that true?

7 A. I'm not aware of that ability.

8 Q. And you realize that Ameren Missouri can
9 not dictate to Ameren Corporation what it does either,
10 isn't that true?

11 A. That would be reasonable, yes.

12 Q. You contend that your conditions 4 and 5
13 are justified because of a quote transfer of some right
14 to build MVPs in Ameren Missouri service territory,
15 right?

16 A. Correct.

17 Q. But if Ameren Missouri was not going to
18 build the projects anyway then nothing has been
19 transferred, isn't that true?

20 A. Under that hypothetical yeah, that is
21 true.

22 Q. It's a hypothetical that as far as you
23 know it could be true, right?

24 A. I don't know for a fact it's not true.

25 Q. Okay. You agree do you not Mr.

1 Oligschlaeger that Ameren Missouri does not have an
2 unlimited amount of capital that it can invest at any
3 given period of time?

4 A. It only has the capital allocated to it by
5 its parent company.

6 Q. And that's not unlimited, is that fair to
7 say?

8 A. That's fair to say.

9 Q. You wouldn't expect it to be unlimited,
10 would you?

11 A. I don't think any utility in this state
12 has unlimited capital.

13 Q. You agree that because reliability is
14 among the highest priority of any utility that if Ameren
15 Missouri has projects related to the reliability of its
16 generators, its distribution system, its transmission
17 system that in total are more than the capital it has
18 available at the time it should be putting money in to
19 those projects and not in to MISO MVPs if those projects
20 are needed for reliability, you agree with that, do you
21 not?

22 A. I believe if there is a direct conflict,
23 not enough capital to accomplish both purposes that
24 reliability of service to customers as it should be a
25 very high priority of the Company.

1 Q. Okay. Let's go back and discuss your
2 other conditions a moment. Your first one is that
3 revenues be included and Mr. Haro's testimony says
4 revenues should be included, is that right?

5 A. That's correct.

6 Q. So we don't really have an issue about
7 condition one, do you agree?

8 A. I don't believe so.

9 Q. And condition 2, you clarified for me the
10 other day -- well let me break it down. I think there's
11 two sentences there. You don't have a reason to believe
12 the Company objects to the first sentence of condition 2,
13 do you?

14 A. I'm not aware of any.

15 Q. And regarding the second sentence you
16 clarified for me the other day that when you refer to
17 internal management reports what you are getting at is if
18 there is a report generated that breaks out transmission
19 costs and revenues in detail by line item a part from all
20 the other costs and revenues, non-transmission costs and
21 revenues the Company has and if it's a periodically
22 prepared report that Ameren Missouri's management gets
23 that's what you're looking for when you refer to internal
24 management reports, is that right?

25 A. I think that's close, yes.

1 Q. What part of it did I miss?

2 A. Well, I mean we're talking about
3 hypothetical reports. I think in terms of the, a general
4 description of what it is we're seeking I think what you
5 said was accurate.

6 Q. If there is such a report and we give you
7 that that would satisfy the second sentence of your
8 condition 2, is that fair to say?

9 A. From my perspective, yes.

10 Q. Well.

11 A. Okay. From Staff's perspective.

12 Q. You are speaking for Staff on this, right?

13 A. Correct, yes.

14 Q. I guess what I don't want to have later
15 happen is you said it's okay but now somebody else says
16 the condition means something different. You sponsored
17 the condition, right?

18 A. In reality we'd probably like to see a
19 copy of what you propose and we can discuss it, but.

20 Q. Well you're not actually asking us to
21 create something that doesn't exist, isn't that fair to
22 say?

23 A. That's fair to say.

24 Q. Okay. So my question was if that kind of
25 report exists and we give it to you it would satisfy your

1 condition, true?

2 A. Yes.

3 Q. Okay. Your condition number 3, would you
4 agree that's more or less boiler plate than you see in
5 probably most accounting authority orders?

6 A. I would say almost all, yes.

7 Q. And the point of condition 3 which I think
8 you would agree is implicit in how deferred accounting
9 mechanisms like a tracker work anyway is that first no
10 rate would change as a result of the adoption of the
11 tracker, right?

12 A. Correct.

13 Q. And secondly, the Commission isn't
14 actually making a decision about the rate making
15 treatment of a reg asset or reg liability that might
16 arise from the tracker in this case, right?

17 A. That's correct.

18 Q. This isn't like an FAC where if the FAC is
19 approved and the costs and revenues are tracked that the
20 changes automatically will be reflected in a surcharge or
21 a credit later, right?

22 A. No, you wait until the next general rate
23 case to look in to those issues.

24 Q. And in fact the Commission for example,
25 MIC argues that there's all this control by Ameren over

1 these MISO transmission costs, the Commission could look
2 at the prudence of the cost increases, let's say their
3 cost increases that took place that are being tracked in
4 that tracker, isn't that fair?

5 A. That's fair.

6 Q. And could do so before the fact, before
7 they actually were amortized, isn't that true?

8 A. You mean prior to being reflected in
9 rates?

10 Q. Yes.

11 A. Yes.

12 Q. And with an FAC it's an after the fact
13 prudence review, right?

14 A. That's my understanding.

15 Q. Okay. Condition 6, well, and we've really
16 talked about condition 4 and condition 5, you and I
17 talked about it the other day and I think if I can, if I
18 can try to restate what you're saying in condition 5 if
19 there's a prior order of some kind respecting the
20 treatment of transmission costs for rate making purposes
21 you are suggesting the Commission explicitly state that
22 nothing in its order adopting a tracker in this case
23 would supercede such a prior order, is that right?

24 A. That's the intent.

25 Q. That's the intent. Okay.

1 Okay. Let me see if I can state the
2 concern that Staff is trying to address in condition
3 number 6. What Staff doesn't want to happen is for a
4 regulatory asset to arise because of higher net
5 transmission costs after rates are set in this case and
6 before there's another rate case if costs, other costs
7 outside the tracker or other revenues outside the tracker
8 in combination change in a way that's favorable to the
9 Company and change in a favorable way more than the
10 increase in transmission costs, right?

11 A. That's one side of the concern, yes.

12 Q. Okay. Could you tell me what the other
13 side is?

14 A. Well, sure. We also don't think it is
15 appropriate for a company to defer other collections of a
16 single cost of service item being tracked at the same
17 time it is under earning in total.

18 Q. You're just saying, you're also, you also
19 have the concern, the symmetrical concern on the other
20 side, right?

21 A. Yes.

22 Q. But that is the concern you're trying to
23 get at, are those two symmetrical concerns are the ones
24 you're trying to get at, correct?

25 A. Yes.

1 Q. If that is the concern, or the two
2 concerns, can I just call them one for sake of
3 simplicity?

4 A. They're the same concern.

5 Q. Two sides of the same coin, right?

6 A. Uh-huh.

7 Q. If that's the concern isn't it true that
8 what one could do is take the surveillance reports that
9 you say that you want to rely on to implement your
10 condition 6, compare them to the allowed ROE from this
11 case, calculate the dollars of so called other or under
12 earning based on the allowed ROE the Commission grants in
13 this case, for each of those periods from now until let's
14 say the true up cutoff date in the next rate case and you
15 could figure out what that number is, right?

16 A. Yes.

17 Q. And you could then also track the net
18 changes in the transmission costs and revenues and let's
19 just say it's a regulatory asset. And if the regulatory
20 asset were, and let's say they were under earning during
21 that same period of time and if there were, if the
22 regulatory asset was less than or equal to the under
23 earning during that period then the entire regulatory
24 asset would be eligible for, eligible for treatment in
25 that rate case, isn't that a way this could be done?

1 A. I understand your scenario, it is not
2 something we would prefer or recommend for two reasons.
3 Number one it's an after the fact analysis, the deferrals
4 would continue in between rate cases during any period in
5 which the Company was under or over earning and we don't
6 believe that definition costs on your books that are not
7 likely to be given ultimate rate recovery is necessarily
8 appropriate financial reporting. Secondly, that approach
9 may lead to the need for Ameren to take write-offs of
10 previous deferrals that would not be recoverable under
11 this test and it has been our experience that companies
12 for obvious and many, in many ways good reasons do not
13 like and resist the need to write off assets from their
14 books.

15 **Q. Let me, let's explore those two concerns a**
16 **little bit. Let me first get an answer to my question.**
17 **You could do what I suggested and it would address your**
18 **concern, right?**

19 A. As you stated it in broad terms I think it
20 would work, obviously there would be details to look in
21 to.

22 **Q. Okay. But you do think it would work.**

23 A. Again in broad terms it could work.

24 **Q. Okay. Aside from the two concerns which**
25 **really both relate to the company obligation to, and what**

1 the company independent auditors might like or not like,
2 aside from those concerns what I suggested to you could
3 work, right?

4 A. I believe it could work.

5 Q. All right. Let's talk a little bit about
6 addressing the two issues, the accounting issues that you
7 raised which really aren't regulatory or rate making
8 issues, they're really GAP accounting issues, isn't that
9 fair to say?

10 A. That's fair to say. I don't think we're
11 unconcerned with those types of issues, but.

12 Q. And I can assure you that Ameren
13 Missouri's controller is not unconcerned with them either
14 but that wasn't my question. My question was whether or
15 not those are GAP and SEC reporting issues as apposed to
16 rate making or regulatory issues and I think you said
17 they were GAP and SEC reporting issues, right?

18 A. I'd say predominantly.

19 Q. Okay. Let's explore a refinement of the
20 alternative that I gave you. One of the, if I listened
21 to the two concerns you raised and I understood them I
22 think one of the things you were saying is well, you
23 could have two or three years or whatever period of time
24 between these rate cases and it might be difficult for
25 the Company to know what the outcome of that comparison

1 of the under earnings and the regulatory asset was going
2 to be over that kind of period and so it's possible the
3 Company would misapprehend the outcome, book a regulatory
4 asset that turned out to be bigger than its under
5 earnings during that period. Is that what you're kind of
6 getting at?

7 A. Well, I think to the extend that the
8 approach you outlined is dependent upon I guess all of
9 the Company financial results from one rate case to the
10 next when you're in the middle of that period you don't
11 know what the final answer would be. It may look like
12 you would have to write off a bunch of costs, you know,
13 one year out but then that need disappears because of
14 your further earnings trends as you go out another year
15 or so.

16 Q. Well, let me ask you this: Your proposal
17 was to look at this every quarter based on every
18 quarter's surveillance report, right?

19 A. Yes, based on FAC surveillance.

20 Q. Isn't it fair to say that another way of
21 doing it, and I think that it would address this concern
22 that you and I were just talking is to simply look at the
23 surveillance report every year on the December 31, look
24 at it once a year, you follow me so far?

25 A. Yes.

1 Q. And then, and, in this case we're going to
2 have new rates take affect probably on January 2nd, the
3 operational on date, right?

4 A. That's the expectation.

5 Q. So we're sort of sync'd up with the
6 calendar year except for one day I guess, right?

7 A. Uh-huh.

8 Q. So you look at it once a year and the
9 Company could look at its transmission costs and its
10 transmission revenues each month, look at them January,
11 compare both of those numbers to the base, get a number,
12 look at them in February, compare to the base and get a
13 number and the Company could also at the same time be
14 looking at its budgets and its expectations for earnings
15 and could adjust that regulatory asset and regulatory
16 liability to stay in line with what its financial
17 information was telling it as it progressed through the
18 year. Couldn't it do that?

19 A. I believe it could do that.

20 Q. In fact within a year, well let me ask you
21 this: You've been around long enough to know that a
22 utility is looking pretty doggone close at its costs and
23 revenues and what its earnings are and what it thinks
24 they're going to be quarter by quarter and within a
25 calendar year, isn't that fair to say?

1 A. I mean that should occur on an ongoing
2 basis, yes.

3 Q. And you think it does occur, do you not?

4 A. I certainly hope so and believe so.

5 Q. So if that is occurring the two concerns
6 you raised are not really probably much of a concern
7 because if you do what I'm suggesting and you do this
8 once a year because the Company can adjust that
9 regulatory asset and liability and get very close and
10 probably get by the end of the year because an adjustment
11 could be made in December for example to get the
12 earnings, the over or under earnings in sync with the reg
13 liability, couldn't it?

14 A. Are you suggesting that this I guess
15 comparison of the amount of deferral to your overall
16 earnings level would be done at least once a year and
17 then once that year was completed then you're done going
18 back and then simply a new analysis going forward?

19 Q. I am. That is what I'm suggesting.

20 A. Okay. Yes, you could do that.

21 Q. Isn't that a workable solution to the two
22 concerns you raised about the more broad conceptual idea
23 that I was positing to you about waiting to take one look
24 between the two rate case periods which would be a
25 considerably longer period? Isn't that a workable

1 **solution.**

2 A. Again looking at it broadly I believe it
3 could be a workable solution. I'm not saying it's a
4 preferable solution necessarily but we would have
5 flexibility to the details, we do believe the intent of
6 condition 6 is important.

7 Q. Well, and let's talk about that intent a
8 little bit. The proposal that you've made seems to be a
9 little bit illogical to me and let's talk about that a
10 minute. What you've said is look at a surveillance
11 report at the end of a quarter and if there was over
12 earning as compared to the allowed during that quarter
13 regardless of what the reg asset or reg liability that
14 arose during that quarter is the Company going ahead and
15 book the reg asset at least for regulatory purposes,
16 right?

17 A. I'm sorry, I'm going to have to have you
18 go through that again.

19 Q. Sure. It may have not been a very good
20 question, I'm not sure.

21 Your proposal says look at the Company
22 earnings, their return on equity per the FAC surveillance
23 report at each quarter, right?

24 A. Yes.

25 Q. And see whether or not that's above or

1 below the allowed the Commission establishes in this
2 case, right?

3 A. Yes.

4 Q. And if it's above the allowed, and let me
5 add a fact to the hypothetical, let's say during that
6 quarter the company transmission costs exceeded its
7 revenues by \$2 million, okay, so there's reg asset,
8 right?

9 A. Uh-huh.

10 Q. Under that set of circumstances under your
11 proposal the Company could book a \$2 million regulatory
12 asset, right?

13 A. During that quarter, yes.

14 Q. Right. But then you would turn off under
15 your proposal the ability to book the regulatory asset in
16 quarter number 2, right?

17 A. Yes.

18 Q. And that's true even if in quarter number
19 2 the Company under earned, right?

20 A. That is correct.

21 Q. Okay. And here's what, here's the illogic
22 if that's a word that I see in that: You agreed at the
23 beginning that what you're trying to do is you're trying
24 to say I don't want the Company to book a reg asset for
25 an amount when other costs and revenue changes have in

1 effect covered some or all of the increase in this one
2 category, right?

3 A. Correct.

4 Q. But what you're doing is even now during
5 that first quarter that I'm talking about other costs and
6 revenue increases have I think to use the way you look at
7 it already covered some or all of the transmission cost
8 changes, you're letting the Company book that reg asset,
9 right?

10 A. Right. This would only work prospectively
11 under what we have laid out in testimony.

12 Q. Right. But the concept that you're trying
13 to advance don't let other costs and revenue changes
14 cover some or all of the increase in transmission, that's
15 the concept you're trying to address, right, that's the
16 concern you're trying to address, right?

17 A. Yes.

18 Q. But you're letting in that first quarter
19 you are letting the Company book the transmission
20 regulatory asset even though that has in fact happened,
21 right?

22 A. Yes. Our thought process was there needed
23 to be some kind of I guess proof or evidence that the
24 over earning was occurring before we would turn off or
25 turn on the deferrals. It is certainly possible to

1 design a similar mechanism where you could retroactively
2 go back and remove the deferral for each quarter in which
3 you over earned or under earned as the case may be.

4 Q. Well, in fact what I just suggested a
5 minute ago where we do this once a year, we look, you
6 know, and the Company syncs up and you can't, the Company
7 can't have a reg asset for that year that is more than
8 its level of under earnings, if any, it's a look back,
9 right, it's just that kind of look back is it not?

10 A. Right.

11 Q. Because the problem I think with what
12 you're suggesting is that in that first quarter these
13 other costs and revenues, let's say they completely more
14 than offset the changes in the transmission revenues yet
15 a reg asset gets backed in my example, right in the
16 second quarter let's say there's more increases in the
17 transmission costs and revenues, the Company under earns
18 by even more than that number but they can't book it and
19 so you're mixing up periods of over earnings and let them
20 book a regulatory asset and then you have periods of
21 under earnings and you're not letting them book the
22 regulatory asset and the amounts may or may not have
23 anything to do with each other, right?

24 A. There wouldn't be perfect synchronicity
25 between the periods of over and under earning and the

1 periods in which you book or do not book deferrals.

2 Q. And I haven't heard you yet really give me
3 a good reason why you would pursue that kind of scheme as
4 opposed to the once a year look where we look back and we
5 do sync those up perfectly every period. What would, why
6 would your proposal be superior?

7 A. Well again the thought process was we
8 wanted something, some external valuation of your
9 earnings that everyone presumably would agree would be
10 valid evidence of under or over earnings in which you
11 could look at the deferral. I believe, I don't know that
12 we would necessarily be incontrovertibly opposed to
13 modifying that to at least on a quarterly basis take the
14 look back, if it was shown the Company was over earning
15 in the second quarter of 2013 and you were under earning
16 during that same quarter with your transmission revenues
17 and expenses if a tracker is granted then you would have
18 the ability to adjust your books and remove those
19 deferrals for that quarter so it would not operate
20 prospectively entirely.

21 Q. Aren't there problems with doing that
22 retrospective look quarterly versus yearly, and let me
23 tell you what comes to mind for me.

24 You could have a situation -- well, for
25 one thing the Company revenues are seasonal, would you

1 agree with that?

2 A. Probably less seasonal than they used to
3 be but yes, they're still seasonal.

4 Q. Wouldn't you in general expect that if the
5 Company was going to quote over earn it's probably more
6 than likely to happen in the summer, for 12 month rolling
7 periods in the summer than it is in the winter, in
8 general?

9 A. In general I would at least suspect that
10 would be the case.

11 Q. And you're aware are you not that these
12 transmission charges, they are assessed kind of on a
13 megawatt hour basis?

14 A. I believe so.

15 Q. And were aware that transmission charges
16 get reset, they can get reset, I think the way it works
17 is in July of each year, or excuse me, June of each year?

18 A. I was not aware of that.

19 Q. Don't have any idea? Did you take into
20 account in designing, well in sort of opining to do this
21 quarterly, every quarter look back did you take into
22 account that there could be I'll call it lumpiness or
23 lack of evenness in the transmission cost of revenues the
24 Company has incurred?

25 A. I did not. There are remedies to that if

1 that in fact were the case.

2 Q. Well one remedy would be to do this once a
3 year then we even it out over a calendar year even if
4 they're lumpy within the calendar year we're going to get
5 the total effect of the transmission cost and revenue
6 changes and we're going to have a look at what the actual
7 earnings for a 12 month period were, that's one way to
8 solve that problem, isn't it?

9 A. That is one remedy, I think there are
10 others.

11 MR. LOWERY: Get a couple of exhibits
12 marked Your Honor, I've lost track. 63?

13 JUDGE WOODRUFF: Yes, 63 is the next one.

14 MR. LOWERY: And I'm going to mark two.

15 (MARKED AMERENUE EXHIBIT NOS. 63-64)

16 Q. (By Mr. Lowery) Mr. Oligschlaeger I've
17 handed you what have been marked for identification as
18 Exhibit 63 and 64. You recognize 63, do you not?

19 A. I do.

20 Q. We discussed Exhibit 63 at length the
21 other night did we not?

22 A. We did.

23 Q. And you agreed with me at that time, well
24 there's two things you didn't completely agree with. One
25 thing you didn't agree with I think and in particular you

1 **didn't agree with the ROE percentages, you didn't agree**
2 **that they were realistic, right?**

3 A. That's correct.

4 Q. And I want to be clear and I would think I
5 **was clear then, this is completely a hypothetical, right?**

6 A. Right.

7 Q. So you didn't agree that my hypothetical
8 **ROE percentages were realistic, is that fair?**

9 A. That's fair.

10 Q. You didn't think the company's ROE would
11 **jump around from 10/4 down to 9/2 back up to 10/4 back to**
12 **9/2. You thought that was too much change to be**
13 **realistic.**

14 A. I wouldn't normally expect that kind of
15 swing in the quarterly earnings reports.

16 Q. The other thing you didn't agree or
17 **disagree with necessarily was this 93.5 million negative**
18 **number down at the bottom, right?**

19 A. At that time I wasn't sure looking at this
20 in, since the deposition I definitely do not agree with
21 that number.

22 Q. In fact that number's not right, is it?

23 A. That's correct.

24 Q. Okay. So take a look at Exhibit 64.
25 **Would you verify that Exhibit 64 is the same as Exhibit**

1 **63 except that 93.5 number has been changed?**

2 A. A quick look indicates that to be the
3 case.

4 Q. Would you agree that using these
5 hypothetical figures that the \$71.5 million number is
6 correct?

7 A. Actually I would not. There's a further I
8 think calculation error.

9 Q. Okay. Can you tell me what that is?

10 A. Sure. For the fourth quarter ended
11 12/31/2013 for an ROE of 9.2 percent on a rolling average
12 basis I believe the dollars of return in millions figure
13 associated with the 9.2 million ROE should be a negative
14 55 million.

15 Q. Okay. And you know what, I agree with
16 you, that's why lawyers shouldn't do math. So that minus
17 71.5 ought to be minus 55 shouldn't it?

18 A. And so should the number blow it.

19 Q. Okay. Aside from that mistake, now you've
20 caught me in two of them, aside from that mistake and
21 aside from the fact that you don't agree with the realism
22 of the hypothetical numbers, Exhibit 64 based on these
23 hypothetical numbers accurately depicts how the proposal
24 that you have in your responsive testimony would work
25 based on this set of circumstances, right?

1 A. Based on the assumptions that you put in
2 here I think the math works out.

3 Q. And you understood this when we talked
4 about it the other day but this dollars of return in
5 millions, it assumes, it's premised on the Commission
6 granting, and I did this on purpose to remove contention
7 about this issue, just granting the same ROE as they did
8 in the last case or just put it another way it just
9 assumes the ROE was the same, right?

10 A. Yes, 10.2.

11 Q. So the way this, what this depicts, it
12 depicts the methodology, it depicts the mechanical
13 operation of your proposal accurately as corrected,
14 right, under these hypothetical numbers?

15 A. Again, yes, I believe it does.

16 Q. Now, one set of numbers that's not
17 hypothetical if you were to assume that 10.2 was the
18 allowed ROE, the calculation of the dollars of return
19 figures per 10 basis points, those aren't hypothetical,
20 are they?

21 A. No, they come from I guess the
22 reconciliation that was filed by the staff recently in
23 this rate case.

24 Q. I mean if the Commission granted a 10
25 percent ROE you would, and you did the math you would

1 find that every 10 basis points, every 10th of a percent
2 of that ROE was 5.5 million, \$5.54 million, right?

3 A. Approximately, yes.

4 Q. And that's the numbers that I've used here
5 in this dollars of return column, right?

6 A. Yes.

7 Q. Staff's numbers.

8 A. Yes.

9 Q. Let's just explain, I want to walk through
10 this just a little bit so the record's clear on how your
11 proposal would work under this hypothetical set of
12 circumstances. The 12 months ending 7/31/12 numbers in
13 the upper left, those actually are pretty close
14 approximation of the real trued up test to your numbers
15 in this case, right?

16 A. They're close.

17 Q. And the base cost per month and the base
18 revenue per month is close to one-twelfth of the actual
19 transmission revenues, transmission costs during the
20 trued up test year, right?

21 A. Right.

22 Q. And so in order to apply your method what
23 we would do is we would see what the actual transmission
24 costs and revenues were each quarter and I made these
25 numbers up but I said cost went to 9 million and revenues

1 went to 6.5 million and based on those numbers as
2 compared to the base we would have a \$2.75 million reg
3 asset, right?

4 A. Yes.

5 Q. And if the allowed return was 10 two and
6 the Company earned 10 four the Company would quote over
7 earn by 11 but under your proposal the regulatory asset
8 could be booked, right?

9 A. During the first quarter, yes.

10 Q. Okay. But because there was other
11 earnings we go to the second quarter and in this
12 hypothetical the earnings are down to 9.4 percent but
13 even now we generated a regulatory asset or a potential
14 regulatory asset I'll call of it 3.75 million, in other
15 words even though net transmission costs and revenues
16 went up by an additional 3.75 million in the second
17 quarter the Company would not be allowed to book that
18 regulatory asset, right?

19 A. Yes, because in the previous quarter you
20 over earned.

21 Q. But the cumulative increase in
22 transmission charges through the second quarter would be
23 6.5 million, right?

24 A. Yes, I believe that's correct.

25 Q. And then we consider through the rest of

1 the, the rest of the spreadsheet and based on this
2 hypothetical circumstance even now the cumulative
3 increase in net transmission charges for this year would
4 be \$19 million because of the way the staff designed the
5 proposal the Company could only book a reg asset
6 totalling \$8.5 million, right?

7 A. Under these particular assumptions your
8 math is correct.

9 Q. And the Company would have under earned
10 under these particular assumptions by \$55 million in that
11 same period, right?

12 A. Correct.

13 Q. So even now other costs and revenue
14 changes outside this tracker didn't even come close to
15 offsetting the 19 million of higher transmission charges
16 the Company experienced the Company doesn't get to have a
17 reg asset for 19 million, that's the way your proposal
18 would work under these particular circumstances, right?

19 A. Correct. Again I don't consider these
20 assumptions particularly realistic, but.

21 Q. I understand.

22 MR. LOWERY: With that Your Honor I'd move
23 for the admission of Exhibit 64.

24 JUDGE WOODRUFF: But not 63.

25 MR. LOWERY: But not 63.

1 JUDGE WOODRUFF: Okay. Exhibit 64 has
2 been offered, any objection to its receipt?

3 MR. MILLS: Yes, sir Your Honor.

4 JUDGE WOODRUFF: What's your objection?

5 MR. MILLS: Well first of all it's
6 apparently a very elaborate hypothetical designed to
7 flush out a concept that was not introduced to
8 sur-sur-surrebuttal testimony so that none of the other
9 parties have had an opportunity to look at this and more
10 than that it is a hypothetical that this witness has just
11 testified is unrealistic so it is not helpful to the
12 record, if it's not a realistic hypothetical and nobody
13 can explore why it's unrealistic what it is intended to
14 show and what it really does show I don't think that
15 there's been sufficient foundation that this should come
16 in, I don't think it has any competent evidentiary value
17 and I don't think it should be admitted.

18 MR. DOWNEY: Judge, I join in that
19 objection. I mean all we know about this document is it
20 was prepared by Ameren's attorney and the witness on the
21 stand thinks the assumptions in this document are
22 unrealistic. That's hardly a foundation for the
23 document.

24 MR. LOWERY: Your Honor Mr. Mills' prior
25 foundation objection actually was valid and you so ruled

1 but this one is not. I'm entitled to ask an expert
2 witness hypotheticals and it's been very clear in the
3 record that all of these numbers are hypothetical and
4 that the witness doesn't agree that they're realistic.
5 It's also very clear from the record that the math
6 depicted on the schedule the witness agrees with, he
7 agrees it accurately depicts based on these hypothetical
8 facts realistic or not how his method would work only the
9 record's very clear that he doesn't agree. I've laid
10 completely enough foundation that this accurately depicts
11 his methodology and it's how it would work if those
12 hypothetical set of circumstances existed and since he's
13 an expert witness I'm entitled to ask him whatever
14 assumptions I want to ask him.

15 JUDGE WOODRUFF: I'm going to overrule the
16 objection, the document will be received. 64 is
17 received.

18 MR. LOWERY: And I need to get one more
19 marked Your Honor, I guess it would be 65.

20 JUDGE WOODRUFF: Correct.

21 (MARKED AMERENUE EXHIBIT NO. 65)

22 MR. DOWNEY: Judge, before we proceed the
23 Exhibit 64 that was received is that an exhibit that was
24 corrected by the witness or is that the original version
25 of the exhibit?

1 JUDGE WOODRUFF: That would be as
2 corrected I believe.

3 MR. LOWERY: Yes.

4 MR. DOWNEY: All right, thank you.

5 Q. (By Mr. Lowery) Mr. Oligschlaeger you
6 have Exhibit 65, that's been marked as Exhibit 65 for
7 identification?

8 A. Yes.

9 Q. Would you verify for me that the only
10 difference between Exhibit 64 and 65 are the numbers in
11 the ROE percentage column and the dollars of return in
12 millions column? Well, and there's one more, and that is
13 there is one more deferral allowed under this scheme in
14 the allowed deferral staff proposal column. And take
15 your time.

16 A. (Reviewing document).

17 Based on a quick review I think what you
18 have stated is accurate.

19 Q. Mr. Oligschlaeger, would you agree that
20 the ROE percentages and the pattern that I have depicted
21 in the ROE percentage column in Exhibit 65 is realistic,
22 it's not something, it's something that you might very
23 well expect to see for example if a utility gets a rate
24 increase, its earnings go up and over time its earnings
25 start to slowly fall?

1 A. I would certainly agree this is a more
2 realistic scenario than the previous iterations of this
3 document.

4 Q. And I didn't mess up the math on the
5 dollars of return column on this one, did I?

6 A. Well I'd certainly like more time to
7 thoroughly review that but at a first glance it doesn't
8 appear you did.

9 Q. Well 20 basis points over 10 two with 5.54
10 million times two is about 11, right?

11 A. I believe you're correct.

12 Q. And we have 20 basis points below for the
13 minus 11 so same thing, right, that's got to be right?

14 A. Again, I believe your column 2 is correct.

15 Q. The dollars of return in millions column's
16 correct?

17 A. Yes.

18 Q. Okay. Given that this is a more, what you
19 would agree is a more realistic example would you also
20 agree that it does accurately depict how your proposal
21 would work based on this hypothetical set of
22 circumstances?

23 A. Again it appears to based on a relatively
24 quick review.

25 Q. And if that's true under this more

1 realistic scenario it's still the case is it not that the
2 Company would have under earned by \$22 million in 2013
3 but, and would have experienced \$19 million of
4 transmission cost increases but the Staff would only
5 under your proposal only let it book a reg asset of 15.25
6 million.

7 A. Under this particular scenario and set of
8 assumptions that is what the result would be.

9 Q. And that goes beyond addressing the
10 concern that you and I agreed to when we first started
11 talking about condition number 6 that you're really
12 trying to get at, right?

13 A. There is not a perfect match in our
14 proposal between the periods of time when the Company
15 over earns or under earns and the periods of time when it
16 books the deferral, or doesn't book the deferral. There
17 is a quarter lag time between those two.

18 Q. And so based on this more realistic
19 hypothetical that, your method in this situation based on
20 these facts goes beyond addressing the concern you were
21 trying to address, right?

22 A. In this particular scenario, there are
23 many other scenarios that would go the opposite way.

24 Q. But it does go beyond in this scenario,
25 right?

1 A. In this scenario? Well stated very
2 broadly during this year your assumptions have the
3 Company over earning during part of the year and under
4 earning during part of the year and as a result only part
5 of the deferral would be allowed to be booked. There is
6 not a perfect match mathematically between the percentage
7 of the deferral allowed or disallowed and your earnings
8 levels.

9 **Q. And what that means is that other costs**
10 **and revenue changes outside the tracker did not fully**
11 **make up for the higher transmission charges the Company**
12 **incurred, right?**

13 A. Under this example, that is true.

14 MR. LOWERY: I'd move for admission of
15 Exhibit 65.

16 JUDGE WOODRUFF: 65 has been offered, any
17 objection?

18 Hearing none it will be received.

19 **Q. (By Mr. Lowery) You'd agree would you not**
20 **Mr. Oligschlaeger that the surveillance report that the**
21 **Staff is suggesting be used do not adjust for the fact**
22 **that every 18 months the Company must spend substantial**
23 **dollars to refuel the Callaway plant, right?**

24 A. To my knowledge they do not take, they do
25 not adjust the surveillance resulting from that purpose.

1 Q. And you would agree to the best of your
2 knowledge that the surveillance reports do not adjust for
3 the fact that in a given 12 month period it could be
4 considerably hotter or cooler than what is assumed as
5 normal weather in the rate making process, correct?

6 A. Again it is not adjusted for that purpose.

7 Q. And would you agree that a Callaway outage
8 and weather when you don't normalize them they can have a
9 significant impact on the earnings because they're fairly
10 large items or can be, isn't that true?

11 A. I would agree.

12 Q. Let me go back and ask you one more
13 question about Exhibit 65 that I should have asked you a
14 moment ago. The situation whereunder the Staff's
15 proposal the Company under earns for the period yet
16 doesn't get, under earns by more than the increase in
17 transmission charges for the period the opposite could be
18 true couldn't it?

19 A. Okay. You may have to run that one by me
20 again.

21 Q. Well, could you have a situation where a
22 regulatory liability is not being booked in a particular
23 quarter because you turned off the ability but when you
24 looked at the whole year under what I'm suggesting to you
25 the regulatory liability really should have been bigger,

1 **right?**

2 A. The results may be bigger if you look at
3 it annually as apposed to quarterly.

4 MR. LOWERY: That's all I have Your Honor.
5 Thank you.

6 JUDGE WOODRUFF: Questions from the Bench?
7 Mr. Stoll do you have any questions?

8 COMMISSIONER STOLL: I have no questions.

9 JUDGE WOODRUFF: And I have no questions
10 so there's no need for recross.

11 Any redirect?

12 REDIRECT EXAMINATION

13 QUESTIONS BY MR. THOMPSON:

14 **Q. We went through a long series of**
15 **hypotheticals that I think were intended to show that**
16 **your ROE cap might not work the way you wish it would.**
17 **Do you recall those questions?**

18 A. That was the intent of the questions, yes.

19 **Q. Did you find those scenarios to be**
20 **particularly realistic?**

21 A. Well certainly the first scenario I think
22 Exhibit 64 was dependent upon wide swings of earnings
23 from quarter to quarter in order to bring the Company
24 above and below its authorized rate of return on a
25 regular basis, that's not typically how I would expect to

1 see a company's earnings levels over time, in
2 particularly the very wide swings in earnings on which
3 Mr. Lowery's example was dependent upon. The second
4 Exhibit 65 was probably a more realistic scenario but it
5 is just one scenario. A company's earnings could be
6 increasing over time and you could easily construct a
7 scenario in which the opposite result is shown than what
8 is shown on these exhibits in which the amount of the
9 company's allowed deferral is greater than what its
10 cumulative under earnings would be. In fact you could be
11 in a net under earning -- well. I'm probably -- let me
12 stop there. Let's just say that for each one of Mr.
13 Lowery's examples an equal and opposite scenario could be
14 constructed which would have the exact opposite approach
15 where the Company would be able to defer more costs
16 compared to its earnings than what a perfect
17 retrospective annual review would indicate.

18 **Q. Did these hypotheticals in any way cause**
19 **you to re-think the appropriateness of your proposal that**
20 **this condition be imposed?**

21 **A.** Not in a broad sense because whatever the
22 purported level of the logic is in these, in Staff's
23 particular proposal it is much less illogical than
24 allowing a company to defer costs based on an under
25 collection of a single line item when it is over earning

1 in total and vice-versa and that is, this is an attempt
2 to address that illogic. Now, again, that's what we're
3 trying to accomplish here. The details of Staff's
4 proposal are somewhat shall we say flexible or negotiable
5 if somebody believes they have a better way of
6 accomplishing that to where we have a real ROE test in
7 place whether a tracker mechanism is allowed to operate
8 we would certainly think that that is the way to go.

9 Q. Earlier in this cross examination you
10 might recall that Mr. Lowery presented you with three
11 exhibits from case ER-2010-0356.

12 Do you recall those?

13 A. Yes, I do.

14 Q. I believe there's an excerpt from the
15 Staff revenues requirement report, there was appendix 8
16 to that report and the surrebuttal testimony of Dan Best.

17 A. That's correct.

18 Q. And do you recall, was there a Staff
19 proposal that was contained in those items and if so what
20 was it?

21 A. The Company, or we were responding to a
22 Company request or actually request by both GMO and KCPL
23 in their direct testimony to implement transmission
24 expense trackers.

25 Q. Similar to the tracker proposed in this

1 **case by Ameren Missouri?**

2 A. No. KCPL and GMO were proposing only
3 inclusion of expenses in their tracker mechanism, Ameren
4 is willing to include revenues as well. And then we
5 responded in our cost of service report that for the
6 reasons outlined by Staff witness Beck we found the, that
7 proposal at that time to be reasonable to implement a
8 tracker for these purposes as long as revenues were
9 included and there may be some other conditions attached
10 to it as well.

11 Q. Now, in this case it's Staff's position
12 that the Commission should not grant this tracker, isn't
13 that right?

14 A. That's correct.

15 Q. If you know why was Staff's position
16 different in that prior case?

17 A. Well, there's several facts or the
18 circumstances are quite different with KCPL and GMO's
19 request from Ameren's. First of all Ameren, or I'm
20 sorry, KCPL and GMO were able to demonstrate a steadily
21 increasing level of historic net trans, or transmission
22 charges, okay, and in this case at this time Staff
23 believes that the level of Ameren's transmission revenues
24 and its expenses largely offset each other and this, and
25 at this point the transmission area of the Company's

1 operation is not driving its current revenue requirement
2 needs. Now that may well change in the future but to my
3 knowledge this Commission has never granted either an
4 accounting authority order or a tracker purely or almost
5 entirely on the basis of projected information estimates
6 and projections of future financial results. It always
7 has been based on a current demonstration of an
8 increasing cost.

9 Q. If you know has Ameren Missouri been able
10 to demonstrate a history of increasing MISO transmission
11 charges in this case?

12 A. I don't believe they have presented
13 extensive, or I'm not aware of any real evidence of what
14 those charges have been in the past, you know,
15 particularly looking at Mr. Haro's testimony. It focuses
16 on the future almost entirely.

17 Q. Thank you.

18 MR. THOMPSON: No further questions.

19 JUDGE WOODRUFF: All right Mr.

20 Oligschlaeger, you can step down.

21 And the next witness will be Mr.

22 Dauphinais.

23 Mr. Dauphinais is this your first time up
24 for this hearing?

25 MR. DAUPHINAIS: Yes, it is.

1 JUDGE WOODRUFF: All right. I'll swear
2 you in then.

3 (Whereupon, the Witness was sworn)

4 JUDGE WOODRUFF: You may inquire.

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. DOWNEY:

7 Q. Good afternoon, or good evening. Please
8 state your name and your business address.

9 A. James R. Dauphinais, that's
10 D-a-u-p-h-i-n-a-i-s, and my address, business address
11 16690 Swingley Ridge Road, Suite 140, Chesterfield,
12 Missouri 63017.

13 Q. Did you prepare prefiled testimony in this
14 case?

15 A. Yes.

16 Q. Okay. And was that direct testimony both
17 highly confidential and NP, surrebuttal testimony again
18 highly confidential and NP and I'm not sure I've ever
19 said this word before, sur-sur-surrebuttal testimony?

20 A. Yes.

21 Q. And I don't know if that is highly
22 confidential or not. Do you know?

23 A. The sur-surrebuttal is, yes.

24 Q. Okay. And the direct testimony, is that
25 Exhibit 516, do you know? I'll represent to you it's

1 Exhibit 516, your NP direct is Exhibit 517, your
2 surrebuttal HC is 518 and your surrebuttal NP is 519 and
3 then your sur-surrebuttal is Exhibit 527. Okay?

4 A. All right.

5 Q. Now do you have any changes to those
6 testimonies that you would like to make at this time?

7 A. I have a correction to make to my
8 sur-sur-surrebuttal testimony.

9 Q. Okay. That's Exhibit 526. And what is
10 that change?

11 A. On page 4 in two locations. The first is
12 on line 21 between the words not and need and we'll
13 insert the words have a pressing.

14 The next change, or should say correction
15 is on page, line 24 of the same page and again between
16 the words not and instead insert the words have a
17 pressing.

18 And that's all my corrections.

19 Q. Okay. And are the answers that you've
20 given in these testimonies true and accurate to the best
21 of your knowledge and belief?

22 A. Yes, they are.

23 Q. Okay.

24 MR. DOWNEY: I would offer Exhibits 516,
25 517, 518, 519, 527.

1 JUDGE WOODRUFF: All right.

2 Let me ask Ameren. Is there anything in
3 the sur-sur-surrebuttal that would be highly
4 confidential?

5 MR. LOWERY: I should have anticipated
6 your question Your Honor, let me take up a quick look.

7 JUDGE WOODRUFF: And we need to come up
8 with a better name for it than sur-sur-surrebuttal.

9 MR. LOWERY: I think Mr. Oligschlaeger's
10 responsive testimony was a good idea.

11 Appears to me there's only -- that's not
12 a full copy, sorry about that. It's just the one number?

13 A. Yes.

14 MR. LOWERY: And it's historic isn't it
15 Mr. Dauphinais?

16 A. Yes, it is a historic number.

17 MR. LOWERY: Doesn't need to be highly
18 confidential.

19 JUDGE WOODRUFF: All right. Then we'll
20 make it nonproprietary then.

21 With that 516, 517, 518, 519 and 527 have
22 been offered, any objections to receipt?

23 Hearing none they will be received.

24 MR. DOWNEY: I tender the witness for
25 cross.

1 JUDGE WOODRUFF: For cross then beginning
2 with Public Counsel.

3 MR. MILLS: Just a few Your Honor.

4 CROSS EXAMINATION

5 QUESTIONS BY MR. MILLS:

6 Q. Mr. Dauphinais, in your testimonies before
7 your sur-sur-surrebuttal testimony did you address the
8 transmission tracker issue?

9 A. Not prior to my sur-sur-surrebuttal
10 testimony.

11 Q. So then can you give us an explanation of
12 your background and expertise that allows you to testify
13 on this issue?

14 A. Background and expertise in regard to this
15 issue is both regard to experience with transmission
16 service issues, I was employed by Northeast Utilities in
17 their transmission planning department and as part of my
18 tasks there was to have day-to-day oversight over the
19 Open Access transmission tariff of the Northeast
20 Utilities Service Company. After leaving Plymouth
21 Northeast Utilities and being employed by Brubaker and
22 Associates I continued to be involved with those issues
23 as well as with issues dealing with Open Access and the
24 development of independent system operators and regional
25 transmission organizations, been involved with

1 stakeholder issues at MISO since its inception. I have
2 testified in other jurisdictions, in other jurisdictions
3 including this in regards to comparative types of tracker
4 including fuel adjustment clauses and trackers like the
5 one being proposed here in this proceeding here.

6 Q. Thank you.

7 Now one of the issues that has to do with
8 the inclusion of some of the MISO charges within either
9 the FAC or the tracker has to do with the reference of
10 the term capacity in the CCP definition, is that correct?

11 A. Yes, it does.

12 Q. And do you disagree with Ameren witness
13 Haro's definition, or use of the word capacity?

14 A. I most certainly do.

15 Q. Is there any accepted definition at MISO
16 of the term capacity as it is used in the definition of
17 CPP?

18 MR. LOWERY: Your Honor I'm going to
19 interpose an objection based on friendly cross which you
20 may very well overrule but Mr. Mills often objects to the
21 idea that nobody has a chance to respond and what's
22 happening here is Mr. Mills is allowing Mr. Dauphinais to
23 supplement his testimony and actually then respond to
24 essentially supplement his testimony through friendly
25 cross and I don't think it's appropriate. I don't have

1 any opportunity to then cross examine the witness about
2 those issues.

3 MR. MILLS: Judge first of all there is no
4 rule against friendly cross --

5 MR. LOWERY: There certainly is discretion
6 in the Commission, and the Commission has at times
7 exercised its discretion and not allowed friendly cross.

8 MR. MILLS: But I was about to say that
9 the basis for the objection to friendly cross is that it
10 can in certain ways be an unfair implementing or
11 buttressing of items that should have been in direct
12 testimony. This is not the case here, this is a brand
13 new issue that came up in sur-surrebuttal testimony, I'm
14 asking him questions about his sur-sur-surrebuttal
15 testimony and at this point I don't know whether I'm
16 friendly to him or not. I think perhaps we have an
17 alignment of a position but to a certain extent I'm
18 trying to figure out what his position is.

19 JUDGE WOODRUFF: This is an unusual
20 circumstance and in this circumstance I'm going to
21 overrule your objection.

22 Q. (By Mr. Mills) Mr. Dauphinais the
23 question was about the definition of the term capacity as
24 it's used at MISO.

25 A. Yes. There is a definition in the Midwest

1 ISO's energy operating resources and transmission tariffs
2 commonly referred to as the MISO tariff. I believe I do
3 have a copy of that definition here with me.

4 **Q. And what is that definition?**

5 A. The definition is the instantaneous rate
6 at which energy can be delivered, received or transferred
7 including energy associated with operating reserve
8 measured in megawatts. And I'll provide a citation in
9 the tariff, it's section 1 dot 66 of the MISO tariff in
10 section, overall section 1 of the MISO tariff is their
11 definitions for the tariff.

12 **Q. And is it correct then that that**
13 **definition includes both generation capacity and**
14 **transmission capacity?**

15 A. Definitely. The word transferred is in
16 that definition and you can, the tariff has to do with
17 transmission of power.

18 **Q. Now again Mr. Haro has made some**
19 **statements with regard to how MISO transmission charges**
20 **are billed. Do you agree with his characterizations?**

21 A. No. He's incorrectly characterized how
22 those charges are billed.

23 **Q. And what is the correct characterization?**

24 A. There is a different method of billing for
25 each of the significant charges, the charges we're

1 talking are MISO schedule 1, schedule 2, schedule 7,
2 schedule 8, schedule 26, and schedule 26A. They are
3 billed differently in two regards. One regard is whether
4 the transmission customer is taking what's called point
5 to point transmission service or network transmission
6 service. Point to point transmission service is used by
7 Ameren principally to support its off system sales to
8 entities not located within the Midwest ISO footprint or
9 the PGM footprint. It involves basically putting in
10 requests for transmission service for a certain term and
11 what is requested is a certain number of megawatts and
12 those megawatts are defined in the MISO tariff as
13 reserved capacities and that's a defined term under the
14 MISO tariff.

15 MR. LOWERY: Your Honor I'd like to make a
16 request to voir dire this witness.

17 JUDGE WOODRUFF: On what?

18 MR. LOWERY: On the grounds Mr. Mills
19 asserted that he doesn't know whether or not he's
20 friendly to this witness or not and that may very well be
21 true but I'd like to know whether or not this witness or
22 his counsel, MIEC's counsel has rehearsed this cross
23 examination prior to it being made today because all of
24 the things Mr. Dauphinais is testifying to now he had the
25 opportunity when he filed testimony on Friday to make

1 those points and he didn't make them so he is effectively
2 supplementing the testimony that he filed on Friday. And
3 I don't think that's proper cross examination. If in
4 fact, and if I'm wrong then I'm wrong but if in fact
5 that's what's going on here.

6 JUDGE WOODRUFF: I'll let you ask the
7 question.

8 CROSS EXAMINATION

9 QUESTIONS BY MR. LOWERY:

10 Q. Mr. Dauphinais, have you discussed with
11 Mr. Mills or anybody in the office of the Public
12 Counsel's office the topics or the questions that Mr.
13 Mills might ask you this afternoon?

14 A. I have not.

15 Q. The topics that Mr. Mills might ask you?

16 A. I have not.

17 Q. To the best of your knowledge has Mr.
18 Downey discussed that with Mr. Mills?

19 A. He may have.

20 Q. Did Mr. Downey indicate to you that he may
21 have?

22 A. I have indication he may have.

23 Q. Did Mr. Downey discuss with you what Mr.
24 Mills might be asking you this afternoon?

25 A. I had an indication that I may be asked

1 questions with regard to MISO definitions and billing
2 charges.

3 Q. Were you given an indication that you
4 might want to have the MISO tariff and the other things
5 that you were just reading from available because Mr.
6 Mills might ask you questions that would give you an
7 opportunity to read those definitions?

8 A. I thought it was appropriate to have that
9 with me so I could give adequate answers.

10 Q. Was one of the reasons you brought that
11 with you because Mr. Downey indicated Mr. Mills might be
12 asking you questions of that nature?

13 A. I had an understanding that I might be
14 asked questions of that nature.

15 Q. What else did Mr. Downey tell you about
16 what topics Mr. Mills might be asking you about?

17 A. That's all I know.

18 MR. LOWERY: Your Honor I'd move to strike
19 this entire line of questioning. I think it's improper
20 for cross examination to be used so a witness can
21 supplement the testimony that the witness could have
22 filed last Friday.

23 JUDGE WOODRUFF: I'm going to overrule the
24 objection again because this is a unique situation with
25 this issue coming up so late in the process.

1 MR. MILLS: Okay.

2 CROSS EXAMINATION

3 QUESTIONS BY MR. MILLS:

4 Q. And Mr. Dauphinais had you finished your
5 answer?

6 A. No, I have not.

7 Q. Okay. Could you please continue?

8 A. Okay. I was discussing how the various
9 MISO schedules are billed when a transmission customer is
10 taking point to point transmission service and as I noted
11 Ameren Missouri takes point to point transmission service
12 to support its off system sales to entities not located
13 within the MISO footprint or the PGM footprint and that
14 transmission service is built on the basis of reserved
15 capacity, MISO defines reserved capacity the maximum
16 amount of capacity energy that transmission provider
17 agrees to transmit for the transmission customer over the
18 transmission provider's transmission system between the
19 point of receipt and points of delivery under module B of
20 this tariff. Reserve capacity shall be expressed in
21 terms of whole megawatts on 60 minute intervals
22 commencing, and that's as far as I've got, so. But the
23 main meaning of it is provided by that and so schedules
24 1, 2, 7 and 8 as well as 26 and 28 trumps 26A, that's 26
25 and 26A, those schedules to the extent Ameren Missouri is

1 taking point to point transmission service are based, are
2 billed on the basis of reserved capacity, I'm sorry, with
3 one correction, 26A is treated differently and I'll cover
4 26A last.

5 So to clarify schedules 1, 2, 7 and 8 and
6 26, those are billed on the basis of reserve capacity for
7 the point to point transmission service taken by the
8 Company to support its off system sales.

9 With regard to network transmission
10 service schedules 1, 2, and 26 are billed on a different
11 basis, they're billed on the basis of a company's network
12 load, network load is the company's demand at the time of
13 its transmission zones monthly system peak, that is its
14 peak demand, that is its demand when Ameren Missouri's
15 entire transmission system is at peak load what Ameren
16 Missouri's demand is for it for its network load
17 including its retail customers so it's a demand charge
18 for schedules 1, 2 and 26 for network transmission
19 service.

20 Schedule 26A has a different approach and
21 it's important to know that 26A did not exist as a charge
22 prior to January of this year, 2012, so it did not exist
23 at the time the current tariff language for the FAC for
24 Ameren Missouri was created. Schedule 26A is currently
25 billed on the basis of total energy consumption and it

1 applies that way both for point to point transmission
2 service as well as for network transmission service,
3 however, I would note it still is capacity charge, it is
4 associated with the capital cost of transmission
5 facilities, fixed O&M for those transmission facilities,
6 taxes for those transmission facilities so it is still
7 capacity charge and furthermore while the current cost of
8 the allocation is on an energy basis that energy
9 allocation is currently subject to a federal, a challenge
10 in federal court rather, that is the FERC's decision
11 approving MISO's allocation of schedule 26A costs on the
12 basis of energy is currently subject to challenge in the
13 federal court.

14 And that's all I have.

15 MR. MILLS: And that's all the questions I
16 have.

17 JUDGE WOODRUFF: Before we go on, and I
18 assume there will be some extensive cross examination?

19 MR. LOWERY: Actually not all that
20 extensive.

21 JUDGE WOODRUFF: I was going to take a
22 short break.

23 MR. LOWERY: I honestly think 10 minutes,
24 15.

25 JUDGE WOODRUFF: Let's push on then.

1 Cross for Staff.

2 MR. THOMPSON: None. Thank you.

3 JUDGE WOODRUFF: All right. For Ameren.

4 CROSS EXAMINATION

5 QUESTIONS BY MR. LOWERY:

6 MR. LOWERY: See if I can operate your
7 computer Judge.

8 JUDGE WOODRUFF: Give it a shot.

9 Q. (By Mr. Lowery) Mr. Dauphinais your
10 correction earlier today to your testimony is because
11 what you had said in your initial testimony when you
12 filed it that Ameren Missouri would not need to file a
13 base rate case in order to reflect amounts that might be
14 tracked in the tracker, that was not precisely correct,
15 was it?

16 A. Yeah, I had poorly worded that portion of
17 my sur-sur-surrebuttal testimony.

18 Q. Because the Company most certainly will
19 have to file another case, is that correct?

20 A. That is correct.

21 Q. And the Commission can make a decision
22 about how to handle the deferrals at that time, isn't
23 that correct?

24 A. It can make a decision on how to deal with
25 the referrals at that time, that's correct.

1 Q. And can review the prudence of the
2 expenditures there, that being the increases that have
3 been tracked, isn't that true?

4 A. That is true.

5 Q. I've put up on the screen the MISO
6 transmission explanation plan, I guess you can see it
7 right there in front of you, isn't that true?

8 A. Yes, I can.

9 Q. Could you please, you have a keyboard
10 there do you not?

11 A. I believe I do.

12 Q. Could you please search for the word
13 Adair?

14 A. I'll try this, I have no mouse I don't
15 believe but I'll try this. It's blinking so A-d-a-i-r, I
16 believe?

17 Q. Yes.

18 Well let me ask you the question first and
19 maybe you've looked this up since we spoke on Monday but
20 you do agree that there's approximately 5.6 billion of
21 MVPs approved by the MISO IMTA 11, right?

22 A. Yes.

23 Q. You and I discussed the other night how
24 many 10s or 100s of millions of dollars of that 5.6
25 million was slated to be built in Missouri, have we not?

1 A. Yes.

2 Q. Have you checked since then?

3 A. I checked and we see in front of us, it's
4 on line 7 and 8 and it's about a total \$250 million.

5 Q. And in fact it would be less than \$250
6 million because part of that line to Ottumwa is in Iowa,
7 right?

8 A. A portion of it is, that's correct.

9 Q. Isn't about half of the line in Iowa?

10 A. I don't know the exact percentage but it's
11 certainly a significant percentage.

12 Q. But regardless when I was asking you
13 questions the other night that asked you to assume that
14 around \$200 million of investment out of the 5.6 billion
15 is slated to occur in Missouri I wasn't very far off, is
16 that fair to say?

17 A. That's correct.

18 Q. It's Ameren's Missouri's expectation that
19 the increases, the net increases in its transmission
20 charges will on average through 2015 be about 24 percent
21 per year, isn't that right?

22 A. That is what's indicated in the data
23 request response that was provided on Monday and was
24 shown to me at my deposition on Monday.

25 Q. And while you may argue that some other

1 definition of volatile should be used in this context
2 according to Webster's dictionary if something goes up or
3 down rapidly that is volatility, according to Webster's,
4 right?

5 A. As I noted at the time of my deposition
6 that is a definition of general applicability and is not
7 necessarily consistent with how that term is used in this
8 industry.

9 Q. But according to Webster's a rapid change
10 up or down is volatile, correct?

11 A. I don't believe it said that in the
12 definition. I think it would make sense if you have that
13 to show me the definition.

14 Q. I'd be happy to.

15 MR. LOWERY: Assume I can approach Your
16 Honor.

17 JUDGE WOODRUFF: You may.

18 MR. LOWERY: Since that's the only copy I
19 have I'm going to stick here too so I can read along with
20 Mr. Dauphinais if that would be all right.

21 A. And I believe you're referring to
22 definition 4B of the different definitions provided here.

23 Q. (By Mr. Lowery) Yes. And what Webster's
24 says is that something is volatile if it's characterized
25 by or subject to rapid or unexpected change, isn't that

1 **right?**

2 A. That's correct. But that wasn't the
3 question asked me so that's why I asked to look at it.

4 Q. I probably asked a bad question.

5 And you agree that a 24 percent per year
6 increase on average over the next three years is a rapid
7 change, do you not?

8 A. It's a rapid change.

9 Q. Okay. You've also said that there's good
10 likelihood that 5 billion plus will in fact be spent on
11 these MVP projects over the next several years, isn't
12 that true?

13 A. There's a reasonable change, yes.

14 MR. LOWERY: That's all I have Your Honor.

15 JUDGE WOODRUFF: Mr. Stoll do you have any
16 questions?

17 COMMISSIONER STOLL: I don't believe I do.

18 JUDGE WOODRUFF: I have no questions so no
19 recross. Any redirect?

20 MR. DOWNEY: Yes.

21 REDIRECT EXAMINATION

22 QUESTIONS BY MR. DOWNEY:

23 Q. First of all the Webster's definitions,
24 the one that Mr. Lowery had you read is not the only
25 definition, correct?

1 A. That is correct.

2 Q. And one of the definitions is difficult to
3 capture or hold permanently, correct?

4 A. That is correct.

5 Q. Then some others that probably don't
6 apply. What was one of the examples given in Webster's?
7 The first example?

8 A. Unfortunately now I don't have a copy, so
9 this detail I don't recall.

10 Q. Okay.

11 MR. DOWNEY: May I approach?

12 JUDGE WOODRUFF: You may.

13 Q. (By Mr. Downey) Is that the same page
14 first of all?

15 A. Yes, it is.

16 Q. And what is one of the examples, the first
17 example given of the use of the word volatile?

18 A. The stock market can be very volatile.

19 Q. Okay. And you indicated in response to
20 questions from the Office of Public Counsel that there is
21 an industry definition for volatile as well, correct? A
22 MISO definition.

23 A. No.

24 Q. Excuse me, excuse me. Do you know of any
25 industry definitions for volatile?

1 A. I would know of a couple of them I would
2 offer.

3 **Q. Okay.**

4 A. The first I would start with is the
5 Commission's order, in, for Ameren Missouri in case
6 number ER dash 2007 dash 0002, page 23 of the order,
7 first full paragraph. The Commission stated markets in
8 which prices are volatile tend to go up and down in an
9 unpredictable manner. And it also notes when a utility's
10 fuel and purchase power costs are swinging in that way
11 the time consuming rate making process can not possibly
12 keep up with the swings.

13 I would also offer a definition of
14 volatile markets from the well respected Public Utility
15 Reports, Inc., a publication they issued that was titled
16 Energy Risk Management, A Primer For The Utility
17 Industry. It defines volatile markets as commodity
18 markets with exceptional price movements in both
19 directions, generally driven by economic forces of supply
20 and demand as well as world events. And this is a from
21 the glossary, appendix C of that publication and they
22 site two NINMX in the New York Mercantile Exchange as the
23 source of that definition.

24 **Q. Any other definitions?**

25 A. Those are the ones that I have available

1 to me.

2 Q. Okay. Now Mr. Lowery he was asking you
3 some questions about some numbers that apparently Mr.
4 Haro is using and that you were shown on Monday at your
5 deposition. Do you recall that question?

6 A. I recall the question. They were used in
7 my deposition as well, they were used at my deposition, I
8 can't recall if they were used with Mr. Arrell at the
9 deposition, they were certainly not used in his
10 testimony.

11 Q. In any event those figures for
12 transmission costs showed in the future they would be
13 increasing, correct?

14 A. Yes, they did.

15 Q. And under the definitions of volatile the
16 industry definitions you've just provided to us, would
17 those figures be volatile?

18 A. No. They're not going up and down in a
19 predictable fashion, there is a trend and the way to
20 examine volatility when there is a trend is to look at
21 the volatility around the trend.

22 Q. Thank you.

23 MR. DOWNEY: Nothing further.

24 JUDGE WOODRUFF: Mr. Dauphinais, you can
25 step down.

1 A. Thank you.

2 JUDGE WOODRUFF: And that concludes that
3 issue.

4 We'll conclude the testimony for today.

5

6 (Whereupon, the hearing was adjourned at 4:58 p.m.)

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1	INDEX	
	Opening Statement by Mr. Lowery	1093
2	Opening Statement by Mr. Thompson	1106
	Opening Statement by Mr. Mills	1114
3	Opening Statement by Mr. Downey	1126
	Opening Statement by Mr. Coffman	1135
4		
	AMERENUE'S EVIDENCE	
5	LYNN BARNES	
	Cross Examination by Mr. Coffman	1146
6	Cross Examination by Mr. Mills	1147
	Cross Examination by Mr. Thompson	1148
7	Questions by Commissioner Gunn	1148
	Questions by Commissioner Kenney	1150
8	Recross Examination by Mr. Thompson	1153
	Redirect Examination by Mr. Lowery	1153
9	ROBERT NEFF	
	Direct Examination by Mr. Lowery	1155
10	Cross Examination by Mr. Coffman	1159
	Redirect Examination by Mr. Lowery	1161
11	JAIME HARO	
	Direct Examination by Mr. Lowery	1162
12	Cross Examination by Mr. Coffman	1163
	Cross Examination by Mr. Thompson	1165
13	Questions by Commissioner Gunn	1175
	Questions by Commissioner Kenney	1178
14	Questions by Commissioner Stoll	1182
15	Questions by Judge Woodruff	1184
16	Cross Examination by Mr. Downey	1185
17	Cross Examination by Mr. Mills	1189
18	Cross Examination by Mr. Thompson	1190
19	Redirect Examination by Mr. Lowery	1195
20	PUBLIC SERVICE COMMISSION'S EVIDENCE	
21	LENA MANTLE	
22	Direct Examination by Mr. Thompson	1205
23	Cross Examination by Mr. Downey	1207
24	Cross Examination by Mr. Mills	1209
25	Cross Examination by Mr. Lowery	1214

TRANSCRIPT OF PROCEEDINGS 10/3/2012

Page 1370

1	Questions by Commissioner Gunn	1249
2	Questions by Commissioner Jarrett	1250
3	Questions By Commissioner Kenney	1253
4	Questions by Commissioner Gunn	1256
5	Recross Examination by Mr. Coffman	1262
6	Recross Examination by Mr. Downey	1265
7	Recross Examination by Mr. Mills	1267
8	Recross Examination by Mr. Lowery	1268
9	Redirect Examination by Mr. Thompson	1274
10	MARK L. OLIGSCHLAEGER	
11	Direct Examination by Mr. Thompson	1279
12	Cross Examination by Mr. Lowery	1284
13	Redirect Examination by Mr. Thompson	1341
14	MIEC'S EVIDENCE	
15	JAMES R. DAUPHINAIS	
16	Direct Examination by Mr. Downey	1346
17	Cross Examination by Mr. Mills	1349
18	Cross Examination by Mr. Lowery	1354
19	Cross Examination by Mr. Mills	1356
20	Cross Examination by Mr. Lowery	1359
21	Redirect Examination by Mr. Downey	1363
22		
23		
24		
25		

1	EXHIBITS		
	AMERENUE'S EXHIBITS		
2		MARKED	RECEIVED
	EXHIBIT NO. 18HC		
3	Rebuttal Testimony or Robert Neff		1159
	EXHIBIT NO. 18NP		
4	Rebuttal Testimony of Robert Neff		1159
	EXHIBIT NO. 026		
5	Sur-Surrebuttal Testimony of		
	Jaime Haro		1163
6	EXHIBIT NO. 024		
	Direct Testimony of Jaime Haro		1163
7	EXHIBIT NO. 026		
	Rebuttal Testimony of Jaime Haro		1163
8	EXHIBIT NO. 56		
	AmerenUE Response to data request	1237	
9	EXHIBIT NO. 57		
	MISO invoice 9063077201	1238	
10	EXHIBIT NO. 58		
	MISO invoice 8218077201	1238	
11	EXHIBIT NO. 59		
	MO PSC Staff report	1284	1291
12	EXHIBIT NO. 60		
13	Staff report	1284	1291
14	EXHIBIT NO. 61		
15	Surrebuttal testimony of		
16	Daniel Beck	1284	1291
17	EXHIBIT NO. 62		
18	Ameren Missouri response to Data		
19	Request	1296	
20	EXHIBIT NO. 63		
21	Chart	1327	
22	EXHIBIT NO. 64		
23	Chart	1327	1335
24	EXHIBIT NO. 65		
25	Chart	1335	1339

1	STAFF'S EXHIBITS		
	EXHIBIT NO. 224		
2	Surrebuttal testimony of		
	Lena Mantle		1207
3	EXHIBIT NO. 239		
4	FAC Purchased Power costs		1195
5	EXHIBIT NO. 240		
6	Oligschlaeger testimony	1280	1283
7			
8	MIEC'S EXHIBITS		
9	EXHIBIT NO. 516		
10	Direct Testimony and schedules of		
11	James R. Dauphinais (HC)	1087	1348
12	EXHIBIT NO. 517		
13	Direct Testimony and schedules of		
14	James R. Dauphinais (NP)	1087	1348
15	EXHIBIT NO. 518		
16	Surrebuttal testimony and Schedules of		
17	SRD revised request and fuel adjustment		
18	Clause (HC)	1087	1348
19	EXHIBIT NO. 519		
20	Surrebuttal testimony and Schedules of		
21	SRD revised request and fuel adjustment		
22	Clause (NP)	1087	1348
23	EXHIBIT NO. 527		
24	Sur-sur-surrebuttal testimony of		
25	JRD fuel adjustment clause (HC)	1087	1348

1 REPORTER CERTIFICATE

2

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

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

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SUZANNE BENOIST, RPR, CCR, CSR-IL

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A	absolute	1256:1,4,4	1337:18	1289:16
AAO 1099:12	1137:5	1271:25	1348:20	1290:5
AARP 1085:22	absolutely	1272:6,7,12	1373:9	1328:6
1135:19,22	1087:16	1272:16,18	accurately	1332:18,23
1146:2	1108:12	1273:1,2,9,9	1107:14	ACTV 1256:10
1153:3	1112:22,25	1274:3,5,13	1231:15	Adair 1361:13
1159:13	1143:12	1282:7	1307:7	adapted
1163:6	1174:18	1327:20,22	1330:23	1273:10
1177:5	1177:12	accountant	1331:13	add 1104:18
1185:18	absorb 1094:15	1272:9	1336:7,10	1129:5
1208:16	1225:7	1277:24	1338:20	1323:5
1263:1	1266:22	accounted	achieving	added 1225:19
ability 1103:5	absorbed	1097:17	1278:16	1267:1
1118:23	1227:15,22	1186:25	acknowledged	adding 1104:13
1146:16,24	AC 1179:4	accounting	1138:11	addition
1180:16	accept 1297:5	1099:12	1139:7	1131:3
1263:13	acceptable	1313:5,8	acquisition	1163:23
1264:22	1089:7,23	1318:6,8	1160:1	1164:4
1291:15	accepted	1346:4	act 1261:19	1226:9,18
1309:5,7	1351:15	accounts	acted 1093:25	additional
1323:15	access 1245:9	1180:9	1220:7	1091:25
1326:18	1298:12	1184:20	1259:13	1092:8
1341:23	1302:7	1265:13,14	action 1106:23	1094:19
able 1088:24	1350:19,23	1265:15,16	1108:5	1104:13
1101:25	accommodate	1265:18	1118:20	1121:6
1118:11	1089:18	1272:10	1213:14	1163:22
1150:18	accomplish	1273:11,21	1259:24	1224:13
1151:18	1310:23	1273:23	1373:13,16	1225:7,25
1229:8,23	1344:3	1274:1,4,10	actions 1119:19	1226:13
1230:1	accomplishing	accumulation	1119:19	1227:2
1239:15	1344:6	1224:12	active 1101:20	1258:7
1245:14	account	1225:15,18	activities	1266:22
1252:4,22	1105:11	1225:19,23	1159:21	1282:18
1253:16	1119:6	1226:6,11,13	1221:3,6	1283:1
1262:6	1127:20	1227:1,14	activity 1137:1	1333:16
1265:5,24	1128:9	1257:15	1164:22	address
1301:24	1133:4	1260:20	1191:2,4	1087:18
1302:5	1180:20	1261:4,14,21	1283:4	1098:16
1343:15	1183:13	accuracy	actual 1088:11	1114:25
1345:20	1192:2,20	1303:3,5	1118:20	1126:6
1346:9	1193:12	accurate	1164:11	1315:2
above-refere...	1194:23	1189:10	1166:17	1317:17
1373:6	1199:16,19	1231:17	1188:20	1319:21
absence	1242:11,15	1237:2	1202:12	1324:15,16
1134:13	1243:7,11	1308:9,10	1225:6	1339:21
1271:16	1255:8,16	1312:5	1239:12	1344:2

1347:8,10,10	1123:2,5	1292:18	1320:2	1153:12
1350:7	1125:9	1334:23	affidavit	1167:8
addressed	1130:3	1340:14	1241:6,9	1168:12
1121:23	1132:18	admit 1129:13	affiliate	1173:21,23
1275:4	1135:24	admits 1095:8	1098:22	1174:6
addressing	1136:3,9,19	1095:12	1282:24	1192:14
1318:6	1137:9	admitted	affiliates	1196:11
1339:9,20	1138:1,9,11	1143:2	1109:13	1219:19
adequacy	1138:20,25	1302:14	afternoon	1233:6
1275:7	1139:8	1335:17	1090:1	1236:25
adequate	1141:12,15	adopted	1098:17	1237:4
1125:17,18	1141:21,22	1098:11	1215:20,21	1239:3
1252:23	1142:15	1131:13,15	1251:15,16	1242:21
1253:2,18	1182:22	1148:7	1263:5,6	1245:8,12
1264:20	1183:2,13	1222:8	1347:7	1246:6,9,12
1279:2,21	1199:2	adopting	1355:13,24	1248:9
1280:1	1211:12,15	1314:22	agency 1117:23	1264:19
1356:9	1211:25	adoption	agenda	1270:6
adequately	1212:17	1099:9	1142:19	1271:12,15
1118:11	1217:23	1313:10	1206:13	1272:19
1125:11	1219:13	advance	agent 1101:12	1277:12,19
adjourned	1220:6,12	1324:13	aggressively	1278:19,22
1368:6	1225:5	advantage	1102:11,12	1290:20
adjust 1320:15	1235:23	1137:18	ago 1092:7	1291:4,19
1321:8	1244:25	advice 1254:23	1093:19	1292:3
1326:18	1247:7	advisory	1094:10,10	1294:4
1340:21,25	1263:18,20	1103:8,8	1123:5	1296:12,18
1341:2	1263:22	1179:4	1128:16	1296:20
adjusted	1264:8,22	1198:20,23	1148:22	1297:8
1116:24	1277:8	advocate	1214:20	1298:19,25
1341:6	1321:10	1102:11,12	1227:13	1307:14,23
adjustment	1351:4	advocated	1245:22	1309:25
1093:7,13,14	1372:17,21	1093:22	1286:1	1310:13,20
1093:16,20	1372:25	1228:18	1287:13	1311:7
1094:2	adjustments	advocating	1325:5	1313:4,8
1095:23	1116:16	1140:7	1341:14	1326:9
1100:6	admin 1192:20	AECI 1308:2	agree 1119:9	1327:1
1106:4,7,17	1193:2	AEP 1218:2,6	1120:4	1328:24,25
1107:16,19	1256:2	1218:14	1121:11	1329:1,1,7,16
1107:22	administrative	1233:24	1123:20	1329:20
1115:6	1193:4	1235:13,25	1131:17	1330:4,15,21
1116:12,14	1210:12	affect 1103:3	1133:3	1336:4,9
1116:25	1273:8	1116:19	1134:9	1337:19
1117:22,24	admissibility	1118:24	1141:15	1338:1,19,20
1120:11	1303:4	1197:22	1146:12,20	1340:19
1122:8,10,17	admission	1307:4	1148:6	1341:1,7,11

1353:20	1184:2	amended	1161:16,24	1234:19,22
1361:20	1287:4	1304:25	1163:15	1235:14,16
1364:5	1296:16	1305:3	1168:25	1236:1
agreed 1089:18	1310:4	1306:9,23	1169:7,10,18	1242:5,6
1089:21	allocation	1307:5	1169:19,21	1246:6,12,15
1097:22	1176:23	amendment	1172:9,17,24	1246:16
1223:8	1359:8,9,11	1305:5	1173:7,8	1247:2,4,9,10
1234:15	allow 1112:24	1306:6	1174:11	1247:13,17
1258:3,9	1127:1,7	Ameren	1175:4,8,13	1247:23
1272:15	1128:24	1084:11	1175:15,20	1248:12
1288:7	1130:19,22	1087:6,9	1175:23	1250:3
1296:3	1131:4	1093:9	1176:18	1252:15
1323:22	1181:9,11	1097:5	1177:13,15	1256:5,6
1328:23	1183:3	1098:21	1177:18,19	1257:18,22
1339:10	1243:20	1100:25	1177:19,23	1265:2,13
agreeing	allowances	1101:5,9,10	1177:24,25	1268:20
1235:8	1259:18	1101:11,13	1178:2,5,7,8	1269:19
agreement	allowed 1099:5	1101:14,14	1178:8,8	1270:19
1195:22	1225:12	1101:18,19	1179:1,5,5,6	1271:1
agrees 1294:7	1229:3	1101:22,24	1179:11	1275:18
1336:6,7	1258:5	1102:9,9,10	1180:5	1276:12,18
1357:17	1306:17	1103:5,13,13	1181:11	1282:22,24
ahead 1087:12	1316:10,12	1103:17,17	1186:14	1283:2,4
1092:18	1322:12	1106:6	1188:5,14	1284:6
1093:1,6	1323:1,4	1107:12	1189:4,11,12	1290:20
1138:24	1331:18	1109:5,9,14	1192:12	1291:15,16
1194:14,18	1333:5,17	1110:6,8	1196:6,13,17	1291:23
1215:13	1337:13,14	1112:17,24	1196:20,25	1293:7
1223:9	1340:5,7	1115:6	1197:7	1294:7
1229:13	1343:9	1126:18,23	1198:20,21	1295:13
1284:13	1344:7	1127:7,9	1198:25	1296:15
1322:14	1352:7	1128:17,22	1199:16,19	1299:6
air 1115:23	allowing	1128:25	1201:8,12,14	1303:21
akin 1130:4	1343:24	1129:2,11	1210:23,25	1304:17
alignment	1351:22	1130:7,14,18	1211:2,12,24	1305:14
1352:17	allows 1139:25	1131:20,21	1212:16,21	1306:11,19
allegation	1140:1	1131:25	1213:9,18	1306:19
1221:5,13	1350:12	1132:7,9,15	1215:23	1307:9,9,10
allegations	alternative	1132:21,21	1216:17,25	1307:19,22
1221:9	1213:13	1132:22	1217:11,23	1307:24
alleged 1218:3	1294:9	1134:21,21	1218:15	1308:13,20
1220:23	1318:20	1135:9,9,25	1220:5,7,10	1308:25
1221:1	ambiguity	1146:12	1221:18	1309:4,8,9,14
allocate 1170:4	1134:14,22	1151:22	1225:6	1309:17
allocated	ambiguous	1152:4,12	1231:18	1310:1,14
1127:23	1134:5,9	1159:20	1232:3,3	1311:22

1313:25	1314:7	1127:12,21	1309:18	1268:3
1317:9	amount 1107:1	1127:24	1313:9	applies 1268:5
1318:12	1111:16	1149:3	apologize	1359:1
1345:1,3,19	1112:3	1151:5	1106:12	apply 1098:9
1346:9	1139:23	1187:25	1148:13	1127:25
1349:2	1140:14	1188:11	1159:11,18	1259:21
1351:12	1165:20	1189:8,13	1169:16	1332:22
1354:7	1179:22	1192:25	1182:17	1365:6
1357:11,25	1180:25	1193:6	1191:3	apposed
1358:14,15	1184:17,25	1201:6	1239:11	1318:15
1358:24	1197:25	1208:1	1257:8	1342:3
1360:3,12	1213:25	1218:21	1276:3	appreciate
1366:5	1214:2	1222:9	apparently	1111:19
1371:18	1225:18	1230:4	1095:13	1124:12
AmerenUE	1233:3	1231:5	1231:4	1284:10
1085:13	1268:23	1248:14	1258:4	approach
1093:25	1289:18	1265:17	1335:6	1191:13
1238:22	1297:22	1271:5	1367:3	1202:6
1239:25	1310:2	1300:4	appeal 1234:19	1219:5
1285:15	1321:15	1317:16	appear 1338:8	1317:8
1297:12	1323:25	1319:11	APPEARAN...	1319:8
1328:15	1343:8	1357:5	1085:1	1343:14
1336:21	1357:16	answered	appeared	1358:20
1371:8	amounts	1242:10	1243:3	1363:15
AMERENU...	1095:7	answers	appears	1365:11
1369:4	1108:22	1162:19,21	1288:19	approached
1371:1	1165:21	1266:23	1293:4,9	1234:15
Ameren's	1268:20	1283:11	1299:18	appropriate
1100:23	1325:22	1348:19	1302:1	1097:7,9,23
1101:1,4	1360:13	1356:9	1338:23	1105:19
1104:8	analysis 1317:3	anticipate	1349:11	1123:12,14
1128:21	1321:18	1089:25	appellate	1123:17
1134:23	analyze 1170:2	1167:11	1108:5	1141:17
1150:19	and/or 1102:12	1215:5	appendix	1236:21
1211:24	annual 1084:12	anticipated	1344:15	1279:8,10
1215:16	1229:9	1148:8	1366:21	1304:24
1247:18	1343:17	1166:14	applicability	1315:15
1255:6	annually	1349:5	1363:6	1317:8
1335:20	1165:20	anticipation	applicable	1351:25
1345:19,23	1229:5	1176:17	1182:24	1356:8
1362:18	1230:15	anybody	application	appropriaten...
AMO 1276:12	1342:3	1171:12	1135:24	1343:19
amortize	answer	1172:4	applied	approval
1097:19	1090:14	1187:11	1094:25	1173:2
amortized	1102:2,3	1355:11	1234:25	1287:19
1099:14	1118:16	anyway	1259:5	approve 1136:3

1136:5	1289:7,8,11	1091:1,22	1352:14	1200:11,16
approved	1345:25	1111:14	1355:24	1260:1
1093:19	areas 1221:19	1140:13	1356:12,16	1305:14
1096:5	1253:9	1160:2	1362:12	1330:13
1097:2	arguably	1187:6	1367:2	1353:7
1100:6	1134:4	1188:7	aspect 1289:23	1359:4
1105:8	argue 1140:23	1189:3,14	aspects	Associates
1108:15	1218:20	1196:5,23	1116:11	1350:22
1119:10	1362:25	1197:13	1137:10	assume
1134:22	argues 1128:25	1198:3,15	1253:5	1112:12,14
1152:11	1130:9	1201:9,18	assert 1105:1	1118:8
1196:10	1313:25	1214:4	asserted	1123:15
1200:1	arguing	1230:7	1354:19	1176:9
1242:23	1133:23	1252:8,12	assertion	1186:14,17
1245:21	1218:13	1253:20	1104:8	1197:24
1263:21	argument	1265:12,15	1114:7	1200:7
1287:25	1087:8,12	1267:4,12,16	assessed	1231:13
1290:3	1100:18	1268:19	1327:12	1250:8
1295:25	1118:5	1269:25	asset 1099:14	1264:19
1313:19	1128:22	1270:9,16,17	1313:15	1269:2
1361:21	1130:7	1271:20,22	1315:4	1270:8
approves	1218:15,17	1271:24	1316:19,20	1296:7
1103:19	1218:22,25	1272:3	1316:22,24	1331:17
1112:15	1219:20	1283:10	1319:1,4	1359:18
1137:7	1220:10	1284:18	1320:15	1362:13
approving	1223:4	1294:25	1321:9	1363:15
1359:11	1234:21	1302:15	1322:13,15	assumed
approximately	1262:3	1341:13	1323:7,12,15	1268:2
1096:8	argumentive	1355:25	1323:24	1300:2
1161:12	1230:10	1356:14	1324:8,20	1341:4
1164:10,12	arguments	1362:13	1325:7,15,20	assumes
1332:3	1104:19	1364:3,3,4	1325:22	1137:21
approximatel...	arisen 1302:3	asking 1105:24	1333:3,7,13	1331:5,9
1361:20	arising 1108:7	1132:16	1333:14,18	assuming
approximation	arose 1322:14	1149:1	1334:5,17	1126:22
1332:14	arrange 1091:5	1164:17	1339:5	1164:19
April 1192:2	Arrell 1367:8	1183:19	assets 1175:5,7	1232:1
1192:14	aside 1163:17	1199:1,11	1175:9,12,15	1267:1
1194:24	1218:2	1200:22,23	1176:4,5,8	1306:19
1242:23	1262:21	1201:2	1201:12,15	assumption
Aquillo	1264:19	1224:2	1317:13	1231:20
1115:11	1317:24	1234:18	assigned	1260:9,11
arbitrarily	1318:2	1263:8	1109:17	1269:6,8
1115:21	1330:19,20	1271:16	associated	1296:9,20,24
area 1140:21	1330:21	1279:5	1099:23	1297:21,23
1159:24	asked 1090:13	1312:20	1113:3	assumptions

1331:1	ATXI 1109:13	1090:7,14	1088:19	background
1334:7,10,20	1151:10,21	1092:5	1357:19	1187:19
1335:21	1152:9	1193:21	back 1087:5	1350:12,14
1336:14	1282:23	1265:25	1088:6	bad 1131:3,12
1339:8	1307:14	1291:24	1093:3	1208:24
1340:2	ATX's 1309:1	1292:1	1115:10	1364:4
assure 1318:12	audit 1139:21	1310:18	1116:19	baked 1186:21
attached	1263:14	1356:5	1119:17	bare 1099:24
1240:2	auditing	1366:25	1122:17,19	bargain
1345:9	1263:10	avenue 1085:5	1123:2	1279:24
attempt 1344:1	1281:4	1265:6	1126:12	Barnes 1089:3
attempted	auditor	average 1186:6	1137:22	1089:13
1211:9	1277:25	1228:4	1138:7	1095:21
attention	auditors	1231:19,24	1141:10	1102:4
1149:19	1139:17	1330:11	1142:11,14	1130:18
1260:4	1258:2	1362:20	1142:22	1142:16,25
attorney	1318:1	1364:6	1143:10	1143:10,12
1085:3,8,14	audits 1264:21	averages	1151:7	1147:10
1085:20	August	1237:8	1153:1	1148:3
1262:16	1186:18	avoid 1099:16	1159:2	1152:25
1335:20	1197:15	1297:18	1180:5	1153:12,25
1373:11,15	1240:17	AVP 1172:4	1200:17,17	1154:13,14
attorneys	1241:3,4,6,20	awakens	1202:16	1160:3
1092:23	authenticate	1137:7,7	1206:2	1207:20
1146:5	1301:23	aware 1117:5	1214:11	1210:16
1278:11	authority	1138:5	1215:11,14	1227:11
attribute	1136:2	1175:23	1224:18	1369:5
1111:9	1313:5	1194:6	1234:23	Barnes's
ATX 1109:12	1346:4	1195:18	1235:17,23	1127:10
1151:9,21,25	authorization	1199:24	1239:4,9	base 1107:14
1152:2,9	1138:2	1200:1	1242:23	1109:21
1171:14,16	authorized	1201:13	1256:10	1110:8
1172:3,16,25	1120:11	1247:20,21	1264:17	1111:12
1175:11,18	1342:24	1309:4,7	1269:22	1113:3
1175:22	authorizes	1311:14	1272:17	1120:8,9
1176:6	1106:17,18	1327:11,15	1280:8,12,16	1133:5,9
1178:9	1107:21	1327:18	1306:5	1141:11
1189:5	authorizing	1346:13	1311:1	1168:14
1201:12	1129:24	awful 1111:1	1321:18	1172:9
1282:23	automated	A-d-a-i-r	1325:2,8,9	1181:12
1306:10,14	1137:14	1361:15	1326:4,14	1182:5,11
1306:25	automatically	a.m 1087:2	1327:21	1184:16,18
1307:10,14	1313:20		1329:11,11	1184:20,25
1307:15	availability	B	1341:12	1185:4
1308:13	1181:3	B 1085:8,20	backed	1187:1,3
1309:5	available	1087:23,24	1325:15	1229:24

1236:22	basically	1194:1	1142:5,9	1320:19
1237:10	1120:20,24	beginning	1147:17	1321:4
1291:20	1354:9	1093:9	1149:24	1322:2,5
1320:11,12	basis 1092:21	1153:3	1154:18	1326:11
1332:17,17	1095:19	1159:13	1161:23,25	1327:14
1333:2	1114:6	1182:25	1166:20	1330:12
1360:13	1166:19	1185:17	1169:13	1331:15
based 1096:16	1181:19	1201:17	1178:4	1333:24
1105:18	1182:3	1250:5	1185:1	1337:2
1113:11	1188:18	1255:1	1191:25	1338:11,14
1118:24	1201:3	1262:25	1196:23	1344:14
1137:3	1211:10	1323:23	1206:6,14	1346:12
1153:2	1213:5,6	1350:1	1210:3	1353:2
1164:21,25	1229:9	behalf 1130:6	1212:9,15	1361:11,15
1171:8	1236:13	1135:21	1214:14	1361:16
1185:17	1245:16	behave 1217:18	1216:4,17,25	1363:11,21
1212:3	1255:14	1271:1	1217:14	1364:17
1223:7	1321:2	behaves	1219:2,4	believed
1237:10	1326:13	1217:19	1223:17	1216:17
1247:13,15	1327:13	behaving	1224:15,19	1223:9
1247:23	1330:12	1217:18	1226:21	1237:6
1248:1,8,12	1331:19	behavior	1227:17	1258:9
1248:14,18	1332:1	1095:10	1234:17,24	believes
1248:24	1338:9,12	1221:19,22	1236:7	1109:23
1249:1,5,9,13	1342:25	1271:9	1241:12,18	1110:3,5,9
1262:25	1346:5	behest 1136:13	1243:1	1131:25
1293:3,5,8,10	1352:9	belief 1162:22	1244:10,24	1272:23
1298:5	1357:14	1208:5	1246:11	1299:7
1301:7	1358:2,6,11	1283:14	1249:16	1344:5
1304:13	1358:11,25	1348:21	1253:11	1345:23
1306:16	1359:8,12	believe 1087:18	1256:6,14,15	bellowing
1316:12	battle 1121:18	1089:19	1260:3	1276:4
1319:17,19	bear 1099:6	1093:13	1267:19	belong 1099:23
1330:22,25	1104:25	1098:19,23	1268:22	bench 1148:19
1331:1	1172:23	1106:25	1269:8	1153:2
1333:1	1229:8,8,23	1107:10,13	1270:4,14	1160:16
1334:1	1229:25	1110:19	1272:11,24	1174:23
1336:7	1230:1	1112:5	1297:10	1185:17
1337:17	1232:12,14	1114:5	1299:6,8	1250:18
1338:21,23	1305:15	1118:9	1303:6	1262:25
1339:18,19	beat 1137:2	1119:4	1304:9	1342:6
1343:24	Beck 1289:6	1129:9	1307:6	beneficial
1346:7	1345:6	1130:21	1310:22	1196:16,17
1351:19	1371:16	1136:5	1311:8,11	1245:18
1358:1	began 1087:2	1138:5,16	1317:6	benefit 1107:6
basic 1265:19	1182:22	1140:12,24	1318:4	1107:10

1109:25	1117:15	1296:3,8,17	1341:22	1343:21
1110:12,20	1138:15,15	1296:25	books 1317:6	broad 1115:8
1116:6	1139:3,3	1297:21	1317:14	broadly 1322:2
1122:18	1140:12	1303:20	1326:18	1340:2
1132:19,20	1141:21	1361:20	1339:16	brought 1278:6
1138:19	1151:5	1362:14	bore 1259:9	1356:10
1168:18	1236:6,11,12	1364:10	bottom 1099:2	Brubaker
1169:20	1236:17,20	bit 1089:21	1103:17	1126:11
1170:3	1236:23	1097:24	1284:22	1350:21
1171:2,17,22	1237:7	1216:19	1301:14	Bryan 1085:15
1172:21	1266:16	1237:15	1307:4	budget 1197:6
1245:9	1269:14	1262:3	1329:18	budgeting
1267:2	1344:5	1278:10	bought	1197:5
1291:15,24	1349:8	1317:16	1223:23,25	budgets 1197:3
1292:2	beyond	1318:5	Boulevard	1320:14
benefits 1096:6	1102:16	1322:8,9	1085:21	build 1098:22
1096:9,12,18	1103:1	1332:10	Box 1085:4	1106:18
1098:14	1140:21	blind 1272:12	1086:4,13	1152:3
1099:8,17	1141:1	blinking	brand 1352:12	1169:1,8,11
1104:23,24	1188:7	1361:15	break 1093:1,3	1175:12,21
1105:4	1225:25	blow 1330:18	1142:10,14	1175:24
1171:8	1226:2,2,15	blurred	1142:20,20	1196:15
Benoist	1288:15	1277:18	1195:5	1296:15
1086:20	1339:9,20,24	board 1103:19	1206:12	1308:14,25
1373:3,20	big 1106:5	1103:22	1215:10	1309:5,14,18
best 1119:22,24	1253:10	1112:15	1280:8,12,16	built 1169:18
1136:21,25	bigger 1319:4	1287:25	1311:10	1171:11,13
1137:5	1341:25	boasting	1359:22	1171:16
1142:5	1342:2	1138:14	breaks 1093:2	1172:13,14
1146:16	biggest 1130:24	Bob 1223:18	1311:18	1172:15,24
1149:20	bilateral	boiler 1313:4	briefed	1173:7
1162:22	1209:24	Bolivar	1276:17	1175:17,18
1169:9	bill 1246:15	1085:15	briefly 1098:18	1175:18
1208:5	1262:15	book 1319:3	1161:2	1200:2,3,9,17
1253:8	1277:7	1322:15	bring 1121:10	1290:5
1278:22	billed 1188:18	1323:11,15	1142:16	1296:9
1280:3	1353:20,22	1323:24	1191:22	1297:23
1283:14	1354:3	1324:8,19	1260:4	1303:20
1301:24	1357:9	1325:18,20	1273:17,20	1305:14
1341:1	1358:2,6,10	1325:21	1274:10	1306:10,20
1344:16	1358:11,25	1326:1,1	1342:23	1308:21
1348:20	billing 1353:24	1333:17	bringing	1357:14
1355:17	1356:1	1334:5	1118:21	1361:25
better 1106:25	billion 1287:24	1339:5,16	broad 1238:4	bulk 1187:3
1106:25	1290:2,3	booked 1333:8	1317:19,23	bunch 1319:12
1107:1	1295:25	1340:5	1321:22	burden

1094:14,18	1225:1	1278:9,9	capital 1306:17	1132:3,4
1094:19,23	1268:23	camera 1143:7	1310:2,4,12	1135:3,8,10
1094:25	1301:6	1143:14	1310:17,23	1135:25
1099:7	calculating	1154:25	1359:4	1136:4,7
1110:1	1212:25	1155:1,22,25	capture 1365:3	1139:10
1225:11	calculation	1159:3	cardinal	1140:6,19
burn 1161:7	1306:16	1202:20,22	1129:5	1141:24
business	1330:8	1206:2,3	Cardinals	1174:8
1113:13	1331:18	1297:18	1091:16	1186:22
1134:18	calculations	cap 1342:16	cards 1265:8	1187:4
1136:15,18	1225:14,21	capacities	1265:17	1195:23
1189:16,18	calendar	1354:13	career 1264:2	1197:14
1264:23	1147:16	capacity	carefully	1217:5
1283:4	1320:6,25	1126:20	1130:12	1218:7,11,13
1347:8,10	1328:3,4	1127:4	1132:11	1218:22
buttressing	call 1087:9	1128:2,5	carry 1168:1	1219:1,3,14
1352:11	1101:11	1129:1,2	case 1087:6	1219:20,22
buy 1151:7	1116:19	1130:19	1091:23	1219:23
1161:6	1117:21	1133:21	1093:21	1220:15,16
1177:4	1161:23	1134:4,10,11	1094:4,5,5,6	1220:19
1183:6,8	1170:19	1134:12,16	1094:18,23	1222:3,13
buying 1164:1	1177:18	1134:16,17	1095:6	1224:10,12
1177:2	1181:3	1134:19	1096:7,24	1225:15,20
1246:19	1194:12	1180:12,16	1097:19	1225:22
buys 1095:16	1209:19	1180:23,24	1099:11,13	1227:15
1258:23	1233:23	1180:25	1102:15	1228:7,10,13
Byrne 1085:3	1262:7	1181:4	1105:13	1228:14,17
1087:14,17	1281:17	1188:18,21	1106:8	1229:7,22,22
1088:9,16,21	1297:20	1189:15	1108:7	1234:2
1089:1,7,15	1307:15	1199:6,8,10	1109:12	1235:15
1090:4,5,19	1316:2	1208:25	1111:12	1240:11
1090:23,25	1327:22	1209:19	1112:2	1243:10
1091:18	1333:14	1244:1,3,6,14	1115:10,11	1250:2,4
	Callaway	1245:2,4	1115:21	1256:5
C	1190:5	1254:10,12	1118:10,21	1258:3
C 1087:25	1340:23	1254:12	1119:2,21	1259:12
1088:20	1341:7	1267:13,20	1120:16	1266:24
1366:21	called 1195:25	1268:3,7	1121:3,3,15	1272:17
calculate	1239:7,13	1351:10,13	1121:16,22	1275:16,19
1211:9,22	1265:15	1351:16	1121:24	1276:8,12,13
1248:17	1316:11	1352:23	1122:12	1276:18,19
1249:4,8	1354:4	1353:13,14	1123:16	1276:20
1316:11	calling 1200:19	1357:15,15	1124:19	1277:2,8,13
calculated	1250:18	1357:16,20	1125:5,6	1277:21
1105:16,18	1271:12	1358:2,6	1126:9,18	1278:5,7,12
1224:10	calls 1262:7	1359:3,7	1131:3	1278:18,23

1286:1,5,6,8	1217:25	CEO 1138:10	Chairman	1095:5,9,10
1288:9,19	1250:23	certain 1107:18	1084:18	1095:12,20
1289:3	1275:22,25	1114:8	1091:12	1097:3
1302:3,25	1286:12	1119:12	1100:4,8,12	1099:20
1303:1	1287:13,16	1137:1	1110:16,21	1103:18
1304:12,18	1288:3	1170:4	1111:4	1107:20
1313:16,23	1317:4	1207:8	1113:25	1110:6
1314:22	1318:24	1214:2,21	1115:22	1111:13,14
1315:5,6	cast 1180:2	1238:5	1119:9,14	1111:25
1316:11,13	Castle 1286:5	1266:1	1120:4,13,19	1112:6
1316:14,25	catch 1116:22	1302:17	1120:23	1113:11,14
1319:9	1117:10	1352:10,17	1121:8	1113:23,24
1320:1	1182:6	1354:10,11	1122:1,7,13	1128:18
1321:24	1253:9	certainly	1123:11,22	1129:11,14
1323:2	catching	1104:24	1124:10	1135:7
1325:3	1114:3	1106:10	1133:3,11	1136:12
1327:10	category	1121:23	1141:20	1140:15,18
1328:1	1256:17	1123:19,20	1142:6	1166:14
1330:3	1324:2	1129:4	1148:19,21	1167:21,25
1331:8,23	caught 1124:25	1130:14	1150:7	1181:9,15
1332:15	1260:14	1141:2,2	1160:17,18	1184:3
1339:1	1282:19	1172:6	1174:23,24	1186:12,12
1344:11	1330:20	1176:22	1175:3	1193:25
1345:1,11,16	cause 1120:3	1233:16	1178:16	1197:20
1345:22	1155:14	1235:4	1189:3	1202:17
1346:11	1162:10	1273:11	1190:24	1207:16,18
1347:14	1269:13	1279:15	1199:11	1209:14,15
1352:12	1343:18	1292:1	1250:19,20	1214:8,23
1360:13,19	caused 1099:7	1303:14	1263:7	1216:14
1366:5	1207:8	1321:4	1268:19	1219:3
cases 1093:19	1235:14	1324:25	1269:23,24	1220:18
1097:17	1259:22	1338:1,6	1269:25	1222:19
1100:9	1269:4	1342:21	1270:9	1227:8
1105:23	1281:9	1344:8	1275:5	1257:16,19
1111:14,15	causing	1351:14	challenge	1264:16
1111:18	1149:12	1352:5	1121:5,19	1271:9,17
1112:4	cautions	1360:18	1137:2	1287:23
1115:10	1125:16	1362:11	1359:9,12	1295:5
1116:24	cautious	1367:9	challenged	1313:10
1126:10	1284:10	CERTIFICA...	1266:15	1315:8,9
1131:10	Cave 1085:15	1373:1	chance 1116:22	1329:12
1132:22	CCP 1242:25	Certified	1137:22	1346:2
1139:9,9	1351:10	1373:3	1240:8	1348:10,14
1181:16,22	CCR 1086:20	certify 1373:4	1351:21	1363:9,25
1181:24	1373:20	1373:11	change 1093:22	1364:7,8,13
1182:11	central 1308:4	chain 1190:7	1094:7,12	changed

1106:15,16	1353:23	1109:7,18,22	1193:1,2,5,5	1353:19,22
1114:21	characterizat...	1110:2,7,23	1193:8,11,13	1353:25,25
1115:7,25	1353:20	1111:23	1194:1,2,3,23	1356:2
1137:25	characterize	1112:1,14,17	1195:15,24	1362:20
1154:5	1225:9	1112:18,19	1195:25	charging
1185:13	characterized	1112:22,25	1197:2,5	1183:16
1217:6,17	1094:18	1113:6,6,10	1199:15,18	chart 1113:16
1231:16	1147:11	1113:10,15	1199:22	1371:21,23
1257:14,24	1353:21	1113:22	1209:1,19,21	1371:25
1270:25	1363:24	1114:4,7,23	1214:13	charts 1090:12
1330:1	charge 1100:6	1117:6	1237:21,23	1090:18
changes	1134:16,16	1126:15,20	1238:13	check 1091:22
1105:22	1134:17,20	1126:22	1239:6,16	1240:8
1140:1	1164:2	1127:2,4	1242:4,5	1272:17
1154:2	1165:22	1128:2,3,5,9	1243:6,11,19	checked 1362:2
1162:15	1182:23	1128:9,11,12	1244:15,22	1362:3
1166:3,3	1183:15	1128:13,14	1245:6,25	Cherlyn
1181:17	1185:10	1128:19	1247:9,14,23	1222:21
1182:4	1187:8	1129:8,16,19	1248:9,14	cherry 1131:5
1207:14	1191:1	1129:22,23	1249:9,19	Chesterfield
1216:5	1212:22	1129:24,25	1254:10	1347:11
1229:10	1247:17	1130:1,3,4,4	1255:17	Chief 1086:11
1230:3	1272:4	1130:11,20	1256:18,24	chips 1137:17
1258:5	1291:3	1131:17,20	1268:5,8	choose 1109:20
1264:10,13	1358:17,21	1131:22	1272:8,16	1141:25
1264:15	1359:3,7	1132:1,4	1273:10	1142:4
1269:3	charged	1133:10,22	1274:2,14,16	1152:3
1281:18,21	1109:18	1133:24	1286:14,15	chose 1233:12
1302:17	1135:13	1134:4	1288:4,13,18	1233:13
1313:20	1152:13	1135:12	1288:24	Chouteau
1316:18	1192:16,17	1167:1,2	1289:1,18,21	1085:5
1323:25	charges	1172:7,8	1290:17,23	Chuck 1276:10
1324:8,13	1093:17	1173:19,25	1292:3,5	circumstance
1325:14	1096:4,14,15	1174:7,10	1293:6,16	1334:2
1328:6	1096:16,19	1176:21,21	1298:2,22	1352:20,20
1334:14	1097:4,10	1180:12	1299:4,23	circumstances
1340:10	1098:2	1181:10,10	1300:15	1323:10
1348:5	1099:16,22	1181:12	1301:9	1330:25
changing	1100:5,10,18	1182:5,22	1327:12,15	1332:12
1121:21	1102:8,13,16	1183:4,12,15	1333:22	1334:18
1129:6	1104:1,14,21	1183:20,20	1334:3,15	1336:12
Chapter	1104:21	1184:1,4,7	1340:11	1338:22
1216:3	1105:9,13,14	1187:15	1341:17	1345:18
characterizat...	1107:18	1188:18	1345:22	citation 1353:8
1121:12	1108:10,10	1191:10	1346:11,14	cited 1143:5
1148:13	1108:20,25	1192:15	1351:8	city 1084:8

1086:6,15	1123:2,6	clearly 1122:9	1369:3,5,10	1123:7
1091:2,7	1126:16	clears 1227:9	1369:12	1177:3
1249:12,12	1132:18	clients 1137:8	1370:5	1279:25
1275:15	1135:24	1141:25	coin 1316:5	1326:23
1278:1	1136:3,9,20	client's 1140:10	collection	coming 1105:2
1287:8	1137:9	1141:6	1343:25	1109:10
1373:6	1138:1,9,11	close 1300:16	collections	1123:1
claim 1195:18	1138:20,25	1311:25	1315:15	1143:1
1236:4	1139:8	1320:22	collective	1149:5
1243:14,21	1141:12,15	1321:9	1223:15	1176:10
1243:22	1141:22	1332:13,16	collectively	1356:25
1303:2	1142:15	1332:18	1307:16	comma
claimed	1183:2,13	1334:14	Columbia	1282:12,12
1140:20	1199:3	closed 1138:17	1085:10	commencing
1243:10	1211:12,17	closely 1129:16	column 1332:5	1357:22
claiming	1211:18,19	1131:24	1337:11,12	comment
1215:22	1211:25	1214:8	1337:14,21	1104:12
1220:16	1212:17	closer 1214:5	1338:5,14	commission
1231:22,23	1217:24	coal 1097:8	columns	1084:2
1233:19	1219:13	1149:14,16	1300:14	1086:12,17
1243:18	1220:12	1159:24	column's	1093:11,19
1298:9	1225:5	1160:1	1338:15	1093:23,24
claims 1095:11	1235:23	1161:5,10	combination	1094:9,18
clarification	1244:25	1163:23	1315:8	1095:19,22
1234:18	1247:7	1220:23,23	come 1087:3	1096:4
1306:3	1263:22	1220:24	1088:13,24	1097:12,14
clarified	1264:8,22	1231:18	1093:3	1097:22
1311:9,16	1277:8	1232:2,16	1109:25	1105:8,10
clarify 1130:17	1372:18,22	1258:6,7,11	1125:1	1106:18
1282:10	1372:25	1259:17	1142:11,13	1109:23
1288:6	clauses 1122:8	code 1256:9	1142:22	1112:24
1358:5	1141:21	Coffman	1191:4	1114:19
clarifying	1211:16	1085:20,20	1201:8	1115:20,24
1182:18	1263:21	1106:11	1212:14	1115:25
clause 1093:7	1351:4	1135:20	1215:11	1116:8
1093:13,14	cleanup	1141:25	1248:19,21	1119:5,18,20
1093:16,20	1089:11	1146:3,9	1254:19	1119:22,25
1094:2	clear 1184:1	1147:2	1266:1	1121:16,19
1095:23	1198:20	1153:4	1280:8,12,15	1121:20,25
1100:6	1234:14	1159:15	1292:3	1122:16
1106:5,7,17	1242:5	1163:7,9	1301:13	1123:8
1107:16,19	1299:24	1165:3	1331:21	1125:19
1107:22	1306:3	1185:19	1334:14	1126:5
1115:7	1329:4,5	1208:17	1335:15	1129:1,1,4,20
1116:12	1332:10	1251:22	1349:7	1129:25
1122:10,18	1336:2,5,9	1263:3	comes 1117:15	1130:10,12

1131:13	1346:3	1304:8	companies	1214:22
1132:24	1352:6,6	1342:8	1139:22	1216:5
1134:22	1360:21	1364:17	1170:8	1217:17
1135:5,21,23	1366:7	1369:7,7,13	1189:6	1218:10
1136:2,3,7	1373:5	1369:13,14	1196:13,21	1221:11,22
1137:6	commissioner	1370:1,2,3,4	1210:20	1224:8,13
1138:1	1091:11,13	commissioners	1289:25	1225:11,24
1142:19	1091:14	1084:20	1317:11	1226:14
1143:6	1100:15,21	1091:1,4,7,9	company	1227:3,15,21
1150:9	1101:4,13,24	1127:8	1084:11	1228:6,18
1172:6	1102:4,7	1267:17	1085:12	1229:2,3,9,24
1181:8	1103:4,9,24	1306:8	1094:14,16	1230:2,14
1185:3	1104:2,7,11	Commission's	1095:2,21,24	1231:4,9
1193:21	1105:6,25	1094:12	1095:25	1232:10,11
1196:24	1111:25	1103:11	1096:13,15	1232:14,24
1207:5	1112:10,12	1118:10	1096:18	1233:7,17,20
1218:19	1114:6,13	1206:13	1097:11,16	1234:3,6,7,7
1220:7	1118:12	1218:25	1097:18	1234:10,15
1224:3,16,25	1124:18	1220:9	1099:6,13,16	1234:15
1225:3,9	1133:15,17	1260:4	1101:12	1235:7,8
1228:24	1133:21	1366:5	1103:1	1236:5,5
1233:6,14,15	1134:1,11,24	1369:20	1104:6,20,25	1237:6
1234:13	1135:15	commit 1212:3	1104:25	1242:22
1235:1,3,4	1150:13,17	committee	1105:3	1245:8,14,21
1239:10	1152:20,23	1103:8,9,13	1107:1,2,9,10	1245:25
1245:20,21	1160:20,22	1103:14	1110:4	1249:11,13
1252:1	1178:22,24	1177:10,21	1116:13,17	1249:25
1262:17	1182:15,20	1178:6,25	1116:20	1250:4
1263:17,23	1189:14	1179:2,4,15	1117:10	1259:13
1266:24	1193:22	1179:23	1120:1	1261:11
1271:16	1198:15	1198:20,24	1121:4	1266:14,16
1273:8,10,17	1199:1	committees	1136:14	1266:22
1276:16	1237:17,19	1177:6,8	1140:13	1275:15
1280:1	1250:22	1198:16	1142:17	1287:4,4,9
1281:4	1251:14	commodity	1146:21	1294:19
1289:12	1254:4	1258:21,23	1148:8	1298:20,21
1294:10	1257:3,7	1366:17	1152:3	1299:2
1302:12	1263:8	common	1161:10,15	1300:8
1304:23	1264:18	1088:2	1172:3,3	1301:7
1307:2	1265:9	1134:2	1173:4	1302:2
1313:13,24	1267:4	commonly	1178:2	1303:13
1314:1,21	1269:22	1353:2	1180:5	1310:5,25
1316:12	1271:20	communicated	1189:12	1311:12,21
1323:1	1273:22,25	1299:25	1191:25	1315:9,15
1331:5,24	1274:6	community	1197:23,25	1317:5,25
1345:12	1275:4	1100:24	1201:13	1318:1,25

1319:3,9	1296:22	complicated	1321:5,22	1253:17
1320:9,13	1322:12	1125:12	conclude	conducted
1321:8	1333:2	1177:7	1119:20	1217:22
1322:14,21	1343:16	comply	1368:4	conference
1323:6,11,19	comparison	1195:19	concluded	1278:9
1323:24	1299:18	component	1119:23	confidential
1324:8,19	1318:25	1164:15,20	1306:2	1143:6
1325:6,6,17	1321:15	1164:25	concludes	1147:14
1326:14,25	comparisons	1228:13	1119:18	1155:21
1327:5,24	1131:12	components	1368:2	1191:20,24
1333:6,6,17	compelling	1217:19	conclusion	1194:13,22
1334:5,9,16	1098:10	comprehensive	1289:14	1202:18
1334:16	1104:13	1253:4	concrete	1239:20,21
1339:2,14	compensation	computer	1137:20	1284:11
1340:3,11,22	1147:11,12	1360:7	condition	1285:1
1341:15	1147:15	computer-ai...	1098:23,23	1347:17,18
1342:23	1164:15,25	1373:8	1110:11	1347:22
1343:15,24	compete	concede	1282:11,20	1349:4,18
1344:21,22	1175:12	1105:23	1305:3	confirm 1185:1
1350:20	competent	concept	1306:3,6,9,12	1229:20
1358:8	1095:4	1117:25	1306:24	1231:3
1360:18	1335:16	1324:12,15	1307:5,8	confirmed
company's	competing	1335:7	1311:7,9,12	1186:1
1093:19	1103:20	conceptual	1312:8,16,17	conflict
1095:15	completed	1098:19	1313:1,3,7	1196:20,22
1096:5	1091:24	1321:22	1314:15,16	1310:22
1097:9	1234:7,8	concern 1223:3	1314:16,18	conflicts
1104:22	1321:17	1307:12	1315:2	1212:14
1221:6	completely	1315:2,11,19	1316:10	confuse 1172:5
1267:1	1104:4	1315:19,22	1322:6	1172:6
1285:2	1112:19	1316:1,4,7	1339:11	confused
1309:1	1139:15	1317:18	1343:20	1182:21
1329:10	1211:2	1319:21	conditions	connected
1343:1,5,9	1325:13	1321:6	1097:22	1209:24
1345:25	1328:24	1324:16	1098:18,20	connection
1358:11,12	1329:5	1339:10,20	1098:20	1235:13
comparative	1336:10	concerned	1100:1	consider
1351:3	completes	1238:1	1109:5,8	1121:21
compare	1206:1	concerning	1110:10	1132:11
1316:10	completing	1087:8	1113:11	1139:1
1320:11,12	1234:8	concerns	1304:25	1303:17,19
compared	complex	1093:15	1307:8	1333:25
1148:22	1170:2	1315:23	1309:12	1334:19
1213:23	1173:2	1316:2	1311:2	considerable
1245:19	compliance	1317:15,24	1345:9	1290:16
1264:6	1195:21	1318:2,21	conduct	considerably

1290:14	consumers	1293:14	contributed	1312:19
1321:25	1085:18,23	context	1115:3	1349:12
1341:4	1139:24	1233:24	contributions	1353:3
consideration	1140:12,16	1289:17	1207:9	1363:18
1107:20	1140:17	1363:1	control	1365:8
1289:2	1141:5,23	continue	1099:17	corporate
considered	1146:21	1097:10	1103:1,2,5	1101:7,7
1176:16	consumer's	1128:24	1107:12	1136:16
1262:9	1135:22	1141:12,14	1112:17	Corporation
1289:5	1137:12,25	1183:20	1116:11,13	1109:14
considering	1140:9	1293:19	1118:14	1169:10,18
1119:6	1163:6	1317:4	1131:21	1169:19
considers	consuming	1357:7	1132:9	1307:9,10
1108:1	1089:25	continued	1138:18	1309:9
consistent	1366:11	1100:9	1140:22,24	Corporation's
1210:2,3	consumption	1350:22	1141:1,3,3,6	1283:2
1363:7	1358:25	continues	1141:8,9	correct
consistently	contained	1095:2,4	1146:13,21	1089:14,15
1237:3	1143:19	contract	1179:23	1100:20
constant	1156:2	1134:2,4	1246:7,8,13	1122:10,20
1186:13	1203:2	1149:20	1267:1,2	1124:22
constitutional	1295:14	1209:24,24	1290:21,22	1151:1,12,15
1264:21	1300:11	1233:24	1291:1,4	1154:10
construct	1344:19	1257:18	1309:5	1162:21,23
1152:10	contemplate	1258:11,12	1313:25	1166:15,16
1343:6	1267:21	contracting	controllable	1167:9,16,21
constructed	contemplated	1134:6	1098:5	1167:23
1200:14	1113:7	contracts	1104:5	1168:7,11,19
1286:16	1114:9	1122:16,22	controller	1168:21,22
1343:14	1118:3	1126:21	1318:13	1169:6,25
construction	1129:23	1127:5	controls	1171:7
1129:5	contemplates	1128:2,6	1139:11	1172:9,17,18
1130:4	1136:8	1130:20	conversing	1172:20
1134:3	contemplation	1133:22	1253:12	1175:5,6,10
1151:20	1201:11	1138:13	cooler	1175:19
1283:3	contend	1146:16,24	1341:4	1176:3,25
1290:7,12	1309:12	1149:18	cooperative	1177:6,15
1291:3	contending	1150:4	1308:5	1178:10
1296:14	1308:24	1180:12	copies	1179:3
construe	1309:2	1209:19	1194:17,19	1180:3
1134:24	contention	1218:14	1195:4	1188:4,13,17
construing	1236:14	1220:9	copy	1189:24
1129:6,7	1249:18	1234:22	1127:8	1190:12
consumer	1261:17	1257:23	1194:14	1192:13
1136:11	1331:6	1258:6,7,14	1210:12	1193:9
1137:23	contentions	1268:6,7	1224:21	1196:2
			1286:23	
			1292:11	

1198:2	1309:16	1282:1	1247:22	1127:19
1202:1,10	1311:5	1283:7,9	1248:17,19	1131:6
1206:8	1312:13	1348:18	1248:21,24	1132:9,12,15
1208:4	1313:12,17	correctly	1249:24	1132:21
1213:14,15	1315:24	1229:20	1264:23	1135:9,11
1217:7,8	1323:20	1230:5,8,9,12	1265:6	1137:3,13
1218:9,12,23	1324:3	1231:3,6	1266:7	1138:18
1219:4,14	1329:3,23	1248:15	1267:2	1140:4,5,16
1221:11,12	1330:6	correlation	1286:2,20	1140:21,23
1221:16,17	1333:24	1123:13	1287:2,15	1140:25
1222:13,14	1334:8,12,19	cost 1097:8,15	1290:2,4,5,9	1141:11,16
1224:14	1336:20	1097:25	1290:12	1146:14,22
1225:16	1338:11,14	1098:11	1295:20	1149:23
1226:8	1338:16	1099:25	1300:1	1163:16
1227:12,24	1341:5	1117:24	1305:15	1164:12
1228:16,22	1344:17	1118:3	1306:11	1168:1,3,6,8
1232:12,15	1345:14	1119:19	1314:2,3	1169:24
1240:4,11	1351:10	1120:9	1315:16	1170:4,6,13
1241:1,7	1353:12,23	1123:2	1324:7	1171:1,3,5,6
1242:12,16	1360:14,19	1124:24	1327:23	1172:19,23
1242:25	1360:20,23	1131:5,5,6	1328:5	1175:8
1245:7,23	1360:25	1136:22,23	1332:17,25	1180:22
1251:19	1362:8,17	1137:17	1339:4	1181:21
1254:13	1363:10	1140:2,15,21	1345:5	1184:15,16
1265:9	1364:2,25	1141:7	1346:8	1185:25
1266:17,20	1365:1,3,4,21	1142:2	1359:4,7	1186:2
1276:14,17	1367:13	1169:22	costing 1263:25	1197:19
1278:3	corrected	1170:1	costs 1094:15	1198:12
1283:13	1331:13	1176:23	1094:21	1199:12
1285:13,14	1336:24	1177:2	1096:13,14	1201:19
1287:5,6,17	1337:2	1180:8	1096:24	1209:4,6,6,8
1288:10	correction	1184:20	1097:6,13,16	1209:11,13
1290:10	1143:1,3,4,7	1185:9	1098:1,5,6	1214:18
1291:17	1155:1,20,23	1192:1	1099:4,7,15	1216:8
1293:20,24	1207:25	1200:13	1103:6	1217:1,12,20
1294:11,12	1210:13	1207:9,10	1104:6,25	1221:19
1294:15,16	1282:4,8,9	1209:15	1107:2,3,4,12	1225:8
1295:1	1283:8	1214:24	1107:15,24	1226:13
1296:24	1348:7,14	1216:10	1113:14	1228:14,19
1297:11,22	1358:3	1220:6,14	1116:11,13	1228:22
1301:11	1360:10	1227:16	1117:18,25	1229:8,23
1303:7	corrections	1228:7,12	1118:1,1,2,14	1231:18
1304:21	1155:18	1230:1	1118:14,22	1232:3,15
1305:2,17,18	1162:15	1231:11	1119:5,10,23	1233:2,8
1307:21	1207:14,23	1245:19	1120:10	1236:2,22
1308:11	1281:19,22	1247:16,18	1125:2,9	1237:10

1242:11,15	1372:4	1328:11	critical 1097:14	1333:21
1246:4,7,16	Council	1366:1	cross 1088:3	1334:2
1246:19,25	1085:23	course 1118:17	1091:3	1343:10
1247:1,8	counsel 1086:1	1119:1	1142:21	curiosity
1249:22	1086:2,3,8,11	1125:13	1143:8	1256:23
1256:15,17	1114:17	1132:9	1146:1,8	curious
1257:14	1119:2	1135:11	1147:5,8	1097:24
1261:21	1127:9	1140:14	1148:1	current
1263:14,17	1133:4,6	1180:19	1159:8,9,14	1106:16
1263:19	1135:19,22	1213:14	1162:25	1127:1,6
1264:1,1,1	1137:25	1265:7	1163:5,8	1139:14
1266:14,16	1141:16	1279:9	1165:11	1167:17
1266:22,22	1147:6	1302:16	1189:1	1173:4
1267:2,22	1153:7	1303:16	1190:22	1299:7
1268:6	1160:11	court 1108:3,4	1201:18	1346:1,7
1269:11	1163:6	1138:3	1208:13,15	1358:23
1270:20	1165:7	1207:1	1208:20	1359:7
1272:20	1188:25	1281:6	1210:9	currently
1286:11,13	1210:7	1359:10,13	1215:6,15,16	1108:21
1289:24	1251:21	cover 1219:9	1215:18	1122:7
1290:14,24	1268:15	1274:22	1284:2,3	1130:18
1291:5,5,7	1284:4	1324:14	1285:8,18	1358:24
1292:3	1303:7	1358:3	1344:9	1359:9,12
1295:11	1350:2	covered 1324:1	1349:25	curve 1089:21
1296:17	1354:22,22	1324:7	1350:1,4	1251:6
1306:19	1365:20	CPP 1127:13	1351:19,25	customer
1311:19,20	1373:12,15	1133:18	1352:1,4,7,9	1105:5
1311:20	Counsel's	1245:3	1354:22	1258:23
1313:19	1121:14	1254:9	1355:3,8	1259:23
1314:1,20	1355:12	1351:17	1356:20	1261:8
1315:5,6,6,10	counting	create 1134:13	1357:2	1354:4
1316:18	1212:12	1245:12	1359:18	1357:9,17
1317:6	counts 1242:14	1256:16	1360:1,4	customers
1319:12	couple 1087:15	1312:21	1369:5,6,6,10	1096:7,19
1320:9,22	1090:5,7	created	1369:12,12	1098:13
1323:6,25	1092:7	1109:14	1369:16,17	1099:8,10,15
1324:5,13	1110:16	1358:24	1369:18,23	1099:17
1325:13,17	1146:3	creation	1369:24,25	1104:23
1332:19,24	1167:4	1308:12	1370:12,17	1105:4
1333:15	1231:14	creative	1370:18,19	1111:15
1334:13	1250:20	1269:14	1370:20	1127:23
1340:9	1254:7	credit 1313:21	CSR-IL	1170:5,19
1343:15,24	1257:8	criteria	1373:20	1209:5
1359:11	1268:16	1111:16	CSR-ILL	1212:11
1366:10	1286:1	1131:15,17	1086:20	1234:4
1367:12	1287:13	1132:1	cumulative	1235:24

1245:9	1287:13	deal 1106:5	1276:17,20	deferrals
1247:6	1295:24	1115:16,18	1276:23,25	1317:3,10
1249:23	1303:18	1117:2	1283:2	1324:25
1260:4	1304:11	1155:3	1289:16	1326:1,19
1261:5	1346:22,23	1176:13	1294:11	1360:22
1283:5	1346:25	1264:3	1313:14	deferred
1305:13	1347:9	1278:18	1359:10	1099:5
1310:24	1349:15	1285:5	1360:21,24	1313:8
1358:17	1350:6	1360:24	decisions	deficiency
cut 1137:3	1351:22	dealing	1124:6,7,8	1235:18
1305:8	1352:22	1350:23	1125:12	define 1134:6
cutoff 1197:15	1354:24	deals 1096:3	1213:1,4,8,12	defined
1197:21	1355:10	1138:15	1222:5	1354:12,13
1316:14	1357:4	dealt 1199:9	1252:18	defines
	1360:9	1287:14	1254:18,19	1357:15
D	1363:20	debating	1257:20	1366:17
D 1084:18	1367:24	1125:8	1258:17,18	definitely
1087:25	1370:15	debt 1306:18	1258:19,24	1329:20
1088:20	1372:11,14	decades 1123:5	1259:2,5,7,10	1353:15
Dan 1344:16	Dauphinais's	December	1259:15	definition
Dana 1239:2	1131:25	1319:23	1260:2	1127:13
1302:24	Davis 1115:22	1321:11	1265:2,4,23	1133:18
danger 1303:24	day 1087:5	decide 1129:20	1265:23	1180:8
1304:2	1097:1	decided	declassify	1199:2
Daniel 1371:16	1104:13,16	1123:12	1284:14	1224:4
dash 1366:6,6	1104:18	1181:8	declined	1242:25
data 1149:6	1108:1	1238:4	1120:24	1254:9
1239:1	1192:20	decides 1123:8	declining	1274:1
1240:13,14	1237:15	1168:25	1149:12	1317:6
1240:24	1240:22	deciding	decrease	1351:10,13
1242:9	1241:11	1138:24	1176:7	1351:15,16
1294:21,25	1256:1	1220:8	1231:11	1352:23,25
1302:15	1258:18	1235:14	dedicated	1353:3,4,5,13
1362:22	1294:17	decision	1211:2	1353:16
1371:8,18	1295:24	1104:17	defer 1097:16	1363:1,6,12
date 1316:14	1304:10	1108:3	1315:15	1363:13,22
1320:3	1307:14	1136:4	1343:15,24	1364:25
dated 1241:6	1311:10,16	1213:10	deferral	1365:21,22
dates 1242:3	1314:17	1220:9	1099:11	1366:13,23
Dauphinais	1320:6	1222:16,18	1321:15	definitions
1089:4,9,11	1331:4	1223:1,19	1325:2	1353:11
1129:21	days 1092:7	1243:25	1326:11	1356:1,7
1132:10	1241:10	1252:13	1337:13,14	1363:22
1187:14	1295:1	1259:6,20	1339:16,16	1364:23
1210:2,4	day-to-day	1265:21	1340:5,7	1365:2,25
1280:9	1350:18	1266:2	1343:9	1366:24

1367:15,16	1331:11,12	detail 1239:12	1166:13,18	difficulty
degree 1189:24	1331:12	1256:7	1167:6	1095:3
1263:9	1336:7,10	1259:14	1182:10	1225:12
1288:16	deposition	1311:19	1198:1	dime 1095:14
1304:5	1227:18	1365:9	1226:5	dire 1354:16
delay 1235:22	1229:15	detailed 1151:4	1260:19,23	direct 1103:14
delivered	1230:18,24	details 1117:3	1261:13	1110:5
1231:18	1241:18	1149:7,16	1268:20	1127:10
1353:6	1248:3	1317:20	1306:20,24	1155:10
delivery	1286:21,23	1322:5	1337:10	1162:6,11
1357:19	1329:20	1344:3	different	1180:1
demand	1362:24	determine	1118:2	1206:21
1358:12,14	1363:5	1097:13	1121:6,23	1227:19
1358:14,16	1367:5,7,7,9	determined	1122:24	1233:25
1358:17	depreciation	1122:17	1124:3	1240:10,12
1366:20	1306:18	1222:25	1140:8	1240:13
demonstrate	derived 1175:4	1223:8	1154:5	1279:10
1103:25	describe	determines	1190:7,11	1280:22
1345:20	1213:22	1304:24	1221:23	1288:2
1346:10	described	detriment	1224:5	1310:22
demonstrates	1307:6	1131:9	1235:20	1344:23
1099:22,24	description	1259:10	1253:5	1347:5,16,24
1102:16	1274:5	developed	1258:11	1348:1
demonstration	1312:4	1118:11	1259:16,19	1352:11
1346:7	descriptor	development	1266:25	1369:9,11,22
deny 1132:24	1100:22	1350:24	1273:19	1370:11,16
department	deserved	devote 1123:24	1312:16	1371:6
1125:12	1214:3	1125:10	1345:16,18	1372:10,13
1350:17	design 1207:10	devoted	1353:24	directed
depend 1154:1	1325:1	1125:19,20	1358:10,20	1098:21
dependent	designated	1125:23	1363:22	1251:3
1319:8	1281:10	1210:24	differentiated	direction
1342:22	designations	1211:5,7,11	1255:21	1137:23
1343:3	1256:11	1212:6	differently	1254:22
depends	designed	1252:10	1217:18	1255:3
1183:22	1334:4	1278:5	1271:1	directionally
1185:6	1335:6	dictate 1309:9	1354:3	1154:3
1212:1	designing	dictionary	1358:3	directions
depict 1338:20	1327:20	1363:2	difficult 1259:3	1366:19
depicted	despite 1115:24	Dietrich	1266:6	directly
1297:19	1116:21	1222:21	1318:24	1101:10
1299:1	1220:3,4	1223:20	1365:2	1212:6
1300:15	destination	Dietrich's	difficulties	1292:1
1336:6	1190:11	1223:14	1169:15	1302:19
1337:20	destroy	difference	1265:1	directors
depicts 1330:23	1113:12	1166:1,7,10	1266:4	1103:19,23

1112:15	1138:6	distinction	1288:5	1133:25
1251:3,4,5,8	1224:25	1183:19,23	doggone	1134:8,15
1251:9	1227:13	distinction's	1320:22	1135:1,17
1254:19,22	1267:5,6	1184:1	doing 1092:12	1147:5
disagree	1287:13	distinguish	1093:23	1153:6
1173:21	1307:14	1256:3	1094:13	1160:10
1242:18	1328:20	distinguishing	1105:20	1165:6
1294:1,2	1355:10,18	1104:15	1138:8	1180:10
1329:17	1361:23	distribution	1182:25	1185:21,23
1351:12	discusses	1161:15	1213:24	1188:13
disagreed	1097:22	1173:5	1230:21	1191:21
1228:24	1302:16	1310:16	1233:17	1195:2
disagreeing	discussing	divide 1126:16	1257:13	1196:23
1220:3,4	1087:18	docket 1091:23	1298:6	1197:13
disagreement	1089:2	1091:23	1319:21	1199:3
1087:11	1142:15	1124:19,19	1324:4	1208:19,21
disagrees	1252:7	1155:15	1326:21	1210:6
1304:23	1254:9,24	doctrine	dollar 1105:22	1266:11,13
disallow	1264:18	1105:19	1105:22	1267:9,12,19
1105:8	1269:22	1112:16	1137:3,4	1284:3
disallowance	1304:7	1113:1	1252:24	1292:15
1278:16	1357:8	1119:17,25	dollars 1108:21	1335:18
disallowed	discussion	document	1112:7,8	1336:22
1340:7	1112:13	1162:11	1161:10	1337:4
disappears	1233:22	1192:3	1199:25	1347:6
1319:13	1246:23	1202:8,11,19	1235:23	1348:24
discipline	1284:21	1219:7,15,17	1260:20	1349:24
1100:23	1295:23	1238:25	1307:1,4	1355:18,20
1259:25	1296:1	1254:8	1316:11	1355:23
disclosed	1304:10	1261:2	1330:12	1356:11,15
1187:7	1305:4,9	1265:21	1331:4,18	1364:20,22
discontinue	1306:1	1301:15,25	1332:5	1365:11,13
1135:23	discussions	1335:19,21	1337:11	1367:23
discovery	1122:19	1335:23	1338:5,15	1369:3,16,23
1087:8	1223:7	1336:16	1340:23	1370:6,16,21
discretion	1255:2	1337:16	1361:24	Downey's
1352:5,7	1289:6	1338:3	dot 1353:9	1173:16
discuss	1295:10	documentation	double 1096:23	dozens 1125:18
1254:21	dishonesty	1265:20,25	doubt 1187:16	DR 1202:4
1262:21	1111:10	documented	1308:7	1258:5,6
1311:1	dispute 1087:8	1252:20	doubting	1265:13
1312:19	1174:8	documenting	1240:6	1271:21
1355:23	disputes	1265:22	Downey	draft 1127:18
discussed	1128:7	documents	1085:14	1134:21
1088:1	disregarding	1241:17	1126:4	drafted 1115:4
1093:8	1112:16	1285:22,24	1133:6,14,20	1127:18

drafter 1134:25	1149:20 1186:23	1249:3	eight 1159:25 1161:6	1190:1,14,15 1209:5
drafters 1115:2	1327:5	easements 1246:20	1163:24	1247:5
dramatically 1166:4	1333:7	1249:19,21	1164:5,6,8	1258:20,21
driven 1098:3	earned 1282:23 1323:19	easier 1285:5	1200:4,6,7,8	1258:22
1143:3	1325:3,3	easily 1343:6	1200:10,13	electron 1190:4
1366:19	1333:6,20	easy 1173:6	1200:15,21	1190:5,16,17
driving 1346:1	1334:9	Eaves 1239:2	1201:7	electrons 1190:3,8
dropped 1225:17	1339:2	1276:9,13	1241:10	eligible 1316:24,24
1231:16	earning 1225:12	1277:15,20	1305:15	emission 1259:18
dropping 1149:10	1315:17	1302:24	either 1094:4 1109:19	emphasize 1117:1
due 1115:1	1316:12,20	economic 1366:19	1112:20	1212:13
1186:11	1316:23	edit 1092:4 1111:22	1115:20	Empire 1104:17
1241:4,11	1317:5	EDWARD 1085:14	1117:18	employed 1163:15
1264:13,13	1322:12	efdowney@b... 1085:17	1127:25	1207:3,4
dump 1120:25	1324:24	effect 1094:2 1094:23	1130:15	1281:2,3
duration 1127:5	1325:25	1116:3	1169:11,18	1350:16,21
D-a-u-p-h-i-... 1347:10	1326:14,15	1168:5	1169:23	1373:12,15
d/b/a 1084:11	1340:3,4	1224:2	1197:19	employee 1137:13,14
1085:13	1343:11,25	1225:5	1222:21	1211:10
<hr/> E <hr/>	earnings 1138:8	1235:19	1234:6,7	1373:14
E 1087:25	1319:1,5,14	1290:9	1244:18	employees 1101:19,22
1088:20	1320:14,23	1324:1	1275:25	1159:19,25
earlier 1093:8	1321:12,12	1328:5	1300:16	1163:22
1115:10	1321:16	effective 1132:3,4	1309:9	1164:4,10,20
1168:13	1322:22	effectively 1099:12	1318:13	1211:11
1172:10	1325:8,19,21	1111:24	1346:3	1212:21
1180:7	1326:9,10	1285:25	1351:8	1252:5,14,18
1223:5	1328:7	1355:1	elaborate 1335:6	1253:23
1227:8	1329:15	efficiency 1142:2	1084:11,12	enacted 1129:24
1275:11	1333:11,12	efficient 1088:2 1136:22,22	1085:12	ended 1261:4 1330:10
1288:7	1337:24,24	1138:13	1127:24	ends 1186:18
1295:1	1340:7	1269:10,14	1138:10	1190:11
1304:4,6	1341:9	efficiently 1261:19	1210:20	energy 1085:18
1344:9	1342:22	effort 1278:23 1280:2	1211:6,16	1107:3,14
1360:10	1343:1,2,5,10		1236:9	1140:5
early 1304:12	1343:16		1264:7	
1304:13	earns 1325:17 1339:15,15		1308:4	
earn 1094:17	1341:15,16		electricity 1163:19	
1095:3	easement 1248:18,19		1180:21	
	1248:21,24		1183:14	
			1189:19,20	

1150:25	entirety	essentially	1303:24	1326:10
1163:18	1284:14	1096:20	evaluated	1346:13
1188:22	entities	1102:16	1302:21	1369:4,20
1207:5	1109:17	1104:24	evening 1347:7	1370:14
1210:19	1178:11	1105:1	evenness	evidenced
1237:10	1307:13,16	1120:23	1327:23	1096:4
1245:10	1354:8	1143:4	event 1109:23	evidentiary
1247:13,23	1357:12	1219:12	1148:7	1084:6
1248:1,12,25	entitled 1336:1	1351:24	1216:14	1335:16
1249:9,14,23	1336:13	establish	1297:6	evolving
1261:21	entity 1101:7	1110:9	1367:11	1258:13
1291:8	1125:9	1115:12	1373:10	exact 1147:20
1353:1,6,7	1152:7	1286:1	events 1366:20	1265:12
1357:16	1171:13,14	established	eventually	1296:2
1358:25	1177:15	1114:25	1181:23	1343:14
1359:8,8,12	EO-2010-0255	1115:11	1190:11	1362:10
1366:16	1219:22	1116:9	everybody	exactly 1092:9
engage 1224:3	1220:10	1121:4	1120:23	1101:17
1271:16	EO-2010-0274	1168:5	everybody's	1109:9
engineering	1220:15	1171:4	1128:14	1166:12
1189:24	equal 1098:9	1172:7	evidence	1170:17
ensure 1264:22	1201:19	1250:3	1093:24	1179:20
1266:6	1316:22	1308:23	1094:4,11	1190:1
1282:17	1343:13	establishes	1095:1,5,14	1226:4
1283:1	equity 1322:22	1200:21	1099:19,22	1239:12
ensuring	equivalent	1323:1	1099:23	1277:10
1266:7	1211:10,11	establishing	1102:15	1293:24
enter 1146:15	ER 1366:6	1121:17	1112:5	examination
1149:17	error 1330:8	estimate	1115:12,15	1088:4
1220:8	ER-2010-0036	1107:5	1115:16,18	1091:3
entered 1090:9	1228:14	1211:23	1115:20	1142:21
Entergy 1183:7	ER-2010-0255	1304:4	1116:1,5	1146:1,8
entering	1218:7	estimates	1117:5	1147:8
1150:4	ER-2010-0356	1288:22	1118:18,22	1148:1,20
entire 1090:1	1344:11	1290:2,4,10	1122:3	1150:16
1125:12	ER-2011-0028	1290:12,14	1125:16	1153:10,23
1200:14,16	1219:1,10	1295:14,20	1128:10	1155:10
1296:23	ER-2011-0128	1298:21	1138:22	1159:8,9,14
1316:23	1119:3	1299:7	1139:13	1161:3
1356:19	ER-2012-0166	1300:2,7	1217:16	1162:6
1358:15	1084:12	1301:16	1233:16	1163:1,5,8
entirely	1087:6	1303:12,13	1265:5	1165:11
1103:15	escalating	1303:14	1270:25	1175:2
1300:4	1289:24	1304:1,1,2,13	1271:3,6	1178:23
1326:20	especially	1346:5	1302:18	1182:19
1346:5,16	1264:10	estimation	1324:23	1184:13

1185:22	1370:21	1366:18	1352:7	1342:22
1189:1	1373:13	excerpt	exhibit 1087:1	1343:4
1190:22	examine	1282:20	1090:10	1347:25
1195:12	1352:1	1344:14	1127:11	1348:1,1,3,9
1201:18	1367:20	excess 1128:2	1138:5	1371:2,3,4,6
1206:21	examined	1133:22	1159:3,5	1371:7,8,9,10
1208:13,15	1143:8	1150:25	1193:21	1371:11,12
1208:20	1215:15	1180:12	1194:13,22	1371:14,17
1210:9	1225:15,24	1232:25	1207:12	1371:20,22
1215:17,18	1227:15	1233:4	1208:8	1371:24
1250:21	1228:1	Exchange	1213:19	1372:1,3,5,9
1251:13	1298:10	1366:22	1227:17	1372:12,15
1254:3	example	excite 1190:15	1238:15,22	1372:19,23
1257:6	1101:18	excites 1190:16	1238:25	exhibits 1091:4
1263:2	1103:7	exclude	1239:10,25	1091:5
1266:12	1105:12	1107:18	1240:2	1155:16
1268:17	1119:16,21	1110:6	1241:8	1162:13
1269:20	1122:15	1129:9	1242:9	1241:16
1275:1	1124:3	excluded	1255:6,19,22	1285:12,21
1280:22	1166:2	1129:10,10	1271:22	1286:18
1284:2	1170:12	1129:11	1281:16,18	1288:7,11
1285:18	1177:17	1134:17,18	1283:17	1292:18
1342:12	1190:4	1134:20	1285:15	1328:11
1344:9	1237:8	1193:8	1286:19	1343:8
1347:5	1259:6	1243:5	1287:1	1344:11
1350:4	1265:12	1268:8,11,12	1297:9,12,15	1348:24
1354:23	1308:24	excludes	1297:19,25	1371:1,1
1355:3,8	1313:24	1135:9	1297:25	1372:1,8
1356:20	1321:11	1193:2,4	1298:19	exist 1096:11
1357:2	1325:15	excluding	1299:12	1236:23
1359:18	1337:23	1192:20	1300:14,23	1312:21
1360:4	1338:19	1254:10	1301:19,20	1358:21,22
1364:21	1340:13	1256:2	1302:14	existed 1135:8
1369:5,6,6,8	1343:3	exclusion	1328:15,18	1235:18
1369:8,9,10	1365:7,17	1128:1,4	1328:20	1243:8
1369:10,11	examples	1180:11	1329:24,25	1336:12
1369:12,12	1266:4	exclusions	1329:25	existence
1369:16,17	1343:13	1127:17,25	1330:22	1104:12,18
1369:18,19	1365:6,16	excuse 1193:3	1334:23	1175:11
1369:22,23	exceed 1107:3	1276:12	1335:1	exists 1130:17
1369:24,25	exceeded	1279:18	1336:21,23	1312:25
1370:5,6,7,8	1323:6	1281:1	1336:23,25	expanding
1370:9,11,12	exception	1327:17	1337:6,6,10	1175:8
1370:13,16	1177:20	1365:24,24	1337:21	expect 1087:22
1370:17,18	exceptional	exercised	1340:15	1154:4
1370:19,20	1120:10	1179:10,25	1341:13	1166:24,25

1167:2,15	expenditures	1224:3,4,6,7	1357:25	1127:1
1168:3,6,20	1361:2	1262:7,8	external 1326:8	1128:13,20
1186:2	expense	1271:12,13	extraordinary	1129:9,17,19
1199:20	1091:23	1271:15	1133:9	1129:22,24
1200:10,15	1102:14	experimental	extremely	1130:1,11,22
1232:2	1124:20	1262:9	1098:1	1173:20
1245:14	1131:11	expert 1149:5	1149:8	1174:11,15
1265:20	1136:16	1200:25	1300:16	1181:11
1287:23	1137:1	1336:1,13	eye 1103:21,21	1182:5
1310:9	1216:6	expertise	1103:22,22	1183:22
1327:4	1287:21	1278:18	e-mail 1295:13	1191:2,4
1329:14	1344:24	1350:12,14	E3 1180:10	1192:1
1337:23	expenses	explain		1195:15,19
1342:25	1167:23	1090:10,14	F	1195:19,24
expectation	1273:4	1295:12	F 1085:14	1209:1,21
1151:13	1282:3	1332:9	FAC 1087:13	1210:21,25
1234:22	1288:16	explains	1087:20	1215:24
1294:5	1295:15	1239:17	1092:19	1216:4
1295:4	1300:8	explanation	1094:8,23	1217:2
1308:16,22	1326:17	1110:22,25	1096:3,25	1228:8
1320:4	1345:3,24	1350:11	1097:1,4,5,7	1229:11
1362:18	expensive	1361:6	1097:10,14	1230:3,20
expectations	1224:8	explicitly	1098:12	1232:24
1320:14	experience	1314:21	1099:4,19,23	1234:4
expected	1187:20	explore	1100:9	1237:22
1096:22,23	1229:11	1098:25	1102:8	1238:13
1113:16,20	1230:3	1317:15	1104:14	1239:6
1137:4	1253:22	1318:19	1107:23	1242:7,21,24
1153:13	1264:3	1335:13	1108:11,15	1243:8,12,16
1154:1,8	1317:11	express	1108:25	1243:19,20
1200:2	1350:15	1288:21	1109:3,19,22	1244:2
1214:22	experienced	expressed	1110:4,6,24	1246:25
1245:20,20	1289:24	1223:3	1111:23	1247:3
1246:1	1334:16	1357:20	1112:1,20	1250:3
1289:3	1339:3	extend 1319:7	1113:8,9,15	1253:8
1293:19	experiences	extensive	1113:22	1254:8,14
1298:23	1235:16	1139:20	1114:2,7,9,21	1257:9,13
1299:22	1262:10	1346:13	1114:24,25	1258:17
1301:9	experiment	1359:18,20	1115:11	1260:21
1302:17	1094:7,7,9	extent 1088:2	1117:7,18,21	1262:18
1307:19	1095:1	1113:25	1118:4,6,15	1264:13
1308:13	1116:4	1146:15	1120:6	1267:22
expecting	1138:4	1243:18	1122:2,23	1272:16,24
1288:14	1139:14	1282:17	1124:2,5	1275:11,16
expects 1299:3	1140:11	1283:1	1126:16,17	1277:2,5
1299:5	1166:18	1352:17	1126:23	1279:2,22

1294:10	1261:20	1289:4	fairly 1124:8	feel 1088:16
1313:18,18	1269:13	factors 1118:21	1128:14	1136:11
1314:12	1270:24	facts 1297:19	1173:2	1234:14
1319:19	1271:1	1297:24	1341:9	1278:25
1322:22	1273:1,8	1336:8	fall 1116:19	1279:21
1351:9	1274:12	1339:20	1122:19	feels 1253:17
1358:23	1275:10,18	1345:17	1134:23	feet 1134:23
1372:4	1275:21	fail 1105:11	1210:21	felt 1121:18
face 1097:20	1276:23	failed 1224:13	1337:25	1301:1
1112:18	1277:5	1225:24	falls 1256:16	FERC 1105:8,8
1194:5	1278:17	1232:25	familiar	1109:15
1266:3	1285:24	fair 1094:17	1096:17	1119:10
facilities	1290:8,13	1095:3	1103:10	1127:20
1151:10,17	1297:19	1123:22	1171:14	1128:9
1151:25	1299:18	1141:13	far 1115:25	1180:8
1152:11	1301:14	1176:17	1136:1	1192:1
1282:24	1302:11	1201:25	1170:22	1194:23
1359:5,5,6	1303:17,19	1212:5	1171:17	1242:15
FACs 1124:9	1303:25	1217:9,10	1172:21	1255:8,16
1212:10	1304:11,19	1234:8,9	1174:7	1264:14
fact 1098:10,21	1305:5	1244:3,4	1239:9	1272:7,10
1099:21	1308:19,20	1286:8	1278:21	1273:9,10
1101:10	1308:23	1288:20	1286:6,9	1274:2,4,13
1103:21	1309:24	1289:13,22	1309:22	1306:14
1105:17	1313:24	1290:1,18,19	1319:24	FERCA
1106:6	1314:6,12	1291:25	1357:22	1264:11
1108:14,15	1317:3	1293:25	1362:15	FERC's
1111:11	1320:20	1294:24	fashion	1359:10
1113:21	1323:5	1295:22	1195:20	Ferguson
1115:2,24	1324:20	1297:6	1367:19	1089:18
1116:8,20,23	1325:4	1298:12,17	faster 1141:23	field 1190:10
1117:5,6,8	1328:1	1299:9,11	1293:20	fight 1121:18
1121:5,16	1329:22	1300:17	fault 1115:3	1137:18
1125:15,23	1330:21	1303:10	1125:22	1230:15,17
1138:14	1340:21	1304:18	favor 1137:12	1231:4
1139:5	1341:3	1305:21,22	favorable	figh 1122:15
1143:3	1343:10	1307:16,25	1315:8,9	figure 1092:24
1192:11	1355:4,4	1308:9,21	favorite	1135:4
1216:9	1362:5	1310:6,8	1237:14	1143:5
1221:18	1364:10	1312:8,21,23	fears 1109:16	1255:8
1222:15,21	factor 1136:11	1314:4,5	February	1260:16
1224:7,10	1141:4	1318:9,10	1126:11	1304:7
1233:19	1154:6	1319:20	1320:12	1306:13
1235:22	1242:25	1320:25	federal 1359:9	1316:15
1242:4	1245:2	1329:8,9	1359:10,13	1330:12
1244:5,13	1248:19	1362:16	fee 1249:13	1352:18

figures 1161:13	1300:19	1107:20,22	1113:18	1247:6
1296:2	1302:3	1108:12,15	1147:19	1248:21
1330:5	filings 1210:21	1115:10	1160:7	1272:24
1331:19	1240:21	1117:11	1166:13	flowed 1209:23
1367:11,17	final 1092:4	1121:10	1183:7,10,11	1258:24
figuring	1104:11	1122:23	1211:20	flowing 1114:7
1236:21	1105:6	1125:8,9	1224:12	1117:6
file 1084:12	1124:21	1126:7,17,25	1226:1,15	1173:20
1105:19	1290:5,13	1127:13,14	1229:5,25	1192:1
1112:16	1319:11	1127:15	1230:15	1209:8,21
1119:25	financial	1131:17	1231:10	1235:23
1301:2	1131:19	1142:11,16	1261:10	1267:22
1304:18	1218:16	1146:2,6	1270:1,10,15	flown 1111:23
1360:12,19	1220:11	1161:25	1270:18,21	1114:2
filed 1091:24	1282:14	1166:3	fixed 1130:4	1129:16
1112:25	1317:8	1206:14	1359:5	flows 1174:15
1124:20	1319:9	1210:11	flat 1166:20,21	flush 1335:7
1135:10	1320:16	1214:12,17	1166:25	flying 1272:12
1217:24	1346:6	1218:6,7	1168:21	focus 1127:14
1220:22	financially	1224:11	1176:2	focused
1222:2,12	1373:16	1225:17	1185:12	1131:15
1228:7	financing	1234:2,20	flawed 1100:2	focuses
1240:10,12	1173:1	1263:24	flexibility	1346:15
1240:13,18	find 1095:13	1275:3	1322:5	fold 1131:16
1240:19,23	1127:12	1285:11	flexible	folks 1101:19
1240:24,25	1147:17	1311:2,12	1154:20	1136:11
1288:8	1219:3	1313:9	1344:4	1161:6,14
1294:17	1220:7	1317:16	Floor 1086:14	1213:7
1299:15,20	1239:15,16	1324:5,18	flow 1112:20	follow 1091:22
1300:6,14	1239:16	1325:12	1113:7	1174:24
1301:25	1265:14	1333:9	1114:24,24	1184:12
1302:20	1286:21	1335:5	1122:17	1185:24
1304:12	1332:1	1338:7	1124:24	1190:24
1331:22	1342:19	1339:10	1126:23	1239:15
1354:25	finding 1108:5	1342:21	1129:19,22	1319:24
1355:2	fine 1088:8	1345:19	1130:1,11,21	followed
1356:22	1090:2,17	1346:23	1171:23	1300:4
1360:12	1251:7	1348:11	1173:8	following
files 1186:14	1254:6	1352:3	1181:10	1167:10
filing 1090:9	1307:17	1361:18	1182:22	1282:12,13
1119:1	finished 1357:4	1364:23	1183:24	followup
1155:15	fired 1232:2	1365:7,14,16	1190:1	1284:20
1162:11	first 1087:15	1366:4,7	1200:17,17	footprint
1197:14	1089:12	fit 1128:4	1208:25	1098:4
1234:17	1090:15	five 1092:23	1234:23	1296:23
1294:22	1093:15,18	1097:19	1243:11	1354:8,9

1357:13,13	1333:6	1100:6	1221:3,19,20	1133:12
footprints	fourth 1330:10	1106:4,7,17	1223:23	1142:7
1287:20	franchise	1107:1,16,19	1225:5,8	1147:22
force 1098:9	1249:11,13	1107:21,23	1226:13	1148:17
forces 1366:19	franchises	1113:6,10,14	1227:16	1153:8,19
form 1192:4,9	1246:20	1115:6	1228:7,11,12	1160:12
1192:11,19	1249:20,22	1116:11,12	1228:14,17	1161:19
1194:5	Francis	1117:21,23	1228:19,22	1174:20
formally	1242:10	1118:1	1229:8,23	1176:6
1087:22	Frank 1087:25	1122:8,9,17	1230:1	1184:10
1295:8	frankly	1123:1,5	1231:11	1188:24
formed	1098:24	1125:2,8	1232:3,15	1195:7
1307:10	1300:2	1130:3	1233:2,8	1202:18
formula	free 1096:12	1132:18	1235:23	1206:4
1136:23	freely 1095:8	1135:24	1236:2,22	1210:6
forth 1306:18	1095:12	1136:3,8,19	1237:10	1254:1
forward	frequency	1137:9,25	1244:24,25	1262:3,23
1136:25	1258:19	1138:9,11,13	1247:7	1274:20
1139:19	frequent	1138:15,20	1252:14	1283:7
1141:12	1109:8	1138:25	1253:5	1293:13
1181:18	1213:5,6	1139:8	1257:14,23	1306:1
1182:3,4	Friday 1088:12	1140:4,15,22	1261:24	1319:14
1237:7,7,9	1089:22,25	1140:24	1263:14,16	1330:7
1321:18	1091:2,17,20	1141:12,14	1263:18,18	1346:18
foul 1260:1	1354:25	1141:20,22	1263:20,22	1367:23
found 1110:23	1355:2	1142:15	1264:1,6,8,22	1373:11,14
1127:7	1356:22	1146:13,21	1269:3,15	furthermore
1260:7	friendly	1148:23	1270:20	1359:7
1265:11	1351:19,24	1149:1,2,4,7	1277:7	future 1096:22
1266:24	1352:4,7,9,16	1149:23	1351:4	1097:18
1345:6	1354:20	1159:21	1366:10	1166:15
foundation	front 1166:11	1163:15	1372:17,21	1168:21
1301:23	1190:9	1164:11,21	1372:25	1169:8,11
1302:8	1239:14	1164:25	full 1111:16	1201:23
1303:5,7	1276:16	1182:22	1211:10,11	1226:24
1335:15,22	1361:7	1183:2,13	1349:12	1232:9,19
1335:25	1362:3	1184:20	1366:7	1279:17
1336:10	Fs 1087:23,25	1199:2	fully 1125:2	1287:20
four 1092:19	1088:19	1209:5	1263:10	1288:3,12,13
1111:18	FTP 1098:15	1211:12,15	1340:10	1288:16,19
1148:22	fuel 1093:7,12	1211:25	fundamentally	1288:25
1160:7	1093:14,16	1212:17,22	1099:7	1289:1,15,22
1211:20	1093:20	1217:12,20	further	1290:16
1295:5	1094:1,1,15	1217:23	1100:13	1294:19
1298:2	1094:21	1219:13	1111:5	1295:14
1300:9	1095:16,23	1220:6,12	1126:1	1298:21,22

1300:8	1263:20	1254:20	1239:17	1175:24
1346:2,6,16	1296:3,20	1265:11	1366:21	1184:18
1367:12	1297:8	1279:6	GMO 1098:2,9	1186:2
	1366:19	1292:14	1130:9	1194:14,18
G	generate	1302:13	1276:8,19	1196:3
gain 1096:12	1180:17	1306:15	1277:2	1200:24
1096:18	generated	1312:6,25	1278:7	1202:16,20
1099:8,17	1258:20	1326:2	1285:25	1202:21
1104:23	1311:18	1350:11	1286:8	1215:13
gains 1137:4	1333:13	1356:6,9	1287:5,7,16	1216:1
game 1140:13	generating	1360:8	1288:3,19	1223:9
1182:6	1129:2	given 1103:10	1291:6,25	1229:13
1261:18	1134:12,16	1118:25	1294:13	1230:6
1270:2,11	1199:10	1124:7	1344:22	1232:9
GAP 1318:8,15	1221:16,21	1161:6	1345:2,20	1235:17
1318:17	1247:16,18	1181:2	GMO's	1249:2
gas 1097:8,8	generation	1211:22,22	1288:13	1254:25
1149:8,10	1164:1	1211:23	1345:18	1258:6,17
1160:4	1173:5	1213:2,10,10	go 1087:12	1262:24
1161:13,15	1180:16	1214:1	1091:15	1269:22
1161:16,16	1221:3	1232:2,7	1092:18	1274:14
1163:23,25	1232:3	1239:10	1093:1,6	1288:18,25
1164:1,1,9	1244:6,9,11	1242:3	1105:12	1303:3
1189:21,22	1244:14	1252:25	1109:4,7	1308:3
1190:8,10,11	1245:4	1255:5	1110:20	1311:1
1258:23,23	1254:12,14	1269:10	1112:4,5	1319:14
1259:18	1258:25	1285:20	1113:2,22	1322:18
general 1108:1	1268:3	1289:12	1115:10	1325:2
1109:11	1353:13	1297:19,19	1117:3	1333:11
1136:4	generators	1297:22,24	1127:21	1337:24
1139:10	1310:16	1298:20	1132:5	1339:23,24
1177:16	genesis 1307:12	1299:2	1137:11,15	1341:12
1196:9,10	getting 1138:15	1300:25	1137:22	1344:8
1211:5	1149:9	1310:3	1138:24	1359:17
1259:12	1264:23	1317:7	1139:19	1366:8
1264:5	1306:15	1338:18	1140:8	goal 1278:17
1279:12	1311:17	1341:3	1141:10	goes 1096:11
1287:11	1319:6	1348:20	1143:14	1111:8
1291:4	gist 1270:5	1356:3	1148:11	1119:17
1312:3	give 1102:9	1365:6,17	1149:2	1182:7
1313:22	1107:6	giving 1103:2	1154:4,4,25	1278:22
1327:4,8,9	1134:3	1105:5	1155:1,22,24	1302:12,19
1363:6	1149:6,15	1125:3	1168:3,23	1303:4
generally	1214:2	1256:6	1170:6	1339:9,20
1122:11	1236:5	glance 1338:7	1171:6,10,22	1363:2
1244:22	1251:22	glossary	1172:16	going 1088:23

1091:2,3,4,7	1232:4,19,22	1233:20	1099:6	1189:13
1091:9	1235:8	1251:15,16	1102:10	1190:3,7,18
1092:22,24	1237:9	1263:5,6	1107:11,13	1194:2,9
1096:2	1247:21	1317:12	1118:13,17	1196:4
1103:24	1249:2	1322:19	1126:21	1227:7
1105:15	1272:25	1326:3	1127:5	1256:3
1107:17	1273:7,15	1347:7,7	1128:6	1263:9
1108:5	1276:11	1349:10	1130:20	1278:14
1109:10,10	1279:4,6	1364:9	1138:19	1279:3,13
1113:23,23	1286:5	Gorman's	1139:1,23	1285:13
1117:18	1289:19	1138:6	1140:13,14	1299:14
1118:7,10	1296:6	gotten 1092:7	1148:24	1312:14
1119:3	1297:17,18	1094:24	1233:8	1319:8
1120:2,13,20	1301:10	1095:1	1236:4,5,10	1320:6
1120:25	1303:9,20	1111:15	1236:10	1321:14
1124:7,11	1304:17	1265:16	1269:4	1324:23
1125:17	1309:17	government	1275:15	1331:21
1126:16	1319:1	1139:17,20	1287:8	1336:19
1127:12	1320:1,24	grain 1252:2	1291:22	1361:6
1131:5,7,8	1321:17,18	grand 1262:4	1343:9	guessing
1132:15,16	1322:14,17	grant 1109:4	greatest 1142:2	1170:16
1134:8	1327:5	1109:20,21	Greg 1302:25	Gunn 1084:18
1136:25	1328:4,6,14	1110:8	ground	1091:12
1138:7	1336:15	1345:12	1274:22	1100:4,8,12
1140:3,5,5	1351:18	granted	grounds	1110:16,21
1141:12,14	1352:20	1120:11	1354:18	1111:4
1142:20	1355:5	1126:23	group 1210:20	1119:9,14
1143:4	1356:23	1167:6	groups 1101:20	1120:4,13,19
1154:4	1359:21	1326:17	1101:23	1120:23
1174:10,24	1363:19	1331:24	grow 1293:20	1121:8
1176:1	1367:18	1346:3	1294:4,6	1122:1,7,13
1181:18	good 1093:10	granting	growing	1123:11,22
1182:3,4,17	1114:18	1331:6,7	1182:10	1124:10
1183:12	1121:18	grants 1136:2	1293:16	1133:3,11
1184:1	1126:4	1316:12	growth 1293:6	1141:20
1187:25	1139:17,21	great 1115:16	1296:14,16	1142:6
1188:9	1146:10,11	1115:17	Gudman	1148:21
1191:23	1148:3	1117:1	1302:25	1150:7
1196:3	1150:10,13	1125:20	guess 1090:8	1160:17,18
1202:19	1155:6	1154:2	1090:13	1174:24
1216:18,19	1159:16	1209:16	1109:1	1175:3
1217:1	1163:10,11	1239:12	1136:25	1178:16
1219:23	1182:1	1264:3	1149:18	1189:3
1229:10,19	1208:22,23	1278:18	1152:4	1199:11
1230:3	1215:20,21	greater	1154:3	1201:9
1231:23	1233:7,10,17	1094:24	1161:9	1250:20,22

1257:7	1324:20	1371:5,6,7	1340:18	1214:23
1268:19	happening	Haro's 1113:17	1346:24	highlights
1269:25	1109:19	1236:8	1349:23	1117:7
1270:9	1201:23	1281:11	1368:6	highly 1143:5
1275:6	1351:22	1292:8	heavier 1095:1	1147:14
1369:7,13	happens	1293:21	heavy 1094:13	1155:21
1370:1,4	1171:1	1300:11	1094:18,19	1167:24
Gunn's	1177:1	1302:1	1225:11	1168:1
1190:25	1197:20	1303:12	hedged	1191:19,24
1269:23,24	happy 1091:19	1311:3	1149:23	1194:13,22
guys 1104:7	1273:20	1346:15	hedging 1253:6	1202:18
1120:20	1363:14	1351:13	1257:10	1239:20,20
	hard 1147:17	hashed 1123:4	1278:8	1285:1
H	1240:21	HC 1194:25	held 1143:18	1347:17,18
half 1124:20	1264:12	1283:17,18	1156:2	1347:21
1221:23	1266:2	1283:19,20	1203:2	1349:3,17
1307:1,3	harder 1094:16	1284:8,24	helpful	hindsight
1362:9	harm 1099:10	1348:2	1091:10	1259:8
halfway 1255:9	1259:23	1372:11,18	1274:9	Hineman
hand 1113:15	1260:1,3	1372:25	1335:11	1276:10,12
1155:7	Haro 1089:3	head 1175:1	hereto 1373:15	1277:23
1280:18	1097:6	1260:18	hesitant 1274:7	1278:5
handed	1101:18	hear 1107:17	hey 1120:20	historic
1133:19	1102:5	1128:10	high 1252:24	1105:13
1238:24	1104:9	1132:2	1288:16	1345:21
1241:15	1130:6	1186:5	1310:25	1349:14,16
1328:17	1149:5	1276:5	higher 1096:9	historical
handful	1151:4	1304:10	1117:14	1166:18
1125:10	1152:16	heard 1106:6	1140:8	1198:11,12
Handing	1159:16	1108:9	1147:19	1226:25
1219:7	1161:24,25	1112:13	1148:8	1237:8
handle 1360:22	1162:9,10,25	1129:13	1167:23	1239:23
Hanneken	1163:10	1251:21	1228:19	1278:7
1258:4	1165:13	1283:20	1232:11	1284:9
happen	1188:8	1295:23	1233:1	history 1138:7
1113:13	1189:3	1326:2	1246:16	1226:22,23
1153:15	1195:14	hearing 1084:6	1249:2	1277:4
1176:13	1206:4	1087:2,6,19	1269:10,13	1346:10
1181:16	1212:20	1087:20	1304:5	hitting 1089:11
1236:12	1236:25	1159:7	1306:25	hoisted
1278:4	1293:2	1163:4	1315:4	1140:15
1312:15	1300:16	1173:25	1334:15	hold 1141:17
1315:3	1304:6	1208:11	1340:11	1265:8,16
1327:6	1353:18	1230:22	highest	1365:3
happened	1367:4	1283:25	1310:14	holding
1218:14,15	1369:11	1292:22	highlighted	1189:12

honestly	1132:24	hypotheticals	1322:9	1094:13
1239:22	1146:7	1336:2	1343:23	1097:23
1359:23	1213:10	1342:15	imbalance	1110:10
Honor 1087:14	1258:18	1343:18	1131:9	1171:5
1142:25	1327:13		immediately	1226:15
1146:4	hourly 1213:5	I	1121:19	1343:20
1152:24	hours 1124:6	ICT 1245:15	impact 1099:11	imposing
1154:11,17	1248:20,20	idea 1095:9	1108:19	1236:4
1154:24	1249:5,5	1222:22	1131:18	improper
1159:11	1277:1,10	1278:4	1151:22,23	1356:19
1160:23	1280:2	1321:22	1169:25	improvement
1161:2	1294:22	1327:19	1227:1	1267:2
1162:24	housekeeping	1349:10	1229:2	improvements
1182:16	1089:16	1351:21	1341:9	1260:7
1202:6,15	hundreds	identification	imperfect	imprudence
1219:5	1161:9	1155:16	1131:12	1095:15
1238:16,19	1258:18	1162:13	implement	1218:4
1250:12	hurricane	1192:22	1097:15	1220:23
1257:4	1113:12	1238:24	1185:3	1221:2,5,10
1267:3	hurts 1130:16	1241:16	1306:9,12	1221:13
1279:3	hypothetical	1271:22	1316:9	1276:24
1284:7	1148:10	1285:21	1344:23	1278:16
1285:16	1176:15	1297:14	1345:7	imprudent
1297:10	1197:13,14	1328:17	implementing	1259:8,10,22
1301:18	1197:14	1337:7	1138:2	1259:24
1328:12	1200:20	identified	1352:10	1260:6
1334:22	1201:1,3,10	1187:15	implicit 1303:2	1266:15
1335:3,24	1226:23	1212:20	1313:8	imprudently
1336:19	1304:12	identifies	implying	1093:25
1342:4	1306:16	1193:10,12	1176:5	1116:23
1349:6	1309:20,22	identify	1260:15	1220:8
1350:3	1312:3	1193:17	importance	impute 1109:23
1351:18	1323:5	ignore 1105:15	1108:17	1282:22
1354:15	1329:5,7	illegal 1130:25	1212:7	1307:2
1356:18	1330:5,22,23	Illinois 1101:14	1253:13	IMTA 1103:18
1363:16	1331:14,17	1102:10	important	1175:25
1364:14	1331:19	1151:20	1094:20	1199:25
hope 1235:10	1332:11	1170:19,20	1109:12	1295:25
1235:11	1333:12	1170:21	1121:9	1298:13
1253:1	1334:2	1177:25	1212:8,11,13	1361:21
1254:23	1335:6,10,12	1178:8	1289:11,20	inability
1321:4	1336:3,7,12	1189:5	1289:20	1302:10,11
hopefully	1338:21	illogic 1323:21	1322:6	inaccuracy
1306:7	1339:19	1344:2	1358:21	1303:24
hotter 1341:4	hypothetically	illogical	impose 1233:8	1304:5
hour 1124:7	1200:23	1098:24	imposed	inaccurate

1298:9	1108:11	1274:2	1153:13	incremental
1304:2	1109:1,3	1294:8	1154:1	1209:14,15
inadequacy	1195:16	1295:16	1167:1,3	1216:19,20
1117:12	1238:12	1311:3,4	1176:18,22	1245:13
inadequate	1242:6	1345:9	1176:22	incur 1096:13
1279:21	1351:1	includes	1181:22	1169:22
inappropriate	include 1097:8	1133:23	1186:15,20	incurred
1097:7	1097:10	1136:9	1187:2	1094:15,20
1100:2	1105:17	1192:25	1197:24	1094:21,22
incented	1108:8	1193:5,14	1227:16	1096:25
1117:11	1119:10,23	1213:19	1231:19,23	1097:11
incentive	1161:14,14	1256:15	1232:15	1127:22
1096:1	1180:19	1353:13	1235:16	1242:6
1102:10	1185:7	including	1287:20	1268:6
1103:2	1187:19	1096:15	1295:5	1327:24
1106:18	1221:20	1107:24	1298:3	1340:12
1107:12,14	1223:21	1110:10	1304:14	incurs 1266:14
1116:13	1226:3,4	1135:11	1315:10	independent
1118:14,17	1229:4	1180:22	1324:1,14	1179:21
1118:19	1238:5	1185:7	1333:21	1318:1
1136:9,21	1272:16	1194:2,3	1334:3	1350:24
1137:5,7	1345:4	1217:15	1337:24	independently
1138:12,19	included	1228:10,18	1341:16	1293:1
1139:4,19,22	1093:20	1228:21	1364:6	1301:6
1139:25	1097:5	1292:5	increased	INDEX 1369:1
1142:2,5	1110:12	1294:13	1112:8	Indiana
1147:11,16	1118:3,5	1351:3,4	increases	1170:17,18
1164:15,25	1119:19	1353:7	1097:16	1190:6
1217:12	1127:14,16	1358:17	1105:2	indicate 1301:5
1218:16	1135:12	inclusion	1113:18	1343:17
1220:11	1180:18	1097:1	1166:4	1355:20
1229:9,13	1183:24	1345:3	1185:25	indicated
1230:2,14,21	1184:5	1351:8	1298:1	1091:24
1231:4	1191:10	income	1299:22	1168:20
1236:6,11	1195:15	1164:18	1314:2,3	1173:19
1267:1	1196:1	incontroverti...	1324:6	1187:7
1269:4	1197:4	1326:12	1325:16	1201:10
1270:10,19	1214:12	incorrect	1339:4	1206:3,7
1270:21	1216:8	1115:4	1361:2	1254:18
incentives	1228:25	incorrectly	1362:19,19	1271:11
1116:21	1237:22	1353:21	increasing	1356:11
1118:24	1238:7,9,13	increase	1181:21	1362:22
1236:1	1239:6	1084:12	1343:6	1365:19
1262:17	1243:5,15,19	1113:16,19	1345:21	indicates
1266:18	1268:9	1140:1	1346:8,10	1242:10,14
inception	1272:23,23	1141:13	1367:13	1254:10

indicating	1298:25	1282:6	1373:16	1159:25
1087:10	1299:2,11,12	insignificant	interests	1164:11
1255:18	1299:17,19	1108:21,23	1177:24	1263:16
indication	1299:21	1108:23	1189:4,11	1277:6
1355:22,25	1300:21,22	instance	1196:5,20	1278:10,11
1356:3	1301:8	1121:10	interim	1350:22,25
indirectly	1302:2,19	1122:23	1304:14	involves
1105:17	1303:3,8	1137:24	interject	1093:17
1165:2	1320:17	1287:5	1279:4	1354:9
individual	1346:5	instances	internal	involving
1259:5	informed	1177:17	1311:17,23	1126:15
individuals	1092:20	instantaneous	interpose	1130:9
1160:4	1308:2,6	1353:5	1351:19	1234:21
1163:14	inherent	instituted	interpretation	1289:15
1164:14	1116:21	1120:19	1220:5	in-camera
induce 1095:10	1290:6	intended	interrupt	1143:18
Industrial	1304:5	1106:20	1241:22	1156:1
1085:18	inherently	1130:1	intervals	1203:1
industry	1290:22	1245:4	1357:21	in-depth
1264:16	1303:23	1335:13	introduced	1152:12
1363:8	inhibit 1264:22	1342:15	1335:7	Iowa 1362:6,9
1365:21,25	inhibitor	intending	invariably	irrelevant
1366:17	1263:9	1243:22	1137:15	1130:13
1367:16	initial 1151:19	intends	invest 1277:2	ISO 1354:8
infinite	1234:13	1098:22	1278:17	ISO's 1353:1
1252:18	1360:11	intent 1134:6	1310:2	issue 1087:13
influenced	initially 1122:1	1136:5	investigated	1089:16,19
1212:8,9	initials 1109:12	1254:16	1301:6	1089:25
information	initiated	1282:10	investigation	1092:24
1091:25	1096:25	1306:4	1293:13	1093:9,15,17
1092:3,8	1222:22	1314:24,25	1298:6	1093:18
1139:11,12	input 1132:8	1322:5,7	investment	1095:7
1191:24	1223:17	1342:18	1172:1	1096:2
1192:5	1246:11	intention	1173:3,12,14	1109:12
1213:13	1254:20	1180:22	1200:9,11	1115:4,5
1215:24	inputs 1258:22	1238:12	1277:13,20	1117:8
1218:18	inquire 1155:9	interest	1296:18,21	1118:7,9,21
1253:17	1162:5	1119:22,24	1296:22	1119:6
1265:9,10	1206:19	1136:15	1362:14	1121:15
1285:1	1280:21	1140:9	invoice 1371:9	1122:24,24
1288:12	1285:16	1196:12	1371:10	1123:7
1289:12	1347:4	1234:11,14	invoices	1126:9,15
1294:18	insert 1282:16	1234:16,25	1241:19	1130:13
1295:9,16,17	1348:13,16	1235:2,3	involved	1131:1,2,18
1295:19	inserted	1289:7,8,11	1111:1	1131:20,21
1298:13,20	1281:24	interested	1159:20,24	1131:22

1132:1,6,12	1318:16,17	1091:14,21	1088:22	1191:14
1133:10	1350:16,22	1092:6,10,13	1089:12	1194:11,13
1137:16	1350:23	1111:6	1090:2,3,4,5	1194:18,25
1142:10	1351:1,7	1124:13,14	1090:17,25	1195:3,6,7,10
1196:21	1352:2	1124:18	1091:15,19	1198:3
1197:11	item 1087:20	1125:25	1091:21	1201:4
1219:22	1088:1	1150:9,10	1092:17,18	1202:7,21
1229:14	1138:22	1160:19,20	1092:25	1206:1,6,9,10
1234:23	1140:2	1178:18,19	1093:6	1206:17,19
1235:13	1311:19	1251:12,14	1100:14	1206:20
1237:21	1315:16	1254:1	1106:2	1208:9,14,18
1251:19	1343:25	1263:7,8	1110:15	1210:7
1286:8	items 1140:25	1265:9	1111:21	1215:4,8,13
1292:9	1141:6,9	1275:5	1114:16	1219:6
1293:10	1299:7	1370:2	1124:13	1230:11
1311:6	1341:10	Jarrett's	1126:2	1238:17,20
1331:7	1344:19	1264:18	1133:1,13,16	1239:19,24
1350:8,13,15	1352:11	Jefferson	1135:18	1241:22
1352:13	iterations	1084:8	1142:8,13,24	1250:13,17
1356:25	1338:2	1085:16	1143:9,13	1251:12
1368:3		1086:6,15	1146:1	1254:2
issued 1087:7	J	1091:2,7	1147:3,6,23	1257:2
1121:17	Jaime 1097:6	1249:12	1148:18	1262:24
1366:15	1162:9	1373:6	1150:9,12	1266:10
issues 1087:15	1369:11	job 1135:3	1152:22	1267:8,10
1087:21	1371:5,6,7	1212:16	1153:1,5,7,9	1268:15
1090:8	James 1085:8	1214:6	1153:21	1269:19
1092:19	1347:9	1233:7,11,17	1154:12,15	1273:13,24
1093:8,12,14	1370:15	1233:20	1154:19,23	1274:7,21,23
1099:19	1372:11,14	1252:4	1155:3,6,9,24	1276:2,5
1106:5	January	1266:16	1159:1,12	1279:9,16,19
1114:21,22	1128:11,13	1269:14	1160:9,11,14	1280:6,15,21
1115:2	1135:13	1275:7	1160:16,19	1281:13,15
1117:17	1173:21	1279:2,21	1160:21,24	1283:18,21
1122:25	1174:11	1280:1	1161:20,23	1283:25
1123:4	1182:23	John 1085:20	1162:3,5	1284:4,6,15
1126:7,25	1183:17	1085:20	1163:2	1284:20,22
1142:15	1191:1	1277:17	1165:4,7,9,10	1285:3,8,10
1198:5	1193:25	join 1335:18	1169:14	1285:13,14
1218:2,6	1214:14,16	joint 1087:20	1174:22	1285:17
1250:24	1216:2,10	1234:17	1178:18,21	1292:20
1251:2,4,7,8	1233:1	JR 1086:1	1182:14	1297:11
1262:21	1261:4	JRD 1372:25	1184:11,14	1301:20
1313:23	1320:2,10	judge 1084:15	1185:16,20	1302:9
1318:6,6,8,8	1358:22	1087:3,16	1188:9,25	1303:6
1318:11,15	Jarrett 1084:18	1088:8,15,19	1190:21	1328:13

1334:24	justify 1095:20	1103:4,9,24	1123:15,24	1134:20
1335:1,4,18	1132:6	1104:7,11	1174:12	1136:20
1336:15,20		1105:6,25	1179:9	1137:11,24
1336:22	K	1111:21,22	1186:8	1139:23,24
1337:1	Kansas	1112:10,12	1199:8	1139:25
1340:16	1170:23	1113:5,25	1213:23	1140:4,14,17
1342:6,9	1275:14	1114:6,13	1218:4	1142:18
1346:19	1278:1	1118:12	1251:5,25	1146:5
1347:1,4	1287:8	1133:15,17	1255:9	1147:17,18
1349:1,7,19	KB 1248:18	1133:21	1259:13	1147:20
1350:1	KCPL 1098:2	1134:1,11,24	1272:12	1149:15
1352:3,19	1098:9	1135:15	1312:24	1152:2,14,14
1354:17	1285:25	1150:12,13	1314:19	1152:15
1355:6	1286:6	1150:17	1319:2,5	1154:24
1356:23	1287:16	1152:20	1324:23	1166:9,19
1359:17,21	1288:3,13	1160:21,22	1325:9	1167:19
1359:25	1291:6,25	1178:21,22	1326:3	1169:2,7,10
1360:3,7,8	1294:13	1178:24	1327:12	1169:13
1363:17	1344:22	1189:14	1329:14	1170:14,17
1364:15,18	1345:2,18,20	1193:22	kinds 1198:17	1171:17
1365:12	KCP&L	1198:15	1246:25	1174:11
1367:24	1104:17	1199:1	knew 1090:10	1176:16
1368:2	1287:8	1237:17,19	1216:25	1184:21
1369:15	keep 1107:9	1254:2,4	know 1088:16	1187:11,17
judgement	1112:8	1271:20	1091:8,25	1192:4,24,25
1223:15	1116:11	1273:22,25	1092:20	1193:7,25
judgment	1122:25	1274:6	1095:12	1194:4
1262:20	1148:9,11,12	1304:8	1096:17	1195:14
July 1184:22	1148:14	1369:7,13	1101:1,17	1199:18,20
1240:12	1150:4	1370:3	1102:1,2,2,5	1200:6
1327:17	1231:10	Kevin 1084:18	1102:6,11	1210:1
jump 1111:7	1232:10	1086:11	1103:21	1213:8
1167:15	1366:12	1088:16	1106:20,21	1216:12,13
1329:11	keeping	1191:16	1106:21	1216:18,22
June 1240:3,3	1104:14	1223:18	1110:19,22	1216:24
1240:6	1254:16	key 1290:15	1111:2	1217:10
1327:17	1294:9	keyboard	1113:12	1221:18,22
jurisdiction	keeps 1182:10	1361:9	1114:21	1222:1,6,11
1123:17	1271:12	kilowatt	1116:17	1226:8
jurisdictions	Kenney	1248:20	1123:7,23	1229:12
1122:8	1084:19	1249:5	1124:5	1230:21,21
1123:4,15,24	1091:11	kilowatts	1125:7,13,14	1230:22
1262:11	1100:14,15	1249:1	1129:3	1232:18
1351:2,2	1100:21	kind 1113:21	1132:15,17	1235:2
justified	1101:4,13,24	1118:3	1132:18	1236:17
1309:13	1102:4,7	1119:4	1134:2,9,18	1239:9

1241:2,14	1347:21,22	1233:23	1085:20	legitimate
1249:16	1347:25	1235:12,15	1136:6,7	1118:16
1252:13,13	1352:15	1235:20	1138:2,25	Lena 1106:23
1252:21,25	1354:19,21	1339:17	lawfully	1139:1
1254:24	1356:17	laid 1137:13	1112:23	1206:24
1255:3,3	1358:21	1301:23	1118:5	1207:7
1256:1,11,19	1362:10	1324:11	laws 1262:19	1369:21
1256:22	1365:24	1336:9	lawyers	1372:2
1257:18	1366:1	landowner	1087:17	length 1328:20
1260:16,23	knowing	1249:5	1129:3	lesser 1160:6
1262:7,16,18	1121:20	landscape	1330:16	lessor 1164:9
1264:11,24	knowledge	1114:20	lead 1118:19	Leta 1095:6
1266:1	1106:9	language	1287:20	letting 1324:8
1267:16	1162:22	1129:6	1289:16	1324:18,19
1268:4	1169:9	1133:23	1317:9	1325:21
1269:9	1208:5	1180:9,20	leading 1163:5	let's 1087:3
1270:21	1223:20,22	1183:3	1279:5,7,7,9	1093:1,6
1271:8,23	1223:24	1243:7	1279:17	1112:6,12,13
1272:3,9,11	1224:1	1244:5,13	1294:17	1124:18
1272:13	1278:7	1267:13	leads 1303:23	1142:10,13
1277:1,19,23	1283:14	1268:8	1304:1	1166:17
1279:10	1340:24	1358:23	learn 1113:3	1189:23
1281:14	1341:2	large 1098:7	lease 1112:20	1200:7
1286:6,9	1346:3	1099:3	leave 1087:25	1202:21
1287:7	1348:21	1108:22	1183:22	1215:13
1288:17	1355:17	1124:8	1202:24	1237:6,14
1289:6,7	known 1113:20	1128:14	1248:7	1249:12
1295:19	1121:22	1166:13	leaving	1260:20,20
1298:14,15	1300:1	1214:24	1099:21	1261:5
1298:17	knows 1095:25	1287:19	1350:20	1276:19
1299:25	1096:4	1341:10	led 1138:22	1280:12,15
1301:4	1131:5,7,8	largely 1345:24	1220:17	1281:17
1302:6,11	1132:15,21	larger 1107:5	1289:8	1306:10,11
1304:17,19		1138:20	1306:1	1311:1
1306:5	L	1199:22	ledge 1224:20	1314:2
1308:20	L 1084:15	1218:16	left 1170:14	1316:13,18
1309:23,24	1280:25	1220:11	1215:14	1316:20
1318:25	1370:10	1249:3	1280:9	1317:15
1319:11,12	labeled	largest 1174:7	1332:13	1318:5,19
1320:21	1241:25	late 1118:21	Legal 1086:2	1322:7,9
1325:6	1301:25	1121:9	legally 1105:7	1323:5
1326:11	lack 1104:16	1123:1	1105:11	1325:13,16
1330:15	1219:21	1356:25	legislature	1332:9
1335:19	1263:9	latitude 1279:6	1120:12	1343:12
1345:15	1327:23	law 1084:15	1129:23	1359:25
1346:9,14	lag 1181:20	1085:3,8,14	1262:15,20	level 1136:25

1137:1	1134:12	1124:5	1136:19	1299:21
1139:18	1141:17	1125:18	1146:15	1300:7,18
1176:7	1171:11,13	1258:18	1149:18	1301:14
1185:5	1171:16	1305:11,12	1208:25	1313:23
1197:19	1172:22	1308:10	1257:18,23	1314:1
1214:21	1180:24,25	litigate 1235:14	1258:13	1317:20
1236:22	1181:1,5	litigation	1262:5,8	1319:11,17
1246:2	1189:15,18	1086:21	1263:15	1319:22,23
1248:25	1190:16	1235:25	1265:16	1320:8,9,10
1254:18	1207:20,22	litigations	1268:5	1320:12
1259:14	1210:16	1275:12	1320:21	1321:23
1282:22	1248:5,21	little 1089:21	1342:14	1322:10,21
1288:15	1249:2,2	1094:10	1345:8	1324:6
1290:17	1258:16	1140:23	longer 1183:10	1325:5,8,9
1321:16	1281:23,25	1214:9	1239:23	1326:4,4,11
1325:8	1282:2,5,7,11	1216:19	1262:9	1326:14,22
1343:22	1292:13	1237:15	1307:20	1327:21
1345:21,23	1293:2	1262:3	1321:25	1328:6
levels 1294:20	1307:4	1298:3	look 1115:10	1329:24
1340:8	1308:5	1317:16	1117:2	1330:2
1343:1	1311:19	1318:5	1120:24	1335:9
Lewis 1085:9	1320:16	1322:8,9	1128:1,15	1342:2
1086:1	1343:25	1332:10	1131:24	1349:6
1090:23	1348:12,15	live 1137:22	1134:5	1364:3
liability 1282:6	1356:19	LLC 1085:20	1187:18	1367:20
1313:15	1362:4,6,9	LLP 1085:9,15	1189:10	looked 1214:4
1320:16	lines 1170:11	LNB 1180:10	1202:11	1224:12
1321:9,13	1177:25	load 1097:12	1214:7	1226:6,11,25
1322:13	1190:2	1151:7	1216:1	1299:13,16
1341:22,25	1229:19	1177:4	1229:19	1300:11
life 1253:22	1230:25	1247:10,14	1230:24	1341:24
1292:4	1270:2	1247:24	1235:2	1361:19
light 1244:8	1271:23	1248:13	1236:6,11	looking
1275:15	1275:6	1358:12,12	1251:7	1087:19
likelihood	1277:17	1358:15,16	1252:24	1116:17
1364:10	1305:20	local 1161:15	1253:4,8	1117:13
limitation	1308:2	located	1257:24	1125:14
1263:11	link 1267:20	1296:21	1258:6	1128:15
limitations	Lisa 1258:4	1354:8	1259:11,17	1133:18
1119:12,15	list 1115:2	1357:12	1259:18,20	1154:21
1266:3	1265:16	locations	1260:24	1211:15,17
limited 1151:16	listened	1348:11	1261:1,20	1214:6,9
1253:3	1318:20	logic 1343:22	1273:3,6	1257:21
limits 1107:23	literally	long 1108:13	1274:15	1259:14
line 1099:2	1121:17	1116:3	1284:16	1260:11,13
1103:17	1123:5	1123:3	1295:17,19	1260:17

1261:13	1293:23	1240:1	1370:8,12,18	maintains
1263:24	loud 1276:4	1241:25	1370:20	1221:21
1264:1	Louis 1085:6	1250:11,15	Lowery's	maintenance
1271:25	1085:21	1262:7	1343:3,13	1221:14
1292:17	1091:4,6,10	1267:3,18	lowery@smit...	majority
1299:1	1091:16	1269:21	1085:11	1122:16
1311:23	low 1136:21	1271:11	lowest 1291:4	1123:11,20
1320:14,22	lower 1096:10	1273:7,20	lumpiness	1262:12
1322:2	1149:10,10	1274:4,11,12	1327:22	maker 1222:16
1329:19	lowered 1112:2	1274:20	lumpy 1328:4	1222:18
1346:15	Lowery 1085:8	1276:7	lunch 1089:24	makers 1223:2
looks 1146:2	1093:10	1279:3,13	1089:24	1223:19
1219:10	1100:7,11,15	1283:24	1096:12	making 1104:8
1252:24	1100:20,25	1284:7,16,25	1142:23	1105:11,14
1255:17	1101:9,16	1285:5,9,11	1195:5	1109:11
loose 1182:7	1102:1,6	1285:16,19	1206:13	1131:1,2
lose 1137:19	1103:7	1292:16,23	1215:10,14	1132:7
1182:9	1104:2,9,20	1297:9,13	1216:1	1133:10
loses 1197:25	1105:10	1301:18	LUNCHEON	1136:13,23
1234:19,20	1106:6	1302:10	1215:12	1137:8,17
loss 1197:23	1111:6,9,24	1303:10,11	Lynn 1095:21	1183:18
1282:14	1112:13,23	1328:11,14	1127:10	1197:18
losses 1259:9	1140:20	1328:16	1142:16	1213:4
lost 1186:24	1142:25	1334:22,25	1369:5	1218:17,22
1328:12	1153:24	1335:24	Lyon's 1242:22	1218:24
lot 1103:20	1154:11,16	1336:18		1223:4
1111:1	1154:21,24	1337:3,5	M	1236:13
1112:17	1155:5,11,22	1340:14,19	M 1084:18,19	1243:21
1120:16,25	1159:9,10	1342:4	1086:20	1265:22
1122:2	1161:2,4,19	1344:10	1206:24	1306:14
1139:7	1162:7,24	1349:5,9,14	1256:10	1307:1
1140:5	1168:13	1349:17	macro 1260:17	1313:14,14
1146:5	1188:6	1351:18	Madison	1314:20
1177:7	1191:15,19	1352:5	1086:5,14	1318:7,16
1187:3	1195:13	1354:15,18	1373:5	1341:5
1197:3	1200:25	1355:9	magic 1138:22	1366:11
1246:4	1201:9	1356:18	1223:12	manage 1160:4
1257:19,19	1202:6,8,15	1359:19,23	magnitude	1161:6
1259:19	1206:3	1360:5,6,9	1173:25	1163:15,22
1260:8	1215:5,7,19	1363:15,18	1214:25	1217:12
1261:22,22	1219:5,7	1363:23	1251:2,7	1236:2
1264:24	1230:12	1364:14,24	1302:17	1270:19
1274:22	1237:20	1367:2	main 1223:1,19	management
1277:11	1238:15,19	1369:1,8,9,10	1357:23	1311:17,22
1280:1,2	1238:21,23	1369:11,19	maintaining	1311:24
1289:21	1239:22	1369:25	1221:15	1366:16

manager	1369:21	market 1096:9	maxim 1134:2	1260:7
1207:5	1372:2	1098:13,14	maximum	1268:24
1210:19	Mantle's	1098:15	1357:15	1298:16
1281:4	1095:6	1100:23	McCLOWRY	1312:16
managing	1139:2	1101:2,15,16	1086:2	1340:9
1159:21	march 1088:6	1101:21	mean 1100:23	meant 1129:1
1163:18	1094:2	1104:13,16	1108:2,4	1134:13
1164:11	1186:15	1104:18,23	1113:13	1230:18
1217:19	1214:15,17	1113:11	1120:4	1244:11
1233:7	1227:6	1149:11	1124:1	1305:11,12
1266:16	1233:1	1151:2,6	1129:10	measure
1291:3	1241:19	1177:9	1130:3	1107:14
mandatory	1242:24	1199:6,9	1140:8	measured
1099:3	margin	1291:8,16,23	1146:5	1353:8
1100:18	1148:14	1365:18	1150:18	measurement
manner	margins 1096:7	markets	1171:22,23	1249:9,14
1137:15	1096:8	1245:10,12	1173:2	mechanical
1366:9	1107:9,10	1264:12	1175:17	1331:12
manpower	1148:8,12	1366:7,14,17	1180:15,24	mechanism
1252:3	1232:9,11,19	1366:18	1200:7	1093:21
Mantle	1245:13	match 1339:13	1216:21	1094:8,22
1088:14	mark 1280:25	1340:6	1247:2,6	1099:12
1089:3,11	1281:8	material	1253:7	1106:16,19
1095:8	1328:14	1131:18	1257:17,25	1106:19
1106:23	1370:10	1216:14	1260:6	1107:11
1111:2	marked 1087:1	materially	1262:18	1110:5
1206:7,8,14	1155:16	1286:7	1266:15	1116:14
1206:24	1162:12	1295:5	1272:19	1117:22,24
1207:3,7,8	1213:19	math 1115:14	1278:8	1120:21
1208:12,22	1238:16,22	1330:16	1302:13	1122:3,4
1215:15,20	1238:24	1331:2,25	1312:2	1123:2
1215:22	1239:20,25	1334:8	1314:8	1126:8,13,24
1229:16	1240:2	1336:5	1321:1	1133:10
1238:23	1241:15	1338:4	1331:24	1136:14,21
1240:1	1255:6	mathematica...	1335:19	1137:20
1242:3	1271:21	1231:8	meaning	1141:17
1251:15	1281:16	1340:6	1114:11	1148:7
1254:5	1284:23	matter 1084:11	1134:3,7	1209:8
1263:5	1285:12,15	1108:13,15	1357:23	1225:4,6
1268:19	1285:21	1114:2	meaningful	1226:6
1274:12	1297:9,12,14	1201:13	1298:11	1262:13
1275:3	1328:12,15	1259:12	means 1105:20	1282:12,25
1279:5	1328:17	1301:5	1105:21	1325:1
1280:7	1336:19,21	1309:2	1108:7	1344:7
1295:13,15	1337:6	mature	1216:13	1345:3
1300:1,21	1371:2	1123:15	1256:10	mechanisms

1120:11	1136:24	1370:14	1266:24,25	1190:19
1136:9	1332:22	1372:8	1267:5,6	1196:5
1137:16	1336:8	Mike 1138:6	1268:23	1200:19
1141:18	1339:19	million 1094:19	1296:8,16,25	1201:2
1313:9	1353:24	1094:24	1297:21	1210:8,10
meet 1132:1	methodology	1096:8	1304:7,15	1215:2
1163:12,13	1176:23	1105:15	1306:11	1251:22
1249:23	1331:12	1107:7	1307:1,4	1252:8
meeting	1336:11	1108:21	1323:7,11	1253:12,20
1142:19	methods	1112:7,8	1329:17	1258:16
1222:24	1237:2	1132:5,5	1330:5,13,14	1268:16,18
meetings	MIC 1313:25	1161:8,12	1332:2,2,25	1269:18
1254:24	micro 1260:16	1166:4,5,7,10	1333:1,2,14	1284:5
1277:9	microphone	1167:4,7,14	1333:16,23	1301:22
1278:9	1276:2	1167:16	1334:4,6,10	1302:23
megawatt	middle 1127:17	1168:6,8	1334:15,17	1335:3,5,24
1248:20	1142:21	1174:2,3	1338:10	1350:3,5
1249:5	1284:23	1181:14,25	1339:2,3,6	1351:20,22
1327:13	1319:10	1181:25	1361:25	1352:3,8,22
megawatts	Midwest	1182:2,7,8,9	1362:4,6,14	1354:18
1180:17	1086:21	1184:23,24	millions 1161:9	1355:11,13
1181:1	1352:25	1185:4	1330:12	1355:15,18
1353:8	1354:8	1186:3,6,10	1331:5	1355:24
1354:11,12	MIEC 1087:1,9	1186:10,20	1337:12	1356:6,11,16
1357:21	1093:21	1186:23	1338:15	1357:1,3
MEGHAN	1097:3,19	1187:1,2	1361:24	1359:15
1086:2	1126:3,8,25	1224:14,17	Mills 1086:1	1369:2,6,17
member	1129:8,12	1224:24,25	1089:8	1369:24
1132:7,8	1135:6	1225:8,10,25	1090:18,21	1370:7,17,19
membership	1147:4	1226:3,3,9,15	1090:24	mind 1123:1
1117:24	1153:5	1226:17,21	1092:18	1136:21
1245:18	1160:9	1227:3,16,20	1093:4	1207:25
1246:1	1165:5	1227:22,25	1114:18	1231:20
mention	1181:6	1228:3,19,22	1119:12,16	1236:14
1220:13	1185:20	1228:25	1120:8,18,22	1250:10
mentioned	1208:18	1229:4,5,25	1121:2,11	1283:9
1098:13	1210:2	1230:16,19	1122:6,11,21	1296:10
1163:18,25	1228:21	1231:19,24	1123:18,23	1326:23
1164:6	1266:10	1232:25	1124:16	minimize
1220:14	1284:2	1233:5	1125:7	1229:10
1289:4	MIEC's	1234:3,23	1147:7,9,22	1230:2
1295:15	1128:22	1253:23	1148:17	minimum
Mercantile	1130:24	1261:5,6,10	1153:8	1099:24
1366:22	1133:17	1261:14,15	1160:12	minor 1087:15
mess 1338:4	1254:15	1261:18,22	1165:8	1089:16
method	1354:22	1262:3	1189:2	1090:25

1265:15,15	1110:1,6,11	1241:19	missed 1253:3	1196:17,25
minus 1330:16	1110:18,23	1244:23	Missouri	1197:7
1330:17	1112:15	1245:9,18,19	1084:1,8	1198:20
1338:13	1114:23	1245:22	1085:18,23	1199:16,20
minute 1093:3	1117:6,18	1246:1,7,16	1086:12,16	1200:2,9,14
1124:6,6	1118:14,24	1247:1,10,14	1097:5	1200:17,18
1227:13	1119:2,4,21	1247:17,24	1098:21	1201:8,12,15
1276:20	1119:24	1248:1,13	1101:5,9,10	1207:4
1322:10	1126:15,20	1249:8,18	1101:14,18	1210:21,24
1325:5	1127:4	1255:17	1101:19,25	1210:25
1357:21	1128:3	1256:1,13,14	1102:10	1211:3
minutes	1130:19	1287:12,24	1103:13,17	1212:12,22
1092:23	1132:7,8	1287:25	1106:7	1213:18
1142:20	1135:11	1290:3,17,22	1107:12	1215:23
1206:13	1150:19	1291:1,12,23	1109:16	1216:17
1215:6	1151:2,6	1292:3,5	1120:3	1217:11
1305:8	1152:11,15	1293:6,15	1123:1	1218:16
1359:23	1165:20,21	1295:25	1124:1	1220:5,7,11
misapprehend	1169:19	1296:13,17	1127:22,23	1225:7
1319:3	1170:2,9,15	1296:18,21	1131:20,21	1232:3,4
mischaracter...	1170:17,18	1296:22	1135:22,25	1234:19,23
1251:24	1172:7,8,8	1298:2	1136:8,18	1235:14,16
misconception	1173:11	1299:4,22	1138:1,3	1236:1
1135:5	1174:7	1300:8	1140:11	1242:5,6
MISO 1093:17	1175:4,14	1301:8,10	1146:13	1246:6,13,15
1096:3,5,6,9	1176:1,18,20	1308:14	1151:17,22	1246:17
1096:13,13	1176:21,24	1310:19	1152:1,4,5,12	1247:2,9,10
1096:19	1177:1,2,6,15	1314:1	1159:20	1263:17
1097:4,10,11	1179:13	1346:10	1161:17	1264:7
1098:13	1181:10	1351:1,8,15	1163:15	1265:2
1099:4,7,9,18	1182:21,25	1352:24	1168:25	1268:21
1099:22	1183:6,7,16	1353:2,9,10	1169:7,21	1270:19
1100:5,10,22	1183:20	1353:19	1170:4,4	1271:1
1100:24	1184:3,4,4,7	1354:1,12,14	1171:5,17	1275:15,19
1101:5,8,15	1184:8	1356:1,4	1172:9,17,24	1276:13
1102:13	1188:17	1357:9,13,15	1173:7,8	1279:1,24,25
1103:5,18,19	1189:4,12	1361:5,21	1174:12	1281:3
1103:22	1192:15,20	1365:22	1175:8,13,13	1282:22
1104:14,22	1192:25	1371:9,10	1175:16,20	1287:8
1104:22	1196:6,10,13	MISO's	1175:22,23	1290:21
1107:18	1196:14,21	1104:16	1176:18	1291:16,23
1108:10,18	1197:2	1150:18	1177:5,13,19	1294:7
1108:19,20	1198:16,17	1298:13	1177:24,24	1296:4,9,14
1108:24	1199:6	1359:11	1178:8	1296:15,21
1109:7,7,16	1237:22	misplaced	1189:5	1297:23
1109:17	1238:6	1224:21	1192:12	1303:21,22

1304:17	mistake	1197:25	1155:6	1098:22
1305:13,14	1098:19	1310:18	1159:16	1102:12
1305:15	1220:17	monitoring	1163:10,11	1196:9,12
1306:11,19	1227:9	1213:17	1197:3	1287:24
1306:20	1330:19,20	monopoly	1208:22,23	1290:3
1307:10,19	mistakes	1136:18	1239:10	1295:25
1307:22,24	1260:12,13	month 1192:2	1255:20	1303:20
1308:13,20	mistakingly	1194:24	MORRIS	1308:14,21
1308:25	1227:10	1213:21	1084:15	1308:25
1309:4,8,14	mitigates	1214:2	mouse 1361:14	1309:14
1309:17	1117:13	1216:19	mouth 1146:6	1310:19
1310:1,15	Mitten 1087:10	1227:25	move 1120:13	1361:21
1345:1	mix 1258:25	1320:10	1126:14	M-a-n-t-l-e
1346:9	mixing 1325:19	1327:6	1190:17	1207:2
1347:12	MO 1085:6,10	1328:7	1292:18	
1357:11,25	1085:16,21	1332:17,18	1334:22	N
1358:24	1086:6,15	1341:3	1340:14	name 1088:10
1360:12	1371:11	monthly	1356:18	1117:25
1361:25	1373:6	1215:24	movements	1155:12
1362:15	model 1170:2	1216:2	1366:18	1162:8
1366:5	1251:5	1255:14	moving 1097:8	1206:23,24
1371:18	1263:25	1358:13	1140:20	1206:25
1373:5	modified	months	1153:1	1280:24,25
Missouri's	1130:22	1121:17	1190:3,8	1281:5
1084:11	modify 1136:5	1149:9	Multi 1169:3	1347:8
1110:8	modifying	1197:25	multiple	1349:8
1115:6	1138:25	1228:1	1177:8	nameplate
1175:5	1326:13	1245:22	1248:25	1180:17
1188:5,14	module	1246:3	multiply	narrow
1211:12,24	1357:19	1265:24	1248:18,20	1289:23
1212:17	molecule	1332:12	multiplying	Natelle 1222:21
1217:23	1190:13	1340:22	1249:14	native 1151:7
1221:19	molecules	morning	multitude	1177:4
1231:18	1190:8	1087:9	1259:2	natural 1149:8
1247:14,24	moment	1090:16	MVP 1169:2,8	1161:16
1248:13	1214:20	1092:20	1169:11,17	1258:23
1250:3	1241:23	1093:10	1173:14	nature 1098:2
1282:24	1270:7	1096:3	1175:25	1176:20
1283:4	1292:14	1098:16,25	1182:25	1221:14
1291:15	1311:2	1114:18	1199:25	1287:14
1311:22	1341:14	1115:15	1200:14,16	1356:12,14
1318:13	Monday	1118:13	1287:12	near 1282:7
1358:14,16	1361:19	1126:4,6	1305:14	nearly 1105:1
1362:18	1362:23,24	1146:10,11	1306:10	1125:20
misspoke	1367:4	1148:3	1364:11	necessarily
1111:20	money 1171:22	1150:10,13	MVPs 1096:17	1102:3

1196:22	1324:22	1107:3,14	1175:21	normally
1212:6	needs 1152:5	1108:19,22	1183:15	1141:24
1213:8	1173:5	1166:1,7,10	1235:18	1329:14
1247:2	1202:24	1167:6	1282:20	Northeast
1317:7	1218:16	1184:20	1295:20	1350:16,19
1322:4	1220:11	1185:9,11	1296:21,22	1350:21
1326:12	1235:16	1197:24	1300:1	NOS 1087:1
1329:17	1247:13,23	1221:19	1301:12	1239:25
1363:7	1248:1,12	1225:8	1302:2	1285:15
necessary	1259:24	1228:7,12	1304:12	1328:15
1249:22	1346:2	1231:10	1308:14	note 1088:9
1253:17	Neff 1089:3	1233:2,7	1320:2	1290:11
1282:17	1143:3	1236:2,22	1321:18	1359:3
1283:1	1149:5,15	1237:10	1352:13	noted 1093:24
need 1087:11	1154:15	1270:19	1366:22	1095:23
1087:18,22	1155:13,14	1302:18	newly 1286:15	1231:8
1087:24	1159:1,17,18	1315:4	1287:3	1287:18
1088:20	1161:5,20	1316:17	nice 1148:3,5	1357:10
1091:8,8	1163:17	1333:15	1163:13	1363:5
1094:12	1212:20	1334:3	night 1305:4,10	notes 1154:21
1151:7	1232:1,7	1343:11	1307:15	1366:9
1155:22	1369:9	1345:21	1328:21	1373:9
1160:24	1371:3,4	1362:19	1361:23	notice 1092:5
1183:23	Neff's 1231:14	netting 1198:7	1362:13	1128:8
1185:1	negative	network	nine 1103:11	1174:12
1202:20	1225:18	1354:5	NINMX	1216:5
1238:15	1329:17	1358:9,11,12	1366:22	1239:19
1250:15	1330:13	1358:16,18	nongovernm...	1273:8,12,18
1257:25	negotiable	1359:2	1117:23	1274:8
1262:14	1344:4	never 1106:23	nonproprieta...	noticed 1087:7
1273:2	negotiate	1108:16	1349:20	1108:18
1279:1	1146:16,24	1118:3	nonregulated	1264:5
1284:8	neighborhood	1125:17	1109:13	notification
1317:9,13	1115:18	1128:12,19	non-transmis...	1174:12
1319:13	1212:21	1130:16	1311:20	1194:4
1336:18	neither	1132:20	noon 1142:19	noting 1288:15
1342:10	1118:15	1182:11	Nope 1187:24	notion 1125:9
1348:12	1169:24	1216:21	normal 1122:9	1125:11
1349:7,17	1187:23	1243:10	1137:5,21	NP 1155:16
1360:12	1188:1	1250:10	1141:24	1159:4
needed 1090:10	1218:3	1262:6	1341:5	1347:17,18
1095:11,13	1223:20	1346:3	normalization	1348:1,2
1271:17	1308:19	new 1137:20,21	1251:6	1372:14,22
1274:14	1373:11	1141:18	normalize	nuclear
1305:20	nervous 1279:1	1172:15	1141:4	1228:14,17
1310:20	net 1097:16	1175:17,18	1341:8	1228:19

number	1201:24	1335:25	1194:19,22	1130:16,23
1098:23	1202:17	1336:16	1208:7	1143:9,13
1101:2	1214:7	1340:17	1250:14	1147:23
1108:14	1284:9,12	1351:19	1283:16	1150:15
1115:23	1289:16	1352:9,21	1301:19	1151:21,24
1126:7	1293:3,5,11	1356:24	1348:24	1152:20
1159:23	1293:12	objections	1366:2,13	1153:18
1160:3,6	1297:18	1159:5,7	offered 1159:4	1154:23
1164:9	1298:5,9	1163:3	1163:3	1155:5
1174:5	1301:13	1208:10	1195:1	1159:13
1185:8	1302:7,12,13	1283:25	1208:9	1160:24
1194:10	1303:5	1349:22	1283:22	1164:7,24
1198:11,12	1307:1	objects 1311:12	1292:21	1165:19
1200:22	1320:11	1351:20	1301:21	1166:1,6,9,14
1201:18,22	1330:22,23	obligation	1335:2	1166:17,23
1202:5	1331:14,16	1317:25	1340:16	1167:5,10,19
1213:1	1332:4,7,12	obtained	1349:22	1167:22
1227:10	1332:14,25	1271:4	offering	1168:3,12,16
1231:16	1333:1	obtaining	1103:25	1168:20
1238:18	1336:3	1246:20	office 1086:3,8	1169:24
1249:14	1337:10	obvious	1141:15	1170:6,16,25
1252:18	1367:3	1317:12	1355:11,12	1171:4,9,16
1281:14,14	number's	obviously	1365:20	1172:5,12,24
1288:22	1329:22	1121:8	official 1274:8	1173:10,13
1306:15		1126:13	1295:13	1173:16,19
1313:3	O	1139:11	offset 1165:21	1173:24
1315:3	oath 1143:11	1140:14	1168:17	1174:4,16,19
1316:15	object 1200:19	1141:8	1175:7	1178:15
1317:3	1273:15	1317:20	1199:12,21	1179:10
1320:11,13	objecting	occasion	1259:9	1180:4
1323:16,18	1127:2,3	1095:22	1325:14	1181:4
1325:18	objection	1141:20	1345:24	1182:12
1329:18,21	1118:9	occasional	offsetting	1184:21,24
1330:1,5,18	1130:25	1142:3	1334:15	1185:9,14,24
1339:11	1188:6,10	occur 1192:22	Ohio 1170:12	1186:8,14,15
1349:12,16	1195:1,2	1321:1,3	1170:15,23	1186:20
1354:11	1201:5	1362:15	oil 1113:12	1187:2,6,14
1366:6	1230:10	occurred	okay 1088:15	1187:19
numbered	1267:3,11	1225:20	1088:18	1188:3,21,23
1207:11	1279:4,11,15	occurring	1090:2,24	1189:14
numbers	1279:17	1102:13	1091:17	1191:9
1127:20	1283:22,24	1321:5	1092:6,10,17	1192:9,14,18
1155:21	1292:21	1324:24	1102:7	1192:21,24
1166:11	1301:21	October 1084:7	1114:13	1193:10,19
1186:12	1303:9	offer 1162:25	1126:2	1193:23
1198:4	1335:2,4,19	1194:15,16	1129:18	1194:7,21

1206:10	1321:20	1222:22	1142:9	1279:20
1207:23	1323:7,21	1285:12	1251:22	1288:21
1208:14	1329:24	1319:24	1252:6	opportunities
1209:18	1330:9,15,19	1320:8	operate	1291:22
1210:18	1333:10	1321:8,16,17	1109:15	opportunity
1211:4,14	1335:1	1325:5	1135:5	1094:17
1212:19	1338:18	1326:4	1151:10,18	1095:3
1213:22	1341:19	1328:2	1151:25	1111:3
1214:16,20	1345:22	ones 1163:17	1152:10	1142:3
1215:1	1347:16,24	1177:23	1175:13,14	1301:4
1219:18	1348:3,9,19	1190:9	1175:15	1335:9
1229:21	1348:23	1238:1,5	1214:21	1352:1
1236:13	1357:1,7,8	1250:25	1326:19	1354:25
1237:16	1364:9	1258:8	1344:7	1356:7
1238:17	1365:10,19	1315:23	1360:6	opposed
1239:24	1366:3	1366:25	operates	1119:2
1248:6	1367:2	one-twelfth	1095:17	1137:9
1250:9,17	Oligschlaeger	1332:18	1221:21	1200:2
1251:10	1089:4,8,10	ongoing	operating	1228:21
1255:5,16,25	1165:14	1176:14	1123:6	1294:13
1256:8,23	1209:10	1213:17	1221:15	1326:4,12
1258:15	1280:9,16,25	1235:25	1245:15	opposes
1259:12	1281:2,8	1321:1	1353:1,7	1097:21,21
1260:22	1283:10	open 1173:24	operation	opposite
1266:21	1284:18	1350:19,23	1331:13	1099:21
1268:2	1285:20	opened	1346:1	1339:23
1269:17	1292:17,24	1264:11	operational	1341:17
1270:8	1297:13	opening	1320:3	1343:7,13,14
1276:15,19	1303:11	1092:22	operations	opposition
1277:1,19	1310:1	1106:2	1127:24	1097:24
1278:1,21	1328:16	1108:1	1161:16	optimally
1280:6	1337:5,19	1114:16	1187:21	1116:5
1283:6	1340:20	1124:23	1275:15	optimize
1285:3,10	1346:20	1125:1	1287:9	1149:19
1295:22	1370:10	1126:3	operator	optimum
1296:11	1372:6	1135:19	1281:24	1125:4
1300:3,13	Oligschlaege...	1173:17	operators	options 1124:4
1309:25	1088:10	1180:11	1350:24	1213:9
1311:1	1108:19	1186:1,5	opining	oral 1087:8,12
1312:11,15	1153:16	1199:3	1327:20	order 1087:3,7
1312:24	1284:8	1251:18	opinion 1127:1	1089:3,22
1313:3	1349:9	1369:1,2,2,3	1128:17	1096:12,17
1314:15,25	once 1088:25	1369:3	1187:15	1099:8
1315:1,12	1112:14,18	openings	1196:11	1115:1
1317:22,24	1123:7,7	1093:9	1217:3	1118:11
1318:19	1137:19	1138:6	1232:21	1120:20

1121:17	outages 1216:7	1117:4,9	1274:15	1211:15
1130:8	outcome	1136:12	1281:23	1220:13
1142:13	1103:18	overworked	1282:2,5,5,9	1245:25
1150:1	1259:6	1117:4,9	1284:22,23	1246:8,10,12
1167:13	1318:25	1125:3	1284:23	1258:5
1196:3	1319:3	1252:3	1286:19,22	1261:4
1219:1,2,10	outcomes	owned 1109:14	1287:2	1266:5
1219:14	1118:24	owner 1101:6	1292:13,15	1272:21,22
1224:17	outlet 1183:9	1101:10	1293:2	1289:7
1225:1,2	outlined	owners 1101:1	1297:25	1300:19
1234:13	1319:8	1179:7,13	1299:1	1301:24
1235:1,2,3	1345:6	1180:1	1300:13	1306:2
1261:18	outset 1121:24	owner's 1179:1	1301:25	1308:3
1264:11	1125:16	1179:15	1307:18	1311:19
1280:15	outside	owns 1152:7	1348:11,15	1312:1
1282:10	1140:18	O&M 1130:4	1348:15	1340:3,4,4
1306:9,12	1296:4	1359:5	1365:13	1350:17
1314:19,22	1303:21	o'clock 1280:13	1366:6	1362:6
1314:23	1315:7,7	O-l-i-g-s-c-h...	pages 1127:11	partial 1225:17
1332:22	1334:14	1281:7	1143:19	partially
1342:23	1340:10		1156:2	1305:24
1346:4	outstanding	P	1203:2	participant
1360:13	1253:10	pace 1293:20	1225:2	1101:21
1366:5,6	overall 1140:2	package	1227:9	1291:24
ordered 1098:8	1147:15	1147:11	paid 1120:2	participants
1121:20,22	1259:6	packet 1255:10	paper 1227:17	1101:2,15,17
1234:3	1264:16	page 1113:17	paragraph	1170:9
orders 1264:14	1321:15	1155:20	1130:8,9,12	participate
1267:4	1353:10	1180:10	1207:21	1101:20,22
1313:5	overlooked	1191:20	1210:17	1118:7
organization	1253:2	1207:19	1219:19	1152:6,6
1188:5,15	overly 1238:4	1210:15	1220:1	1196:13
1196:24	overnight	1216:6,6	1287:2	1291:15
organizations	1113:14	1219:9,10,11	1366:7	participating
1350:25	overrule	1219:16	paraphrase	1292:2
original	1188:9	1220:1	1251:25	participation
1138:23	1201:4	1227:20	parent 1310:5	1096:6,6
1190:17	1336:15	1229:18	part 1095:15	1099:9,18
1231:14	1351:20	1230:24	1109:9	1101:5
1336:24	1352:21	1239:14	1116:16	1105:5
OSS 1107:13	1356:23	1241:7	1117:24,25	1110:1
1148:7	Overruled	1248:5	1127:15,15	1119:21,24
Ottumwa	1230:11	1255:18,21	1147:10	1150:19
1362:6	oversight	1256:7,9	1164:15	1170:18
ought 1330:17	1350:18	1271:25	1174:7	1245:21
outage 1341:7	overwhelmed	1273:3	1209:25	particular

1128:19	1373:6,13,15	payments	1261:10	1121:7
1130:8	parts 1173:4	1249:20,21	1262:11,12	1217:17
1168:24	1259:16	1249:22	1270:1,10,14	1301:15
1190:5	party 1103:25	pays 1171:3	1270:15,18	1329:1,8
1199:8	1115:12	peak 1358:13	1270:21	1337:20
1257:22	pass 1092:14	1358:14,15	1297:1,3,5	perfect 1212:16
1267:22	1120:17	pending	1305:13,15	1212:18
1272:4	1122:5,14	1276:15	1308:8	1253:21,23
1277:8	1123:12,16	people 1088:23	1330:11	1325:24
1282:11	1126:20	1117:2	1331:25	1339:13
1286:17	1127:2,3	1125:10,14	1332:1	1340:6
1290:12	1128:24	1125:18,20	1333:12	1343:16
1291:5	1183:3	1163:25	1362:20	perfection
1297:25	1262:11,12	1164:1	1364:5	1253:21
1328:25	passed 1091:5	1170:10	percentage	perfectly
1334:7,10,18	1091:6	1177:10	1093:16,18	1326:5
1339:7,22	1115:17	1181:4	1095:5,10,20	perform
1341:22	1128:11,12	1189:15,18	1099:20	1139:22
1343:23	1128:20	1210:24	1114:23	1264:20
particularly	1136:6	1211:14	1115:6,9,13	performance
1110:11	1283:5	1213:1,9	1116:2,3,9,12	1131:19
1116:1	passes 1141:22	1279:23	1117:14,15	1164:21
1266:18	passing	percent	1120:14	1165:1
1289:10	1128:23	1093:21,22	1121:24	performed
1299:1	pattern	1107:3,3,4,5	1138:21	1225:14,22
1303:17,19	1337:20	1115:17,19	1139:1	period 1136:19
1334:20	pay 1096:15	1115:19	1141:7,13	1138:9
1342:20	1099:8	1117:14	1147:15,20	1148:23
1343:2	1104:21	1122:5,14	1171:5	1166:9
1346:15	1107:7	1123:16	1172:19	1186:17,18
parties 1087:10	1120:3	1136:20,20	1217:6	1197:15,20
1093:5	1136:17	1147:19	1219:22	1197:21
1115:14	1149:18	1200:4,6,7,8	1220:19	1225:18,23
1118:25	1164:16	1200:10,13	1221:24	1226:6,11,25
1119:1	1170:13,24	1200:15,21	1226:12	1227:14
1121:4,5,13	1184:7	1201:7	1227:2	1260:21
1123:9	1245:25	1210:24	1231:9	1261:4,14,21
1131:16	1246:17	1211:5,8,21	1233:8	1264:6
1134:6	1249:4	1224:11	1236:5	1266:25
1136:10	1261:6	1225:23	1257:13	1268:22
1139:10	1279:25	1226:1,15	1270:25	1284:17
1142:12	paying 1099:15	1227:14,21	1296:13	1304:15
1194:20	1197:5	1229:5,25	1337:11,21	1310:3
1215:12	1249:13	1230:15	1340:6	1316:21,23
1280:14	payment	1231:9,10,10	1362:10,11	1317:4
1335:9	1249:19	1250:6	percentages	1318:23

1321:25	1312:9,11	1152:9	1266:11	1345:25
1326:5	PGA 1124:3	1169:7,10	1280:16,18	1352:15
1328:7	PGM 1354:9	1296:18	1280:24	1354:4,5,6,6
1334:11	1357:13	1361:6	1281:5	1357:10,10
1341:3,15,17	phrase 1117:20	planned	1282:21	1357:11,11
periodically	1192:21	1286:15	1347:7	1357:19
1311:21	pick 1131:5,5	1287:3	1357:7	1358:1,1,7,7
periods	picking 1238:5	1296:13	1361:9,12	1359:1,1
1131:10	piece 1281:9	planning	pleases 1143:6	pointed 1116:7
1224:12	piecemeal	1090:6	Pleasure	pointing
1225:15,19	1137:17	1103:8	1163:12	1235:4
1226:13	piecemealing	1187:20	plenty 1229:9	points 1118:4
1227:1	1137:10	1198:23	1230:2	1331:19
1257:15	pieces 1207:15	1350:17	plucked	1332:1
1316:13	1258:12	plans 1175:20	1115:23	1338:9,12
1321:24	pike 1105:2	1175:24	plus 1173:3	1355:1
1325:19,20	pipeline 1097:8	1201:14	1290:2,3	1357:19
1325:25	PJM 1183:7	plant 1190:5,15	1364:10	policies
1326:1	1256:1,18,24	1216:7	Plymouth	1149:25
1327:7	place 1107:22	1221:14	1350:20	policy 1131:4
1339:14,15	1117:11	1340:23	point 1098:18	1131:13
perked 1237:18	1136:24	plants 1095:17	1104:10	1208:25
perky 1237:19	1137:20	1097:9	1108:17	1251:9
permanently	1150:1	1180:18	1120:5,15	1254:19
1365:3	1224:11	1247:16,18	1139:5	poorly 1360:16
person 1088:11	1225:4,23	plate 1212:2	1143:13,18	portfolio
1177:6	1227:14	1313:4	1151:14,20	1200:14,16
1250:25	1254:25	played 1124:9	1156:1	portion
1251:1	1257:11	playing	1192:18	1149:22
personally	1271:9	1091:16	1201:2	1164:18
1243:24	1282:16	please 1087:4	1203:1	1170:1,13,24
1263:16	1284:17	1093:11	1216:20	1173:9
personnel	1286:17	1114:18	1232:8	1219:13
1101:18	1314:3	1126:5	1235:9	1360:16
person's	1344:7	1135:21	1246:23	1362:8
1222:6	placed 1102:8	1141:17	1247:3,4	posed 1162:19
perspective	1138:21	1142:14	1250:1	positing
1105:21	1139:24	1155:6,12	1262:22	1321:23
1121:13,14	1140:16	1162:8	1278:14	position 1103:5
1121:15	1141:7	1191:16	1279:4	1106:10,13
1140:10	1239:2	1193:22	1286:17,21	1108:8
1141:6	places 1139:16	1202:24	1289:25	1109:3
1149:7	1273:18	1206:23	1295:18	1113:2
1214:10,22	placing	1207:1	1302:3	1115:13
1246:24	1141:11	1219:17	1308:1	1131:2
1285:2	plan 1132:21	1229:18	1313:7	1133:17

1195:23	1152:8	1303:25	1084:15	1098:3
1208:24	1159:21	predict 1236:8	pressing	1136:24
1209:7,9,20	1163:16,19	predictable	1348:13,17	primary
1209:22	1163:20	1113:21	pressure	1289:8,14
1210:1,2,4	1164:2,12,21	1367:19	1116:16	1304:20
1222:7,25	1165:1	predicting	presumably	Primer
1238:8,11	1177:1,2,4	1237:3	1151:17	1366:16
1270:1,9,12	1179:21	predictor	1306:17	principal
1270:18	1180:8	1236:18	1326:9	1275:21
1304:20	1183:9	1237:8	presupposes	principally
1345:11,15	1190:14	predictors	1103:15,16	1104:22
1352:17,18	1192:1	1236:6,12,20	pretty 1103:10	1354:7
positions	1209:6,25	1236:23	1166:20,21	principle
1250:23	1212:22	predominantly	1166:21,22	1087:21
positive	1221:6,20	1318:18	1168:2	1093:15
1306:24	1223:25	preengineering	1255:9	1277:4
possible	1228:11	1304:1	1297:1,6,20	1291:14
1092:11,15	1232:21	prefer 1279:14	1320:22	prior 1126:10
1116:15	1237:3,7	1317:2	1332:13	1128:13
1265:4	1244:25	preferable	prevent 1097:4	1135:12
1280:3	1247:7	1322:4	1105:19	1294:22,22
1319:2	1253:6	prefiled 1136:1	1112:16	1301:16
1324:25	1254:14	1347:13	previous	1308:12
possibly	1263:14,17	premise	1121:16,22	1314:8,19,23
1266:25	1263:19	1269:12	1257:14	1335:24
1366:11	1264:1,7	premised	1317:10	1345:16
posted 1298:13	1269:15	1331:5	1333:19	1350:9
potential	1272:21	prepare	1338:2	1354:23
1257:15	1275:15	1090:13	price 1146:16	1358:22
1333:13	1287:8	1347:13	1149:20	priorities
potentially	1308:4	prepared	1153:13	1212:3
1151:25	1353:17	1155:14	1209:25	priority
1152:10	1366:10	1162:10	1236:21	1253:13
1176:21	1372:4	1207:8,8	1237:10	1310:14,25
power 1095:16	PP 1199:2	1281:9,9	1249:4	privilege
1095:17	1245:2	1311:22	1366:18	1095:24,24
1096:18	practices	1335:20	prices 1148:23	1106:7
1097:9,11	1211:24,25	present 1166:2	1149:1,8,11	pro 1137:23
1107:24	1264:7,23	1201:20	1149:16	probably
1117:22,23	1266:7	presented	1221:10	1091:3
1118:2	precedent	1209:10	1232:22	1092:2
1127:19	1128:24	1344:10	1236:9,9	1103:9
1138:13	1130:10	1346:12	1237:4,7,7,9	1107:21
1140:23,25	precisely	presently	1257:24,24	1108:5,7
1146:14,22	1360:14	1172:7	1366:8	1134:21
1151:6	preconstructi...	PresidingCH...	primarily	1151:5

1163:18	1373:9	progressed	1308:14	1338:20
1202:15,20	process	1320:17	1309:18	1339:5,14
1214:7	1103:19	progresses	1310:15,19	1341:15
1223:17	1105:12	1098:17	1310:19	1343:19,23
1235:5,8	1136:13	project 1169:2	1364:11	1344:4,19
1265:19	1137:5	1169:3,5,17	promoted	1345:7
1272:24	1139:15	1169:20	1269:23	propose
1277:22	1140:19	1171:21	prompted	1126:18
1294:6	1149:17,17	1173:3,15	1121:25	1137:12
1295:21	1152:12,15	1175:25	proof 1095:15	1222:19
1304:1	1175:25	1183:1	1271:17	1227:2
1305:8	1196:14	1290:1,2,4,7	1324:23	1312:19
1312:18	1197:18	1290:9,13	proofread	proposed
1313:5	1266:5,6	1304:5	1373:7	1094:6,7
1320:2	1324:22	1305:14	proper 1119:18	1097:2
1321:6,10	1326:7	1306:20	1181:5	1098:17
1327:2,5	1341:5	projected	1220:5	1100:1
1343:4,11	1356:25	1113:18	1355:3	1127:6
1364:4	1366:11	1346:5	properly	1130:18,24
1365:5	procurement	projection	1117:10	1135:8
problem	1094:1	1166:16	proportion	1225:4
1098:25	1220:24	1288:4	1199:25	1228:6
1116:25	1221:2	projections	1200:1	1242:22
1325:11	procures	1167:17	proportionat...	1287:15
1328:8	1095:16	1202:13	1261:25	1291:6
problematic	produce	1288:13	1262:1	1294:9,14
1124:9	1094:11	1289:15	proposal	1344:25
1125:15	1190:10,14	1293:21	1093:23	1351:5
problems	produced	1298:1	1094:22	proposes
1264:21	1093:24	1301:7	1098:24	1107:18
1326:21	1139:21	1346:6	1227:2	proposing
procedural	1192:11	projects	1250:4	1135:7
1087:15	1217:16	1096:16	1271:13	1269:13
procedures	1270:24	1098:3	1285:25	1287:18
1149:25	1271:6	1102:11	1286:4	1345:2
proceed	producers	1103:20	1302:16,22	prorata
1098:25	1179:21	1112:15	1319:16	1152:13
1336:22	producing	1169:8,11	1322:8,21	prospect
proceeding	1191:2,4,6	1172:13,14	1323:11,15	1229:7,23,25
1097:18	product 1280:3	1172:15	1326:6	prospectively
1220:15	production	1196:15	1330:23	1243:14
1301:2	1263:24,25	1287:12,14	1331:13	1324:10
1351:5	profits 1132:19	1287:19	1332:11	1326:20
1373:7	1136:16	1290:5,10	1333:7	protect
proceedings	programs	1291:1,2	1334:5,17	1136:15
1084:5	1257:10	1296:14	1337:14	prove 1095:11

provide	1267:23	1094:21	1209:6,25	1300:25
1107:11,13	1268:4	1259:13	1212:22	1310:23
1126:9,10	prudence	PSC 1218:10	1221:6,20	1314:20
1139:3	1095:25	1371:11	1228:11	1322:15
1142:5	1116:14,15	public 1084:2	1244:25	1345:8
1174:12,14	1116:15,24	1086:1,3,8,9	1247:7	pursuant
1192:5	1116:25	1086:12,16	1253:6	1214:13
1194:15,19	1117:8,12	1114:16	1254:14	pursue 1326:3
1195:4	1123:25	1119:2	1263:14,17	push 1229:13
1214:4	1124:1,2,9	1121:14	1263:18	1359:25
1216:5	1125:2,10,17	1133:4,6	1264:1,7	pushing 1190:8
1247:5	1125:22	1138:19	1269:15	put 1090:22
1288:12	1139:8,15	1141:16	1272:21	1110:7
1353:8	1210:25	1147:6	1366:10	1113:12
provided	1211:2,5,8,12	1153:7	purchased	1120:6,6,8
1097:1	1211:18,19	1160:11	1117:22,23	1121:6
1126:11,12	1211:24	1165:7	1118:2	1137:20
1127:8	1212:10,17	1188:25	1163:15	1184:15,25
1191:25	1212:18	1207:4	1165:1	1218:18
1192:12	1213:7,16,24	1210:7	1180:8	1225:5
1255:20	1214:6	1268:15	1259:1	1227:11
1266:18	1217:22,24	1281:3	1372:4	1262:15,17
1293:3	1218:7	1284:4	purchases	1262:20
1295:8	1220:21,22	1285:4	1130:2	1265:5
1300:7,21	1234:2,20,21	1303:6	1161:10	1272:14
1302:25	1235:15	1350:2	1183:7	1280:1
1303:13	1252:1,9,10	1355:11	1272:22	1306:7
1357:23	1252:23,25	1365:20	purchasing	1331:1,8
1362:23	1253:8,12,18	1366:14	1161:15	1361:5
1363:22	1257:9	1369:20	1220:24	puts 1116:13
1367:16	1259:4,17	1373:5	1252:14	1116:16,16
provider	1260:10	publication	1259:18	putting
1357:16	1264:20	1366:15,21	purely 1346:4	1229:24
provider's	1266:6	public's	purported	1310:18
1357:18	1275:7,12,16	1139:16	1343:22	1354:9
provides	1275:19	purchase	purports	p.m 1368:6
1127:12	1277:2	1107:24	1299:6	P.O 1085:4
1130:9	1278:21	1127:19	purpose	1086:4,13
1142:2	1279:2,22	1138:13	1109:15	
providing	1314:13	1140:22,24	1150:4	Q
1209:5	1361:1	1146:13,22	1331:6	quarter
1215:23	prudency	1159:21	1340:25	1319:17
provision	1314:2	1163:20	1341:6	1320:24,24
1116:20	prudent 1260:6	1164:12,21	purposes	1322:11,12
1216:15,23	prudently	1177:1	1231:13	1322:14,23
1220:6	1094:15,20	1192:1	1296:7	1323:6,13,16

1323:18	1189:16	1092:21	1251:14,17	1330:2
1324:5,18	1190:25	1110:15	1252:9,13	1337:17
1325:2,12,16	1193:24	1124:11	1254:1,4,7	1338:24
1326:15,16	1196:4,7,25	1126:1	1256:25	1349:6
1326:19	1198:23	1133:2	1257:3,7,8	quicker 1214:9
1327:21	1200:12	1146:4,7,9	1262:25	quickly
1330:10	1201:1	1147:9,22	1263:3	1210:13
1332:24	1216:22,24	1148:2,17,18	1264:17	1295:17
1333:9,11,17	1218:21	1148:21	1266:13	quite 1101:2
1333:19,22	1222:9,10	1150:11,17	1267:6,13,16	1123:1
1339:17	1224:23	1152:21,23	1268:18,20	1278:10
1341:23	1226:10	1153:2,4,8,11	1269:21,24	1279:24
1342:23,23	1230:7	1153:20,24	1270:3	1300:2
quarterly	1243:6	1155:11	1271:21	1345:18
1326:13,22	1247:22	1159:15	1274:20	quo 1128:18
1327:21	1248:2,7,8	1160:12,15	1275:2,4,8	1129:12,14
1329:15	1252:22	1160:16,18	1279:10	1135:7
1342:3	1255:25	1160:20,22	1280:5,23	1181:9
quarter's	1262:5	1161:4,19	1284:5	quote 1093:24
1319:18	1264:18,25	1162:7,18	1285:19	1094:3,13,14
question	1270:5,16,17	1163:9	1296:8	1236:6
1100:4	1271:5	1165:6,8,12	1342:6,7,8,9	1308:13
1102:2	1273:22	1174:21,23	1342:13,17	1309:13
1103:15,16	1276:11	1174:25	1342:18	1327:5
1104:12	1279:5,6,7,7	1175:3	1346:18	1333:6
1105:7	1279:11,13	1178:16,19	1347:6	
1111:7,19	1279:15	1178:24	1350:5	R
1113:1	1283:10	1182:13,15	1352:14	R 1086:1
1115:8,8	1300:10	1182:20	1355:9,12	1347:9
1117:18	1312:24	1184:14	1356:1,6,12	1370:15
1118:6,12,16	1317:16	1185:17,19	1356:14	1372:11,14
1122:22	1318:14,14	1185:23,25	1357:3	raise 1155:7
1125:4	1322:20	1188:7	1359:15	1280:18
1126:22	1341:13	1189:2	1360:5	raised 1318:7
1127:14,19	1349:6	1190:19,23	1362:13	1318:21
1127:25	1352:23	1195:13	1364:16,18	1321:6,22
1129:18	1355:7	1198:16	1364:22	range 1115:21
1130:23	1361:18	1199:2,11	1365:20	1115:22
1133:7,8	1364:3,4	1201:18,23	1367:3	rapid 1154:2,7
1134:10	1367:5,6	1206:4,22	1369:7,7,13	1363:9,25
1151:4	questioning	1208:1,17,21	1369:13,14	1364:6,8
1160:3	1258:16	1210:10	1369:15	rapidly
1164:18	1356:19	1215:2,19	1370:1,2,3,4	1096:21,22
1177:11	questions	1231:14	quick 1100:4	1099:3
1182:18,18	1088:24	1250:11,18	1254:7	1100:19
1184:11	1090:15	1250:22	1284:16	1113:11

1363:3	1318:7,16,24	1168:14	realistic 1329:2	1264:12
rate 1087:6	1319:9	1172:9,16	1329:8,13	1266:2
1091:22	1321:24	1181:13	1334:20	1270:7
1093:19	1331:23	1182:5	1335:12	1274:8,14
1097:17,18	1337:23	1184:16,18	1336:4,8	1277:10
1099:13	1341:5	1184:25	1337:21	1289:19
1100:8	1342:24	1186:21	1338:2,19	1298:10
1105:11,13	1353:5	1197:22	1339:1,18	1299:16
1105:19,23	1360:13	1235:18	1342:20	1301:5
1106:8	1366:11	1291:20	1343:4	1305:11
1109:10,11	ratepayers	1304:13	reality 1312:18	1306:8,10
1111:12,14	1106:25	1306:18,18	realize 1226:23	1311:6
1111:15,18	1107:6	1314:9	1231:16	1314:15
1112:2,4,16	1109:19,24	1315:5	1245:14	1317:25
1113:1	1110:13	1320:2	1291:17	1318:7,8
1119:17,25	1116:7	read 1129:15	1301:3	1321:6
1120:16	1117:16	1135:2,4	1309:8	1326:2
1124:19	1120:3	1153:15	realized	1335:14
1131:1,2,10	1122:18,20	1165:13	1169:20	1339:11
1132:6,22	1131:10	1219:25	1305:24	1341:25
1133:10	1132:20,20	1230:5,8,9,12	really 1092:7	reaping
1136:4,13,22	1134:23	1231:6	1095:9	1172:21
1136:23	1168:18	1244:5	1103:2,8	reapproved
1137:8,8,17	1169:20,25	1248:15	1105:3	1100:9
1139:10	1170:12	1254:15,17	1108:2	reason 1097:13
1140:1,19	1171:6,18	1262:16	1111:25	1098:10
1141:24	1172:2	1282:19	1114:22	1104:13
1181:16,22	1173:8	1292:8	1115:7,8	1127:6
1181:24	1278:25	1356:7	1116:10	1142:22
1182:10	1279:23	1363:19	1117:7,20	1152:5
1186:15,21	ratepayer's	1364:24	1120:25	1181:8
1187:4,4	1119:22	reading	1124:1	1187:16
1197:14,18	rates 1109:21	1229:20	1125:1	1219:3
1207:10	1110:8	1231:3	1128:7	1230:21
1219:1,14,23	1111:12	1254:16	1131:9	1234:24
1225:13,20	1113:3	1356:5	1147:21	1241:12
1235:16	1119:20	reads 1115:5	1149:6	1242:18
1256:5	1120:8,9	1129:2	1150:20	1299:8,10
1304:12,18	1132:2,3	ready 1142:14	1164:8	1311:11
1306:14	1133:5,9	1159:8,9	1167:19	1326:3
1313:10,14	1136:17,22	real 1260:19	1186:8	reasonable
1313:22	1136:25	1332:14	1212:1	1094:17
1314:20	1137:14,15	1344:6	1213:13	1096:16
1315:6	1140:8,16,18	1346:13	1214:3,5	1232:2,6
1316:14,25	1141:4,11,21	realism	1223:14	1288:1
1317:4,7	1142:1,4	1330:21	1256:23	1309:11

1345:7	1367:5,6,8	1094:20	record 1095:18	1173:11
1364:13	receipt 1159:5	1129:4	1119:4	recovery
reasons	1163:3	1135:3	1138:17	1113:1
1097:19	1195:1	1192:9	1139:13	1317:7
1106:24	1283:23	1219:8,12	1155:4,12	recross 1153:2
1116:8	1292:21	1238:25	1184:17	1153:10
1132:23	1335:2	1241:16	1198:4,13	1160:25
1218:24	1349:22	1285:22	1200:21	1185:17
1277:3	1357:19	1297:14	1202:17	1262:25
1290:15	receive 1170:3	1300:13,14	1250:16	1263:2
1317:2,12	1171:25	1328:18	1335:12	1266:12
1345:6	1213:18	recognized	1336:3,5	1268:17
1356:10	1288:14	1098:4	recorded	1269:20
reauthorize	received	recognizes	1272:8,11	1342:10
1106:8	1159:7	1096:1	recording	1364:19
1110:4	1163:4	1098:5	1169:16	1369:8
reauthorized	1165:20	recollection	record's	1370:5,6,7,8
1106:10,14	1168:18	1202:3,12	1198:19	recur 1123:8
rebuttal	1195:3	1295:7	1332:10	redirect
1155:15	1208:10,11	recommend	1336:9	1153:22,23
1162:11	1214:12,17	1097:18	recover	1161:1,3
1207:11	1228:8	1307:2	1112:24	1195:11,12
1236:8	1241:11	1317:2	1168:9,10	1274:21
1237:1	1284:1	recommenda...	1181:12,14	1275:1
1371:3,4,7	1292:22	1220:18	1181:17,21	1279:8
recall 1107:25	1294:21	1223:15	1181:23	1342:11,12
1121:1,2	1295:9,12,13	1289:3	1182:7,11	1364:19,21
1124:2	1301:8	recommenda...	1186:24	1369:8,10,19
1166:12	1336:16,17	1289:9	1224:13	1370:9,13,21
1189:6,16	1336:23	recommended	1225:24	reduced
1191:11,12	1340:18	1136:1,10	1226:1	1141:21
1197:16	1349:23	1217:6	1232:25	1185:8
1199:13	1353:6	1286:12	1235:17	reduction
1227:18	1371:2	1307:9	recoverable	1232:12
1268:25	receives	recommending	1317:10	reevaluate
1270:2	1213:21	1112:21	recovered	1136:7
1272:1	1255:12	1135:23	1112:22	refer 1180:25
1275:8,16,19	recency 1196:4	1222:3,13,23	1133:7,8	1181:4
1276:9	RECESS	1286:14	1226:14	1189:15,18
1295:6	1093:5	recommends	1230:20,23	1244:13
1296:4	1142:12	1304:25	1268:21	1245:5
1304:15,16	1215:12	reconciliation	recoveries	1311:16,23
1342:17	1280:14	1090:12	1227:3	reference
1344:10,12	recognition	1331:22	recovering	1216:7
1344:18	1116:10	reconfigure	1182:4	1239:16
1365:9	recognize	1089:3	recovers	1242:4

1243:2	1214:18	1228:17	1322:15	reliably 1237:3
1244:2	1242:11,15	1252:1	1323:11,15	relied 1300:20
1245:2	1255:17	1254:19	1324:20	1300:24
1270:11	1291:20	1288:9,12	1325:20,22	rely 1125:2,5
1351:9	1300:1	1293:24	1333:7,13,14	1316:9
referenced	1313:20	1304:20	1333:18	relying 1116:25
1287:2	1314:8	1311:15	1341:22,25	1117:8
referrals	reflecting	regardless	rehearsed	1139:14
1360:25	1199:19	1303:12	1354:22	remain
referred	reflects	1322:13	reject 1135:24	1097:14
1114:4	1246:16	1362:12	1136:5	1098:12
1171:14	1298:19	regards 1351:3	rejected	1099:4
1180:10,23	1299:2	1354:3	1093:23	1246:1,5
1244:6	refresh 1202:2	regeneration	1094:9	remainder
1256:3	1202:12	1164:9	1223:5	1108:23
1353:2	refuel 1340:23	region 1196:16	relate 1128:9	remains 1094:3
referring	refuse 1112:24	1286:16	1317:25	1226:24
1161:18	reg 1313:15,15	1287:3	related 1093:12	remedies
1182:2	1321:12	1289:19	1100:1	1327:25
1248:10	1322:13,13	regional 1098:3	1104:23	remedy 1328:2
1254:11	1322:15	1117:23	1106:5	1328:9
1363:21	1323:7,24	1172:22	1130:2,3	remember
refers 1180:11	1324:8	1350:24	1199:16	1120:15
1244:2	1325:7,15	regular 1159:2	1212:6	1196:7,25
1245:3	1333:2	1206:2	1310:15	1198:8,17
refinement	1334:5,17	1342:25	1373:12	1199:4
1318:19	1339:5	regulated	relates 1228:11	1201:20,24
refinery	regard 1093:25	1109:15	relating 1221:3	1240:22
1113:12	1128:22	1178:12	relation 1297:7	1250:7
reflect 1095:18	1131:24	1283:4	relative	1252:6,7,15
1126:18,19	1132:11	regulators	1373:14	1262:14
1126:19,19	1140:22	1179:18	relatively	1270:7
1154:1	1143:2	regulatory	1111:13	1271:25
1285:24,25	1287:24	1084:15	1124:4	1296:1
1288:3,8	1350:14,15	1099:14	1148:25	remembered
1293:5	1353:19	1233:23	1338:23	1182:17
1360:13	1354:3	1235:12,15	relevance	remind
reflected	1356:1	1235:20	1219:21,21	1206:12
1096:10	1358:9	1282:6	relevant	remove
1111:12	regarding	1315:4	1139:12	1109:22
1127:20	1088:11	1316:19,19	1301:1	1325:2
1170:1	1185:24	1316:22,23	1302:21,23	1326:18
1174:16	1217:23	1318:7,16	reliability	1331:6
1180:8	1219:21	1319:1,3	1310:13,15	removing
1195:24	1220:5,23	1320:15,15	1310:20,24	1097:6
1197:5	1221:2,10,14	1321:9	reliable 1247:5	renews 1249:12

repeat 1200:12	1340:20	1104:8	1096:10	1093:15
1226:10,22	1344:15,16	1177:14,14	1099:11	1123:10
1298:24	1345:5	1178:5,7	1111:17	resource
repeatedly	1371:11,13	representativ...	1112:2	1125:23
1279:14	reported	1189:4	1168:17	resources
repeats	1086:19	represented	1207:9	1123:24
1226:23	1243:11	1101:11	1216:3	1139:21
rephrase	1272:1	1177:5,24,25	1282:18	1163:23
1177:11	reporter	representing	1283:2	1212:3,5
replaced	1207:1	1178:7	1286:20	1252:5
1282:3	1281:6	1196:6	1306:14,25	1253:1,4
replacement	1373:1,3	represents	1344:15	1260:8
1220:8	reporting	1101:14	1346:1	1263:9
reply 1242:1	1109:9	1177:15	requirements	1264:19,20
report 1091:23	1195:19	reps 1189:11	1131:19	1266:5
1092:5	1216:3	request	1216:3	1353:1
1124:21	1284:9	1089:17	1249:23	respect
1130:8	1317:8	1110:9	requires	1098:20
1187:18	1318:15,17	1132:24	1216:4	1107:8,16
1193:10,25	reports	1239:1	1249:3	1115:1,5
1196:1	1174:14,17	1242:9	requiring	1117:2,17
1207:10,11	1187:6,8,9,12	1294:21,25	1094:14	1122:24
1213:19,21	1191:2,4	1302:15	research	1197:20
1213:23	1215:25	1344:22,22	1298:6	1198:5
1214:12,14	1217:25	1345:19	reservation	1217:19
1214:16	1218:3	1354:16	1183:5	1279:2
1216:2,21	1220:21	1362:23	reservations	respected
1219:1,9,13	1221:1	1371:8,19	1183:12,21	1366:14
1220:14	1242:13	1372:17,21	1184:6,7,8	respectfully
1224:17	1255:12	requested	reserve	1134:8
1225:1,2	1311:17,24	1109:5	1188:18	respecting
1227:19	1312:3	1302:24	1353:7	1247:18
1239:5	1316:8	1354:11	1357:20	1298:21
1240:1,15,16	1329:15	requests	1358:6	1299:3
1240:25	1341:2	1109:6	reserved	1314:19
1259:17,19	1366:15	1354:10	1109:11	Respectively
1259:23	represent	require 1113:1	1188:19	1129:15
1267:4	1177:9	1139:20	1354:13	respond
1273:3	1189:4,11	required	1357:14,15	1351:21,23
1277:10	1347:25	1108:10	1358:2	responded
1286:20	representation	1119:10	reset 1182:11	1345:5
1288:2	1178:3,12	1215:24	1327:16,16	responding
1311:18,22	1179:8	1225:7	resist 1317:13	1344:21
1312:6,25	representative	1265:11	resolve 1087:22	response
1319:18,23	1101:6,7,25	1308:14	resolved	1124:12
1322:11,23	1103:11	requirement	1087:21	1128:21

1236:7	result 1099:14	1111:17	1172:8,9,16	1125:11
1239:1,12	1117:16	1112:1,3,8	1173:8	1130:12
1240:14,24	1235:24	1131:19	1175:4	1139:9,15
1242:10	1313:10	1167:22	1176:1,7,10	1191:6,7
1251:6	1339:8	1168:4,17	1176:18	1211:23
1263:7	1340:4	1207:9	1185:7,7,9,12	1212:10,18
1265:13	1343:7	1235:18	1197:19	1213:8,22,24
1267:8	resulting	1282:18	1198:11	1213:24,25
1271:21	1282:18	1283:1	1199:13,21	1214:6
1273:13	1283:2	1286:2,20	1199:23	1217:24
1294:21,23	1340:25	1287:15	1200:10,16	1218:7
1295:3	results 1131:9	1291:7	1200:24	1220:21
1302:9,15	1139:21	1294:19	1201:8,19	1234:2,20,21
1362:23	1319:9	1295:16,17	1216:6	1235:15
1365:19	1342:2	1299:17	1282:2,23	1252:25
1371:8,18	1346:6	1300:21,22	1286:11,13	1253:8,9,18
responsibility	resurgence	1306:13,25	1294:8,14	1253:21,23
1159:25	1167:25	1323:25	1295:4,11,14	1258:1
1197:4	retail 1127:22	1324:6,13	1295:15	1264:21
1210:21	1127:24	1328:5	1296:15	1266:6
1261:8	1283:5	1332:18	1298:3,23	1275:12,16
1283:3	1358:17	1334:13	1299:5	1275:19
responsible	retroactively	1340:10	1302:18	1278:21
1191:1,3	1325:1	1346:1	1305:13	1293:13
1291:2	retrospective	revenues	1307:3	1294:23
responsive	1326:22	1084:12	1311:3,4,19	1314:13
1165:16	1343:17	1099:23	1311:20,21	1337:17
1281:11	return 1094:17	1108:18,20	1313:19	1338:7,24
1294:18	1095:3	1108:25	1315:7	1343:17
1299:14,21	1136:22	1109:2,2,7,16	1316:18	1361:1
1300:6,20	1137:8	1109:24,25	1320:10,23	reviewed
1302:21	1225:13	1110:12,17	1323:7	1259:8
1307:18	1234:3	1110:18	1325:13,14	1264:6
1330:24	1322:22	1111:11,17	1325:17	reviewing
1349:10	1330:12	1113:4	1326:16,25	1140:10
rest 1124:11	1331:4,18	1131:7	1327:23	1192:3
1136:17	1332:5	1151:21	1332:19,24	1211:11
1151:8	1333:5	1165:20	1332:25	1212:16
1171:6	1337:11	1166:25	1333:15	1219:15
1207:21	1338:5,15	1167:24	1344:15	1259:11
1296:17	1342:24	1168:13,18	1345:4,8,23	1261:1
1333:25	revenue	1168:21	reverse 1196:3	1263:16
1334:1	1096:10	1169:19,25	review 1092:4	1265:1
restart 1169:15	1097:15	1171:9,17,19	1116:15	1277:9
restate 1248:2	1098:1,11	1171:20,21	1117:3,12	1337:16
1314:18	1099:11,25	1171:25	1124:1,2	reviews

1095:25	1135:15	1236:6	1308:14,17	1361:7,21
1117:9	1142:6	1237:24	1308:25	1362:7,21
1123:25	1149:23	1238:9	1309:1,1,13	1363:4,20
1124:9	1150:3,6,21	1240:20	1309:15,23	1364:1
1125:2,10,17	1151:9,11	1241:4	1311:4,24	rightfully
1125:22	1152:19	1243:3,8,16	1312:12,17	1118:10
1210:20,25	1153:1,21	1244:24	1313:11,16	rigs 1113:13
1211:2,5,8	1154:12,23	1246:9,17,21	1313:21	rise 1096:22
1213:17	1155:7,24	1247:11,15	1314:13,23	1098:7
1217:23	1159:1	1247:24,25	1315:10,20	rising 1096:21
1220:22	1160:9	1248:8,13	1316:5,15	1096:21
1252:1,10,23	1165:4	1250:13	1317:18	1099:4
1253:13	1167:20	1252:12	1318:3,5,17	1100:19
1257:9	1171:24	1256:7,18,25	1319:18	risk 1136:16,18
1275:8	1174:22	1257:15,21	1320:3,6	1139:23
1279:2,22	1177:12,12	1258:1	1322:16,23	1140:15
revised	1179:5,11	1259:7,25	1323:2,8,12	1366:16
1087:19,20	1181:7,12	1260:2,10	1323:14,16	Road 1347:11
1301:9	1183:18	1262:2,24	1323:19	Robert 1084:19
1372:17,21	1184:9,17	1265:12	1324:2,9,10	1155:13
re-base 1228:6	1185:16	1269:19	1324:12,15	1369:9
1228:18,22	1186:9	1271:13	1324:16,21	1371:3,4
1229:4	1187:4	1272:6	1325:9,10,15	robust 1123:25
re-initiating	1194:25	1273:24	1325:23	ROE 1105:18
1138:24	1195:10	1274:6,19	1329:2,5,6,18	1306:17
re-think	1202:21	1276:13	1329:22	1316:10,12
1343:19	1206:17	1278:2	1330:25	1329:1,8,10
rid 1270:11	1209:7	1280:18	1331:9,14	1330:11,13
rider 1254:8,17	1215:4,8	1283:21	1332:2,5,15	1331:7,9,18
Ridge 1347:11	1217:13,25	1286:2,16	1332:20,21	1331:25
right 1088:7,13	1218:1,8,11	1287:9,16,21	1333:3,8,18	1332:2
1089:1	1222:4	1287:25	1333:23	1337:11,20
1091:8	1223:10	1288:9	1334:6,11,18	1337:21
1092:9	1224:8	1291:12,20	1337:4	1342:16
1095:24	1225:2	1292:3,6,9	1338:10,13	1344:6
1100:12	1226:1,7	1293:4,11,17	1338:13	Rogers 1277:17
1101:17,25	1227:4,11,16	1294:20	1339:12,21	rolling 1327:6
1105:25	1227:23	1295:2,10	1339:25	1330:11
1111:4	1228:15,19	1296:5	1340:12,23	room 1126:12
1112:23	1228:25	1297:1,4	1342:1	1187:11
1116:2	1229:5	1300:5	1345:13	1202:23
1117:11	1230:4,9	1303:19	1346:19	1275:11
1120:1	1231:11	1305:1,20,24	1347:1	rooted 1139:8
1122:1,6	1232:1	1306:21	1348:4	rose 1244:22
1124:10	1233:1,17,25	1307:11,20	1349:1,19	roughly
1133:11,19	1234:4,11,16	1307:23	1360:3	1199:24

1211:21	1232:9,11,18	1312:15	scheduled	1326:15
1246:2	1236:22	1322:21	1089:19	1333:11,16
round 1254:25	1245:13	1363:24	schedules	1333:22
1254:25	1253:6	scenario	1238:6,6	1343:3
route 1141:15	1254:15	1233:15	1243:4,5	secondary
row 1217:5	1264:2	1317:1	1244:23	1116:19
RPR 1086:20	1269:3,11	1338:2	1256:13	secondly
1373:20	1272:21,22	1339:1,7,22	1357:9,23,25	1090:11
RSDC 1256:10	1291:16,19	1339:24	1358:5,10,18	1108:16
RTOs 1264:14	1291:22	1340:1	1372:10,13	1132:7
rule 1352:4	1354:7	1342:21	1372:16,20	1313:13
ruled 1218:10	1357:12	1343:4,5,7,13	scheduling	1317:8
1335:25	1358:8	scenarios	1087:7	section 1107:22
rules 1129:5	salt 1252:2	1339:23	scheme 1262:4	1244:11
1195:19	satisfy 1312:7	1342:19	1326:3	1274:10
1215:24	1312:25	schedule	1337:13	1353:9,10,10
1262:19	save 1124:11	1087:19,20	scope 1188:7	secure 1152:5
1277:5	savings	1088:10,12	screen 1361:5	see 1092:14
run 1246:25	1141:23	1168:25	scrutinized	1103:21,22
1251:5	saw 1241:18	1173:10,20	1258:1	1108:5
1341:19	1267:20	1177:2	scrutiny	1117:15
running 1217:2	saying 1096:11	1180:10	1097:21	1124:18
1221:15	1113:5	1182:24	SC01 1256:12	1139:19
Russ 1087:9	1117:1	1183:1	SC02 1256:12	1141:13
	1120:1	1187:15	search 1361:12	1148:3,5
S	1135:10	1188:17	seasonal	1191:15,21
S 1084:19	1193:7	1191:24	1326:25	1196:22
sake 1316:2	1226:2,9,17	1192:15	1327:2,3	1254:15
salary 1159:20	1258:10	1193:1	seats 1103:12	1256:17
sale 1183:10	1306:10,23	1194:1,23	SEC 1318:15	1261:5
sales 1094:1	1314:18	1195:15,25	1318:17	1272:18
1095:16	1315:18	1214:13	second 1087:20	1301:10,15
1096:8	1318:22	1216:8,10	1093:17	1312:18
1107:9,13	1322:3	1237:22	1096:2	1313:4
1127:22,23	says 1128:22	1238:13	1116:14	1315:1
1130:2	1129:1	1239:6	1121:3	1322:25
1132:19	1132:9,10	1242:5	1126:25	1323:22
1148:7,11	1184:17	1243:15	1128:1	1332:23
1149:2,11,13	1237:1	1244:15,17	1131:20	1337:23
1150:24,24	1240:5	1256:14,15	1217:5	1343:1
1177:4	1256:1	1271:24,24	1234:21	1360:6
1183:6	1262:16	1336:6	1235:14	1361:6
1212:23	1273:3	1354:1,1,1,2	1241:7	1362:3
1217:13	1293:4,10,15	1354:2,2	1311:15	seeing 1297:24
1221:11,20	1293:19,23	1358:20,24	1312:7	seeking
1228:12	1311:3	1359:11	1325:16	1129:11,14

1312:4	service 1084:2	1236:21	1116:4,9,12	1335:14,14
seeks 1128:18	1084:12	1237:10	1117:14,15	1342:15
seen 1106:23	1086:12,17	1315:5	1120:14,21	1363:13
1117:4	1089:19	1323:10	1121:6,23	showed
1192:6	1136:23	1330:25	1122:3,4,24	1255:20
1194:20	1137:17	1331:16	1126:7,13	1258:8
1293:11	1207:5,10,10	1332:11	1138:20	1367:12
1295:18	1220:14	1336:12	1140:7	showing
sell 1151:7	1281:4	1338:21	1148:7	1191:15
1177:3	1282:25	1339:7	1217:6,17	1194:23
Senate 1262:15	1286:20	sets 1191:24	1219:22	1278:15
1277:6	1307:20,25	setting 1113:17	1220:18	shown 1273:16
sense 1297:24	1308:3	1136:25	1221:24	1299:12
1298:4,7	1309:14	1137:1	1225:4,6	1326:14
1343:21	1310:24	settled 1092:24	1226:1,5,12	1343:7,8
1363:12	1315:16	1114:22	1226:15	1362:24
sent 1258:5	1345:5	1228:12,13	1227:1	1367:4
1299:17	1350:16,20	settlement	1231:9	shows 1118:19
sentence	1354:5,6,6,10	1092:19	1233:8	1138:7
1127:13,15	1357:10,11	1259:18	1236:4	1139:14
1127:16,17	1357:14	1295:10	1250:5	shred 1094:11
1127:22	1358:1,7,10	1300:25	1262:13	sic 1117:11
1128:1	1358:19	seven 1149:21	1270:25	1196:4
1207:20	1359:2,2	shale 1149:10	sheet 1133:19	side 1101:21
1210:16	1369:20	Shallenberg	sheets 1239:8	1136:11
1225:10	1373:5	1223:18,22	shield 1136:16	1149:4
1311:12,15	Services	share 1152:13	short 1092:5	1163:19
1312:7	1086:21	1269:10,13	1122:16,22	1180:19
sentences	1101:12,13	shareholders	1142:10	1256:7
1219:25	1101:22	1110:20	1209:24	1315:11,13
1311:11	1102:9	1111:8	1220:9	1315:20
separate	1179:11	1112:7	1359:22	sides 1316:5
1198:12	session 1143:18	1116:7	Shorthand	signed 1277:7
separately	1156:1	1117:16	1373:3	significance
1191:10	1159:2	shareholder's	shot 1176:13	1154:6
September	1203:1	1095:14	1360:8	significant
1240:14,19	1206:2,2,13	sharing	shoulder	1096:6
1240:23	set 1112:15	1093:16,18	1107:2	1098:19
1256:6	1122:2	1093:21	1116:18	1100:23
1292:8	1133:9	1094:8,22	show 1093:24	1117:8
series 1139:16	1137:20	1095:5,10,20	1095:14	1132:6
1252:8	1139:18	1099:20	1138:17	1154:7
1342:14	1142:1	1106:15,19	1191:23	1216:5,10,14
serve 1096:19	1187:4	1110:5	1225:22,22	1216:18
1097:12	1212:3	1114:23	1265:5	1217:1
serves 1136:15	1224:19	1115:5,6,9,13	1293:21	1288:24

1289:1	1249:24	1297:20,22	1263:8	1193:11,16
1293:6	1315:16	smaller	1281:13	1195:25
1341:9	1343:25	1149:13	1283:19	1201:24
1353:25	sir 1092:16	Smith 1085:9	1286:20	1239:7
1362:11	1100:17	smoothly	1298:24	1251:21
significantly	1112:11	1123:6	1322:17	1260:25
1103:18	1114:15	socializing	1345:20	1293:8
1104:5	1153:6	1136:17	1349:12	1296:6
1290:4,22,25	1160:10	sold 1150:25	1358:2	1297:17
1294:4,6	1193:7	1151:2,3,3,6	sort 1116:18	specifics
similar 1098:1	1233:3	1223:23,25	1117:19	1169:13
1160:3	1286:18	1258:21	1119:17	specifying
1189:21	1335:3	1259:1	1122:14,23	1134:13
1225:14	sit 1088:25	solely 1175:21	1123:4	speculate
1255:19	1217:9	1293:5	1130:10	1200:22,23
1287:13	1238:10	1298:5	1178:3	1201:3
1291:1	site 1366:22	solution	1210:11	speculation
1295:9	situation	1321:21	1211:10	1200:20
1299:12	1134:5	1322:1,3,4	1213:17	spell 1206:25
1325:1	1265:3	solve 1328:8	1303:2	1281:5
1344:25	1326:24	somebody	1307:3	spells 1239:12
simple 1096:14	1339:19	1090:10	1320:5	spend 1211:15
1216:23	1341:14,21	1187:6	1327:20	1211:17
1243:6	1356:24	1312:15	sound 1095:19	1261:23
simplicity	situations	1344:5	1297:3,3	1265:22
1316:3	1132:19	somebody's	sounds 1261:22	1340:22
simply 1094:13	six 1113:18	1103:1	1296:5	spent 1278:10
1099:13	1127:11	1142:21	source 1366:23	1364:10
1110:7	1149:21	someone's	South 1085:9	spirit 1254:16
1111:2	1304:25	1116:17	space 1178:13	split 1106:20
1117:4	skewed 1186:8	somewhat	speak 1121:13	1106:21
1129:3	skin 1140:13	1172:10	1152:17	1138:23
1139:18	1261:18	1344:4	speaking	1266:23
1190:15	1270:1,11	soon 1090:21	1168:24	1268:22
1270:20	slated 1296:8	1092:11,14	1210:23	1269:5
1273:16	1297:23	sooner 1230:19	1312:12	spoke 1361:19
1302:7	1361:25	sorry 1111:20	specific	spoken
1319:22	1362:15	1115:14	1130:19	1202:16
1321:18	slight 1226:5	1133:16	1138:22	sponsored
single 1131:1,2	slow 1154:9	1150:22	1177:20	1312:16
1132:6	slowly 1337:25	1159:18	1279:11	SPP 1098:2,4
1133:9	small 1124:4	1187:25	1288:22	1286:15,16
1137:6,16	1154:8	1200:12	1306:6	1287:3,14,19
1140:2	1209:14	1240:3,19	specifically	1287:19
1177:14	1296:13,22	1242:13	1183:14	1288:25
1222:5	1297:1,7,20	1248:2	1191:11	1289:19

1290:10	1190:21	1287:2,18	1238:12	start 1093:8
1291:7	1191:5,25	1288:8,12,17	1261:17	1190:4
SPP's 1104:16	1192:5,12,24	1288:24	1263:13	1214:8,8
spreadsheet	1192:25	1289:4,11	1270:9,12,18	1220:4
1334:1	1193:7	1290:9	1278:17	1254:25
SRD 1372:17	1194:22	1291:6	1281:18	1275:3
1372:21	1195:8,18	1294:14,22	1282:10	1279:15
St 1085:6,21	1206:7	1298:12,16	1285:25	1337:25
1091:4,6,10	1207:6,9,10	1298:20	1286:6,7	1366:4
1091:15	1208:8	1299:3,22	1287:15	started 1087:13
stable 1111:13	1210:24	1301:5	1288:2	1093:7
1114:8	1211:1,4,7,14	1302:15,19	1289:2	1094:23
1142:4	1213:7,18,23	1303:14	1302:15,22	1174:10
1148:25	1215:22	1304:24	1304:20	1182:25
1246:1,5	1217:22	1308:19	1308:16	1183:16
staff 1086:11	1220:22,22	1312:12	1312:11	1194:2,3
1086:16	1221:1	1315:2,3	1332:7	1215:14
1089:17	1222:6,7,24	1331:22	1341:14	1217:24
1094:6,10	1222:25	1334:4	1343:22	1256:6
1095:6	1224:2	1337:14	1344:3	1263:23
1097:3,21,22	1228:21	1339:4	1345:11,15	1277:6
1097:24	1234:14	1340:21	1372:1	1339:10
1098:4,8,18	1235:4	1344:15,18	stage 1304:4	starting
1104:3,3,4	1237:9	1345:6,22	stakeholder	1186:25
1106:2,14,24	1239:2	1360:1	1100:24	1190:25
1107:17	1243:10,24	1371:11,13	1101:20	1207:19
1108:1	1243:25	staffed 1212:16	1198:16	1210:15
1109:5,16,23	1250:23	1218:3	1351:1	1256:6
1110:3,5,9,22	1251:3	staffs 1255:12	stakeholders	1282:11
1111:1	1252:2,9,22	staff's 1094:7,9	1103:20	starts 1207:20
1112:21	1252:24	1095:1	stand 1088:5	1210:16
1114:2	1253:14,16	1097:24	1090:22	1219:10
1117:2,5,9	1254:24	1098:17,23	1111:3	1220:2,3
1124:15,17	1255:20	1100:1	1143:1	state 1084:1
1124:18,25	1270:1	1106:10,13	1159:2	1105:7,10
1125:3,19	1272:15,22	1106:23	1162:1	1152:7
1128:8	1274:14	1108:7	1206:11	1155:12
1129:12	1275:7,21,24	1109:3	1215:15	1162:8
1133:7	1277:9,25	1113:2	1245:15	1179:8,18,24
1135:6	1278:15,17	1125:5,22	1280:17	1193:16
1147:24	1278:22	1126:14	1335:21	1206:23
1153:9	1279:1,21,25	1194:9,12	standard	1225:3
1160:14	1281:16	1195:23	1259:4,22	1279:24
1165:9	1283:17	1208:24	1260:12	1280:24
1174:13	1284:10	1209:7,9,20	standards	1306:5
1187:7	1286:4,13,19	1220:14	1131:14	1310:11

1314:21	steadily	1306:17	1212:15	1309:1
1315:1	1345:20	struggle	suggest	1326:6
1347:8	step 1154:13	1139:13	1089:23	supervise
stated 1191:10	1161:20	stuff 1091:6	1129:15	1277:15
1214:20	1206:4	1111:1	1135:1,2	supervisor
1231:15	1280:7	1139:7	1138:23	1277:16
1243:4	1346:20	1260:10	1196:19	supplement
1308:15	1367:25	sub 1265:13,14	suggested	1255:18
1317:19	STEPHEN	1265:18	1091:1	1351:23,24
1337:18	1084:19	subcommittee	1106:9	1356:21
1340:1	stick 1363:19	1177:9	1305:9	supplemental
1366:7	sticker 1242:1	subject	1317:17	1239:8
statement	stipulate	1095:25	1318:2	supplementing
1092:22	1267:18	1359:9,12	1325:4	1355:2
1094:3	stock 1365:18	1363:25	suggesting	supply 1159:24
1111:10	Stoll 1084:19	submit 1097:20	1089:5	1160:5
1123:19	1091:13	1129:7,21	1106:14,15	1161:14
1125:1	1152:22,23	subparts	1139:2	1263:24
1173:17,22	1182:14,15	1126:17	1201:11	1366:19
1186:2	1182:20	subsequent	1282:10	support 1095:5
1199:4	1257:2,3	1100:8	1314:21	1099:20
1308:8	1342:7,8	subset 1257:22	1321:7,14,19	1126:13
1369:1,2,2,3	1364:15,17	subsidiaries	1325:12	1127:22
1369:3	1369:14	1178:1	1340:21	1130:14
statements	stop 1105:7	subsidiary	1341:24	1220:10,18
1251:19	1343:12	1169:12,19	suggestion	1223:10
1353:19	straight	substantial	1106:12	1237:9
states 1123:6	1174:25	1095:4	1165:17	1293:13
1140:12	Street 1085:9	1131:18	1201:14	1354:7
1207:21	1085:15	1277:12,20	1305:16	1357:12
1210:16	1086:5,14	1298:1	Suite 1085:9,15	1358:8
1262:19	1373:5	1340:22	1086:5	supported
1287:22	strictly 1210:23	substantially	1347:11	1097:25
stationed	strike 1207:19	1098:7	sum 1287:19	supports
1278:1	1210:17	successful	summary	1094:11
status 1128:18	1356:18	1278:15	1095:18	1099:21
1129:12,14	strong 1116:1	suddenly	1130:16	1129:21
1135:7	1138:12	1113:24	summation	1130:14
1181:9	1139:2	sufficiency	1110:3	1218:15
statute 1106:17	strongly	1236:1	summer 1327:6	1220:17
1107:21,23	1088:17	sufficient	1327:7	suppose
1108:4,6	1117:12	1125:23	summerize	1105:21
1136:2	struck 1138:3	1217:12	1099:19	1136:10
stay 1166:25	1282:3,13	1270:10,21	supercede	1137:11
1176:1	structure	1335:15	1314:23	1160:2
1320:16	1125:22	sufficiently	superior	supposed

1123:10	1347:17	1373:3,20	1232:11,18	1273:8,12,17
supposition	1348:2,2	swaps 1258:11	1236:22	1274:8
1095:8	1371:15	swear 1162:3	1245:13	1280:8,12
Supreme	1372:2,16,20	1280:18	1253:6	1297:2
1138:3	surrounding	1347:1	1254:15	1316:8
surcharge	1258:11	swing 1329:15	1264:2	1317:9
1137:6,12	surveillance	swinging	1269:3,11	1320:2
1313:20	1316:8	1366:10	1272:7,10,21	1321:23
surcharges	1319:18,19	Swingley	1273:11,21	1326:13
1137:16	1319:23	1347:11	1273:23	1327:19,21
sure 1092:25	1322:10,22	swings 1132:14	1274:1,13	1329:24
1100:17	1340:20,25	1342:22	1281:24	1337:14
1103:16	1341:2	1343:2	1291:16,19	1340:24
1125:7	sur-sur	1366:12	1291:22	1349:6
1152:15	1281:10	sworn 1155:8	1310:16,17	1359:21
1159:12	sur-surrebut...	1162:4	1350:24	taken 1093:5
1174:5	1162:12	1206:18	1354:7	1112:18
1185:15	1281:11	1280:20	1357:12,18	1130:8
1188:13,19	1300:12	1347:3	1358:8,13,15	1142:12
1193:6	1302:1	symmetrical	systems 1232:9	1215:12
1198:19	1347:23	1315:19,23	T	1259:24
1200:5	1348:3	sync 1321:12	take 1087:14	1280:14
1222:10	1352:13	1326:5	1087:23,24	1358:7
1244:1	1371:5	synchronicity	1088:3,20	1373:10,13
1249:17	sur-sur-surre...	1325:24	1089:17,22	takes 1088:5
1260:15	1153:16	syncs 1325:6	1089:24	1097:11
1272:13	1165:14	sync'd 1320:5	1093:1,2,2,7	1250:23
1274:9	1335:8	system 1094:1	1096:2,18	1357:11
1281:7	1347:19	1095:16	1106:4	talk 1090:7
1282:19	1348:8	1096:8	1107:19	1092:22,23
1300:4	1349:3,8	1107:8	1119:6,18	1106:22
1315:14	1350:7,9	1127:23	1142:10	1120:21
1322:19,20	1352:14	1132:19	1150:1	1121:1
1329:19	1360:17	1137:15	1197:22	1131:14
1330:10	1372:24	1139:15,17	1215:10	1150:18,24
1347:18	sur-sur-sur-s...	1148:11	1224:18	1151:9
surrebuttal	1302:4	1149:2,11,13	1229:18	1166:17
1113:17	suspect	1150:23,24	1230:24	1183:25
1207:16	1307:23	1170:9	1237:21	1189:23
1210:15	1327:9	1172:22	1251:3,4,7,8	1233:23
1238:3	sustain	1177:4	1252:2	1235:12
1240:18,23	1267:10	1183:6,10	1254:23	1237:14
1240:24	1279:16	1212:23	1260:20	1246:19
1241:1,10	1303:9	1217:13	1262:2	1276:19
1246:20	Suzanne	1221:11,20	1271:9	1297:17
1344:16	1086:20	1228:11		1318:5

talked 1178:25	1127:1,6,8,12	1260:19	1180:12	1350:6
1199:3	1129:3,16,20	1262:6	1196:6	testimony
1224:16	1130:17,17	1265:17	1197:4	1095:7
1227:10	1130:22	1315:12	1237:21	1099:1
1258:15,16	1133:19	1326:23	1269:15	1103:25
1314:16,17	1135:2,4,7	1330:9	1270:4	1104:10
1331:3	1193:8	1356:15	1306:7	1108:19
talking	1199:3	telling 1140:10	1312:3	1113:17
1090:11	1220:6	1166:6	1317:19,23	1119:1
1105:7	1242:21,24	1320:17	1357:21	1120:16
1124:5,24	1243:8	tells 1108:3	territory	1121:1,6
1128:4	1244:2,9	1127:16	1282:25	1125:5
1132:14	1267:14	1256:10	1306:11	1126:9,10,11
1148:24	1268:4	tend 1139:22	1307:20,25	1126:12
1150:24	1272:17	1293:13	1308:3	1127:10
1167:11	1350:19	1366:8	1309:14	1129:21
1173:15	1353:2,9,9,10	tender 1208:12	TERRY	1130:19
1180:7	1353:11,16	1349:24	1084:18	1131:25
1181:15	1354:12,14	tendered	test 1094:25	1132:2,11
1182:3	1356:4	1159:10	1096:24	1136:1
1184:4	1357:20	tends 1123:8	1105:13	1138:7,16
1185:6	1358:23	1136:15	1111:16	1139:2
1197:3	tariffed 1105:8	1137:11	1112:3	1143:2,5
1198:7	tariffs 1084:12	tenth 1125:14	1186:17,17	1153:16
1202:9	1353:1	tenure 1162:25	1284:9	1155:15,19
1216:15	task 1212:6,7	tenured 1159:3	1317:11	1162:12,16
1219:20	1212:11	term 1122:16	1332:14,20	1165:14,16
1237:23,23	1263:24	1122:22	1344:6	1207:11,15
1239:11	tasks 1136:3	1126:21	testified	1207:17
1247:8	1212:8	1128:6	1088:11	1208:4
1258:2,4	1350:18	1133:18,22	1206:15	1210:12
1266:21	tax 1306:18	1134:5	1253:11	1212:20
1273:23	taxes 1130:5	1146:15	1335:11	1222:3,8,12
1287:7	1359:6	1149:18	1351:2	1223:9
1292:6	tbyrnes@am...	1181:5	testify 1095:22	1227:8,11
1304:14	1085:7	1208:25	1097:6	1231:15,17
1312:2	technical	1209:24	1142:16	1233:5,25
1319:22	1169:15	1257:18,23	1202:19	1236:8
1324:5	technically	1258:13	1350:12	1237:1
1339:11	1117:21	1268:2,5	testifying	1238:4
1354:1	tell 1091:9	1351:10,16	1104:9	1240:11,12
talks 1237:2	1106:24	1352:23	1197:10	1240:19
tariff 1087:21	1159:19,23	1354:10,13	1354:24	1241:1,10
1107:17,20	1163:14	1363:7	testimonies	1242:23
1110:6	1192:6	terms 1128:2	1115:22	1257:5
1126:17	1236:20,23	1134:3	1348:6,20	1272:15

1277:9	1091:18	1285:7	1262:4	1141:5
1278:8	1093:4	1337:4	1293:15	1151:19
1281:10,19	1100:3,15	1342:5	1318:22	1154:22
1283:13	1106:1,3	1346:17	1328:24	1160:6
1284:8,10	1110:14	1351:6	1354:24	1166:3,12
1286:6,7	1114:15	1360:2	1356:4	1167:13
1288:2,8	1115:15	1367:22	think 1087:22	1172:10
1292:9	1119:8	1368:1	1087:23	1173:11
1293:3	1126:2	thanks 1150:8	1089:2	1174:2
1294:18,23	1133:1,12,13	1150:11	1102:15	1177:12,16
1299:14,20	1133:14	theme 1100:18	1103:9,11,14	1179:6,12
1299:21	1135:15,17	theoretically	1103:16	1180:9
1300:6,12,17	1135:18,20	1106:22	1104:3,15	1181:6
1300:20	1141:19	theories 1095:8	1105:18,20	1184:19
1301:1	1142:8,24	theory 1137:7	1105:21	1186:1
1302:1,4,21	1147:1,3	they'd 1107:5	1107:25	1187:13
1303:13	1148:16	1265:21	1108:4,17	1188:6,20
1307:18	1152:25	thick 1255:10	1110:25	1194:6
1311:3	1153:20	thing 1090:15	1111:7	1195:21
1324:11	1154:14	1090:25	1112:5	1196:9
1330:24	1160:8	1096:12	1113:17	1197:15
1335:8	1161:22	1098:8	1114:3	1200:4
1344:16,23	1163:7	1122:25	1115:1,4,7	1201:7,9
1346:15	1165:10	1128:25	1117:7,12,19	1202:4,4,17
1347:13,16	1174:21	1146:6	1118:8,15,15	1202:19
1347:17,19	1178:17,20	1265:19	1118:16,20	1212:12
1347:24	1182:13	1273:19	1119:3,5	1227:7,22
1348:8	1184:10	1289:20,20	1121:3,12	1233:23,25
1349:10	1185:14	1290:8	1122:11,21	1234:6
1350:7,10	1188:3,24	1326:25	1122:25	1237:17
1351:23,24	1194:8	1328:25	1123:3,13,18	1239:22
1352:12,13	1195:6,9	1329:16	1123:19	1246:21,23
1352:15	1206:5,20	1338:13	1124:22	1251:11
1354:25	1210:5,18	things 1090:6	1125:15	1252:8,17
1355:2	1224:23	1101:21	1127:6,10	1253:20
1356:21	1225:3	1103:1	1128:7	1255:5
1360:10,11	1238:21	1113:13	1129:25	1262:14
1360:17	1251:11	1117:3,10	1130:12,13	1265:7
1367:10	1253:25	1125:21	1130:17	1268:10,11
1368:4	1257:1,5	1137:11	1131:3,16	1268:12
1371:3,4,5,6	1262:23	1139:6	1133:6	1269:23,25
1371:7,15	1266:9	1198:17	1134:9,10,22	1270:11
1372:2,6,10	1268:14	1253:7	1135:7	1271:21,22
1372:13,16	1269:18	1258:13,25	1138:4	1272:3
1372:20,24	1280:5	1259:1,19	1139:2,5,14	1273:11
thank 1090:3	1283:6	1260:17	1140:22	1274:9

1275:5	1359:23	1174:20	1326:7	1132:2,3,22
1279:23	1363:12	1190:23	1329:12	1136:19
1280:4	thinking	1191:13,17	1356:8	1137:13,14
1281:10	1244:6,8,9	1191:22,23	three 1093:18	1148:24
1283:20	1306:2	1193:20,23	1096:5	1155:25
1284:18	thinks 1106:24	1193:24	1107:5	1161:25
1288:6	1301:10	1194:9,12,21	1114:22	1166:9
1289:11	1320:23	1195:4,9	1118:25	1181:2
1290:6,11,19	1335:21	1201:17	1119:1	1192:16
1290:21	third 1127:10	1206:8,20,22	1126:17	1194:14
1294:5	1127:11	1208:7,12	1131:16	1199:19,20
1295:2	1131:22	1223:18,21	1148:22	1199:22
1296:3	1132:12	1230:10	1164:1,4,9	1201:20
1299:13	1297:25	1255:22	1177:10,18	1206:15
1303:23	1299:1	1273:15	1177:21	1208:7
1304:7	THOMAS	1274:22	1178:7	1211:10,11
1305:20	1085:3	1275:2	1179:1,7,10	1211:15,17
1308:1	Thompson	1276:2,3,8	1179:12,16	1211:21
1310:11	1086:11	1279:5,18,20	1179:18,25	1214:1
1311:10,25	1088:13,18	1280:4,11,23	1180:1	1237:24
1312:3,4	1089:2,6,10	1281:13,17	1209:16,16	1244:10
1313:7	1089:14	1283:16,19	1221:22	1260:8
1314:17	1090:3	1284:13	1232:10,12	1264:6
1315:14	1091:22	1285:7	1232:14	1265:22
1317:19,22	1092:2,9,12	1342:13	1285:12	1266:1
1318:10,16	1092:16	1346:18	1300:9	1277:13,20
1318:22	1106:3	1360:2	1318:23	1278:5,10,18
1319:7,21	1110:19,25	1369:2,6,8,12	1344:10	1283:16
1321:3	1111:10,19	1369:18,22	1364:6	1284:17
1324:6	1112:10,11	1370:9,11,13	threw 1089:21	1286:5
1325:11	1112:21	thorough	thrived	1295:17
1327:16	1113:9	1140:19	1138:10	1296:3
1328:9,25	1114:5,10,15	1196:14	Thursday	1305:19
1329:4,10	1116:7	1214:6	1295:16	1310:3,18
1330:8	1117:19	thoroughly	1299:13	1315:17
1331:2	1118:4	1263:13	tied 1272:21	1316:21
1335:14,16	1124:22	1338:7	1301:25	1318:23
1335:17	1129:13	thought 1088:1	till 1142:20	1320:13
1337:17	1139:6	1121:5,9	time 1088:4	1328:23
1342:15,21	1142:24	1159:10	1093:2,20	1329:19
1344:8	1148:2	1198:4	1098:4	1337:15,24
1349:9	1153:11,19	1215:8	1104:17	1338:6
1351:25	1154:18	1272:25	1105:4	1339:14,15
1352:16	1160:15	1276:3	1119:17	1339:17
1355:3	1165:10,12	1305:23	1123:3	1343:1,6
1356:19	1169:17	1324:22	1131:23	1345:7,22

1346:23	tons 1161:5,8	1361:3	1315:7,7	1097:4,10,15
1348:6	top 1200:20	tracker	1326:17	1097:25
1358:12,23	1284:22	1088:11	1334:14	1098:2,3,11
1360:22,25	topic 1269:24	1097:15,23	1340:10	1099:4,16,22
1363:5	topics 1237:15	1098:8,11	1344:7,25	1099:25
1366:11	1355:12,15	1099:5,10,25	1345:3,8,12	1101:1,6,10
1373:10	1356:16	1100:1	1346:4	1104:21
times 1096:5	TOs 1103:12	1102:9	1350:8	1105:14
1107:5	1103:12,22	1104:15	1351:3,9	1107:18
1140:9	total 1147:10	1109:4,6,7,20	1360:14	1108:8,9,10
1232:10,12	1186:24	1109:21,22	trackers	1108:20,20
1232:15	1209:15	1109:24	1120:10	1108:24
1258:14	1211:14	1110:9,12	1131:2,14	1109:15,18
1260:8	1212:4	1114:25	1344:24	1110:7,11,23
1338:10	1227:16	1117:19	1351:4	1111:11,17
1352:6	1261:21	1118:9,15	tracking	1117:6
title 1272:12	1296:22	1120:5,7	1098:1	1124:24
titled 1366:15	1297:7	1126:24	1131:6,7	1127:4,4
TOC 1177:18	1300:15	1130:24,25	1167:7	1128:3,5,19
today 1087:12	1310:17	1131:16	traders 1164:2	1130:20,24
1093:13	1315:17	1132:7,16,17	trades 1164:3	1132:25
1094:3	1328:5	1132:25	trans 1345:21	1133:24
1106:4	1344:1	1137:6	transcript	1134:12,17
1107:17	1358:25	1165:17	1084:5	1135:12
1162:19	1362:4	1167:5,6	1143:20	1140:21,25
1166:6	totalling	1168:4	1156:3	1141:16
1182:3	1334:6	1181:11	1203:3	1151:10,17
1187:9,12	totally 1130:13	1182:5	1373:8,9	1151:24
1208:1	touched	1183:25	transcription	1152:4,5,7,11
1209:10	1117:19	1184:5	1373:8	1165:17,20
1217:9	tough 1124:14	1185:4	transfer	1165:21
1227:8	1124:16	1209:8,11	1176:10,11	1167:5,25
1238:10	town 1089:20	1282:25	1201:14	1168:4,13
1283:10	track 1105:22	1283:5	1283:3	1169:1,4
1292:6	1131:6,11,11	1286:2,12	1309:13	1170:7,11,23
1305:1	1168:6,8	1287:16,18	transferred	1171:3
1354:23	1316:17	1288:9	1176:6	1172:22,22
1360:10	1328:12	1289:2	1309:19	1172:25
1368:4	tracked 1102:8	1291:7	1353:6,15	1173:7,14
told 1092:6	1112:20	1292:9	transferring	1174:7
1107:25	1118:23	1294:9,14	1201:11	1175:5,7,9,12
1172:10	1286:11,14	1302:16	translated	1175:14,15
1290:21	1313:19	1304:21,24	1373:7	1175:21,24
1295:3	1314:3	1307:3	transmission	1176:4,5,7
tomorrow	1315:16	1313:9,11,16	1093:17	1177:3
1090:7,15,16	1360:14	1314:4,22	1096:3,14,16	1178:2

1179:1,7,13	1287:3,15,21	1350:19,25	1313:15	1228:8,9
1179:15	1288:4,13,18	1353:1,14,17	1314:20	1229:11
1180:1,5,18	1288:25	1353:19	1316:24	1230:16
1180:21,22	1289:2	1354:4,5,5,6	trend 1113:19	1231:5
1180:24,25	1290:17,23	1354:10	1367:19,20	1232:22
1181:3,5,9,10	1291:1,7	1357:9,10,11	1367:21	1236:15
1183:3,6,14	1292:5	1357:14,16	trending	1238:2,13
1183:17	1293:6,16	1357:17,18	1232:4	1239:5
1184:16	1294:8,19	1357:18	trends 1264:5	1240:15
1186:2	1295:4,11,14	1358:1,7,9,13	1319:14	1242:7,8
1187:20,20	1295:20	1358:15,18	tried 1093:13	1243:1
1188:5,14	1297:22	1359:1,2,4,5	1117:13	1244:15,16
1189:21	1298:1,3,22	1359:6	1180:20	1244:17,23
1190:2	1298:23	1361:6	1276:16	1245:3
1192:15	1299:3,5,23	1362:19	1302:6	1246:13
1193:1,13	1300:8,15,20	1367:12	triggered	1249:25
1197:2	1300:22	transmissions	1216:15,23	1250:3,8
1198:11,12	1301:9	1173:12	trip 1197:20	1253:16
1199:12,12	1302:16,18	transmit	tripled 1261:7	1267:9
1199:15,16	1307:3,20,25	1357:17	true 1094:3	1271:2,6,18
1199:18,21	1308:2	transmitted	1095:6	1272:6
1200:18	1310:16	1181:1	1108:12	1274:17
1201:12,15	1311:18	transport	1109:1	1283:13
1208:25	1314:1,20	1189:20	1111:11	1284:9,17
1209:19	1315:5,10	transportation	1112:3,7,9,25	1288:19
1237:15,20	1316:18	1107:24,25	1114:5	1291:9
1242:11,14	1320:9,10	1108:2,6	1123:20	1293:4,9,9
1242:15	1323:6	1114:12	1141:2	1296:12
1244:2,10,12	1324:7,14,19	1118:1	1146:6	1303:15
1244:22	1325:14,17	1160:1	1154:18	1304:3
1245:1,6,25	1326:16	1180:18	1162:21,22	1305:25
1246:7,16	1327:12,15	1209:6	1165:19,25	1309:6,10,19
1247:1,8,22	1327:23	1220:24	1184:22	1309:21,23
1248:9	1328:5	transporting	1197:15,21	1309:24
1249:8,19	1332:19,19	1170:23	1198:1	1313:1
1254:12	1332:23	1189:19,22	1200:23	1314:7
1267:21,22	1333:15,22	trap 1119:25	1208:4	1316:7,14
1268:3,5,7,9	1334:3,15	treat 1253:12	1216:11,16	1323:18
1272:4,7,20	1339:4	treated	1218:4,5	1338:25
1273:2,4,9	1340:11	1102:13	1220:15	1340:13
1274:2,14,16	1341:17	1110:17,18	1221:3,4,7,8	1341:10,18
1281:23	1344:23	1140:12	1222:16,17	1348:20
1282:23	1345:21,23	1358:3	1222:23	1354:21
1283:3	1345:25	treatment	1223:16,23	1361:3,4,7
1286:1,11,14	1346:10	1109:11	1224:3	1364:12
1286:15	1350:8,15,17	1306:15	1226:16	1373:9

trued 1096:24	1292:13	1129:25	1293:23	1179:14
1111:16	1323:14	1131:21	1294:3	1198:10
1186:17	1324:24,25	1134:19	unconcerned	1228:20
1332:14,20	turned 1319:4	1169:4	1318:11,13	1254:11
truism 1292:4	1341:23	1235:20	uncontrollable	1256:12,13
trumps	turning	types 1129:23	1096:21	1274:16
1357:24	1213:16	1130:2,11	1099:3	1280:11
trust 1139:16	Tuxedo	1251:3	1100:19,22	1284:15
1214:2,21	1085:21	1318:11	1104:1,4	1287:11
truth 1096:15	two 1087:10,23	1351:3	1105:1,2	1291:11,13
try 1117:9	1093:12	typical 1161:7	1112:14,19	1300:10
1118:14	1098:20	typically	undeniably	1301:12
1149:19	1104:13,16	1149:16	1141:8	1314:14
1150:1	1104:18	1249:3	underlying	1356:13
1175:12	1116:10	1342:25	1260:11	understood
1196:3	1125:13	U	understand	1124:23
1212:3,13	1127:16	UCCM 1131:3	1092:13	1282:19
1229:10	1177:10	UE 1118:13,23	1100:17	1318:21
1230:2	1186:3	1119:2,4	1112:23	1331:3
1253:4,4,9	1192:20	1269:2	1114:20	undisputed
1279:17,18	1209:16	Uh-huh	1123:9	1141:5
1297:18	1217:22	1186:16,19	1131:13	unexpected
1300:3	1219:25	1316:6	1142:16	1363:25
1306:6	1220:21,22	1320:7	1149:7	unexpectedly
1314:18	1256:1	1323:9	1152:2	1113:14
1361:14,15	1265:7	ultimate	1168:10	unfair 1099:7
trying 1117:13	1275:5,11	1317:7	1170:25	1104:25
1117:14	1294:25	ultimately	1171:1	1137:10
1170:25	1307:13,16	1234:20	1172:15	1139:25
1172:5,6	1311:11	1254:22	1173:6	1141:7
1177:13	1315:23	1278:15	1193:6	1352:10
1224:5	1316:1,5	unable 1279:1	1245:24	unfortunate
1255:8	1317:2,15,24	unavailable	1246:3	1118:20
1260:16,17	1318:6,21,23	1089:20	1263:10	unfortunately
1265:3	1321:5,21,24	unavoidable	1265:3	1105:20
1302:2	1328:14,24	1096:20	1291:14	1118:18
1315:2,22,24	1330:20	uncertain	1294:25	1260:6
1323:23,23	1333:5	1096:20	1300:3	1365:8
1324:12,15	1338:9,10	1098:6	1301:7	uniform 1272:7
1324:16	1339:17	1099:3	1306:7,8	1273:11,21
1339:12,21	1348:11	1100:19	1317:1	1273:23
1344:3	1354:3	uncertainty	1334:21	1274:1,13
1352:18	1366:22	1288:16	understanding	Union 1084:11
turn 1219:16	two-way	1289:15,21	1092:3	1085:12
1229:18	1109:6	1290:11,16	1128:10	1138:10
1248:5	type 1113:7		1151:5	unique 1356:24

unit 1207:5	1237:9	V	volatile	1179:1,7,10
1210:19	1265:12	vague 1303:2	1113:10,10	1179:12,16
1277:17	1306:3	valid 1269:8	1113:20	1179:19,22
1281:4	1324:6	1326:10	1114:8	1179:25
units 1221:16	1351:13	1335:25	1131:22	1180:1
1221:21	1365:17	validity 1298:7	1132:13	voting 1179:9
universal	users 1170:7	valuable	1140:16	1198:16
1294:5	USOA 1273:9	1289:17	1149:9	
universe	usually	valuation	1150:5	W
1124:4,8	1136:13,14	1326:8	1154:8,9	Wabash
unlawful	1146:5	value 1112:18	1168:2	1218:2,6,14
1114:3,4,8,9	1180:17	1169:3	1186:13	1233:24
1114:10	1183:4,10,11	1335:16	1209:13,17	1235:13,25
unlawfully	utilities 1138:8	variable	1363:1,10,24	wait 1089:8
1108:13	1138:16	1164:18,20	1365:17,18	1133:15
unlimited	1211:6,8,16	1268:9	1365:21,25	1216:18
1310:2,6,9,12	1214:3	variant 1107:8	1366:8,14,17	1313:22
unpredictable	1264:8	variety 1253:7	1367:15,17	waiting
1131:23	1265:8	1262:21	volatility	1321:23
1132:13	1350:16,20	various	1113:15,19	waived 1118:8
1366:9	1350:21	1196:12,20	1148:23	walk 1332:9
unrealistic	utility 1098:6	1357:8	1149:12,19	wander
1335:11,13	1125:13	vary 1131:23	1150:2	1206:25
1335:22	1131:4,7,8	1290:4,14	1153:13	want 1090:20
unregulated	1136:14	vast 1123:11	1154:1	1095:13
1109:17	1137:2,13,18	1262:11	1186:11	1097:3
1169:18	1138:10,12	venture	1363:3	1098:18
1189:5	1138:14,17	1264:14	1367:20,21	1100:17,21
1282:24	1138:21	verified	voltage 1249:2	1101:11
unusual	1139:11	1302:12	Volume 1084:9	1123:14
1352:19	1140:3,5	verify 1293:1	1143:19	1131:14
upper 1332:13	1141:1,9	1302:5,6	1156:2	1135:4,5
upstairs 1276:6	1159:22	1329:25	1203:2	1142:18
upward 1301:9	1160:4	1337:9	voluntary	1154:25
uranium	1161:16	version	1089:18	1155:1
1149:14	1210:20	1087:24	Voss 1222:22	1185:24
1164:3	1233:10	1336:24	1223:21	1194:14,16
urge 1130:11	1236:11	versus 1126:8	Voss's 1223:15	1198:19
usage 1171:3	1257:17	1154:8	vote 1101:25	1209:18
1188:20,20	1265:2	1268:22	1103:12,14	1210:17
use 1094:12	1310:11,14	1326:22	1177:21	1218:19
1116:11	1320:22	vett 1250:24	1179:5,7	1231:13
1177:3	1337:23	1251:2	1198:21,25	1250:2,8
1197:18	1366:14,16	vice-versa	voted 1115:24	1251:24
1218:19	utility's 1366:9	1344:1	votes 1177:18	1265:10
1236:21		voir 1354:16	1178:7	1270:8

1296:7	1140:7	week 1089:20	1122:15	1240:21
1297:20	1142:1	1124:14	1126:6	1253:1,7
1302:13	1173:11	1295:10	1131:6,7	1256:3
1312:14	1176:25	1299:17	1132:14	1258:24
1315:3	1183:22	weekend	1140:7	1260:14
1316:9	1189:10,20	1295:21	1142:14,14	1262:8
1323:24	1193:25	weight 1302:12	1142:19	1280:9
1329:4	1200:8	1303:4	1148:24	1314:15
1332:9	1208:1	Weiss 1090:6,8	1150:24	wheels 1108:2
1336:14	1212:25	1090:13,22	1159:2	whelm 1261:23
1356:4	1214:11	Welcome	1168:24	whereunder
wanted	1241:14	1087:5	1173:15	1341:14
1091:21,25	1270:20	1143:10	1183:19	wholesale
1111:6,7	1271:3	went 1094:2	1184:4	1264:12
1190:24	1286:24	1112:6,6	1185:6	wide 1132:14
1326:8	1298:11	1137:14,24	1206:2	1253:7
wanting 1280:2	1303:1	1301:16	1215:14	1342:22
wants 1129:8	1315:8,9	1332:25	1247:8	1343:2
1273:17	1316:25	1333:1,16	1248:9	widely 1131:23
warning	1319:20	1342:14	1255:1	wielding
1113:23	1324:6	weren't	1260:13	1152:8
wasn't 1092:8	1327:16	1135:13	1273:23	willing 1345:4
1094:5	1328:7	1216:9	1280:16	win 1132:17
1120:16	1331:8,11	1258:8	1292:6	Winburg
1121:8	1334:4,17	1266:25	1297:24	1241:6
1159:12	1339:23	we'll 1091:17	1304:13	windfall
1201:10	1342:16	1091:20	1312:2,4	1148:9,12
1216:9	1343:18	1093:2,7,8	1318:10	winter 1327:7
1233:17	1344:5,8	1098:16	1320:1,5	wish 1250:14
1238:12	1359:1	1142:11,16	1328:4,6	1342:16
1245:18	1366:10	1142:22	1344:2	withdraw
1289:19	1367:19	1155:3,24	1353:25	1173:3
1308:6	ways 1236:11	1161:23	we've 1087:21	withstand
1318:14	1260:17	1185:11	1089:21	1097:20
1329:19	1317:12	1194:12	1106:22	witness 1088:4
1362:15	1352:10	1215:10,11	1111:18	1088:5,5
1364:2	weak 1095:2	1262:6,20,24	1116:3	1089:12
way 1088:17	weather 1141:3	1280:8,12	1120:5	1095:6,21
1117:20	1251:6,6	1285:3	1128:23	1097:6
1118:18	1341:5,8	1348:12	1135:10	1106:23
1121:20	Webster's	1349:19	1171:4	1127:9
1122:7	1363:2,3,9,23	1368:4	1172:7	1130:6
1125:21	1364:23	we're 1088:22	1197:2	1135:25
1127:18,18	1365:6	1096:2	1213:19	1138:6
1133:5	Wednesday	1106:15	1214:4	1142:11
1137:25	1089:20	1120:2,20	1227:7	1143:1

1155:8	1111:21	1219:6	1359:17,21	1139:3
1160:13	1114:16	1230:11	1359:25	1140:6
1162:4	1124:13	1238:17,20	1360:3,8	1146:23
1200:25	1126:2	1239:19,24	1363:17	1160:4
1206:7,18	1133:1,13,16	1241:22	1364:15,18	1176:16
1275:22,24	1135:18	1250:13,17	1365:12	1188:4,14
1276:9	1142:8,13	1251:12	1367:24	1212:2
1280:20	1143:9,13	1254:2	1368:2	1214:1
1301:23	1146:1	1257:2	1369:15	1227:17
1302:4,24,25	1147:3,6,23	1262:24	word 1108:2,6	1313:9
1303:1,8	1148:18	1266:10	1114:11	1317:20,22
1335:10,20	1150:9,12	1267:8,10	1129:2	1317:23
1336:2,4,6,13	1152:22	1268:15	1134:9	1318:3,4
1336:24	1153:1,5,7,9	1269:19	1135:2	1324:10
1345:6	1153:21	1273:13,24	1248:8	1330:24
1346:21	1154:12,15	1274:7,21	1267:20,21	1332:11
1347:3	1154:19,23	1276:2,5	1281:23	1334:18
1349:24	1155:3,6,9,24	1279:9,16	1282:2,3,5,12	1336:8,11
1351:12	1159:1,12	1280:6,15,21	1297:2	1338:21
1352:1	1160:9,11,14	1281:15	1323:22	1342:16
1354:16,20	1160:16,19	1283:18,21	1347:19	workable
1354:21	1160:21,24	1283:25	1351:13	1321:21,25
1356:20,21	1161:20,23	1284:4,6,15	1353:15	1322:3
witnesses	1162:3,5	1284:20,22	1361:12	worked
1088:3,23	1163:2	1285:3,8,10	1365:17	1087:10
1092:19	1165:4,7,9	1285:14,17	worded	1138:4
1124:12	1169:14	1292:20	1360:16	1139:18
1128:8	1174:22	1297:11	words 1094:13	1196:24
1277:4	1178:18,21	1301:20	1094:25	working
witness's	1182:14	1302:9	1108:4	1091:23
1302:10	1184:11,14	1303:6	1127:7	1124:19,21
wonder	1185:16,20	1328:13	1129:5	1277:7
1192:18	1188:9,25	1334:24	1168:16	workload
Woodruff	1190:21	1335:1,4	1265:12	1212:4
1084:15	1191:14	1336:15,20	1281:24	works 1090:16
1087:3,16	1194:11,18	1337:1	1282:6,13,17	1090:17
1088:8,15,19	1194:25	1340:16	1283:20	1106:20,21
1088:22	1195:3,7,10	1342:6,9	1306:25	1116:5,6
1089:12	1198:3	1346:19	1333:15	1136:21
1090:2,4,17	1201:4	1347:1,4	1348:12,13	1327:16
1091:15,19	1202:7,21	1349:1,7,19	1348:16,16	1331:2
1092:17,25	1206:1,6,10	1350:1	work 1091:23	workshop
1093:6	1206:17,19	1352:19	1106:22	1124:19
1100:14	1208:9,14,18	1354:17	1116:4	world 1366:20
1106:2	1210:7	1355:6	1122:8	worry 1257:25
1110:15	1215:4,8,13	1356:23	1137:18	wouldn't

1127:17	1120:1	1183:1,5,7,11	1232:5,5	\$300 1232:25
1134:5	1151:19	1183:11,17	1286:1	\$350 1096:8
1146:24	1170:19,22	1186:6,25	1293:16	\$45 1105:14
1169:22	1171:2,25	1197:15	1295:5	1227:16
1173:6,7	1174:14	1209:20	1298:2	\$475,000
1189:10	1186:11,12	1211:22	1299:23	1228:2
1226:4	1186:12	1213:2	1300:9	\$5 1303:20
1229:24	1191:17	1223:5	1301:11	\$5.54 1332:2
1234:24	1196:14	1228:3	1318:23	\$5.7 1228:3
1235:5	1199:10	1230:23	1364:6,11	\$55 1334:10
1244:18,21	1200:13	1231:19,24	year-to-date	\$550,000
1245:5,13	1202:1	1268:6	1166:19	1229:8
1264:14	1231:2	1275:11	yellow 1242:1	1231:5
1278:18	1240:3	1284:9	yesterday	\$6 1132:5
1289:3	1252:20	1301:15	1087:7	1261:14
1296:18	1262:1,18	1319:13,14	1090:13	\$66 1231:19,24
1298:14	1273:5	1319:23,24	yielded 1267:2	\$71.5 1330:5
1300:24	1284:25	1320:6,8,18	York 1366:22	\$8.5 1334:6
1310:9	1309:20	1320:20,25		\$84.5 1261:21
1325:24	1360:16	1321:8,10,16	Z	
1327:4	year 1094:9,10	1321:17	zero 1136:20	0
1329:14	1096:24	1325:5,7	zones 1358:13	0002 1366:6
Wow 1125:25	1105:13	1326:4	\$	0036 1229:22
write 1223:9	1111:16	1327:17,17	\$11 1230:19	024 1371:6
1317:13	1112:3	1328:3,3,4	1304:15	026 1371:4,7
1319:12	1116:3	1332:20	\$12 1132:5	0318 1272:17
write-offs	1124:6,20	1334:3	1168:6,8	09 1242:24
1317:9	1125:13	1340:2,3,4	1186:3	1
writing 1238:3	1126:21	1341:24	1304:7	1 1128:11
1277:5	1127:5	1358:22	\$19 1334:4	1194:1
written	1128:3,6,12	1362:21	1339:3	1227:17
1129:20	1128:13,15	1364:5	\$2 1261:5,17	1353:9,10
1154:20	1130:21	yearly 1326:22	1323:7,11	1354:1
1244:9	1132:5	years 1097:19	\$2.3 1261:6	1357:24
1305:11,12	1133:22	1113:18	\$2.75 1333:2	1358:5,10,18
wrong 1116:2	1135:13	1124:16	\$200 1306:11	1.1 1107:4
1116:20,23	1137:19	1128:23	1362:14	1:15 1142:22
1124:22	1147:16	1136:24	\$22 1224:14,16	1215:11
1303:15	1148:23	1140:4	1224:24,25	10 1087:20
1355:4,4	1161:6,8,11	1148:22	1266:24	1088:1,3,4
wrote 1222:8	1165:23,24	1149:21	1339:2	1090:8
1277:9	1166:2,4,19	1166:13	\$25 1166:5,7,10	1092:23
1278:8	1166:20,23	1183:11	\$250 1362:4,5	1093:2
	1167:7,10	1186:3	\$30 1107:6	1113:17
Y	1180:13	1209:16	1226:15	1163:18,24
yeah 1090:9	1182:25	1221:23		

1166:5	1229:4,5,25	1246:2	1372:22,25	2
1167:13,16	1230:16	1327:6	1349 1370:17	2 1167:7,15
1186:10,20	1282:11	1328:7	1354 1370:18	1186:9
1186:23	1295:25	1332:12	1356 1370:19	1261:10,14
1187:2	1333:7	1341:3	1359 1370:20	1281:23
1212:20	1338:10,13	12/31/2013	1363 1370:21	1311:9,12
1215:5	1361:21	1330:11	14 1207:22	1312:8
1259:7	11th 1132:24	1204-1205	1282:2	1323:16,19
1282:10	11:30 1215:5	1203:2	14th 1240:14	1338:14
1286:19	1106 1369:2	1205 1369:22	140 1347:11	1354:1
1292:14	111 1085:9	1207 1369:23	15 1229:19	1357:24
1293:2	1114 1369:2	1372:2	1231:10	1358:5,10,18
1305:8	1126 1369:3	1209 1369:24	1248:5	2nd 1320:2
1331:19,24	1135 1369:3	1214 1369:25	1270:14	2.3 1268:23
1332:1	1143-1145	1237 1371:8	1304:13	20 1142:20
1333:5,6	1143:19	1238 1371:9,10	1305:9	1174:2
1338:9	1146 1369:5	1249 1370:1	1359:24	1206:13
1359:23	1147 1369:6	1250 1370:2	15.25 1339:5	1212:21
10s 1361:24	1148 1369:6,7	1253 1370:3	15.29 1227:22	1230:25
10th 1332:1	1150 1369:7	1256 1370:4	1227:25	1338:9,12
10-Q 1090:9,9	1153 1369:8,8	1262 1370:5	155 1248:5	200 1085:9
10.2 1331:10,17	1155 1369:9	1265 1370:6	16 1207:19	1086:5,14
10/4 1329:11	1156-1158	1267 1370:7	1210:15	1373:5
1329:11	1156:3	1268 1370:8	161 1287:2	2000 1231:15
10:10 1142:11	1159 1369:10	1274 1370:9	164 1227:20	1264:11
100 1115:17	1371:3,4	1279 1370:11	16690 1347:11	2005 1136:6
1122:4,13	1161 1369:10	1280 1372:6	17 1234:3	1138:4
1123:12,16	1162 1369:11	1283 1372:6	179 1262:15	1263:21
1136:20,24	1163 1369:12	1284 1370:12	1277:7	2007 1138:4
1210:24	1371:5,6,7	1371:11,13	18 1159:6	1366:6
1211:5,8	1165 1369:12	1371:16	1164:10	2008 1241:20
1262:11,12	1175 1369:13	1291 1371:11	1281:23	1242:23
1305:13	1178 1369:13	1371:13,16	1340:22	2009 1094:2
1308:8	1182 1369:14	1296 1371:19	18HC 1155:16	1227:6
100s 1361:24	1184 1369:15	13 1182:8,9	1159:3	1233:1
100/0 1106:21	1185 1369:16	1219:19	1371:2	1241:19
101 1085:15	1189 1369:17	1220:1	18NP 1371:3	2010 1126:11
106 1229:18	1190 1369:18	1327 1371:21	180 1235:7	2011 1287:25
107 1230:24	1195 1369:19	1371:23	19 1334:15,17	2012 1084:7
1087 1372:11	1372:4	1335 1371:23	19th 1292:8	1166:7
1372:14,18	12 1142:20	1371:25	1901 1085:5	1173:21
1372:22,25	1149:9	1339 1371:25	1979 1137:25	1174:11
1093 1369:1	1174:2	1341 1370:13	1138:3	1182:23
11 1199:25	1181:14,25	1346 1370:16	1983 1263:23	1184:23
1228:18,22	1181:25	1348 1372:11	1990s 1138:10	1191:1
1228:25	1182:2,7	1372:14,18	1996 1138:7	1192:2,14

1194:1,24	1229:19	26A 1128:9,13	30th 1192:2	5.54 1338:9
1216:2,10	1366:6	1173:10,11	1194:24	5.6 1295:25
1233:1	239 1194:11,13	1173:20	30.6 1226:21	1296:8,25
1240:3,3,7	1194:22,25	1182:24	300 1233:4	1297:21
1261:4	1213:20	1183:16	306 1233:5	1361:24
1358:22	1372:3	1187:7,16	31 1319:23	1362:14
2013 1168:5	24 1162:13,25	1190:25	31st 1184:23	50 1115:19
1185:25	1163:2	1191:9	1261:4	1259:7
1186:9,10	1348:15	1192:16,22	314 1085:7,22	50/50 1140:7
1231:17	1362:20	1193:1,8,11	32 1228:1	1141:14
1326:15	1364:5	1194:1	33,603,000	516 1347:25
1339:2	240 1281:15,16	1195:24	1261:9	1348:1,24
2014 1167:11	1281:17,18	1214:13	345 1248:18	1349:21
1167:12	1283:17	1216:8,10	35 1186:25	1372:9
1168:5	1372:5	1237:23	360 1086:13	516-519 1087:1
1186:1,9,10	240HC 1283:22	1244:18	38 1182:9	517 1348:1,25
1186:15,18	25 1100:25	1255:20	386.266.1	1349:21
1186:21	1103:12	1256:4,15,16	1107:23	1372:12
1187:3	1163:2	1271:24	395-8002	518 1348:2,25
1304:12	1174:2	1354:2	1085:22	1349:21
2015 1096:23	1182:7,8	1357:24,25		1372:15
1362:20	1292:13,16	1358:3,4,20	4	519 1348:2,25
2016 1298:22	1293:2	1358:21,24	4 1098:20	1349:21
1298:23	25.9 1184:23,24	1359:11	1241:25	1372:19
1299:4,5	1185:4	26HR 1243:15	1297:3,5	526 1348:9
2017 1231:15	250 1296:8,15	26-A 1135:11	1309:12	527 1087:1
1231:17,18	1296:24	28 1357:24	1314:16	1348:3,25
1231:22	1297:21	29th 1241:7	1348:11	1349:21
21 1161:7	26 1162:13,25		4B 1363:22	1372:23
1282:5	1163:2	3	4.4 1297:1	545 1192:2
1348:12	1168:25	3 1084:7	4:58 1368:6	55 1330:14,17
22 1084:9	1183:1	1180:10	40 1259:9	550,000 1229:5
1161:8	1187:16	1216:3	45.9 1227:20	1229:23
1225:8,10	1195:15,25	1280:12		1230:1,15,18
1226:3,3,4,9	1234:23	1282:2,5	5	1230:23
1230:25	1237:22,23	1300:13	5 1098:20	554-2237
1267:5	1238:6,8,13	1301:25	1287:24	1085:7
22.5 1094:19	1239:6	1313:3,7	1290:2,3	555 1127:20
221 1085:15	1242:4,5	3.3 1107:3,3,5	1296:3	1180:9
2230 1086:4	1243:15	3.75 1333:14,16	1297:5	56 1238:18,19
224 1207:12	1244:15	30 1094:24	1309:12	1238:22,25
1208:8,9	1256:4,14,16	1225:25	1314:16,18	1240:2
1372:1	1271:24	1226:17	1364:10	1241:8
23 1143:19	1354:2	1227:2	5D 1216:4	1242:9
1156:2	1357:24,24	1266:25	5.35 1296:17	1250:14
1203:2	1358:6,10,18	1267:5	5.5 1332:2	1255:6

1271:22	1262:3	1335:1	1207:20	1225:2
1371:8	1284:22	1336:16,23	1210:16	871 1085:21
565 1127:20	1292:13	1337:10	1307:18	8760 1124:6
1180:9,20,20	1293:2	1342:22	1344:15	888 1264:11
1183:13	1314:15	1371:22	1354:2	
1192:20	1315:3	65 1336:19,21	1357:24	9
1193:12	1316:10	1337:6,6,10	1358:5	9 1088:3,4,23
1194:23	1322:6	1337:21	1362:4	1255:18
1199:16,19	1339:11	1340:15,16	8:34 1087:2	1332:25
1242:11,16	6th 1240:12	1341:13	8:45 1093:3	9th 1085:9
1243:3,7,11	1241:19	1343:4	80 1258:5,8	1086:14
1255:9,16	6.5 1333:1,23	1371:24	80/20 1093:22	9.2 1330:11,13
1256:1	6.9 1261:6	650 1086:5	1126:13	9.4 1333:12
1271:25	1268:24	65101-1575	82 1219:16	9/2 1329:11,12
1272:6,16,18	1269:2	1085:16	8218077201	90 1258:6
1273:1,3,9	60 1285:21	65102 1086:15	1371:10	9063077201
1274:3,15	1288:7,11	1373:6	83 1220:1	1371:9
567 1202:4	1292:18,20	65102-2230	85 1219:4	93.5 1329:17
57 1241:16,23	1357:21	1086:6	1225:2	1330:1
1242:1	1371:12	65205-0918	85/15 1094:8	95 1116:1
1250:14	61 1285:21	1085:10	1106:16,21	1117:14
1371:9	1288:7,11	66 1353:9	1107:4,11	95/15 1115:12
57-58 1239:25	1292:19,20	66149 1085:4	1110:4	1115:13,25
573 1086:7	1371:14		1115:7,20	95/5 1093:20
573)443-3141	62 1297:10,12	7	1116:2	1094:8
1085:10	1297:15,19	7 1155:20	1126:8,14	1106:16,20
573)556-6622	1297:25	1188:17	1148:6	1107:4
1085:16	1298:19	1284:23,23	1217:7,17	1115:15,16
575 1127:20	1299:2,12	1354:1	1219:4	1115:20
58 1241:16,24	1300:14,23	1357:24	1221:24	1116:2,4
1242:2	1301:19,20	1358:5	1222:3,13,19	1120:17
1250:14	1371:17	1362:4	1222:23	1121:3,17
1371:10	63 1328:12,13	7th 1240:23	1223:8,12,16	1126:8,14
59 1285:13,21	1328:18,18	1241:20	1224:11	1138:23
1286:19	1328:20	7/31/12	1225:4,23	1217:7
1287:1	1330:1	1332:12	1226:12	1224:5
1288:7,11	1334:24,25	70 1115:19	1227:14	1225:6
1292:18,20	1371:20	70s 1123:3	1231:9	1226:18
1371:11	63-64 1328:15	71.5 1330:17	1232:9	1227:21
59-61 1285:15	63017 1347:12	74 1219:11	1236:10	1250:5
	63103 1085:6	750 1161:12	1260:24	1260:24
	63119 1085:21	751-4857	1266:23	1262:6,7
6	64 1328:18	1086:7	1268:22,24	1268:22,23
6 1098:23	1329:24,25		1269:4	
1180:10	1330:22	8	1271:13	
1186:6	1334:23	8 1188:17	86 1219:11	
1255:18				