

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4 TRANSCRIPT OF PROCEEDINGS

5
6 Hearing

7
8 March 27, 2007
Jefferson City, Missouri
9 Volume 34

10 In the Matter of Union Electric)
11 Company d/b/a AmerenUE for)
Authority to File Tariffs)
12 Increasing Rates for Electric)Case No. ER-2007-0002
Service Provided to Customers)
13 In the Company's Missouri)
Service Area,)

14
15 JUDGE MORRIS L. WOODRUFF, Presiding
16 DEPUTY CHIEF REGULATORY LAW JUDGE

17
18 JEFF DAVIS, Chairman,
STEVEN GAW, Commissioner,
19 ROBERT CLAYTON, Commissioner,
CONNIE MURRAY, Commissioner
20 LINWARD "LIN" APPLING, Commissioner

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

2 JUDGE WOODRUFF: Come to order, please. Welcome
3 back this morning for the hearing in ER-2007-0002 with the
4 AmerenUE electric rate case.

5 We're ready to begin this morning on
6 depreciation issues. and I assume we'll start with
7 opening statements.

8 Before we get started, are there any other
9 housekeeping matters anyone wants to bring up?

10 MR. BYRNE: Yes, your Honor. I -- one
11 housekeeping matter is the -- the -- one of the Staff
12 lawyers called last night and said they had questions for
13 an additional witness that was not on the list, Mark Birk,
14 who filed some testimony about -- well, related to
15 depreciation.

16 So we called Mr. Birk and got him here this
17 morning. And I guess I'm hoping -- the -- the first issue
18 -- the first depreciation issue is that rule, and I guess
19 that should go first. But then when we get into the more
20 general depreciation, I'm hoping make we could take
21 Mr. Birk first since he has other things to do and he
22 wasn't planning on being here today.

23 JUDGE WOODRUFF: Okay.

24 MR. BYRNE: I think the Staff attorney said that
25 he didn't have very much cross for him, so it shouldn't

1 take very long.

2 JUDGE WOODRUFF: I certainly don't have any
3 problem with doing it that way.

4 MR. BYRNE: Okay.

5 JUDGE WOODRUFF: I also noticed that an
6 additional stipulation and agreement was filed yesterday
7 as anticipated, the secondary tier, I think it's been
8 called.

9 And I also noticed that Ameren filed a -- I
10 believe it's termed limited objection to the class cost of
11 service stipulation agreement. I want to ask the parties
12 their view of the effect of that. Does anyone believe we
13 need to hear from all the witnesses in the class cost of
14 service case?

15 MR. CONRAD: I don't know.

16 MR. MILLS: Your Honor, I -- I haven't seen what
17 they filed, so I really can't speak to it. I'm sorry.

18 MR. CONRAD: I haven't studied it. I saw -- I
19 saw the EFIS notice when it came through last night. Your
20 Honor, with respect to the, I believe it's been referred
21 to as the Tier 2 stipulation, I can indicate for your
22 information and for the record that while Noranda did not
23 sign that, we will not oppose that and did not request a
24 hearing.

25 JUDGE WOODRUFF: okay.

1 MR. CONRAD: The other thing I wanted to make you
2 aware of since the much-wanted, but occasionally maligned,
3 EFIS system comes to the floor, in the course of trying to
4 make calls yesterday afternoon to three or four parties
5 who hadn't been present in the hearing to obtain their
6 acquiescence to waivers on the Noranda witnesses that we
7 had discussed yesterday, I had occasion to download from
8 the EFIS site the service list, complete with telephone
9 numbers and e-mail.

10 And I noticed -- I'm not sure who enters this,
11 but at least in the cases of those that I called, not a
12 single telephone number was correct. That caused me to
13 look at things -- telephone numbers that I knew, such as
14 mine. And it is not correct.

15 JUDGE WOODRUFF: okay.

16 MR. CONRAD: So I thought perhaps your Honor
17 might want to be aware of that and whether that is -- I'm
18 certainly not going to take the time to go through and
19 check every one of these telephone numbers or fax numbers
20 or whatever. But if that's in the public record, I'm not
21 -- it does kind of look like something has glitched in --
22 in the system because of -- I checked my record and the
23 information on it was correct, so when it gets somehow
24 transferred in and associated with the -- with the record.

25 Now, perhaps you could bring that to the

1 Commission Secretary's attention or whomever is
2 responsible for that. But --

3 JUDGE WOODRUFF: I will do that. And I'm not
4 sure what happened. I'm not sure how it all works either.

5 MR. CONRAD: I'm not pointing the finger. I'm
6 just making, hopefully, the Commission aware of that
7 because I suspect that if it's the case on this case, it
8 is probably the case on a number of other cases.

9 JUDGE WOODRUFF: That's certainly possible. All
10 right. One other thing I wanted to mention before we get
11 started, I've been noticing some interference, electronic
12 interference, again this morning.

13 And since we do have a lot of new people in the
14 room today, I'll just remind you that wireless devices,
15 cell phones, black berries, whatever, need to be turned
16 off. Not just on vibrate. They need to be turned off
17 because they send out signals that interfere with the
18 sound system as well as the recording system for the --
19 the video and audio. So please turn those off.

20 Mr. Dottheim?

21 MR. DOTTHEIM: Yes. Judge, was it your
22 intention to also take up tomorrow afternoon the -- the
23 stipulation and agreement, the Tier 2 or the --

24 JUDGE WOODRUFF: Yes. Thank -- thank you for
25 reminding me. An order was issued yesterday afternoon and

1 also scheduling an on-the-record presentation concerning
2 all the stipulations that have been filed in this case.
3 That would include the stipulation that was filed
4 yesterday. And then that -- of course, that is just an
5 informational process. The Commission is not going to
6 rule on it tomorrow.

7 MR. DOTTHEIM: Judge, I think it's also been
8 mentioned that there are definitely three rate design
9 issues that have been resolved. I think we may have
10 identified a fourth, which I'm going to attempt to verify,
11 which is the Missouri Association for Social Welfare
12 proposed an essential services rate proposal.

13 JUDGE WOODRUFF: Yes.

14 MR. DOTTHEIM: And I'm going to be contacting
15 counsel for the MASW to verify that. So there -- there
16 may be four as opposed to three remaining rate design
17 issues.

18 Of course, in the -- it's still not absolute
19 certainty as to where we are on -- on the other rate
20 design matters.

21 JUDGE WOODRUFF: Right. And we'll bring that up
22 again later in the process after everyone's had a chance
23 to look at it.

24 MR. CONRAD: Judge, I don't -- I don't want to
25 delay with you getting started, but I think Counsel -- and

1 I may have misheard you. But he was saying that three and
2 possibly four rate design issues had been resolved. I
3 think you may intend -- may have intended to say not
4 resolved. And I -- I did not hear it that way, so --

5 MR. DOTTHEIM: Thank you, Mr. Conrad. if I said
6 resolved, I meant to say not resolved, that they're
7 still --

8 MR. CONRAD: And the other -- you mentioned the
9 MASW one. And the other three are, as I understand, the
10 AARP's proposal with respect to a \$25 -- I'm not sure
11 what --

12 MR. DOTTHEIM: Safety proposal.

13 MR. CONRAD: The company's proposal as to
14 economic development rate, whether that's new or changed.
15 And the third is the interruptible demand response or IDR
16 rate.

17 MR. DOTTHEIM: Yes.

18 MR. CONRAD: And it's also my understanding that
19 the class cost of service package that has been laid
20 before the Commission and to which the company is
21 presently -- ambiguous use has been filed, in no way would
22 be impacted by any of those three.

23 I guess I'd like to -- in furtherance of the
24 Judge's question, I'd like to understand for the company
25 how they think those three or four remaining issues would

1 impact class cost of service, and so I know what issues I
2 need to bring.

3 JUDGE WOODRUFF: Mr. Byrne, you can respond if
4 you can.

5 MR. BYRNE: Sure. I'll try. There are three
6 or four issues. I guess there's four issues left over.
7 Well, let's just pick one.

8 Let's say the rate that -- that's low income
9 rate that's being proposed. Now, if the Commission
10 approves that low income rate, there will be costs that
11 are not being recovered because that will be a lower rate
12 than is reflected in the class cost of service study for
13 that group, and those costs will have to be recovered from
14 somewhere.

15 And -- and I think part of the Commission's
16 decision in approving that rate has to be where the costs
17 that are caused by having that lower rate will come from.
18 And I think the Commission might decide to -- to collect
19 those costs from different -- different classes.

20 And so the extent that they -- for example, to
21 the extent that they decided that the residential class
22 should pay for the cost of that low income rate, that
23 would disrupt the -- the allocations that are reflected in
24 the stipulation.

25 The Same with the \$25 credit that Mr. Coffman is

1 proposing. If we give a \$25 credit to customers when they
2 are out for more than 48 hours, we're going to have to
3 collect that money from somewhere. And the Commission
4 might decide -- in resolving that issue, they might decide
5 that the residential class should pay for the cost of that
6 program.

7 And if they could -- maybe they'll decide all
8 the classes should pay, and then it would just flow
9 through the settlement, and that would be fine, too.

10 The problem is when you have a partial
11 settlement of the rate design issues and you don't resolve
12 all the issues, there's still that point that the
13 Commission will decide that to recover the cost of the
14 programs, they're going to disrupt the rate design. And
15 that's all I'm saying.

16 JUDGE WOODRUFF: Mr. Coffman?

17 MR. COFFMAN: Yes, sir. A few points of
18 clarification. No. 1, with regard to the \$25 credit, it
19 is a proposal. My other client is Consumers Council of
20 Missouri supported AARP. AARP is supported. And I
21 understand the confusion.

22 The -- but I just feel a need to emphasize yet
23 again that at every point where this proposal has been
24 clarified, explained or made, it's been made very clear
25 that this is a proposal that would not require any other

1 customer class to pay.

2 In other words, it could be recovered from
3 shareholders. That is the proposal. And I know AmerenUE
4 does not like that. They don't want to do that. And
5 Mr. Rainwater has suggested perhaps there's something that
6 could be socialized. That's not the proposal of my
7 clients. That's perhaps an AmerenUE proposal.

8 But that's -- that is absolutely inconsistent
9 with -- we would not be interested at all with a \$25
10 credit that was recovered from other ratepayers. And
11 that's -- just -- you know, and I understand that the
12 Commission might take a proposal and somehow twist it or
13 modify it and create something else that's not the
14 proposal. But the issue proposed by Consumers Council of
15 Missouri is a program that would be funded from
16 shareholder below the line funds. Well, that --

17 MR. BYRNE: It's a little difficult to know
18 exactly what the program is since no prefilled testimony
19 was filed discussing the program, you know.

20 MR. COFFMAN: There was -- there was testimony,
21 extensive testimony, that -- you had the opportunity to
22 cross-examine.

23 JUDGE WOODRUFF: Mr. Coffman -- Mr. Coffman,
24 please. We don't need as to have cross discussion between
25 counsel here. You can do that outside the hearing room.

1 MR. COFFMAN: Okay.

2 JUDGE WOODRUFF: Mr. Mills?

3 MR. MILLS: If I may address this from a
4 procedural standpoint, I think -- I haven't seen what you
5 have filed. But having heard Mr. Byrne's explanation, I
6 don't think what he's talking about is inconsistent with
7 the stipulation and agreement that's been filed.

8 The Commission would implement all of the -- all
9 of the rate design changes as they're laid out in that
10 stipulation and agreement, including intra and inter cost
11 shifts.

12 And then if there are additional issues that do
13 something different, then that's outside the -- the realm
14 of the stipulation and agreement. For example, to use
15 Mr. Byrne's example of the MASW proposal, if the
16 Commission on the topic of the stipulation and agreement
17 decides to do something else such as implement the -- the
18 MASW proposal and -- and that requires a revenue change,
19 that requires a revenue change. That doesn't change or
20 impact the stipulation and agreement at all.

21 It's a whole separate issue, and -- and I -- I
22 don't understand the inconsistency that -- that UE is
23 attempting to draw there.

24 JUDGE WOODRUFF: All right. We don't need to
25 resolve this at the moment, but we will need to resolve it

1 fairly quickly as to decide whether a number -- whether
2 we're going to hear two or three more days of testimony.
3 So -- all right. Well, we'll take that up again later.
4 At the moment, I believe we're ready to go to the opening
5 statements on the depreciation issues.

6 And I assume there are several -- there's
7 actually, I believe, depreciation and other depreciation
8 issues. I assume the openings will be on all the
9 depreciation issues. All right. Beginning with AmerenUE.

10 OPENING STATEMENT

11 MR. BYRNE:

12 MR. BYRNE: May it please the Commission and
13 Judge Woodruff.

14 We are here once again to discuss everyone's
15 favorite issue, depreciation. There are several distinct
16 depreciation issues in this case. One of the more
17 important issues, in the company's opinion, is the Staff's
18 unwillingness to apply the standard life span method in
19 estimating the average service lives of components of
20 AmerenUE's fossil plants.

21 The life span method simply recognizes the
22 undeniable fact that, at some point, fossil plants must be
23 retired. And at that point, all of the components of the
24 plant will be retired. This is the mainstream approach to
25 depreciation of power plants and their components that is

1 recognized by both the NARUC depreciation manual and Wolfe
2 & Fitch, a well-respected text on depreciation.

3 Staff argues that since AmerenUE does not know
4 with 100 percent certainty exactly when each fossil plant
5 will be retired, for purposes of depreciation, we should
6 assume the retirement will never occur or that each plant
7 has an infinite life span.

8 As the evidence will show, this assumption of an
9 infinite life span for the plant produces some absurd
10 results and lowers depreciation rates to absurd levels.

11 A second major depreciation issue in this case
12 is the disagreement over the life span of the Callaway
13 plant. The company believes that the appropriate life
14 span for the Callaway plant is the life of its existing
15 operating license issued by the Nuclear Regulatory
16 Commission, which expires in 2024.

17 Some of the parties argue the Commission should
18 assume that the Callaway license life will be extended
19 since many other plants have applied for 20-year
20 extensions of their operating license.

21 The testimony of company witness Naslund it is
22 far too early to seek a license extension, and there are a
23 number of uncertainties about whether AmerenUE will seek
24 an extension, and if it seeks an extension, whether it
25 will be granted by the NRC.

1 These uncertainties include whether the
2 components of the plant can last an additional 20 years,
3 whether the water level in the Missouri River will be
4 adequate to operate the plant over that period and whether
5 the regulatory and technological changes will make a
6 license extension impractical or impossible.

7 Because of these same uncertainties, the
8 Commission's rules on decommissioning funding requires
9 decommissioning costs to be collected over the plant's
10 current license life rather than any assumed extension of
11 that license life.

12 An important consideration in addressing the
13 license extension issue is if the Commission assumes a
14 license extension and then none is granted, the
15 undepreciated balance at the end of the plant's life will
16 pose a substantial problem. And customers who did not
17 benefit from the Callaway plant will unfairly be required
18 to pay these costs.

19 On the other hand, if the Commission assumes no
20 license extension and a license extension becomes more
21 certain in the future, depreciation rates can easily be
22 modified to reflect the extension with much less impact on
23 customers.

24 For these reasons, the Commission should use the
25 existing NRC operating license life in setting

1 depreciation rates for the Callaway plant. A third
2 depreciation issue involves the application of a
3 commission rule, which requires utilities to credit
4 customers with 3 percent of their accumulated depreciation
5 reserves instead of deducting the reserves from the
6 original cost rate base.

7 Although company witness Gary Weiss has
8 allocated the impact of this rule on our rate case, we are
9 not seeking any incremental rate increase to reflect the
10 application of this rule.

11 We are merely citing the rule as additional
12 support for the rate increase we have requested. We
13 recognize that neither the Commission, nor the utilities
14 have complied with the rule in recent years. yet the
15 company believes it is appropriate to cite this rule as
16 additional support for its filing so long as the rule
17 remains on the books.

18 Most other depreciation issues that initially
19 developed between the company and the Staff have been
20 settled with a non-unanimous stipulation signed by the
21 company and Staff.

22 We believe that the provisions of the
23 non-unanimous stipulation are reasonable, and they are
24 supported by testimony filed by both the company and Staff
25 and cited in the stipulation.

1 The Office of Public Counsel and the Missouri
2 Industrial Energy Consumers oppose some of the terms of
3 the stipulation. Much of their opposition deals with the
4 treatment of net salvage cost on mass property accounts,
5 which this Commission dealt with exhaustively in the
6 Laclede Gas Company case of several years ago.

7 Mr. Selecky from MIEC essentially argues that
8 the Commission should reverse the Laclede decision and
9 treat net salvage on a cash basis as an expense rather
10 than through accrual accounting as is done by virtual all
11 the depreciation experts and State Commissions.

12 As a fall-back position, Mr. Selecky attacks the
13 standard calculation of salvage, arguing that historic
14 levels of inflation have to be stripped from the
15 calculation and replaced with his estimates of what future
16 inflation might be.

17 Mr. Dunkel also -- who is testifying for the
18 Office of the Public Counsel also supports this approach.
19 Aside from the fact that these witnesses cannot predict
20 future inflation, their calculations are -- are flawed as
21 explained by company witness of Staff.

22 As a consequence, we will believe that the
23 Commission should accept the stipulation between the Staff
24 and the company and the remaining depreciation issues in
25 favor of the positions advocated by company witnesses,

1 Bill Stout and John Wiedmayer. Thank you.

2 JUDGE WOODRUFF: Thank you. Opening from Staff?

3 MR. REED: Judge, with your permission and the

4 permission of the parties here, we'd like to split the

5 opening. I have the issues under Rule 10.020.

6 Mr. Williams would be taking the balance of the

7 depreciation issues, I believe.

8 JUDGE WOODRUFF: That's fine.

9 MR. REED: Thank you.

10 OPENING STATEMENT

11 BY MR. REED:

12 MR. REED: Rule 10.020 is clear and unambiguous.

13 It requires no statutory construction or interpretation.

14 If this rule is applied as written, income is imputed to

15 AmerenUE at 3 percent of the depreciation reserve funds to

16 reduce its revenue requirement by \$135 million.

17 Since the clear meaning of the rule requires

18 that AmerenUE lose \$135 million, do they really want the

19 rule applied?

20 Mr. Weiss testifies that the rule must be

21 followed. That should be the end of the issue. Ameren

22 wants the rule applied. The rule is clear. Ameren loses

23 \$135 million.

24 But then Mr. Weiss says in his testimony,

25 AmerenUE does not really want the rates set in compliance

1 with the rule. So does he want the rule applied? Does he
2 want a waiver? Or does he want a selective or quasi
3 application based on AmerenUE's own interpretation of the
4 rule?

5 Mr. Weiss will have to sort that out for us
6 today. The best notion I have is that AmerenUE wants the
7 Commission to use an undepreciated rate base to calculate
8 the return on -- on that rate base and force the customers
9 to pay again for the depreciation reserve.

10 I've prepared a chart that sets forth based upon
11 Mr. Weiss' testimony the differences between the
12 traditional rate-making procedure and AmerenUE's
13 interpretation of Rule 10.020.

14 On the left side of this chart, you can see
15 those plants, we would subject depreciation reserve from
16 that amount. We would take the rate of return times the
17 net plant and come up with a rate of return on rate base.
18 That's the traditional scheme. That's the method --
19 methodology that the Commission has -- has used to set
20 just and reasonable rates for many years.

21 On the right-hand side of this chart, you can
22 see AmerenUE's interpretation of Rule 10.020, gross plant
23 times the rate of return. Now, these are all hypothetical
24 numbers. We come up with a return on an undepreciated
25 rate base. And you can see the numbers that AmerenUE's

1 come up with.

2 Then from that number, we subtract the 3 percent
3 times the depreciation reserve amount and come up with a
4 total return much, much higher than the traditional
5 rate-making scheme. It's no wonder AmerenUE wants to
6 interpret the rule this way.

7 The problem is Rule 10.020 deals only with the 3
8 percent times the depreciation reserve number, which is
9 right here. This rule has nothing to do with how rate
10 base is determined or whether an undepreciated rate base
11 is used according to the rule's clear meaning and clear
12 language.

13 When a rule or statute is clear, an outrageous
14 interpretation of the rule is not allowed under statutory
15 construction rules. This is fruitless and a waste of
16 time.

17 JUDGE WOODRUFF: Thank you. Mr. Williams, if
18 you want to come forward.

19 MR. WILLIAMS: Thank you, Judge.

20 OPENING STATEMENT

21 BY MR. WILLIAMS:

22 MR. WILLIAMS: May it please the Commission.
23 Setting aside the issue of net salvage, the purpose of
24 depreciation is to permit a company to get a return of its
25 investment over the life of the plant that is losing the

1 value it's using.

2 Staff is not proposing an infinite life for the
3 plant at the different sites such as Labadie or Callaway
4 or Meramac or Rush Island or Sioux. Staff is trying to
5 come up with the best estimate of the life of those
6 plants.

7 And in doing so, it has used survivor curves to
8 determine the average service life. That -- the use of
9 survivor curves uses -- includes a life for the plant
10 itself that would last as long as the longest lived
11 component of that plant.

12 Given the absence of any evidence to support a
13 particular reason that a generating plant will be taken
14 totally out of service, the Commission -- or the Staff
15 believes the best approach is to use the average service
16 life as determined by survivor curves.

17 As to the Callaway Nuclear Plant, again, the
18 purpose of depreciation is to recover the capital
19 investment over the life of the plant. The Staff believes
20 that the most probable life of the Callaway plant is 60
21 years, not 40 as determined by existing licensing.

22 And, similarly, for AmerenUE's hydro plant at
23 Osage, past experience has been that that plant has
24 continued to operate regardless of the length of its
25 licenses, and there's nothing under -- under current

1 circumstances that warrants believing that its continued
2 life will be limited by the exist -- the license that it
3 currently has. And in that case, again, Staff has used
4 the average service life for determining depreciation
5 rates.

6 As to other issues, it's the Staff's position
7 that the Commission should continue to reject, including
8 in depreciation rates, both terminal net salvage and
9 inflation costs relating to the future retirement of
10 AmerenUE's generating plant as it has done in the past.

11 Staff believes there is a difference between
12 actual book accumulated depreciation and the theoretical
13 reserve, but no adjustment should be made at this time to
14 recover that difference from ratepayers.

15 In testimony, Staff has taken the position that
16 the net salvage percentage to be used in the depreciation
17 rate calculation for assets in Account 322 is a negative
18 37 percent. However, in the non-unanimous stipulation and
19 agreement that Public Counsel has opposed, the Staff has
20 agreed to a net salvage percentage that has the impact of
21 increasing the depreciation rate calculated without
22 consideration of net salvage by two -- .02 percent.

23 As to the remaining depreciation issues, the
24 Staff has taken no position in this case.

25 JUDGE WOODRUFF: Thank you, sir.

1 MR. WILLIAMS: thank you.

2 JUDGE WOODRUFF: Opening for Public Counsel?

3 OPENING STATEMENT

4 BY MR. MILLS:

5 MR. MILLS: Good morning. May it please the
6 Commission. I'm going to be very brief this morning. I
7 am only going to address two issues, but they're perhaps
8 the two most contentious and biggest issues in the
9 depreciation era.

10 And like Yogi Bear says, It's de-ja-vu all over
11 again. I'm going to tell you that these issues are not
12 that complicated. They're really quite simple.

13 The Callaway life extension, the Commission's
14 decision in this case should be, Is it more likely than
15 not that the Callaway plant will be relicensed and its
16 life extended by 20 years? All the evidence points to
17 that fact.

18 All that AmerenUE can shows on its side is that
19 Well, gee, we haven't made that decision yet. Nobody from
20 AmerenUE has told you or will tell you that they're not
21 likely to make that decision in the next few years.
22 They've just said, We haven't made it yet.

23 There are some factors that are unknown. But
24 they don't say it's not likely they will make it. They
25 just say they haven't made that decision. This is like

1 going up to a stranger on the street with your eyes
2 scrunched closed and saying, Is the sky blue? And the guy
3 says, I don't know. I haven't looked today. Well, you
4 know the sky is blue. He knows the sky is blue. He just
5 hasn't looked at it yet. That's what AmerenUE is doing in
6 this case.

7 Now, with respect to the other issue, AmerenUE
8 takes the position that net salvage should be calculated
9 based on rates of inflation that have occurred in the
10 past, including past periods when rate of inflation were
11 rampaging in the double digits.

12 Nobody expects that in the near future or at any
13 time in the near future that we'll see those rates of
14 inflation again. But yet UE's calculation of net salvage
15 implicitly considers that future inflation will run at the
16 same -- the same rate that it has in the past.

17 Public Counsel witness Dunkel will show that the
18 likely future rate of inflation will be much, much lower
19 and will have a range of about two and a half percent.
20 And if you calculate net salvage based on what is expected
21 to happen in terms of inflation in the future, you get a
22 much lower number for net salvage. And the evidence will
23 show that he's correct on that issue. Thank you.

24 JUDGE WOODRUFF: Thank you, Mr. Mills. For the
25 State?

1 OPENING STATEMENT

2 BY MR. MICHEEL:

3 MR. MICHEEL: May it please the Commission. The
4 State has taken issue with respect to two of the
5 depreciation issues. The first issue relates to the Rule
6 4 CSR 240-10.020. And you heard both the Staff give a
7 pretty long opening about that. You heard Mr. Byrne's
8 opening.

9 I think the evidence is going to show and the
10 most telling part of the company's position on that issue
11 is we really don't want you to implement that and we've
12 both been wrong, and maybe in the future we'll do it
13 right.

14 I mean, you're going to hear testimony from
15 Mr. Brosch that the company's interpretation of that rule
16 is simply incorrect. And the evidence is going to be that
17 this Commission, in its long illustrious history, has
18 never, ever applied the rule in the way that AmerenUE is
19 suggesting.

20 And I think if AmerenUE was right, and we've
21 heard a whole lot about companies fiduciary duties in this
22 case to -- to get money for -- for the utility, that each
23 and every regulated utility covered by this rule would be
24 screaming and begging that that rule be implemented.

25 It's simply not the case. And, in fact,

1 AmerenUE in this very case is not requesting that the rule
2 be implemented as they say it should be.

3 With respect to the second issue, we also
4 provide the testimony of Mr. Brosch with respect to the
5 Callaway life extension. And I would just say that our
6 position on that is that the sky is blue. And this
7 Commission can clearly see that the sky is blue. And it's
8 time for UE to open their eyes.

9 With respect to the other depreciation issues,
10 we'll reserve the right, see how the evidence comes in and
11 take a position.

12 JUDGE WOODRUFF: Thank you. Next on the list is
13 DNR? MIEC?

14 OPENING STATEMENT

15 BY MS. VUYLSTEKE:

16 MS. VUYLSTEKE: May it please the Commission.
17 Like the Office of Public Counsel, the Missouri Industrial
18 Energy Consumers have objected to the non-unanimous
19 stipulation and agreement, and we do have some significant
20 issues with that non-unanimous stipulation.

21 And I simply want to highlight some of -- some
22 important aspects of Mr. Selecky's testimony. He's our
23 depreciation witness. I think the most important points
24 made by Mr. Selecky are, first of all, that net salvage
25 value used to develop scheme production depreciation rates

1 are unreasonably negative and produce high levels of
2 depreciation expense.

3 The Commission should only include in the
4 development of the scheme depreciation rates net salvage
5 values that reflect the impact of interim retirements.

6 Ameren indicated it has removed its request for
7 terminal net salvage. However, the net salvage ratios
8 contained in the depreciation stipulation are similar to
9 the levels that the company initially proposed in those
10 initial net salvage ratios included in the comments were
11 terminal net salvage.

12 We agree with other parties that the Commission
13 should reflect the Callaway life extension in depreciation
14 rates. And depending on the remaining life that the
15 company has utilized, this could reduce Ameren's proposed
16 depreciation expense for Callaway from anywhere from 25 to
17 \$40 million.

18 The Commission should determine in this case to
19 what extent future inflation should be included in the
20 development of net salvage ratios for transmission
21 distribution and the general rates.

22 And if the Commission determines that no future
23 inflation should be included in the development of
24 depreciation rates, the level of depreciation expense
25 would be reduced by approximately 37 million from the

1 level proposed by Ameren.

2 However, if the Commission determines that it is
3 appropriate to include future inflation in net salvage
4 values, then projections of future inflations should be
5 utilized. Replacing the projection with historic rates of
6 inflation in that salvage ratio would reduce the
7 depreciation expense by approximately 24 million. Thank
8 you.

9 JUDGE WOODRUFF: Thank you. Next on the list is
10 MEG and Commercial Group. Noranda? AARP?

11 OPENING STATEMENT

12 BY MR. COFFMAN:

13 MR. COFFMAN: My clients support the positions
14 of the Office of Public Counsel on these issues.

15 JUDGE WOODRUFF: MASW? Missouri Retailers?

16 MR. OVERFELT: No comment.

17 JUDGE WOODRUFF: All right. Does anyone else
18 wish to make an opening? Hearing none, then we'll be
19 ready to go ahead with the first witness. And the first
20 witness is Mr. Weiss on the depreciation rule.

21 MR. BYRNE: Call Mr. Weiss.

22 JUDGE WOODRUFF: Good morning, Mr. Weiss.

23 MR. WEISS: Good morning, sir.

24 JUDGE WOODRUFF: And you have testified earlier
25 also; is that correct?

1 MR. WEISS: Yes, I have.

2 JUDGE WOODRUFF: All right. It's been a long
3 hearing, but I thought I recognized you.

4 MR. WEISS: Late last Friday.

5 JUDGE WOODRUFF: Okay.

6 GARY WEISS,
7 being first duly sworn to testify the truth, the whole
8 truth, and nothing but the truth, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BYRNE:

11 Q Mr. Weiss, do you have any corrections to your
12 pre-filed testimony?

13 A Yes, I do. I have some minor corrections to
14 three of my four pieces of testimony. I will start with
15 my direct testimony that was dated July 5th. On page 15,
16 line 16, the number 5848677 needs three zeros added to the
17 end. And on page 19, line 10, maximum should say target.

18 Next is my supplement at direct testimony, which
19 was filed September 29th. On page 20, Line 4, it should
20 read adjustment eight is a net reduction.

21 MR. MILLS: Mr. Weiss, I'm sorry. could you
22 read that last one again? Page 20 --

23 A Page 20, line 4.

24 MR. MILLS: Line 4?

25 A It should read adjustment eight is a net

1 reduction.

2 MR. MILLS: Okay. Thank you.

3 A Then finally, the rebuttal testimony dated
4 January 31st, 1007. Page 4, line 10, it says, Payment is
5 accruing. It should say payment is occurring. That's all
6 the changes I have to my pre-filed testimony.

7 MR. BYRNE: Thank you. And I tender the witness
8 for cross-examination.

9 JUDGE WOODRUFF: All right. Thank you. Does
10 anybody wish to cross-examine Mr. Weiss? We'll -- the
11 State would go first.

12 MR. CARLSON: I'd like to get an exhibit marked.

13 JUDGE WOODRUFF: All right. You're up to 523.

14 CROSS-EXAMINATION

15 BY MR. CARLSON:

16 Q Ready to go, Mr. Weiss?

17 A Ready.

18 Q All right. In front of you, I just gave you
19 what's been marked as Exhibit 523; is that correct?

20 A That's correct.

21 Q Do you recognize that?

22 A Yes. This is my -- it is my response to Data
23 Request No. AG/UTI-058.

24 Q Okay. And you prepared that response, right?

25 A Yes, I did.

1 Q Great. Do you have a copy of your supplemental
2 direct testimony with you?

3 A I sure do.

4 Q Okay. And in that direct testimony, you set
5 forth the calculation under Regulation 4 CSR 240-10.020?

6 A That's correct.

7 Q And for the -- how about we just call that the
8 rule when we talk about this so we have don't have to --

9 A I agree a hundred percent with that decision.

10 Q Okay. Now, if you could, turn to page 30, line
11 3 of your supplemental direct. Are you there?

12 A I think I must have missed the line number.

13 Q Page 30, line 3. We're in your supplemental
14 direct as opposed to your direct.

15 A I am there.

16 Q Okay. Now I'm going to read that question, and
17 I want your yes or no answer. Is the company proposing to
18 implement rates that reflect compliance with this rule?

19 A My answer is no.

20 Q Okay. Now, are you aware of any Missouri
21 utility that has been awarded rate relief based upon a
22 calculation under this rule?

23 A Not within the last 40 years.

24 Q Okay. Go to Schedule 38 in your direct --
25 supplemental direct testimony. Are you there?

1 A I'm there.

2 Q Okay. Now, line 23 shows 374 million. That's
3 the company's original rate -- rate increase request,
4 correct, as of when this was filed?

5 A That's correct.

6 Q Okay. And line 24 of 638 million is what it
7 would be if you were to add in the calculation in the
8 rule, correct?

9 A That's correct.

10 Q Okay. Now, do you believe that AmerenUE has a
11 reasonable opportunity to earn a reasonable return on
12 investment capital only if this rule is implemented?

13 A No.

14 Q Okay. Now, has AmerenUE ever included in its
15 filing to this Commission a report or even just a line on
16 some schedule that covers the income from the investment
17 of monies and depreciated funds that's required in
18 paragraph 5 of the rule?

19 A A number of years ago. I think Mr. Schallenberg
20 attached to his testimony an exhibit showing that Ameren
21 -- or Union Electric Company had made those filings.

22 Q Has the company ever done that?

23 A You mean reflect --

24 Q Has the company ever filed as opposed to Staff?

25 A This is a copy of a company filing.

1 Q Okay. You said that was Mr. Schallenberg?

2 A Yes, sir.

3 Q Okay. Have you ever personally done that?

4 A No, I have not.

5 Q Okay. And do you have the data request in front
6 of you?

7 A Sure do.

8 Q Okay. And the question that's asked you is
9 similar to letter -- lower case e, but your response to
10 that was, No reports have ever been filed, correct?

11 A I have not filed any reports.

12 Q Okay. As a matter of fact, no reports exist,
13 right?

14 A There again, I -- there was some attached to Mr.
15 Schallenberg's testimony, so I would --

16 Q Didn't you state, No reports exist?

17 A At that point in time, I wasn't aware of that.

18 Q Okay. Did you or anyone at AmerenUE ever
19 conduct any formal analysis or studies on whether 3
20 percent depreciation reserves is reasonably and equitably
21 applicable to AmerenUE as provided in paragraph 4 of the
22 rule?

23 A I'm only applying the rule as we interpret it.
24 And that's what the rule says is 3 percent.

25 Q Okay. I -- we've covered that. Has AmerenUE

1 ever done any formal studies or analysis as to whether
2 this is reasonably and equitably applicable to AmerenUE as
3 stated in paragraph 4 of the rule?

4 A No, I have not.

5 Q Okay. Thank you. Now, in your supplemental
6 direct testimony, you assert that AmerenUE is legally
7 entitled to an additional 360 million beyond the revenue
8 requirement it's asking for, correct?

9 A Correct.

10 Q Now, if AmerenUE was legally entitled, wouldn't
11 it have a fiduciary responsibility to go seek that money
12 out?

13 A That's not my decision.

14 Q I know it's not your decision. But based on
15 your testimony, wouldn't AmerenUE have a fiduciary
16 responsibility to go seek that money actively?

17 A It's my testimony -- I was only asked to prepare
18 the calculation, and that's all I did was prepare the
19 calculation.

20 Q Well, you also said -- you said it was legally
21 entitled, right?

22 A Based on the rules, we would be entitled to that
23 amount of money.

24 Q Okay. Based on that, wouldn't it have a
25 fiduciary duty to go seek that money out?

1 A There are a lot of considerations into what you
2 file for in rate increases and what you seek. So I cannot
3 make a determination of that fact.

4 Q But you said they were legally entitled. You
5 said they're just going to not pursue revenue it's
6 entitled to?

7 A That's a legal decision that will be decided by
8 the Commission when they rule on this order.

9 Q Yes. But I'm asking your opinion.

10 A I -- I wasn't asked to give an opinion for this
11 filing. I was asked to do the calculation.

12 Q Okay. Let's go back to the calculation. Let's
13 say hypothetically the Commission accepts the State's
14 position and does not increase Ameren's rate. Is it your
15 position that Ameren should still receive a \$360 million
16 rate increase anyway?

17 A I guess I didn't follow your question.

18 Q Okay. Let's say the Commission accepts the
19 State's position and does not increase Ameren's rate based
20 upon the -- we'll call it the traditional calculations.
21 Is it your position that Ameren should still receive a
22 \$360 million increase anyway based on the rule?

23 A I would not say it's completely a \$360 million
24 rate increase. But I'm saying this supplies additional
25 support for what we have filed for.

1 Q Okay. Go to page 30, line 8 of your
2 supplemental direct. Now, could you read that sentence
3 for me that says -- the last sentence in -- starting on
4 line 8 started with, In other words?

5 A In other words, if the Commission were to find
6 the adjustments to AmerenUE's revenue requirement are
7 warranted, the company would still be entitled to the full
8 amount of the revenue requirement it is seeking due to the
9 application of this rule.

10 Q Right. And that full amount of the revenue
11 requirement, as you say on line 7, is 360 million,
12 correct?

13 A That's correct.

14 Q Okay. So what you're saying is that even if
15 adjustments to Ameren's request are not warranted, Ameren
16 still gets the full amount it's seeking, right, under this
17 rule?

18 A I'm saying the full amount could be justified
19 under this rule.

20 Q Can you repeat that for me?

21 A The full amount could be justified by applying
22 this rule.

23 Q Okay. Regardless of what else happens with any
24 other consideration to revenue requirement?

25 A That's possible.

1 Q Okay. Now, I realize you haven't been involved
2 in a lot of this, but you're aware that UE has agreed to
3 settle some issues in this case, correct?

4 A That's correct.

5 Q And at times, they have taken the State or the
6 Staff or Public Counsel's position and lowered their
7 request; is that correct?

8 A That is correct.

9 Q Okay. Then I'm not sure how much you've been
10 involved in negotiations on that, but it's fair to assume
11 that the company -- you think the company has negotiated
12 in good faith, right?

13 A Most definitely.

14 Q Okay. But then my question is, does UE intend
15 to violate the settlement agreements by coming back to the
16 application of this rule and saying, Well, you know,
17 because of this rule, what we agreed to doesn't matter, we
18 still get the increase we're asking for?

19 A No. I think the fact that we agree to changes
20 and reductions, then our -- our request now is not 360.
21 It's something, you know, less than that.

22 Q Aren't you just coming in the back door with
23 this rule and saying, Oh, we get it anyway regardless of
24 all these negotiations we've had?

25 A Our -- what we would be entitled to was less

1 than 360 because we've agreed the 360 wasn't -- we've
2 agreed to take some different positions on that 360 and
3 reduced the amount we're asking for now.

4 Q Correct. But wouldn't the application of this
5 regulation negate all that and give you an additional 360
6 million like you said on line 7?

7 A All I'm saying is that -- that this rule gives
8 support -- additional support for the amount of money
9 we've asked for. I'm not saying it should give us a full
10 600 or 300 or whatever. I'm just saying it gives
11 additional support for what we just filed.

12 Q No. I think you're kind of -- you're not
13 quoting your testimony correctly. It says, In addition to
14 the revenue requirement, doesn't it, looking at my --

15 A I'm looking at line 7 which says, The
16 application of the rule provides additional support.

17 Q And then I'll read the rest for you. An
18 additional revenue requirement the company is requesting.
19 Isn't on line -- Schedule 38, you say it's three -- I'm
20 sorry -- 638 million, which certainly seems like an
21 additional amount to me.

22 A No. I -- think our testimony is that this
23 application of the rule supplies additional support for
24 the amount of money we asked for.

25 MR. CARLSON: Okay. No further questions.

1 JUDGE WOODRUFF: All right. Did Public Counsel
2 wish to cross?

3 MR. MILLS: I have no questions on this issue.

4 JUDGE WOODRUFF: Okay. For the State?

5 MR. REED: Staff?

6 JUDGE WOODRUFF: I'm sorry. Staff.

7 MR. REED: Can I have an exhibit marked?

8 JUDGE WOODRUFF: You certainly may. Staff is up
9 to 271.

10 MR. CARLSON: Excuse me, Judge. I forgot to
11 offer Exhibit 523 into evidence.

12 JUDGE WOODRUFF: All right. Let's go back to
13 Exhibit 523. 523 has been offered into evidence. Are
14 there any objections to its receipt?

15 MR. BYRNE: No objection.

16 JUDGE WOODRUFF: It will be received into
17 evidence.

18 (Exhibit No. 523 was offered and admitted into
19 evidence.)

20 MR. BYRNE: Thank you.

21 MR. REED: I'm sorry, Judge. What was the
22 number on this?

23 JUDGE WOODRUFF: 271.

24 CROSS-EXAMINATION

25 BY MR. REED:

1 Q Mr. Weiss, my name is Steve Reed. I'm an
2 attorney with General Counsel's office here representing
3 the Staff. I don't believe we've met, but good morning.

4 A Good morning.

5 Q Mr. Weiss, my cross will be a little bit briefer
6 in light of the State's -- State attorney's questions.

7 The way AmerenUE comes up with this additional
8 \$264 million in revenue is by utilizing an undepreciated
9 rate base; isn't that correct?

10 A That is correct.

11 Q In other words, you calculated return using the
12 total original cost rate base, correct? Did you
13 understand my question?

14 A I -- I understand what you're saying, but I
15 don't understand how it applies to the rule. The rule
16 would take the undepreciated rate base and apply the
17 return to it, so -- or the 3 percent to it, so --

18 Q The undepreciated rate base?

19 A Right.

20 Q Okay. According to your interpretation of the
21 rule, you would use an undepreciated rate base?

22 A That's correct.

23 Q Now, traditional rate-making would involve
24 subtracting the depreciation reserve from the total
25 original cost rate base, correct?

1 A Correct.

2 Q I'm going to hand you what's been marked as
3 Exhibit No. 271, Mr. Weiss. Your testimony indicates that
4 you are familiar with this rule --

5 A That's correct.

6 Q -- correct? The rule that you have before you,
7 Exhibit 271, is 4 CSR 240-10.020, correct?

8 A Correct.

9 Q Let's look at the rule, Mr. Weiss. In
10 subsection 1 there, I want you to point out for me the
11 provision that tells us how rate base is determined.

12 A That wasn't the source of my information.

13 Q I'll -- go back to 271, please. I asked you a
14 specific question. In subsection 1, point to the
15 provisions in subsection 1 that deal with the
16 determination of and how rate base is calculated.

17 A It is not in there.

18 Q All right. How about subsection 2?

19 A No.

20 Q Subsection 3?

21 A No.

22 Q Four?

23 A No.

24 Q Five?

25 A No.

1 Q Six?

2 A No.

3 Q Subsection 5 does indicate that utilities shall
4 prepare annual reports reflecting income from the
5 investment of monies in depreciation funds, does it not?

6 A That is correct.

7 Q And I think in previous testimony this morning,
8 you have testified that AmerenUE has not prepared its
9 annual reports in compliance with this rule?

10 A Not since I've been affiliated with the Union
11 Electric Company since the mid '70s.

12 Q AmerenUE's position is that this rule before
13 you, 10.020, should be used as a fill-in or gap filler to
14 supplement revenue that might otherwise be adjusted away,
15 correct?

16 A I think our position is it supplies additional
17 support for the amount of money we requested.

18 Q I want you to take another look at the rule in
19 front of you and point out any provision in that rule that
20 provides that the rule can provide additional revenue or
21 additional support for Ameren's interpretation.

22 A I think the rule is just what the -- what the
23 rule applies to. It doesn't say what it can be used for.

24 Q It doesn't say anything in there about balancing
25 out adjustments or providing additional revenue when

1 applied?

2 A No, it doesn't.

3 Q The plain language of this rule, Mr. Weiss,
4 provides for a reduction in AmerenUE's revenue
5 requirement?

6 A I do not agree with that.

7 Q You've read the rule? Yes?

8 A I've also read the background material that goes
9 with the rule that does explain what the Commission was
10 thinking when it issued the rule.

11 Q You're familiar with the rule. You've read it.
12 You've testified about it. But there's no provision in
13 this rule for adding additional revenues, correct?

14 A The language -- the language of the rule does
15 not include that. Yes.

16 Q Subsection 1 of this rule says that income shall
17 be imputed. And subsection 2 says that we impute that
18 income at 3 percent of the depreciation reserves, correct?

19 A That's correct.

20 Q Depreciation reserves are \$4.5 billion. Three
21 percent of that is \$135 million, correct?

22 A Correct.

23 Q So the plain language of the rule provides that
24 AmerenUE's revenue requirement shall be reduced by
25 \$135 million?

1 A It does not say that.

2 Q Does Ameren want the Commission to apply the
3 rule or not apply the rule or apply the rule only as
4 Ameren interprets it?

5 A Our interpretation is based on Case No. 10723,
6 which was the genesis behind this rule. And in the
7 Commission's decision, they say, It is obvious, however,
8 that if a utility is allowable --

9 Q Well, I don't want you to quote from the case.

10 A It says right there and backs up completely what
11 I've done. I calculated my amount directly based on that
12 language.

13 Q Based on a case that underlies the rule?

14 A That's correct.

15 Q But that case -- that case is not in the rule,
16 is it?

17 A It gave rise to the rule, so it gives the
18 background of the rule and what the Commissioners were
19 thinking when they put forth the rule.

20 Q Now, this -- this testimony, this issue, was
21 your idea, Mr. Weiss?

22 A No, it was not.

23 Q Oh, it was someone else's?

24 A My legal counsel.

25 Q Mr. Byrne?

1 A Legal counsel.

2 Q Did you write the testimony?

3 A Yes, I did.

4 Q You indicated in your testimony that the

5 Commission must follow this rule, did you not?

6 A Yes, I did.

7 Q In your testimony, AmerenUE is not seeking
8 modification of this 3 percent imputation, am I right?

9 A That's correct.

10 Q In other words, you're not arguing that the rule
11 is not fairly and equitably applicable, are you?

12 A I didn't follow that question.

13 Q If you look at subsection 4 of the rule, which
14 you've testified that you're familiar with -- it says the
15 rate of 3 percent shall be applied.

16 And then halfway through that section,
17 Modification of the rate may be made upon the Commission's
18 motion or upon proper showing by a utility that the rate
19 is not reasonably and equitably applicable to it.

20 So are you requesting here today that the rule
21 be applied or that the Commission determine that the rule
22 should not be considered fairly or, rather, reasonably or
23 equitably applied to it? Do we apply the rule or not, in
24 other words?

25 A We -- we are proposing to apply the rule and

1 that the 3 percent is appropriate.

2 Q And the plain language of the rule means
3 AmerenUE loses \$135 million in revenues?

4 A There again, this is my interpretation, and we
5 interpret the rule completely differently.

6 MR. REED: That's all.

7 JUDGE WOODRUFF: Okay. Thank you. I believe
8 that completes cross-examination, so we'll come up for
9 questions from the Bench. Commissioner Murray, do you
10 have any questions?

11 COMMISSIONER MURRAY: I'll pass at this time.

12 JUDGE WOODRUFF: Commissioner Gaw?

13 COMMISSIONER GAW: Does someone else have some
14 that's ready to go?

15 JUDGE WOODRUFF: Commissioner Appling or
16 Chairman Davis?

17 CHAIRMAN DAVIS: I don't think I have any.

18 JUDGE WOODRUFF: All right.

19 COMMISSIONER GAW: Well, all right.

20 CROSS-EXAMINATION

21 BY COMMISSIONER GAW:

22 Q Good morning, Mr. Weiss.

23 A Good morning, Commissioner.

24 Q Do you -- you cite this -- this case that you're
25 talking about in your testimony somewhere?

1 A Case No. 10723.

2 Q When was that case decided?

3 A It was effective January 31st, 1946.

4 Q Okay. And what's the -- what's the cite for

5 that case again?

6 A Well, the actual order was attached to

7 Mr. Schallenberg's testimony, so --

8 Q It's a Commission case, not a Court of Appeals

9 case?

10 A No. It's a Commission case.

11 Q Okay. And the rule that -- that you've been

12 referring to, when was it adopted?

13 A Well, the actual rule came out, this particular

14 order, back in 1946.

15 Q The rule came out of the order? In other words,

16 it -- is the copy of -- of the rule that we -- you were

17 handed just a little bit ago that's Exhibit 271, that

18 didn't come out of an order, so is that -- is that a

19 different -- is that a different rule or the same rule

20 that you're referring to?

21 A I -- you know, this was the original order that

22 gave rise to the rule. But I think the rule was reissued

23 I think, according to Mr. Schallenberg's testimony, back

24 in 1975.

25 Q Is the language in the rule that you're -- that

1 you're referring to that was issued in 1975 this 4 CSR
2 240-10.020, is the language in that rule exactly the same
3 as what it was in the case that you referred to? And if
4 you don't know, that's fine.

5 A I really haven't compared them, Commissioner.

6 Q Okay.

7 MR. REED: May I interject?

8 COMMISSIONER GAW: Sure.

9 MR. REED: The ordered paragraphs of the case
10 are exactly what the rule is. So the ordered paragraphs
11 became the rule.

12 COMMISSIONER GAW: Thank -- thank you, Counsel.

13 Q (By Commissioner Gaw) All right. Now, in
14 regard to this provision, you were asked several questions
15 about whether you -- you know of any -- at least I -- as I
16 understood it, whether you know of any cases where the
17 rule has been imposed. Did you answer the question no,
18 that you didn't, or that you weren't sure? Can you tell
19 me?

20 A Well, I did have one case that was the Case No.
21 11822 back in the 1950s.

22 Q Okay. And what's the name of that case?

23 A It was in the matter of the application of the
24 Central Missouri Telephone Company.

25 Q Okay. Anything else? Any other case?

1 A No, sir.

2 Q Okay. And what is your opinion as to -- as to
3 your interpretation as far as this is concerned? What is
4 -- what's your -- what's your bottom line about what this
5 does as far as your revenue requirement?

6 A Well, if you applied the rule as we interpret
7 it, it would lead to a much higher rate increase than we
8 have requested.

9 Q What is that number?

10 A Based on my Schedule GSW-38, that number would
11 be \$638,896. I mean, 630,896,000.

12 Q So Ameren is maintaining that it deserves
13 \$638,896,000 additional revenue from what it is currently
14 authorized to receive?

15 A No. We're saying if you apply the rule, that's
16 what the calculation would show. We're just saying this
17 supplies additional support for the \$360 million rate
18 increase we did file.

19 Q Well, I'm confused here. You're suggesting to
20 me that Ameren believes that its interpretation of the
21 rules is correct, that your interpretation is correct; is
22 that true?

23 A Yes, Commissioner.

24 Q Then you believe the rule supports you receiving
25 an additional \$638,896,000 in revenue over and above what

1 you're currently authorized to receive?

2 A That has not been our position. We have not
3 requested that additional amount of money.

4 Q Well, you either believe in your interpretation
5 or you don't. I'm asking whether or not you believe your
6 interpretation of the rule authorizes you to receive that
7 additional revenue, \$638,896,000?

8 A I think that's a legal -- legal decision and
9 will have to be decided by the Commission.

10 Q Well, so you don't necessarily agree with your
11 position or your interpretation of the rule, then?

12 A I was requested to provide the calculation as --
13 as a rule, dictated, and that's what I did.

14 Q So you're not actually giving us testimony as to
15 your belief of the interpretation of the rule, then,
16 correct?

17 A That's correct.

18 COMMISSIONER GAW: That's all I have. Thanks.

19 JUDGE WOODRUFF: Commissioner Appling?

20 CROSS-EXAMINATION

21 BY COMMISSIONER APPLING:

22 Q I feel real good this morning. How are you,
23 Mr. Weiss?

24 A I was doing pretty well this morning.

25 Q You were, huh?

1 A Yeah. Earlier, I was, yes.

2 Q Okay. Good. Well, I was intrigued when I heard
3 that Schallenberg gave testimony in 1975. That's a long
4 time ago. Congratulations.

5 Mr. Weiss, take a look at that chart that's been
6 depicted over there. You can see it from where you sit,
7 can't you?

8 A Yes, I can, Commissioner.

9 Q What's your interpretation? Do you agree or do
10 you disagree with that chart? It looks like to me that's
11 the traditional way and then the Ameren way.

12 A I would not refer to it as the Ameren way. I
13 would refer to it as applying the Commission's rule. But
14 I would agree that that's the two -- two calculations we
15 were looking at here.

16 COMMISSIONER APPLING: Okay. I just wanted to
17 bring that up. Thank you very much. Appreciate it. Good
18 to see you this morning.

19 JUDGE WOODRUFF: Thank you, Commissioner. Does
20 anyone wish to recross based on questions from the Bench?
21 Looks like Public Counsel.

22 RE CROSS EXAMINATION

23 BY MR. MILLS:

24 Q Mr. Weiss, Commissioner Gaw asked you some
25 questions about the -- the 638,896,000 number in your

1 testimony?

2 A That's correct.

3 Q Is that number derived by adding approximately
4 264 million to 360 million?

5 A That is correct.

6 Q Okay. But you're no longer -- setting this
7 issue aside for the moment, you're no longer requesting
8 360 million, are you, somewhere down in the neighbor --

9 A No. Based on the agreement and stipulations we
10 have made, our position has dropped.

11 Q So you're down somewhere in the neighborhood of
12 260 million; is that correct?

13 A That's approximately correct, yes.

14 Q Now, would any of those settlement or changes
15 affect the \$264,147,000 number that you've calculated for
16 this issue?

17 A Yes. I think there's been some adjustments made
18 to rate base and some of those stipulations and
19 agreements.

20 Q So the \$360 million number will go down a
21 little, and the 264 million -- well, that will go down
22 quite a bit. And the \$264 million figure you show on line
23 1 of your testimony was dropped somewhat?

24 A That's correct.

25 Q Do you have an order of magnitude of that based

1 on the changes in rate base that have already been agreed
2 to?

3 A I really don't.

4 Q Would it be a few million, few tens of million?
5 It's not a 100 million like you dropped the other number,
6 correct?

7 A No. It would be in tens of millions.

8 Q Okay. So that the \$638 million number that,
9 you're talking about at line 2 of page 30 of your
10 supplemental direct would be somewhere around 500 million
11 now; is that correct?

12 A That's possible. Yes.

13 MR. MILLS: Okay. That's all I have. Thank
14 you.

15 JUDGE WOODRUFF: Does Staff wish to offer 271?

16 MR. REED: Yes, Judge.

17 JUDGE WOODRUFF: All right.

18 MR. REED: I'd also like to have the chart
19 marked as the next exhibit and move for admission. I have
20 small versions of that chart.

21 JUDGE WOODRUFF: All right. We'll deal with 271
22 first. It's been offered. Any objections to its receipt?

23 MR. BYRNE: No objection.

24 JUDGE WOODRUFF: Hearing none, it will be
25 received.

1 (Exhibit No. 271 was offered and admitted into
2 evidence.)

3 JUDGE WOODRUFF: We'll mark the chart as 272.
4 And is there any objections to its receipt? Hearing none,
5 it will be received into evidence.

6 (Exhibit No. 272 was offered and admitted into
7 evidence.)

8 JUDGE WOODRUFF: And, Mr. Reed, you indicated
9 you would provide a smaller version of that?

10 MR. REED: Yes, I will, right away, Judge.

11 JUDGE WOODRUFF: Okay. Thank you. All right,
12 then. Any redirect?

13 MR. BYRNE: Yes. Just a couple, your Honor.

14 REDIRECT EXAMINATION

15 BY MR. BYRNE:

16 Q Mr. Weiss, is this issue on -- on the
17 application of the rule a legal issue?

18 A Yes, it is.

19 Q Are you just doing the calculation?

20 A That is correct.

21 Q Okay. Let me ask you this: Mr. Carlson asked
22 you about settlements. Is it -- and -- and to what degree
23 AmerenUE was going back on its settlements by applying the
24 rule. Do you remember that line of questioning?

25 A Yes, I do.

1 Q Does AmerenUE have any intention of
2 back-dooring, I guess was the -- was the phrase that he
3 used the settlement that is reached by application of this
4 rule?

5 A No, it does not.

6 Q Okay. And let me ask you this: When you did
7 the calculation, there were some questions about why you
8 used gross rate base rather than net rate base. Do you
9 remember those questions?

10 A I refer to it as the undepreciated rate base,
11 but I do remember the questions.

12 Q Okay. Well, let me ask you this: When you did
13 your calculation, why did you use undepreciated rate base?

14 A Based on the order, Commission order, in Case
15 No. 10,723, which was the initial implementation of the
16 rule in the Commission's discussions that it said that
17 utility rate base upon which the allowable return is
18 predicated shall be an undepreciated rate base.

19 Q Okay. And -- and is that -- in your mind, is
20 that -- is it logical to use an undepreciated rate base
21 when you give this 3 percent credit?

22 A Yes, it is. Otherwise, you'd be giving the
23 ratepayers a double return on their investment by -- by
24 deducting from rate base and reducing return and also give
25 them a 3 percent credit.

1 MR. BYRNE: Okay. Thank you, Mr. Weiss.

2 MR. WEISS: Thank you, Mr. Weiss. You can step
3 down. And the next witness is Mr. Brosch.

4 MR. MICHEEL: The State would call Mr. Brosch.
5 So, your Honor, this is the last time for Mr. Brosch, so I
6 do need to get all his testimony marked.

7 MR. BYRNE: While Mr. Micheel is doing that,
8 your Honor, I need to offer Mr. Weiss' testimony because
9 this was also his last appearance.

10 JUDGE WOODRUFF: Okay.

11 MR. BYRNE: That's Exhibits 10, 11, 12 and 13.

12 JUDGE WOODRUFF: All right. Exhibits 10, 11, 12
13 and 13 have been offered into evidence. Are there any
14 objections to it receipt? Hearing none, they will be
15 received into evidence.

16 (Exhibit Nos. 10, 11, 12 and 13 were offered and
17 admitted into evidence.)

18 MR. MICHEEL: Your Honor, my numbering system is
19 not consistent with yours.

20 JUDGE WOODRUFF: Okay.

21 MR. MICHEEL: I -- I apologize for that. Could
22 you give me -- I have Mr. Brosch's direct NP, Mr. Brosch's
23 direct HC and P on revenue requirement.

24 JUDGE WOODRUFF: All right. Well, I'll -- we've
25 got joint accounting schedules for 500, which should -- by

1 Carver and Brosch. Did you want to do that at this time,
2 too?

3 MR. MICHEEL: I can do that, sir.

4 THE COURT REPORTER: Mr. Lowery, I don't have
5 Exhibit 13.

6 MR. LOWERY: You don't have 13?

7 THE COURT REPORTER: No.

8 MR. MICHEEL: Okay. I have the joint accounting
9 schedules, the NP and HC and P which are Exhibit 500?

10 JUDGE WOODRUFF: Yes.

11 MR. MICHEEL: And then the NP and HC revenue
12 requirement testimony of Mr. Brosch --

13 JUDGE WOODRUFF: That's 501.

14 MR. MICHEEL: -- which is 501. Then the direct
15 NP on fuel adjustment clause and the direct HC/P on fuel
16 adjustment clause.

17 JUDGE WOODRUFF: 502.

18 MR. MICHEEL: Which is Exhibit 502. The
19 rebuttal NP of Michael Brosch and rebuttal HC of Michael
20 Brosch.

21 JUDGE WOODRUFF: That's 503.

22 MR. MICHEEL: And then the surrebuttal HC and NP
23 of Michael Brosch.

24 JUDGE WOODRUFF: That's 504. And, Mr. Micheel,
25 I also have a numbered listing of 505 of Brosch's

1 supplemental surrebuttal which I believe was --

2 MR. MICHEEL: That's correct. And I had a copy
3 of that. It must still be back at my desk. I have the
4 supplemental surrebuttal testimony of Mr. Brosch on that
5 income tax issue. With that, your Honor, I would offer
6 those exhibits that have been marked I think it's 500
7 through --

8 JUDGE WOODRUFF: 505.

9 MR. MICHEEL: 505. And I would tender
10 Mr. Brosch for cross-examination.

11 JUDGE WOODRUFF: Okay. 500 through 505 have
12 been offered. Are there any objections to their receipt?
13 Hearing none, they will be received into evidence.

14 (Exhibit Nos. 500, 501, 502, 503, 504 and 505
15 were offered and admitted into evidence.)

16 JUDGE WOODRUFF: Do any parties wish to
17 cross-examine Mr. Brosch on this issue? I don't see any
18 hands going up. We'll come up for questions from the
19 Bench. Commissioner Murray?

20 COMMISSIONER MURRAY: Just a second, please.

21 CROSS-EXAMINATION OF MICHAEL BROSCH

22 BY COMMISSIONER MURRAY:

23 Q Mr. Brosch, you are here on the issue of the
24 rule; is that correct?

25 A Yes.

1 Q And -- and the Callaway life extension?

2 A I had direct testimony on that as well. Yes.

3 Q What is your interpretation of the rule?

4 A My interpretation of the rule is that it
5 provides for an alternative accounting for the
6 depreciation reserve by imputing a funding return, a
7 specified 3 percent return unless that percentage is
8 revised or adjusted by the Commission.

9 Q And -- and in providing that funding return, at
10 -- I've been -- I've been trying to study this rule and
11 figure out what it could possibly mean. But it -- if you
12 look at Section 4 of that rule that allows the
13 modification upon the Commission's own rule or by a proper
14 showing by the utility that the rate is not reasonably and
15 equitably applicable to it, it would appear to me that
16 application of the rule would be detrimental to the
17 utility.

18 A Well, obviously, interpretation matters a lot.
19 And the application of the rule could provide for an
20 incremental 3 percent credit. That is a -- a reason the
21 application of the rule that, I think, the company would
22 object to as being a redundant credit if the depreciation
23 reserve is also subtracted from rate base.

24 On the other hand, the company's interpretation
25 of the rule, which would add back the depreciation reserve

1 and then apply 3 percent credit in place of subtracting
2 the depreciation reserve from rate base would increase the
3 revenue requirement fairly dramatically. And -- and
4 that's the way the issue is -- is framed before you.

5 Q So why would a utility want to show that the
6 rate would not be reasonably and equitably applicable to
7 it if it's effect would be to increase the revenue
8 requirement?

9 A I'm not -- I'm not sure I understand your
10 question.

11 Q Okay. I'm probably not making myself clear.
12 I'm just trying to reason through what the rule -- which
13 interpretation would be the more reasonable
14 interpretation. And I'm hung up on that Section 4 that
15 allows the utility to show that the rate is not reasonably
16 and equitably applicable to it.

17 A Well, I can make a reference to page 8 of my
18 rebuttal testimony where I talked to that very issue.

19 Q Page 8.

20 A Where I ask myself the question about the
21 Commission retaining jurisdiction for the purpose of
22 making any changes in the interest rate in Section 2. And
23 I say that if you change that rate or modify it to be
24 equal to the cost of capital, then the rule has no effect.

25 And I would observe that implicitly that's done

1 in most, if not all, of the Missouri rate-making orders
2 I'm aware of because I'm not aware of this rule being
3 applied to change the revenue requirement in any -- in any
4 case I've been close to here.

5 COMMISSIONER GAW: Okay. Thank you.

6 JUDGE WOODRUFF: Commissioner Gaw?

7 CROSS-EXAMINATION

8 BY COMMISSIONER GAW:

9 Q Mr. Brosch, I apologize because I have some more
10 work to do on this -- on this issue. But I want to -- I'm
11 trying to understand the basic notion that might have been
12 the impetus for this rule to begin with. Okay?

13 A Good luck with that.

14 Q Well, let me -- let me -- just generally
15 speaking, when we're talking about setting rates and rate
16 base, we have traditionally, have we not, looked at the
17 original -- original book of -- of the assets and then
18 we've applied depreciation to that. And over time, as
19 rate cases come in, there has been an application of
20 depreciation to that original cost or the original book of
21 the -- of the asset. And then there has been a -- a rate
22 of return applied against that rate base.

23 A Yes. The -- the traditional model would say
24 that in determining the return requirements, essentially,
25 the income requirement part of the revenue requirement, a

1 utility needs to be afforded the opportunity to earn its
2 cost of capital on the net book value of its investment in
3 plant.

4 Q Okay.

5 A Which is the cumulative original cost of plant
6 investment minus the depreciation reserve or the
7 accumulated provision for depreciation, which is the --
8 the accumulation over all prior years of depreciation
9 accruals that represent the recovery of the original cost
10 of the plant through depreciation accruals.

11 That's what -- that's what that second line
12 under the traditional side of that chart is intended to
13 represent.

14 Q Okay. Now, generally speaking, and I'm at a
15 very high level, when you're talking about the
16 depreciation that -- that a company has, that -- that
17 money, that depreciation that's built into those rates,
18 does that generally allow the company additional revenues
19 or cash?

20 A Yes. Yes. Depreciation accruals represent a --
21 a non-cash expense on the income statement that is built
22 into rates to very directly provide for recovery of the
23 principle amount of plant investment so that the
24 depreciation accruals is booked as expense each year,
25 carry into the revenue requirement, corresponding amount

1 of dollars of revenues.

2 That's why on the income statement depreciation
3 accruals on the depreciation accrual issue before you
4 later today is not an income issue so much as it is a cash
5 flow issue. It's the rate at which a utility is able to
6 recover or collect from its customers what it has
7 previously invested in plant to serve customers.

8 Q What can it do with that cash?

9 A It can do any number of things with that cash.
10 Cash is spongeable. It can reinvest in more plant. It
11 can use the cash to pay changes in expense. It can retire
12 debt. Anything that cash can be used for, depreciation
13 recoveries represent a -- a source of cash flow from
14 operations.

15 Q Is it possible that this -- this rule -- maybe
16 it's not. But is it possible that this rule wasn't
17 intended to allow ratepayers to have some share in the
18 investment of that money rather than the interpretation
19 that's been offered by Ameren?

20 A Many things are possible. There has been in
21 other states, in my experience, vestiges of earlier
22 approaches to regulation that are occasionally bumped into
23 in this process and interpreted to varying ends.

24 It -- it would be rank speculation on my part as
25 to what may have been intended by this. Clearly, there

1 was at some point some need for a deemed reasonable offset
2 to the revenue requirement for or in place of that
3 depreciation reserve or perhaps in addition to that
4 depreciation reserve to account for a utility's
5 opportunity to invest funds collected from depreciation.

6 COMMISSIONER GAW: That's all I have. Thank
7 you, Mr. Brosch.

8 JUDGE WOODRUFF: Commission Appling? Any
9 questions based on cross from the Bench? Mr. Mills.

10 RECROSS EXAMINATION

11 BY MR. MILLS:

12 Q Just briefly, Mr. Brosch. Commissioner Murray
13 had asked you some questions about Section 4 in the rule.
14 And I think she was -- she was talking primarily about the
15 second half of that section beginning with, Provided,
16 however.

17 Is it your understanding of that second half
18 that a utility could show, for example, that 2 percent or
19 4 percent should be the rate applied to it rather than the
20 3 percent?

21 A I think any other percentage might be the
22 subject of a showing, yes, sir.

23 Q All right. It doesn't allow a utility to say,
24 Oh, this rule shouldn't apply to us, we shouldn't have any
25 rate applied to us. It would be -- the actual numerical

1 rate should be something other than what's set forth in
2 the rule?

3 A It speaks to modification. I don't know if
4 contemplates modification might be a zero rate or not.

5 MR. MILLS: Okay. All right. That's all I
6 have. Thanks.

7 JUDGE WOODRUFF: All right. Thank you. Any
8 other recross? Any redirect?

9 MR. MICHEEL: No, your Honor.

10 JUDGE WOODRUFF: Okay. Mr. Brosch, you can step
11 down. I believe the next witness, then, is
12 Mr. Schallenberg. And, Mr. Schallenberg, I believe you
13 also testified earlier?

14 MR. SCHALLENBERG: Yes, I did.

15 JUDGE WOODRUFF: So you're still under oath.

16 MR. SCHALLENBERG: Yes.

17 MR. REED: And, your Honor, I think that
18 Mr. Schallenberg's testimony has been marked as 236 and
19 237. There are HC and NP versions. I think there's a
20 237-P as well.

21 JUDGE WOODRUFF: Okay.

22 MR. REED: Mr. Schallenberg will not appear
23 later in this case, so at this time, I'd move for
24 admission of those exhibits.

25 JUDGE WOODRUFF: 236 and 237 have been offered

1 into evidence. Are there any objections to their receipt?

2 Hearing none, they will be received into evidence.

3 (Exhibit Nos. 236 and 237 were offered and
4 admitted into evidence.)

5 DIRECT EXAMINATION

6 BY MR. REED:

7 Q And I take it, just to be certain, Mr.
8 Schallenberg, you had already -- had you already addressed
9 any corrections or additions?

10 A I addressed the corrections for the EEInc.
11 issue. I hadn't addressed the corrections for this issue.

12 Q Okay. How about this issue? Are there any that
13 I should have asked you about?

14 A Yes. I need to strike out Schedule 2 that's
15 attached to this testimony completely. And then on page
16 7, line 5, the word witnesses should be just witness.

17 And on page 12, line 5, the word -- the word
18 doing should be during. And that's all the corrections.

19 MR. REED: Thank you, Mr. Schallenberg. Judge,
20 with those corrections, I would move for the testimony to
21 be admitted and in corrected form just to be clear.

22 JUDGE WOODRUFF: All right. So the record is
23 clear, that testimony is admitted in its corrected form.

24 MR. BYRNE: Your Honor, in terms of striking the
25 order, I guess -- you know, we didn't -- we didn't attach

1 the order to any of our testimony because it was attached
2 to Mr. Schallenberg's. I guess I was wondering if the
3 Commission could take administrative notice of that order
4 since it's being stricken here at the last minute.

5 MR. MILLS: No. That's not what's going on.

6 MR. CARLSON: No.

7 A That's not what --

8 JUDGE WOODRUFF: Let me ask the witness.

9 A No. Schedule 2 is a data request from the last
10 complaint given Ms. Sooning Kelly's (ph.) credentials.

11 MR. BYRNE: I apologize, your Honor. I didn't
12 understand.

13 JUDGE WOODRUFF: All right. Thank you. So the
14 witness is tendered for cross?

15 MR. REED: Yes, Judge. Thank you.

16 JUDGE WOODRUFF: Does anybody -- any party wish
17 to cross Mr. Schallenberg on this issue?

18 MR. MILLS: Just one question.

19 JUDGE WOODRUFF: Mr. Mills.

20 CROSS-EXAMINATION

21 BY MR. MILLS:

22 Q Mr. Schallenberg, did you do a review to see if
23 there were annual reports filed by AmerenUE or Union
24 Electric Company pursuant to Section 5 of the rule?

25 A I did a review of annual reports. You mentioned

1 Section 5. Yes.

2 Q Yes. And did you find that the annual reports
3 filed by Ameren complied with Section 5?

4 A I found compliance with the rule through -- I
5 think it's 1951.

6 Q Okay.

7 A And then from 1952 through 1957, Union Electric
8 would strike in their annual report form the net plat
9 designation on their balance sheet. And then beginning in
10 1958, I saw no -- no further compliance with a little
11 interpretation of this rule.

12 Q Okay. So since 1951, there has not been the
13 information required by paragraph -- Section 5; is that
14 correct?

15 A That's correct. There has not been the showing
16 of the 3 percent imputation.

17 MR. MILLS: Okay. Thank you. That's all I
18 have.

19 JUDGE WOODRUFF: All right. Come up for
20 questions from the Bench, then. Commissioner Murray?

21 CROSS-EXAMINATION

22 BY COMMISSIONER MURRAY:

23 Q Good morning, Mr. Schallenberg.

24 A Good morning.

25 Q I believe in your testimony you take the

1 position that PSC has modified the rate through either its
2 own motion or upon a proper showing that the 3 percent
3 rate is not reasonably and equitably applicable, and that
4 was somewhere around 1958 or '59; is that correct?

5 A That would be -- that would be my conclusion,
6 yes.

7 Q And in doing that modification, was that, in
8 effect, a removal of the percentage altogether?

9 A I -- I would say it's a modification of the
10 percentage to be equivalent to the rate of return provided
11 on rate base.

12 Q Now, you can't -- you haven't cited any case in
13 which there was that rationale stated, have you?

14 A There's no case that explicitly states that.
15 There are cases that I'm aware of beginning in the mid
16 '70s, and I'm sure they're even prior to that, where the
17 company's filings would have been based on net plat and
18 the Commission would have adopted them in the Commission's
19 orders in at least that period would show the use of a net
20 plat to determine rate base, which has the effect of
21 giving the depreciation reserve the same return as is
22 applied to rate base.

23 Q Okay. And you actually didn't cite a case for
24 the first time that was applied, did you?

25 A I cannot find the first case that there's a

1 change from when the Commission was using a gross plat and
2 when it changed to a net plat.

3 COMMISSIONER MURRAY: Okay. Thank you.

4 JUDGE WOODRUFF: Commissioner Appling?

5 COMMISSIONER APPLING: I have no questions.

6 JUDGE WOODRUFF: I just have a quick question.

7 CROSS-EXAMINATION

8 BY JUDGE WOODRUFF:

9 Q It appears that this rule has not been applied
10 since at least the 1950s; is that correct?

11 A If has not been applied as a 3 percent --

12 Q Okay.

13 A -- using a 3 percent rate.

14 Q My -- my question is simply, if this rule is
15 obsolete, and maybe it's not, but if it's obsolete, why is
16 it still on the books?

17 A There was a motion by the Staff in 2001 to have
18 the rule rescinded. The -- I think Sprint was the only
19 entity that filed comments in support of recension. Most
20 of the utilities filed to keep the rule in place, and so
21 the Commission kept the rule in place.

22 Q Okay. Why would the utilities want to keep the
23 rule in place?

24 A Well, I mean, they filed their own comments.
25 But, basically, at the time, they were, for lack of a

1 better term, upset about the Commission's decision in
2 Laclede not to allow cost removal on an accrual basis and
3 wanted -- wanted that issue retried.

4 And in their comment they filed against the
5 recension, they wanted a general policy. And they felt
6 that recension of this rule was improper without them,
7 one, having a hearing which would provide them a vehicle
8 to try the entire depreciation issue.

9 And they believed that at the time, at least in
10 the comments, that they were entitled to some revenue
11 requirement from the rule. None has shown up except for
12 AmerenUE in terms of making this adjustment.

13 But all the utilities filed the comments in
14 opposition with the exception of Sprint. And Sprint was
15 in favor for recension.

16 JUDGE WOODRUFF: Okay. Because that's all I
17 have, then. Is there any recross based on questions from
18 the Bench? Any redirect?

19 All right. Mr. Schallenberg, you can step down.
20 And we're due for a break. Let's come back at 10:30.

21 (Break in proceedings.)

22 JUDGE WOODRUFF: All right. Let's come to
23 order, please. And we're back from break and ready to
24 move on to the second part of the issues on depreciation.

25 MR. MICHEEL: Your Honor, at the break, I was

1 asking if anybody had questions for Mr. Brosch, and it's
2 my understanding that the parties do not on Callaway life
3 extension. It's just up to the Commission.

4 JUDGE WOODRUFF: All right. And I've not heard
5 any indication from any of the Commissioners that they
6 would have questions for him either. And as I indicated,
7 he actually does not appear on the list of witnesses that
8 I had given the Commissioners on this anyway. So he's
9 excused.

10 MR. MICHEEL: Thank you, your Honor.

11 JUDGE WOODRUFF: And we have a witness. Is this
12 Mr. Birk?

13 MR. BIRK: Yes, sir.

14 JUDGE WOODRUFF: All right. Please raise your
15 right hand.

16 MARK BIRK,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 JUDGE WOODRUFF: Thank you. And you are Mark
20 Birk for the company?

21 MR. BIRK: Yes, that is correct.

22 JUDGE WOODRUFF: Okay.

23 MR. BYRNE: Your Honor, his testimony has
24 already been admitted, so I would tender Mr. Birk for
25 cross-examination.

1 JUDGE WOODRUFF: Okay. Do any parties to
2 cross-examine Mr. Birk? For Staff?

3 MR. WILLIAMS: Thank you, Judge.

4 CROSS-EXAMINATION

5 BY MR. WILLIAMS:

6 Q Good morning, Mr. Birk.

7 A Good morning.

8 Q My first question for you is, do you agree that
9 aside from net salvage that, ideally, the depreciation
10 life used for a generating plant should match that plant's
11 operating life?

12 A I agree with that.

13 Q And what is AmerenUE's total generation
14 capacity?

15 A Total generation capacity, including all the
16 peaking capacity and everything?

17 Q Yes.

18 A I don't have the exact number in front of me,
19 but it's probably on the order of 85. In the 8,000 range.

20 Q What about the capacity of AmerenUE's
21 non-nuclear steam turbine generating units? Do you know
22 what that total capacity is?

23 A From the fossil standpoint, I can give you the
24 individual capabilities of each unit if that's -- if
25 that's what you'd like to discuss.

1 Q Sure.

2 A The Labadie plant, which is our largest fossil
3 plant, its capability, net capability, is about 2430
4 megawatts.

5 The net capability of our Meramac plant is -- is
6 close to 900 megawatts. The net capability of our Sioux
7 plant is -- is around 950 megawatts. And the net
8 capability of our Rush Island plant is -- is roughly 1100
9 to 1150 megawatts.

10 Q Do you know how much capacity AmerenUE currently
11 has to add on an annual basis to keep up for load growth?

12 A Typically, I don't know the exact number, but I
13 know it -- it typically runs maybe a couple hundred
14 megawatts a year.

15 Q You provided estimates for retirement dates for
16 AmerenUE's Meramac plant of 2021, to the Sioux plant of
17 2027, its Labadie plant of 2033, and its Rush Island plant
18 2037 in your rebuttal testimony, did you not?

19 A That is correct.

20 Q Upon what did you base your estimate that
21 AmerenUE will retire its Meramac plant in 2021?

22 A Basically, what we did was from an engineering
23 and from an operational standpoint, we -- we took a look
24 at each of the facilities. And we made a determination
25 based upon the current operation of the facility, known

1 potential future environmental projects that would be
2 required at that facility and what we believe to be
3 required investment in that facility.

4 So when you're talking about Meramac and 2021,
5 there are four units at Meramac, four generating units.
6 Two of them are what we call pulverized coal combustion
7 engineering units and tangential fire. Two of them are
8 front-fired wall units.

9 And the first unit that we would see retiring at
10 Meramac would be Meramac 3. And we developed that date
11 based upon our current assessment of Meramac 3 and what we
12 believe to be the required equipment that would be
13 necessary to continue to operate that aside from any
14 environmental -- potential environmental requirements.

15 Q Did you consider anything else?

16 A No, we did not.

17 Q And upon what did you base your estimate that
18 AmerenUE would retire its Sioux plant in 2027?

19 A It was based upon the -- the main drivers at the
20 Sioux plant, which the significant pieces of equipment
21 involve cyclones, and the cyclones are, basically, for
22 lack of a better term, the burners in each of those
23 boilers.

24 We've had cyclone replacements. Both Sioux
25 units were put into service, Sioux 1, in 1967 to 1968,

1 1968. We've replaced the cyclones once on those -- both
2 of those units. That was about the mid '80s.

3 We currently have cyclone replacements scheduled
4 for those units late in this decade. And the feeling
5 would be based upon the average life we see on cyclones
6 that those same cyclones would -- would come up for
7 replacement again around the 2027 time frame, somewhere in
8 there.

9 And those -- that is a significant expense on
10 those units. And that, coupled with where we see
11 potentially the environmental landscape being at that
12 time, led us to believe that that's a pretty good
13 assumption at this point.

14 Q The assumption that the entire site would be
15 taken down as opposed to cyclones being replaced?

16 A Right now, if you look at -- we've recently at
17 Sioux --

18 Q Is that your assumption is what I'm asking?

19 A Pardon me?

20 Q Is that your assumption is what I'm asking?

21 A Yes. Yes, sir, it is.

22 Q Upon what did you base your estimate that
23 AmerenUE will retire its Labadie plant in 2033?

24 A Basically, we looked at the major components
25 that we've replaced thus far at Labadie, which include

1 lower slopes, economizers, some of the headers, HPIP, some
2 of the LP turbines. And we -- we felt that basically
3 those had been replaced roughly 30 years into the plant
4 life. We figure those significant components will again
5 come up for replacement in -- in roughly 30 years.

6 And most of those replacements took place in the
7 late '90s, early 2000s. So we're looking at having to do
8 those type of replacements again. And, you know, the
9 feeling is at that point that would be the next decision
10 point.

11 Q And upon what did you base your estimate that
12 AmerenUE will retire its Rush Island plant in 2037?

13 A Rush Island went into service, Units 1 and 2, in
14 1976 and 1977 respectively. We currently have a 93-day
15 outage going on at our Rush Island unit 1 facility where
16 we're replacing the economizer, the reheater, the lower
17 slopes. That is an approximately \$50 million job.

18 We've just also within the last couple of years
19 replaced the HPIP and LP turbines. Or the LP turbines
20 were not replaced yet at Rush Island. They're scheduled
21 to be replaced.

22 And our intention is that in another 30 years,
23 those will come up for replacement again. When we look at
24 that coupled with the potential for some type of carbon --
25 tax or carbon issue, it -- it becomes pretty clear to us

1 that -- that we're going to be nearing end of life on
2 those facilities.

3 Q I'm going to address all four of the plant
4 sites.

5 A Okay.

6 Q For the Meramac site, the Sioux site, the
7 Labadie site and the Rush Island site, have you -- were
8 there any other considerations you took into account in
9 arriving at your estimated retirement dates for each --
10 for the plant at each of those sites that you have not
11 already stated?

12 A No, there was not. We looked at the equipment
13 and used our best engineering judgment.

14 Q And when did you provide -- did you provide
15 these retirement dates to the depreciation witnesses
16 experts for AmerenUE, Mr. Stout and Mr. Wiedmayer?

17 A I believe, initially, we had some average dates
18 in there of 2026 for all of the units. And upon --

19 Q I'm asking if you provided these dates --

20 A I believe those dates have been provided.

21 Q Do you know when you provided those dates to
22 them?

23 A I do not. I do not.

24 Q Did you provide those dates --

25 A I didn't -- I didn't specifically provide those

1 dates. I provided them in my testimony.

2 Q Did you provide them any -- to -- when did you
3 arrive at those estimates?

4 A We -- upon further review of the -- the initial
5 2026 date, we -- we went and -- and looked to get a little
6 more refinement on each plant and looked at specific
7 components, and we came to those dates. It was in my
8 rebuttal testimony, before I submitted my rebuttal
9 testimony.

10 Q You arrived at those dates between the date when
11 AmerenUE filed direct testimony and when you filed
12 rebuttal testimony? Is that what you're saying?

13 A I'm saying that we initially used the average
14 2026 date and we further refined the dates when we were
15 requested to do so.

16 Q Well, let me ask you this: How did you arrive
17 at the average 2026 date?

18 A Basically, that came about because our
19 integrated resource plan typically goes out 20 years. And
20 at that point, that date was -- was poled as an average
21 date for -- for all of the plants.

22 Knowing, you know, I think in hindsight,
23 obviously, that -- that you're not going to retire every
24 plant on the UE system in 2026.

25 Q Are you familiar with AmerenUE's integrated

1 resource plan filing that it made in December of, I
2 believe it was, 2006? It may have been 2005.

3 A I am not familiar with all the details in that.
4 No.

5 Q Actually, it was December 2005 that that was
6 filed.

7 A Uh-huh.

8 Q Did you participate in that integrated resource
9 plan in any capacity?

10 A Typically, the -- the only way we participate in
11 -- and we are participating in the current one that's
12 going on. But we provide what we believe to be options
13 associated with existing plants and provide some feedback
14 as to our best guesses on -- on what we think the
15 generating capability of current plants will be in the
16 future.

17 MR. WILLIAMS: Can I get an exhibit marked?

18 JUDGE WOODRUFF: Certainly.

19 MR. WILLIAMS: And it will be an HC exhibit, I
20 believe.

21 JUDGE WOODRUFF: It will be 273.

22 A Am I going to get to see it?

23 Q (By Mr. Williams) Yes.

24 MR. WILLIAMS: May I approach?

25 JUDGE WOODRUFF: You may.

1 MR. WILLIAMS: Thank you.

2 JUDGE WOODRUFF: It will be 273-HC.

3 Q (By Mr. Williams) What I've handed you has been
4 marked for identification as Exhibit No. 273, and it's a
5 summary of AmerenUE's integrated resource plan that it
6 filed in December -- with the Commission in December of
7 2005 in Case No. EO-2006-0240?

8 A Uh-huh.

9 Q Could you take a few moment and review that
10 document?

11 A Yes, sir. Okay.

12 Q Do you know if that plan included a 20-year
13 planning horizon?

14 A It appears to me that it did.

15 Q And can you tell me whether or not that plan
16 included taking the Meramac plant out of operation or the
17 Sioux plant or the Labadie plant or the Rush Island plant
18 within the 20-year planning horizon?

19 A I cannot tell you from this whether it did or
20 not.

21 Q It doesn't indicate that it was planned that
22 those plants were -- the capacity of those plants would be
23 replaced in that 20-year planning horizon, does it?

24 A Not in here, sir. Not of my brief read of it.

25 Q And if it was a 20-year planning horizon,

1 shouldn't that have been addressed?

2 A If it was a 20-year plan horizon, it should have
3 been included, at least for the Meramac facility.

4 Q Up through 2025, right?

5 A Uh-huh. Correct.

6 Q Do you think in determining when a plant might
7 be retired it would be important to consider how the
8 capacity from that plant would be replaced?

9 A I think it -- that's an important consideration.

10 Q But that's not a consideration you took into
11 account for the dates that you arrived at, is it?

12 A Yes, we did. Because I think when you -- when
13 you look at the existing coal fleet, you see plants -- a
14 Meramac plant, for example, that has an 11,100 heat rate.
15 That's a high heat rate compared to -- to newer facilities
16 that, you know, if you get into the ultra super critical
17 range right now, you'll probably get a heat rate that's in
18 the low 9,000s.

19 So, obviously, when you go and look at -- and
20 say, well, we're going to come up on some significant
21 expenditures at Meramac somewhere around the 2020 or 2021
22 time frame, you're going to look and say, Okay, we have --
23 what are the potential environmental expenditures?

24 Is the heat rate on an existing Meramac unit
25 nearly as good as the heat rate on a new -- say, even a

1 new fossil unit? And -- and then you're going to have to
2 weigh into it any type of potential carbon tax that may be
3 out there. Right now, our projections are that -- that if
4 there is a carbon tax, it will run 10 to \$40 per ton.
5 Well, we emit about a ton of CO2 for every megawatt hour
6 we generate.

7 When you look at our four base load units here,
8 you know, they're coal units. They're generating on the
9 order of, you know, 37, 38, 39 million megawatt hours a
10 year.

11 If you do the math and multiply it by 10 or by
12 40, you get to some numbers that -- that are hundreds of
13 millions, if not billions, billion to billion and a half
14 dollars a year just to cover the carbon.

15 So I think you've got to take into account not
16 only this existing facility but what the new facilities
17 are. And I think that's one of the things, you know, that
18 -- that we're weighing when we look at this is there's
19 going to be more efficient facilities out there.

20 Plus, there's probably going to be facility that
21 can sequester carbons better than what these fossil units
22 can.

23 Q So you're changing your prior answer?

24 A I'm not changing my prior answer.

25 Q Do you know if AmerenUE has provided any

1 resource plans to the Commission or the Staff for how
2 AmerenUE will replace the capacity from its Meramac plant
3 when it is retired?

4 A I don't -- I don't believe they've provided any
5 of those to them at this point. I know that AmerenUE is
6 currently working on a integrated resource plan that they
7 owe to the Staff, I believe, in February of '08.

8 Q Do you know how -- let me try that again. Do
9 you know how much planning time AmerenUE will require for
10 replacing the capacity it's now getting from its Meramac
11 plant?

12 A How much planning time?

13 Q Yes.

14 A I do not. I do not. And you can -- you can
15 assume based upon -- you're looking at something to
16 replace roughly 900 megawatts of capacity.

17 Q Do you know whether AmerenUE is planning any
18 environmental upgrade for its generating units at its
19 Labadie, Meramac, Sioux or Rush Island plants?

20 A Yes. Yes, sir, I do. Right -- currently, we
21 are in the process of -- let me take a step back. Last
22 year, we installed RRI, in essence, ER at Sioux to help
23 produce Nox at that plant.

24 Q And how much was that in improvement?

25 A Improvement in Nox?

1 Q No. In terms of dollars.

2 A Each of those projects were on the order of
3 probably five to \$10 million per unit. And then the
4 ongoing operating expense associated with operating those
5 would probably be about -- about \$8 million per unit or
6 so.

7 Q And that was Sioux, was it not?

8 A That was Sioux. And that was for Nox. Now,
9 we're in the process of -- at Sioux of installing
10 scrubbers on both units, wet scrubbers which has the
11 effect of removing SO₂.

12 Q And what will be the cost of those scrubbers
13 that you're anticipating?

14 A The -- the current anticipated cost, okay,
15 because we're -- we're still early -- we're still doing
16 some design work and -- and in the early stages of
17 construction, those are going to be for both units in the
18 \$400 million range.

19 Q Are you doing any other improvements at Sioux?

20 A At this time, we're doing some ancillary
21 improvements associated with the scrubber work like the
22 treating plant and a few other things.

23 Q And when are you anticipating putting the SO₂
24 scrubbers in at Sioux?

25 MR. BYRNE: Your Honor, just for a second, in

1 case we get -- I would caution Mr. Birk, in case any of
2 this is highly confidential, please let -- let us know so
3 we can go in-camera.

4 A Let you know. The -- I think we're okay at this
5 point. But the -- the scrubbers themselves at Sioux are
6 going to be operational sometime the end of '09 or the
7 beginning of 2010.

8 Q I think we've -- have we covered Sioux now?

9 A Uh-huh. Yes, sir.

10 Q Let's take Labadie next. Are you planning any
11 upgrades there?

12 A Can I go off camera for those.

13 MR. WILLIAMS: Sure.

14 JUDGE WOODRUFF: We need to go in-camera --

15 A Or in-camera.

16 JUDGE WOODRUFF: -- which has the effect of
17 going off camera.

18 A Close enough. Hey, to an engineer, this is
19 straightforward, but to lawyers --

20 Q (By Mr. Williams) I could ask about the other
21 plants if --

22 A If I'm going to go into our environmental plan,
23 I'd prefer that to be in-camera.

24 Q That's fine.

25 A Okay. Because they all weigh in.

1 JUDGE WOODRUFF: At this point, we will go
2 in-camera.

3 REPORTER'S NOTE: At this point, an in-camera
4 session was held, which is contained in Vol. 35, pages
5 3661 through 3669.

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1 JUDGE WOODRUFF: All right. We're back in
2 regular session.

3 MR. WILLIAMS: Judge, at this time, I'd offer
4 Exhibit 273, which is the highly confidential resource
5 plan of AmerenUE that was submitted in Docket No.
6 EO-2006-0240 on or about December of 2005.

7 JUDGE WOODRUFF: All right. Exhibit 273-HC has
8 been offered into evidence. Are there any objections to
9 its receipt?

10 MR. MILLS: I don't have any objection, but it's
11 my recollection that this is the executive summary, and I
12 know at least significant chunks of this were made non-HC
13 later in the proceeding. And I don't know if -- I don't
14 think this entire document is HC, so whatever -- if we
15 could have it only highly confidential to the extent it
16 was treated highly confidential on that docket, I think
17 that would be appropriate.

18 MR. BYRNE: I would agree with that. I don't
19 want to rediscuss what should or and shouldn't --

20 MR. MILLS: And I don't either because we took
21 months out of all of our lives.

22 JUDGE WOODRUFF: Yes. That was my case, also,
23 so I do remember it.

24 MR. LOWERY: Your Honor, my suggestion would be,
25 which is fine, but that we filed a public version of that.

1 And so if we need to, we need to put the correct version
2 into the record to make that clear without having to
3 remark this one, those are available.

4 MR. WILLIAMS: Judge, I was going to suggest the
5 same thing because what I have provided is HC.

6 JUDGE WOODRUFF: All right. Then it's my
7 understanding then Ameren will offer this exhibit --
8 separately as an NP version? Or as a --

9 MR. LOWERY: I guess I was suggesting that since
10 it's Staff's exhibit, they go get it from EFIS and do that
11 themselves. I guess we could do it.

12 MR. MILLS: If we could hold off, over the lunch
13 hour, I can get an HC copy and an NP copy, and we can
14 substitute those if that's okay.

15 MR. LOWERY: Great.

16 JUDGE WOODRUFF: All right. I'll show this as
17 held off until after lunch.

18 MR. WILLIAMS: What is held off?

19 JUDGE WOODRUFF: The admission of 273-HC. And
20 if you could find it -- there was at least a partially
21 public version filed later on in -- in that case.

22 MR. WILLIAMS: Well, I don't see why that should
23 hold up the admissibility of the HC version. Nobody has a
24 problem with a public version being filed as well.

25 JUDGE WOODRUFF: All right. We can mark the

1 public version as a separate exhibit then.

2 MR. WILLIAMS: What I'm saying is the HC version
3 is the document the Commission's going to make its
4 decision on. The public version is just for access to the
5 public.

6 JUDGE WOODRUFF: Well, the problem is part of
7 the -- part of this was no longer HC. So when the
8 Commission can -- when the Commission looks at it, it can
9 look at -- and writes its decision, it can look at the
10 portions of it that are not highly confidential.

11 MR. WILLIAMS: I understand.

12 JUDGE WOODRUFF: That's -- that's the reason for
13 having the other version in as well. There's no problem
14 putting this one in is my understanding.

15 MR. WILLIAMS: That's what I'm saying. What I'm
16 asking you to do is go ahead and admit this one. And I --
17 we can get a 273-NP version filed.

18 JUDGE WOODRUFF: All right. That's fine. I
19 think that's where we're headed with this.

20 At this point, I'll admit 273-HC, and we'll deal
21 with the other later.

22 (Exhibit 273-HC was offered and admitted into
23 evidence.)

24 MR. WILLIAMS: All right. Thank you. I have no
25 further questions of this witness at this time.

1 JUDGE WOODRUFF; okay. Thank you. Did anyone
2 else wish to cross? We'll come up for questions from the
3 Bench. Commissioner Murray?

4 COMMISSIONER MURRAY: Thank you.

5 CROSS-EXAMINATION OF MARK BIRK
6 BY COMMISSIONER MURRAY:

7 Q Are you Mr. Stout?

8 A I am Mr. Birk.

9 Q Mr. Birk. Okay. Then I'm reading the wrong
10 testimony.

11 A That's okay.

12 Q Well, for some reason, I'm not -- all right.
13 What are you testifying on? I apologize for that.

14 JUDGE WOODRUFF: I'll clear it up for you,
15 Commissioner. He was not on the witness list for this
16 issue that was provided to us. Staff had some questions,
17 so we -- they agreed to call him at the beginning of this.

18 A I had testified earlier on something else, and
19 they recalled me.

20 Q All right.

21 MR. WILLIAMS: Commissioner, he provided some
22 plant life.

23 JUDGE WOODRUFF: Okay. Then I have no
24 questions. Thank you.

25 MR. BIRK: Okay. Thank you.

1 JUDGE WOODRUFF: There's no questions from the
2 Bench, so there's no need for recross. Any redirect?

3 MR. BYRNE: Just a couple, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BYRNE:

6 Q Good morning, Mr. Birk. I think in response to
7 a question from Mr. Williams you said, I think, that we
8 need to add a couple hundred megawatts of capacity every
9 year. Do you remember that?

10 A Correct. That's what I said.

11 Q And we don't literally have to add that much
12 capacity each year, do we?

13 A No. Basically, what you do is you -- when you
14 add capacity, you add it typically in chunks. So if you
15 go and buy peakers and install them, you may buy a 600
16 megawatt peaker, and that may cover you for two years.
17 It's not as -- as homogenous or smooth as that, Tom.

18 Q Okay. Did you -- Mr. Williams showed you a copy
19 of the summary or the executive summary of the IRP filing
20 from December of 2005. Do you remember that?

21 A Yes, sir.

22 Q Did -- did you read the whole filing?

23 A No. No, I did not.

24 Q Okay. And Mr. Williams also asked you about
25 plans to replace Meramac capacity. Is it an appropriate

1 time to consider a specific replacement for a unit that's
2 going to be retired that far in advance?

3 A At this point, it -- it would be very tough to
4 do that because you have technology such as IGCC, you
5 know, coal gasification. You have -- you have nuclear
6 that's kind of making a rebirth. And you have ultra super
7 critical coal technology, so you have a number of
8 technologies that are fairly new that over the next couple
9 years will get more and more refined and defined, and
10 you'll be able to make a better decision.

11 Q Is it conceivable that the Meramac plant might
12 last longer than the date you --

13 A Yes, it is. And it's conceivable -- well, what
14 I anticipate we will do is when we get close to that time
15 frame, you know, as -- as we do each year when we look at
16 what requirements or what additional equipment we need on
17 these facilities, we continue to do the analysis and look
18 at it and make a determination.

19 I truly believe that -- that the environmental
20 emissions and -- and potential viewer technologies will
21 ultimately drive the decision on when -- when Meramac's
22 ultimately retired.

23 MR. BYRNE: Okay. Thank you, Mr. Birk.

24 JUDGE WOODRUFF: Thank you, Mr. Birk. You can
25 step down.

1 MR. BIRK: Thank you.

2 JUDGE WOODRUFF: I believe the next witness is
3 Mr. Stout. You can call your next witness.

4 MR. BYRNE: Oh, I'm sorry. Call Mr. Stout to
5 the stand.

6 JUDGE WOODRUFF: Good morning, Mr. Stout.

7 MR. STOUT: Good morning.

8 JUDGE WOODRUFF: Please raise your right hand.

9 WILLIAM STOUT,
10 being first duly sworn to testify the truth, the whole
11 truth, and nothing but the truth, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BYRNE:

14 JUDGE WOODRUFF: Thank you. And you are William
15 M. Stout for the company?

16 MR. STOUT: I am.

17 JUDGE WOODRUFF: All right.

18 Q (By Mr. Byrne) Mr. Stout, do you have any
19 corrections to any of your pre-filed testimony?

20 A Yes. I have one minor correction to my direct
21 testimony on page 12 at line 22 where it says pages C-12
22 and C-14, that should read pages C-12 through C-14.

23 Q Okay. Any other changes?

24 A No.

25 Q Okay. Thank you, Mr. Stout.

1 MR. BYRNE: I tender the witness for
2 cross-examination.

3 JUDGE WOODRUFF: All right. Does any party wish
4 to cross-examine Mr. Stout? Looks like Public Counsel is
5 first.

6 CROSS-EXAMINATION

7 BY MR. MILLS:

8 Q Mr. Stout, just so you don't feel left out, I'll
9 ask you this question. Are you Mr. Birk?

10 A No. No. But I appreciated the age reduction.

11 Q I've -- I've got a few questions for you in a
12 number of different areas. And -- and I -- I'll try to
13 sort of indicate when I'm switching topics just so neither
14 one of us gets confused.

15 If I can get you to look at your -- your direct
16 testimony, page 6, line 19, and continuing on through line
17 2 on the following page, page 7, are you there giving the
18 -- the Uniform System Accounts definition of depreciation?

19 A Yes, I am.

20 Q And if I can get you to look at the board behind
21 me, is that -- is that an accurate copy of your testimony?

22 A Yes, it is.

23 MR. MILLS: Okay. I'd like to have an exhibit
24 marked.

25 JUDGE WOODRUFF: Okay. 252 is your next number.

1 MR. MILLS: Okay.

2 JUDGE WOODRUFF: Or excuse me. 452.

3 Q (By Mr. Mills) Mr. Stout, what I have just
4 handed you is the beginning of the Uniform System
5 Accounts, which -- which because it -- it runs several
6 hundred pages, conveniently, the definitions are
7 alphabetized, so depreciation comes relatively near the
8 beginning.

9 If I can get you to look at what has been marked
10 as exhibit -- I'm sorry -- 453?

11 JUDGE WOODRUFF: 452.

12 Q (By Mr. Mills) 452, the -- the page with page
13 319 at the bottom, and look at depreciation definition
14 there. Is that similar to your definition?

15 A It's close. There are a few words that are
16 different.

17 Q And would you agree with me that what I've
18 handed you as Exhibit 452 is the actual Uniform System
19 Account's that applies to companies subject to the Federal
20 Power Act?

21 A It -- it is the -- the Uniform System of
22 Accounts promulgated by the Federal Energy Regulatory
23 Commission.

24 MR. MILLS: Okay. With that, your Honor, I'd
25 like to offer Exhibit 452.

1 JUDGE WOODRUFF: Exhibit 452 has been offered.

2 Is there any objection to its receipt?

3 MR. BYRNE: Well, never mind.

4 JUDGE WOODRUFF: All right. Hearing no

5 objections, it will be received.

6 (Exhibit No. 452 was offered and admitted into
7 evidence.)

8 MR. MILLS: I'd like to have another exhibit
9 marked, please.

10 JUDGE WOODRUFF: All right. That will be 453.

11 Q (By Mr. Mills) Mr. Stout, I just handed you
12 what's been marked as Exhibit 453. Can you confirm that
13 the top paragraph accurately represents the way you've
14 explained the USOA definition in your testimony and that
15 the bottom paragraph shows what the actual definition is
16 in the USOA?

17 A Yes.

18 Q Okay. And I've highlighted a particular section
19 that -- that struck me as being significantly different.
20 Is that the only significant difference between the way
21 you represented the USOA definition is and the way the
22 USOA definition actually is reflected?

23 A Yes. And I -- what I'm just not clear on is
24 whether or not there is actually a difference in the
25 Missouri regulations from FERC on this particular subject.

1 I just don't recall.

2 Q And where did you get this phrase, from causes
3 which can be reasonably anticipated or contemplated? Are
4 you saying that you think it might be from the Missouri
5 rules?

6 A That's the only explanation that I can come up
7 with. I don't recall.

8 Q Where did you look at the Missouri rules?

9 A Probably in my office or in AmerenUE's office.

10 Q Okay. And -- and where do you -- where in the
11 Missouri Code of State Regulations do you think the
12 Missouri rules are reflected?

13 A I -- I don't recall the specific citation.

14 Q Do you think that the definition of depreciation
15 is set forth in the Missouri rules?

16 A I don't recall.

17 Q So let me see if I can -- if I can follow this.
18 Where did you get this phrase from?

19 A I don't know.

20 Q Okay. Have you used this phrase before in
21 prefiled testimony in any jurisdiction?

22 A I don't recall.

23 Q Okay. Now, I'm going to -- I'm going to move to
24 a different topic here.

25 MR. MILLS: And I'd like to have another exhibit

1 marked, please.

2 JUDGE WOODRUFF: 454. Did you want to offer 453
3 now?

4 MR. MILLS: Yes. I'd like to offer 453.

5 JUDGE WOODRUFF: 453 has been offered. Any
6 objections to its receipt?

7 MR. BYRNE: No objection.

8 JUDGE WOODRUFF: Hearing none, it will be
9 received into evidence.

10 (Exhibit No. 453 was offered and admitted into
11 evidence.)

12 Q (By Mr. Mills) Mr. Stout, I've just handed you
13 had what's been marked as Exhibit 454. Can you identify
14 that as a data request that -- that you responded to, Data
15 Request AG/UTI-184 and -- and your response dated November
16 30th, 2006?

17 A Yes. That is my response to that data request.

18 Q Okay. And with respect to -- to Part C of this
19 data request that asks you, Is Mr. Stout aware of any
20 specific types or amounts of new expenditures that would
21 likely be required of AmerenUE to comply with the terms of
22 any license extension that may be requested for Callaway?
23 Is that your understanding of the question?

24 A Yes.

25 Q And your response to this as well as several

1 others was, No, Ameren has not begun to consider the
2 expenditures that would be required as it would be
3 premature to do so. Is that your response?

4 A Yes.

5 MR. MILLS: Okay. Your Honor, with that, I'd
6 like to offer Exhibit 454.

7 JUDGE WOODRUFF: Exhibit 454 has been offered.
8 Any objections to its receipt?

9 MR. BYRNE: No, your Honor.

10 JUDGE WOODRUFF: It will be received into
11 evidence.

12 (Exhibit 454 was offered and admitted into
13 evidence.)

14 Q (By Mr. Mills) Now, returning for a moment to
15 your direct testimony at page 10 -- hang on just one
16 second. Oh, page 19, line 10. Thank you. I was looking
17 at page -- page 10, line 19. So if I can get you to turn
18 to page 19, line 10 --

19 MR. MILLS: Your Honor, could I have just one
20 moment?

21 JUDGE WOODRUFF: Sure.

22 Q (By Mr. Mills) Okay. Page -- page 19 -- let's
23 go back to the question that begins on line 7 and then the
24 answer that starts on page -- on line 8 and continues to
25 the end of the page. Is it your testimony that after 60

1 years the price level is approximately six times the price
2 level when the plant was installed? That's a -- that's at
3 line 17.

4 A Yes. Assuming the rate of inflation of 3
5 percent that I indicate on line 14, that would be the
6 change in price level over that period of time.

7 Q Okay. And if I can get you to turn to your
8 surrebuttal testimony at pages 4 through 8, you have --
9 you have an entire section of your surrebuttal that talks
10 about the incorporation of future inflation; is that
11 correct?

12 A Yes.

13 Q Okay. Now, I'm going to see if I can walk you
14 through a simple hypothetical to try to address the
15 effects of future inflation. Assume that a hypothetical
16 utility company uses one particular pole to provide
17 service to a group of customers and assume that it has
18 been agreed that that particular group of customers will
19 pay for that pole in 2007, that they will pay for the cost
20 of removing that cost in 2007. Okay? Are you with me so
21 far?

22 A Well, I'm not sure what you're saying. Are you,
23 -- are you saying that the customers will entirely pay for
24 the removal in the year 2007?

25 A Yes. That's correct.

1 Q Okay. Now, assume that in 2007 the cost of
2 removing that pole is a thousand dollars and that the
3 utility does not plan to remove the pole until 60 years
4 later in 2067. Are you with the assumption so far?

5 A You lost me now because I thought we were
6 removing the pole in 2007. But apparently we're
7 installing it.

8 Q We're paying for the removal in 2007. We're not
9 removing it until 60 years later.

10 A I'm with you now.

11 Q Okay. Now, one last assumption. Assume that
12 because of future inflation, a dollar in the year 2067
13 will have a purchasing power that is only one-sixth of the
14 purchasing power of that dollar in 2007. Okay? Do you
15 have all those assumptions?

16 A Yes.

17 Q Now, removing this size pole costs a thousand
18 dollars if the removal is paid for in the year 2007
19 dollars. But removing the pole costs \$6,000 if the
20 removal is paid for in lower value year 2067 dollars. Is
21 that -- do you understand so far?

22 A Yes.

23 Q Okay. Using the principles that you propose in
24 your testimony, should the customers in 2007 pay a
25 thousand dollars to remove that pole or should they pay

1 \$6,000?

2 A Neither. In the year 2007, they should pay \$100
3 for one-sixth of the pole's service value.

4 Q Well, now you've changed my assumptions. One of
5 the assumptions that you agreed with was that they would
6 pay the full cost of removal in the year 2007.

7 If they are paying the full cost of removal in
8 the year 2007, should they pay 1,000 or 6,000 or something
9 else based on those assumptions?

10 A Probably something else.

11 Q And what would the something else be, and how
12 would you calculate it?

13 A It would be an amount that invested would grow
14 to \$6,000 in 60 years.

15 Q So you would net present value back the \$6,000
16 to year 2007 dollars in this hypothetical? Is that what
17 you're saying?

18 A With an appropriate rate of return given the
19 restrictions that you've placed.

20 Q Okay. And so that number -- I mean, we could
21 probably argue all day about what that -- what that rate
22 should be. But the bottom line would be -- it would be
23 something closer to \$1,000 than \$6,000, would it not?

24 A It would be if, indeed, the entire cost of
25 removal was to be paid in the year in which the pole was

1 installed.

2 Q Right. Okay. Thank you. Now, Mr. Stout, did
3 -- did you answer Public Counsel Data Requests 5077 and
4 5078? I don't know -- I don't know when you answered
5 them, but I just got them yesterday evening. Do you
6 recall those answers?

7 A I do not recall the answers. I do recall
8 responding to those.

9 Q Okay. Okay. Let me show you a copy of those
10 data requests.

11 MR. MILLS: Oh, may I approach?

12 JUDGE WOODRUFF: Yes.

13 MR. BYRNE: Do you have one I could see?

14 MR. MILLS: I do.

15 MR. WILLIAMS: I'll trust you.

16 Q (By Mr. Mills) Are you familiar with those
17 answers?

18 A Yes.

19 Q Okay. Now, if I can get you to look at your
20 surrebuttal testimony on page 8, the -- the part of your
21 answer beginning on line 17 says, So at any point in time,
22 the average age of retirement up to that point will be
23 less than the average life. And the average age of the
24 retirements of plant and service that will incur in the
25 future is more than the average life; is that correct?

1 A Yes.

2 Q Okay. So is it your testimony that at any point
3 in time the average age of retirement had been higher in
4 the future than it was in the past?

5 A With respect to the plant that has been
6 installed and is currently in service, that is correct.

7 Q Okay. And it doesn't matter when you do the
8 analysis. The average of retirement after any analysis
9 date will always be higher than the average age of
10 retirement before the analysis date?

11 A With respect to the plant that has been
12 installed and is currently in service, yes.

13 Q Okay. Now, with respect to -- to DR 5077 --
14 well, we don't need to go through that again.

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

17 JUDGE WOODRUFF: That would be 455.

18 MR. MILLS: 455, your Honor?

19 JUDGE WOODRUFF: 455. Yes.

20 Q (By Mr. Mills) Okay. Mr. Stout, I've just
21 handed you what's been marked as Exhibit 455. Is that --
22 is that a chart that's -- that's similar in concept to one
23 that's -- that's -- that you've titled WMS-SR1-1?

24 A A portion of the graph is the chart that I have
25 presented in WMS-SR1.

1 Q Okay. And -- and Exhibit 455 has got a couple
2 of more lines than your chart did; is that correct?

3 A It does.

4 Q Okay. Now, is it correct that according to your
5 -- your testimony about at any point in time the average
6 life -- the average age of the retirements up to that
7 point will be less than the average life and average age
8 of retirements of plants in service that will occur in the
9 future as more than the average life, does that mean that
10 if the analysis was done in 1966, the average age of
11 retirements of plants in service that will occur in the
12 future is more than the average life that was roughly
13 similar to this illustration; is that correct?

14 A I'm sorry. But I -- could you repeat that
15 question?

16 Q Well, if you had done your analysis in 1966,
17 would it look like the line that's on -- the left -- the
18 left most upward sloping line?

19 A That would be the behavior of the average age of
20 retirements of 1965 and prior property.

21 Q All right. Okay. And then if we look at the --
22 the line that starts out very uneven towards the bottom
23 and then parallels that first line that we just talked
24 about, that is the line that's actually in your testimony;
25 is that not correct?

1 A It is.

2 Q Okay. And if you were to do that type of
3 analysis in the year 2050, would that look like the line
4 -- the upwardly sloping line on the far right of that
5 chart?

6 A Possibly. It would depend on the growth in the
7 account between now and then in terms of how the actual
8 average ages of retirements behaved. And, again, as I
9 qualified with respect to the analysis done in 1966, the
10 upward sloping line or the increasing average age of
11 retirements would be related to plants installed through
12 the year 2049 or 2050.

13 Q Okay. With those caveats, is this an accurate
14 depiction?

15 A With those caveats, I don't know if I can say
16 it's an accurate depiction.

17 Q Okay. Why not? What's -- what's wrong with it?

18 A Because there's too many unknowns as to the
19 additions of plants that would occur between now and 2050
20 for me to know at what point we would be on -- on the
21 average age of retirements.

22 Q Okay. If -- let's ignore, then, for this
23 purposes that -- that the right-most line that talks about
24 the analysis done in 2050. Would the other two -- with
25 the caveats you've given on the stand, would those two

1 lines be an accurate depiction?

2 A I haven't specifically done the analysis for the
3 1965 and -- and prior average age of retirements between
4 1965 and 2005. I could do that, but I have not. I
5 believe that if I did and if I projected the future
6 retirements of 1965 and prior property that the average
7 ages would behave in a fashion similar to that line.

8 MR. MILL: Okay. Your Honor, I would like to
9 offer Exhibit 455.

10 JUDGE WOODRUFF: 455 has been offered. Are
11 there any objections to its receipt?

12 MR. BYRNE: I -- I guess I would object, your
13 Honor, because Mr. Stout has said that the two -- well, at
14 least the line depicting the 2050 analysis is just
15 speculative.

16 And -- and I guess the line for the 1966
17 analysis is something he hasn't done and can't verify.
18 And so if you take those two lines off, all that's left is
19 Schedule WMS-SR1-1, which is already part of his
20 testimony.

21 So I -- I guess I would object because it's a
22 speculative exhibit to the extent it deviates from WMS-SRM
23 -- or SR1-1.

24 MR. MILLS: Your Honor, with respect to -- to
25 both of those points, first, I think -- I think Mr. Byrne

1 mischaracterized what Mr. Stout said with respect to the
2 1966 line. And with respect to the other line in 2050,
3 the record will clearly reflect that Mr. Stout disavowed
4 any accuracy of that.

5 So I -- I mean, I think for the purposes of
6 reflecting in the record what Mr. Stout and I have just
7 been talking about, I think this is an accurate reflection
8 of that. And any dis -- disagreement that Mr. Stout had
9 with the accuracy of the lines will be reflected in the
10 record.

11 MR. BYRNE: I mean, the 1966 line shows the
12 results of an analysis that he didn't do, and the 2050
13 line shows the results of analysis that maybe somebody can
14 do in 43 years. I mean, I just -- I just don't see how
15 this is appropriate to -- how it's relevant, even, but --
16 but --

17 MR. MILLS: Mr. Stout explained that if he had
18 done the analysis, he thought it would look like that line
19 after 1966. It's meant to be an illustration, not
20 something this witness is sponsoring.

21 JUDGE WOODRUFF: I'll overrule the objection.
22 The record will reflect what the witness said about this
23 exhibit. 455 will be allowed into evidence.

24 (Exhibit 455 was offered and admitted into
25 evidence.

1 MR. MILLS: Thank you.

2 Q (By Mr. Mills) Now, with respect to this chart
3 -- okay. Let's -- let's set aside that and go to the
4 chart that's in your testimony, WMS-SR1, and that's
5 attached to your surrebuttal. Do you have that chart?

6 A I do.

7 Q Okay. In -- in the -- the past data such as the
8 year 1995, if an investment were one year old when it
9 retired, would it be included in the average age of
10 retirement shown on your chart?

11 A Yes.

12 Q Okay. And in the future data such as the year
13 2020, if an investment were one year old when it retired,
14 would it be included in the average age of retirement
15 shown on your chart?

16 A No. Because it's not presently in service and
17 it's the plant presently in service which I'm estimating
18 depreciation.

19 Q Okay. And if I were to ask you the same
20 questions about 5-year-old plant, 10-year-old plant, would
21 your answer be the same?

22 A Not entirely.

23 Q Okay. Well, let's go ahead and ask them. If --
24 if a -- if in the year 1995 an investment was five years
25 old when it was retired, would it be included in the

1 average age of retirement shown on your chart?

2 A Yes.

3 Q Okay. And if in the year 2020 an investment
4 were five years old when it was retired, would it be
5 included in the average age of retirement shown on your
6 chart?

7 A No.

8 Q Okay. If in the year 1995 an investment was ten
9 years old when it retired, would it be included in the
10 average age of retirement shown on your chart?

11 A Yes.

12 Q And why is that?

13 A Because the 1985 retirements and 1995 are
14 included in my average age.

15 Q Okay. Now, with respect to the year 2020, if an
16 investment plant was ten years old and it was retired in
17 20/20, would it be included in the average age of
18 retirement shown on your chart?

19 A No. Because that plant won't be installed until
20 2010, and it's not the subject of my study.

21 Q Okay. Thank you.

22 JUDGE WOODRUFF: We'll go off the record for a
23 moment while the court reporter changes her paper.

24 (Break in proceedings.)

25 JUDGE WOODRUFF: All right. We're ready to go.

1 Back on the record.

2 MR. MILLS: I'd like to mark another exhibit.

3 JUDGE WOODRUFF: It will be 456.

4 Q (By Mr. Mills) Mr. Stout, I've just handed you
5 what's been marked as Exhibit 456. Do you recognize that
6 as Public Counsel DR 5056 -- I mean -- I'm sorry -- 5065
7 and your response thereto?

8 A I do. Although Part D --

9 Q It's two-sided. It should be. Is your copy
10 not? Okay.

11 A I've got the response to D in mind now.

12 JUDGE WOODRUFF: Okay. Do you want to give the
13 court reporter the one that has two sides?

14 MR. MILLS: Yeah, I will. Thank you. Do all
15 the Bench's copies have two sides?

16 JUDGE WOODRUFF: I believe so.

17 MR. BYRNE: Mine -- mine does not have two
18 sides, if you have an extra one.

19 MR. CONRAD: Highly confidential.

20 JUDGE WOODRUFF: We have Gremlins at work.

21 MR. MILLS: I'm not sure how that came about.
22 And anybody who didn't get a two-sided copy, let me know,
23 and I will ensure that you do.

24 MR. BYRNE: Thank you.

25 Q (By Mr. Mills) Now, this Data Request refers to

1 Mr. Dunkel's Schedule 14-2 on which he calculated that the
2 Staff's proposed survivor curves meant that the Staff was
3 effectively allowing for 674 million interim retirements
4 to Callaway prior to the final retirement in 2044; is that
5 correct?

6 A This refers to an amount of 354 million for
7 Account 322.

8 Q Okay. Do you have Mr. Dunkel's testimony with
9 you?

10 A I do.

11 Q Can I get to you turn to Schedule 4, WD-14-2.

12 A I have his testimony. I don't have all of the
13 schedules.

14 Q Okay. Do you have that or -- or not, that
15 particular schedule?

16 A I -- I do not have that particular schedule.

17 MR. MILLS: Okay. May I approach?

18 JUDGE WOODRUFF: You may.

19 Q (By Mr. Mills) Okay. In data requests, we
20 asked if AmerenUE's calculation pertaining to the Staff
21 proposal were -- were reasonably close to the amount
22 calculated by Dunkel. And you answered that AmerenUE's
23 calculations were reasonably close to the Dunkel
24 calculations; is that correct?

25 A Yes.

1 Q Okay. What is the dollar amount of interim
2 retirements at Callaway between 12/31/2005 and October
3 2044 that AmerenUE calculates is effectively included in
4 the Staff's proposed survivor terms?

5 A I don't have that amount with me.

6 Q Have you calculated that amount?

7 A Yes.

8 Q Has it been provided in your testimony?

9 A No.

10 Q How -- how would you go about calculating that
11 amount?

12 A I would use the rates of retirement from the
13 estimated survivor curves to project the amounts of
14 retirement that would occur in each year 2006 through 2043
15 by applying, as I said, rates of retirement in each of
16 those years to each of the installation years of plant for
17 each of the plant accounts and the -- and the dollars of
18 investment at December 31st, 2005.

19 Q Okay. Now, is it -- is it true that you
20 characterize Staff as proposing an infinite life for steam
21 production plants?

22 A No. I -- I characterize it as -- as an infinite
23 life span.

24 Q Okay. Isn't it true that for the largest steam
25 production account, which is boiler plant equipment,

1 Account 312, that Staff proposes an average life of 60
2 years?

3 A Yes. They use an average life of 60 years.

4 Q Okay.

5 A A --

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

7 JUDGE WOODRUFF: All right. Thank you.

8 MR. MILLS: Oh, and, your Honor, I don't know if
9 it -- if it's up to me to do this, but Commissioner
10 Clayton has been asking the outside experts questions
11 about compensation and whatnot.

12 JUDGE WOODRUFF: You can certainly take care of
13 that for me.

14 MR. MILLS: I will do that.

15 JUDGE WOODRUFF: And, also, do you want to offer
16 456?

17 MR. MILLS: Yes. I'd like to offer Exhibit 456.

18 JUDGE WOODRUFF: 456 has been offered. Any
19 objection to its receipt?

20 MR. BYRNE: No objection.

21 JUDGE WOODRUFF: It will be received.

22 (Exhibit 456 was offered and admitted into
23 evidence.)

24 Q (By Mr. Mills) Mr. Stout, at least one of the
25 Commissioners is sort of keeping track of the experts

1 hourly rates and total expenditures in this case. Can you
2 tell us what your hourly rate is?

3 A I'm not absolutely certain, but I believe it's
4 either 260 or two -- \$270 per hour.

5 Q Okay. And about how many hours have you put in
6 so far into this case?

7 A I really don't know.

8 Q Okay. How many more do you anticipate putting
9 in?

10 A Not many.

11 Q Okay. Do you have an estimate of what your
12 overall billings for this case will be?

13 A I do not.

14 MR. MILLS: Okay. That's all I have. Thank
15 you. JUDGE WOODRUFF: All right. Thank you.

16 And with that, we're -- we're ready to take our lunch
17 break. I do have a couple of announcements -- or an
18 announcement to make about the Commission's agenda session
19 which will begin at 12 o'clock.

20 As some of you may be aware, the Governor's
21 office has asked the Commission to allow Ed Martin, the
22 Governor's Council to make a statement or testify at this
23 -- at this hearing.

24 The Commission will be discussing that request
25 at its agenda session this afternoon. And it looks like

1 it will be a -- a fairly long agenda session, so we will
2 break until 1:30.

3 Mr. Byrne, you look like you want to say
4 something.

5 MR. BYRNE: When is the agenda session? Is that
6 at 12?

7 JUDGE WOODRUFF: It starts at 12. With that,
8 we're adjourned until 1:30.

9 (Break in proceedings.)

10 JUDGE WOODRUFF: All right. Well, let's come to
11 order. Welcome back from lunch. When I returned
12 downstairs, I discovered that the web cast is not
13 functioning. I've sent a help desk ticket to have
14 somebody come down here and fix it. But for the moment,
15 we'll go ahead without -- without broadcasting. And I
16 don't know what happened, but it -- I have a blank screen,
17 and that's why your TV back there is blank as well.

18 Okay. I believe before we --

19 MR. WILLIAMS: Did you want to address that on
20 the record or --

21 JUDGE WOODRUFF: Mr. Mills, I believe you had
22 some documents you wanted to offer?

23 MR. MILLS: Yeah. If you want to take that up
24 now. Before we broke, Staff had offered an exhibit from
25 the -- the most recent UTI RP Case EO-2006-0240 that was

1 -- that was the original filing of the executive summary
2 that was marked highly confidential in the original
3 version.

4 Pursuant to a Commission order, UE refiled that
5 in a public version, which I have a copy of and in a
6 proprietary version, which I also have a copy of. And
7 after that order, UE then refiled one particular page,
8 which was page 6, pursuant to another Commission order to
9 remove the last little bit of highly confidential
10 information so that the way the documents currently stands
11 in EFIS, there is a proprietary version that is complete
12 that has no information missing.

13 There is no highly confidential version. And
14 then there's a public version that has probably a dozen or
15 two numbers blacked out, plus one particular chart.

16 JUDGE WOODRUFF: Okay.

17 MR. MILLS: I've got copies of both the
18 non-proprietary and the proprietary that I'm prepared to
19 put into the record as a substitute for the highly
20 confidential version.

21 JUDGE WOODRUFF: We'll put them into the record
22 not as a substitute but in addition to just so we don't
23 have confusion about having to remove items from the
24 record.

25 MR. MILLS: Okay. As long as the record's clear

1 there is no highly confidential information associated
2 with this exhibit.

3 JUDGE WOODRUFF: All right. All three exhibits
4 will be appearing in the record.

5 MR. MILLS: Okay.

6 JUDGE WOODRUFF: And the record, as we've made
7 it today, should clarify exactly what's happening. So
8 we're talking about 457 and 458. Let's -- let's make the
9 proprietary version as 457-P. The non-proprietary public
10 version would be 458.

11 Apparently the broadcast was my mistake. I put
12 the adjournment in here and the IT people thought that we
13 were done for the day. So I take full responsibility.

14 MR. WILLIAMS: For purposes of clarity on the
15 record, Judge, it's my understanding that what's been
16 marked -- and I assume will be offered or -- I don't think
17 anybody's going to have any objection. But what's been
18 marked as 457-P and what's been marked as 458-P are
19 proprietary and non-proprietary versions of what had been
20 marked as Exhibit No. 273, which was indicated as being
21 designated HC.

22 It's my understanding that, actually, there is
23 no HC version currently.

24 JUDGE WOODRUFF: Right.

25 MR. MILLS: That's correct.

1 JUDGE WOODRUFF: Okay. And I assume -- 457-P
2 and 458 have been offered into evidence. Are there any
3 objections to their receipt?

4 MR. BYRNE: No objection.

5 JUDGE WOODRUFF: Hearing none, they will be
6 received into evidence.

7 (Exhibits 457-P and 458 were offered and
8 admitted into evidence.)

9 JUDGE WOODRUFF: All right. Any other matters
10 anybody wants to bring up before we get started on further
11 testimony?

12 Okay. Now, Mr. Stout is still on the stand.
13 Public Counsel had completed its cross?

14 MR. MILLS: That's correct.

15 JUDGE WOODRUFF: Did Staff wish to cross?

16 MR. WILLIAMS: Yes.

17 CROSS-EXAMINATION

18 BY MR. WILLIAMS:

19 Q Good afternoon, Mr. Stout.

20 A Good afternoon.

21 Q My name is Nathan Williams, and I'm the attorney
22 that's represents the Staff in this case. In your
23 testimony, you used the terms terminal net salvage, final
24 net salvage and decommissioning cost. Are you using those
25 terms synonymously?

1 A Yes.

2 Q And do you mean by those terms the value of
3 property retired less the cost of removal?

4 A Yes.

5 Q If a depreciation -- if a depreciation analyst
6 is using life span for a power plant, is it not the
7 analyst's goal to use a life span that is based on the
8 best estimate of the actual date that power plant would be
9 retired?

10 A Yes.

11 Q In your rebuttal testimony on page 3 at lines 11
12 through 6, you make the statement, if I've got a copy
13 correctly, The use of a life span for each power plant
14 based on experience and expectations of the company and
15 the industry is far preferable to the assumption that
16 these plants will live forever and have an infinite life.
17 We know the plants do not have infinite lives, but we do
18 not know for certain when they will be retired. Is that
19 correct?

20 A Yes.

21 Q Are you asserting the Commission Staff has taken
22 the position that AmerenUE has power plants that will live
23 forever and have an infinite life?

24 A Yes. That's the effect of the estimates that
25 the Staff has made.

1 Q And if a power plant has an infinite life,
2 wouldn't you use zero depreciation rates?

3 A No. When I say that the plant has an infinite
4 life in agreeing with you, what I'm saying is that that
5 particular plant will continue indefinitely or infinitely
6 to remain in service with just periodic replacements of
7 its facilities as described by the curve that Staff has
8 used.

9 But there's no -- Staff does not anticipate in
10 its estimate of service life that the entire plant will
11 ever be retired.

12 Q Couldn't you get the same result as what Staff
13 has if you would have assumed a retirement date that
14 exceeded the life of any of the current plant at that
15 site?

16 A Would you repeat that, please?

17 Q Couldn't you assume a life -- wouldn't you get
18 the same result if you assumed a life span that exceeded
19 or met the longest-lived equipment at a plant site?
20 Wouldn't you get the same result as Staff did?

21 A Are you -- are you saying is it possible to
22 estimate a life span that would result in the same annual
23 accrual rate as Staff?

24 Q Yes.

25 A Not with the same interim curves that Staff's

1 using, no.

2 Q Let me ask you this: Is using an average
3 retirement date for multiple power plant sites put into
4 service on different dates to determine a life span with a
5 plant at those sites consistent with authoritative
6 depreciation tax?

7 A I don't believe it's addressed in the
8 authoritative depreciation tax.

9 Q Does that mean it's consistent or not?

10 A It -- it means that it's neither consistent nor
11 inconsistent because I don't believe the issue of using an
12 average date of retirement for a group of power plants is
13 addressed in authoritative depreciation texts.

14 Q So it's not supported by authoritative
15 depreciation texts?

16 A It's not supported nor contradicted.

17 Q Doesn't AmerenUE have non-nuclear steam turbine
18 generating units at four sites, Labadie, Sioux, Meramac
19 and Rush Island?

20 A Yes.

21 Q Do you know how many generating units AmerenUE
22 has at its Labadie site?

23 A It has four units at Labadie.

24 Q And do you know when each of those units was
25 placed in service and the generating capacity of each of

1 those units?

2 A Yes. Unit No. 1 at Labadie was in commercial
3 operation on June 30th, 1970. It has a rating of 571
4 megawatts. Unit No. 2 was placed in commercial operation
5 on June 25th, 1971 with a similar capacity. Units -- Unit
6 3 was placed into commercial operation August 26th, 1972
7 with a rating of 571 megawatt. And Unit 4 on August 8,
8 1973 with a rating of 571 megawatts.

9 Q I noticed before you provided your answer that
10 you looked at some reference materials. What is it that
11 you're looking at?

12 A It is a plant guide prepared for visitors to the
13 Labadie plant.

14 Q And when did you get this plant guide?

15 A Several years ago.

16 Q How many generating units does AmerenUE have at
17 its Meramac site?

18 A Four.

19 Q Do you know when each unit was placed in service
20 and what the generating capacity of each unit is?

21 A Yes. Unit 1 was placed into service May 21st,
22 1953, and it a capacity of 141 megawatts. Unit 2 was
23 placed in service in 1954, also with a capacity of 141
24 megawatts. Unit 3 was completed in 1958 and has a
25 capacity of 360 megawatts. And Unit 4 was placed in

1 service in 1961 and has the capacity of 346 megawatts.

2 Q And, again, I notice you're referring to some
3 documentation when you're providing that information.
4 What is it that you're referring to?

5 A A document provided to me by Ameren similar to
6 the document for Labadie.

7 Q And when did you receive that document?

8 A At approximately the same time.

9 Q Several years ago?

10 A Yes.

11 Q How many generating units does AmerenUE have --
12 have at its Sioux site?

13 A I don't seem to have my Sioux book, and I have
14 not committed it to memory. But there are two units.

15 Q Do you know when they went into service and what
16 the capacity of each of those two units are?

17 A The Sioux units were placed in service in 1967
18 and 1968. Each have a capacity of approximately 475
19 megawatts.

20 Q And I notice you were looking at, it looked
21 like, a computer for obtaining that information?

22 A I reviewed Schedule JFWE1, which allocates the
23 annual depreciation and shows the investment in each of
24 the facilities and each of the accounts by units.

25 Q Do you know how many generating units AmerenUE

1 has at its Rush Island site?

2 A Two.

3 Q And do you know when they were placed in this
4 service and what their capacities are?

5 A Each unit has a capacity of 621 megawatts. They
6 were placed in service in 1976 and 1997.

7 Q And, again, I notice that you're referring to
8 some documentation. What documentation are you referring
9 to?

10 A Again, it's Rush Island information for visitors
11 that I have obtained several years ago.

12 Q Didn't you and Mr. Wiedmayer use an average
13 retirement date of June 30th, 2026 for AmerenUE's
14 non-nuclear steam generation units in the depreciation
15 study for AmerenUE that was presented in direct testimony?

16 A Yes.

17 Q On page 13 of your correct testimony, you state
18 -- I'll let you get there before I start.

19 A Thank you.

20 Q Are you there?

21 A I am.

22 Q The final retirement date is estimated based on
23 an informed judgement and incorporating the outlook of
24 management and the consideration of both the life spans at
25 the retired station or units and other units currently in

1 service. Is that a correct quote?

2 A Yes.

3 Q In the depreciation study for AmerenUE that was
4 presented in direct testimony, what specific information
5 were you provided for, "the statements of others, for
6 units currently in service" for AmerenUE's non-nuclear
7 steam turbine generating unit?

8 A I -- I was not provided that information by
9 Ameren. That information is available to you based on
10 studies that our firm has conducted for other electric
11 utilities and discussions with other depreciation experts
12 with respect to the life spans that they used for similar
13 fossil steam units.

14 Q Is that as much specificity as you can supply?

15 A Yes.

16 Q Do you know what AmerenUE's total generation
17 capacity is?

18 A Something on the order of 8,000 megawatts.

19 Q And what's your basis for that?

20 A Mr. Birk's testimony earlier today is my most
21 recent reference to that amount.

22 Q Do you know how much of that capacity is
23 supplied by AmerenUE's Callaway nuclear plant?

24 A I can look that up. The capacity of Callaway is
25 1,236 megawatts.

1 Q Do you know how much of AmerenUE's total
2 generation capacity is supplied by AmerenUE's non-nuclear
3 steam turbine generation units?

4 A It's approximately 70 percent.

5 Q I want to turn your attention to page 2 of your
6 surrebuttal testimony, in particular, line 23.

7 A I apologize, Mr. Williams, but my pagination
8 must be a little different in what I've printed out. If
9 you can help me with the --

10 Q Okay.

11 JUDGE WOODRUFF: You can approach if you like.

12 Q (By Mr. Williams) In what I have, it would be
13 the last line. There's a question to the life span as
14 used by Mr. Wiedmayer in his rebuttal testimony
15 anticipated that the vast majority, if not all, of UE's
16 generating capacity will be replaced in the next 20 years.

17 And then there's a response, No, they did not.
18 The estimates used by Mr. Wiedmayer in his rebuttal
19 testimony anticipate that replacement of the existing
20 capacity will begin in 14 years, 2021 and be completed in
21 2036, 39 years from 2007. Are you with me?

22 A Yes.

23 Q And isn't that question and answer relating to
24 AmerenUE's non-nuclear steam turbine generating plants?

25 A Yes. That's what it's related to.

1 Q And isn't it true that -- and you may want to go
2 -- do you have Mr. Wiedmayer's testimony?

3 A I do not.

4 MR. WILLIAMS: May I approach?

5 JUDGE WOODRUFF: You may.

6 Q (By Mr. Williams) I have here a copy of --

7 MR. WILLIAMS: Do you want to see it?

8 MR. BYRNE: Yes, please.

9 Q (By Mr. Williams) A copy of Mr. Wiedmayer's
10 rebuttal testimony. Now I'll turn your attention to pages
11 25 to 26 of that testimony. I believe it appears towards
12 the bottom of page 25 and continues on to page 26.

13 My question to you is, is not the date, the
14 retirement date of 2046 that you stated, actually the end
15 license date or AmerenUE's Osage hydro plant that Mr.
16 Wiedmayer has adjusted as testimony because AmerenUE got a
17 40-year license as a opposed to a 30-year?

18 A Yes. I believe that's correct.

19 Q So the date you used, 2046, is actually for a
20 hydro plant, not a steam turbine plant?

21 A Yes.

22 Q Okay. And if you turn your attention to -- I
23 believe it's on page 24 of Mr. Wiedmayer's rebuttal
24 testimony. Isn't the last date that Mr. Wiedmayer used
25 for replacing AmerenUE's non-nuclear steam turbine

1 generating plants the year 2037?

2 A Yes, it is.

3 MR. WILLIAMS: No further questions.

4 JUDGE WOODRUFF: All right.

5 MR. WILLIAMS: May I approach and retrieve the
6 exhibits?

7 JUDGE WOODRUFF: You certainly may. All right.

8 I have no questions from the Bench, so there's no need for
9 recross. Any redirect?

10 MR. BYRNE: Yes, your Honor. Just a couple
11 questions.

12 REDIRECT EXAMINATION

13 BY MR. BYRNE:

14 Q Good afternoon, Mr. Stout. Earlier, Mr. Mills
15 was asking you about your definition of depreciation
16 versus the FERC Uniform System of Accounts definition. Do
17 you remember that?

18 A Vividly.

19 Q And I -- I think on Exhibit 453, he showed the
20 difference between your definition and the FERC Uniform
21 System of Accounts definition?

22 A (Witness nods head.)

23 Q Could you explain why your definition is
24 different than the Uniform System of Accounts definition?

25 A Yes, I can. The definition in my testimony is

1 the definition from the Uniform System of Accounts for
2 Canadian Gas and Oil Pipeline Companies, which I
3 inadvertently used in this testimony.

4 It should read, With respect to those causes
5 that are known to be in operation as opposed to those
6 reasonably anticipated or contemplated. I apologize for
7 that oversight.

8 Q Okay. So the -- the version that Mr. Mills
9 showed you is the correct wording of the -- of the
10 definition?

11 A Yes, it is.

12 Q Okay. Mr. Mills also showed you a chart that
13 was marked Exhibit 455 with some lines on it. Do you
14 remember the chart -- the chart on Exhibit 455?

15 A I do.

16 Q Okay. And let me ask you this: I think in --
17 in response to him -- his questions you said the average
18 age of retirement goes up -- of the retirements goes up
19 after the study date. Could you explain why that is the
20 case?

21 A Yes. The average age of retirements that I've
22 seen increasing from the study date forward is the average
23 age of retirements of the plants presently in service. It
24 does not depict the average age of any retirements of
25 plant that might be added subsequent to the study date.

1 And the reason that the increasing average age of
2 retirements related to the plant and service need to be
3 considered is that it is for that plant that we are
4 estimating the future net salvage and not for any future
5 additions of the plant.

6 MR. BYRNE: Okay. Thank you, Mr. Stout. That's
7 all the questions I have.

8 JUDGE WOODRUFF: Mr. Stout, you can step down.
9 I believe the next witness, then, is Mr. Wiedmayer.

10 MR. BYRNE: Your Honor, before Mr. Wiedmayer
11 moves up, I guess we need to admit Mr. Stout's testimony.

12 JUDGE WOODRUFF: All right

13 MR. BYRNE: Which is --

14 JUDGE WOODRUFF: 69, 70 and 71 on my chart.

15 MR. BYRNE: Yes, sir. So I would move to admit
16 69, 70 and 71.

17 JUDGE WOODRUFF: 69, 70 and 71 have been
18 offered. Any objections to their receipt?

19 MR. WILLIAMS: Staff has no objections.

20 JUDGE WOODRUFF: Hearing no objections, they
21 will be received into evidence.

22 (Exhibits 69, 70 and 71 were offered and
23 admitted into evidence.)

24 JUDGE WOODRUFF: Good afternoon, Mr. Wiedmayer.
25 Please raise your right hand, and I'll swear you in as a

1 witness.

2 MR. WIEDMAYER: Good afternoon.

3 JUDGE WOODRUFF: Good afternoon.

4 JOHN WIEDMAYER,

5 being first duly sworn to testify the truth, the whole
6 truth, and nothing but the truth, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BYRNE:

9 JUDGE WOODRUFF: Thank you.

10 Q (By Mr. Byrne) Mr. Wiedmayer, do you have any
11 corrections to any of your testimony?

12 A Yes. I have one correction to my surrebuttal
13 testimony submitted on February 28th, page 9, line 21. It
14 is a formula that I inadvertently did not put brackets
15 around the enumerator. So the brackets should go around
16 the one minus the net salvage percent minus one divided by
17 the quantity, one minus the next salvage percent.

18 Q So where exactly do the brackets go?

19 A Around the enumerator.

20 Q Okay. Any other changes?

21 A Before the division line.

22 Q Okay. Any other changes, corrections?

23 A No.

24 MR. BYRNE: Okay. Thank you. I tender the
25 witness for cross-examination.

1 JUDGE WOODRUFF: All right. And do the parties
2 wish to cross-examine Mr. Wiedmayer? Public Counsel will
3 go first, then.

4 CROSS-EXAMINATION

5 BY MR. MILLS:

6 Q Good afternoon, Mr. Wiedmayer. My name is Lewis
7 Mills. I represent the Public Counsel in this proceeding.

8 A Good afternoon, Mr. Mills.

9 Q I have a few questions for you.

10 MR. MILLS: And, your Honor, I'd like to get an
11 exhibit marked, please.

12 JUDGE WOODRUFF: All right. Your next number
13 will be 459.

14 MR. MILLS: Your Honor, for purposes of the
15 cross of this witness, I'm planning to offer two exhibits,
16 but I don't seem to have made copies of either one. Can I
17 just have one marked of each and bring back additional
18 copies at the break?

19 JUDGE WOODRUFF: That would be fine.

20 MR. MILLS: Okay.

21 THE COURT REPORTER: What was the exhibit
22 number?

23 JUDGE WOODRUFF: This is 459.

24 Q (By Mr. Mills) Mr. Wiedmayer, I've handed you a
25 copy of what's been marked Exhibit 459. Is that your

1 response to Data Request No. MIEC 12-05?

2 A Yes, it is.

3 Q And did you provide that response?

4 A Yes, I did.

5 Q In your response, you say -- let me see if I can
6 find the spot here. You say, For the steam production
7 plants, AmerenUE has no plans to retire any of their
8 generation units during their current planning horizon,
9 (i.e., the next 20 years); is that correct?

10 A That's what I said at the time which this data
11 response -- this data request response was prepared
12 November 27th, 2006.

13 Q Okay. And -- well, let me just go ahead and
14 help you out with this. Is this no longer accurate?

15 A That is correct.

16 Q Okay. And what -- what is inaccurate?

17 A We have revised the estimated retirement date
18 for the four steam units at Meramac, Labadie, Rush Island
19 and Sioux. I've submitted that with my rebuttal
20 testimony.

21 Q Okay. And now only one of those falls within
22 the 25-year planning horizon; is that correct?

23 A That is correct.

24 Q Okay.

25 A One --

1 Q The Meramac unit?

2 A Right. The Meramac unit.

3 Q Okay.

4 MR. MILLS: Your Honor, I'd like to mark another
5 exhibit.

6 JUDGE WOODRUFF: Okay. This will be 460.

7 Q (By Mr. Mills) Mr. Wiedmayer, I've handed you a
8 copy of your response to Data Request 460. I'm sorry.
9 What's been marked as Exhibit 460, which is a copy of your
10 response to OPC data request 5079. Did you prepare the
11 response to this document?

12 A Yes, I did.

13 Q And is the -- the answers -- or the answer,
14 singular, that you provided there, is that still correct?

15 A Yes, it is.

16 MR. MILLS: Okay. Your Honor, with that, I'd
17 like to offer Exhibits 459 and 460.

18 JUDGE WOODRUFF: 459 and 460 have been offered
19 into evidence. Are there any objections to its receipt?

20 MR. BYRNE: No.

21 JUDGE WOODRUFF: Then they will be received into
22 evidence.

23 (Exhibits 459 and 460 were offered and admitted
24 into evidence.)

25 MR. MILLS: Then I have no further questions.

1 JUDGE WOODRUFF: Does Staff wish to cross?

2 MR. WILLIAMS: Yes. I just have a few
3 questions.

4 JUDGE WOODRUFF: Okay.

5 CROSS-EXAMINATION

6 BY MR. WILLIAMS:

7 Q Good afternoon, Mr. Wiedmayer.

8 A Good afternoon.

9 Q You've heard some of these questions before, so
10 -- if a depreciation analyst is using life span for a
11 power plant, is it not the analyst's goal to use a life
12 span that is based on the best estimate of the actual date
13 that power plant -- power plant will be retired?

14 A Yes. I would agree with that.

15 Q Is using an average retirement date for multiple
16 power plant sites put into service on different dates to
17 determine life span consistent with authoritative
18 depreciation texts?

19 A Well, I would reiterate what Mr. Stout said on
20 that matter. It's neither consistent nor inconsistent.

21 Q Is it supportive by authoritative depreciation
22 texts?

23 A The life span approach is supported. And -- and
24 what we're estimating is that -- is a retirement date for
25 those units. When you use the life span approach, one of

1 the parameters that you need to estimate is a final
2 retirement date.

3 Q Do authoritative depreciation texts support
4 using an average retirement date for multiple plants at
5 multiple sites? Yes or no?

6 MR. BYRNE: I'm going to object on the grounds
7 that he -- that question has been asked and answered. He
8 said they neither support nor don't support.

9 JUDGE WOODRUFF: I'll overrule the objection.

10 A Using a life span approach, you need to estimate
11 a final retirement date. That's what we did for the steam
12 plants.

13 Q (By Mr. Williams) I don't think that's --

14 A Authoritative texts -- authoritative texts would
15 support the estimation of a retirement date when you --
16 using the life span approach.

17 Q But my question to you was more specific than
18 that. I'm asking if an authoritative depreciation text
19 supports using the same -- an average retirement date for
20 multiple plant sites where the units were put into service
21 at different dates at those different sites.

22 A I don't believe it would be addressed, that that
23 matter would be specifically addressed in authoritative
24 texts. So I would say it's neither supported by
25 authoritative texts nor inconsistent, nor not supported.

1 Q Did you not use an average retirement date of
2 June 30th of 2026 for AmerenUE's non-nuclear steam turbine
3 generating units in the depreciation study from AmerenUE
4 that was presented in direct testimony?

5 A Yes. That is correct. In my rebuttal
6 testimony, we revised those retirement dates for the steam
7 plants.

8 Q Your attorney will have an opportunity to ask
9 you further. On pages 7 and 8 of your direct testimony,
10 you state -- let me give you a moment to get there.

11 A Okay. I'm there.

12 Q You state with regard to your depreciation study
13 for AmerenUE that's attached to Schedule JFW-E1, quote, I
14 reviewed the available sources of data, observed the
15 electric plant during a field survey and discussed past
16 causes of retirement and the outlook for future
17 retirements with AmerenUE engineering and operations
18 management, closed quote. Is that an accurate statement
19 of what you said?

20 A Yes.

21 Q In that depreciation study, which is the one you
22 included with your direct testimony for AmerenUE, what
23 specific information did AmerenUE's engineering and
24 operations management provide for the outlook for future
25 retirement of AmerenUE non-nuclear steam turbine

1 generating units?

2 A They provided me with the information that
3 within the next planning horizon, they did not anticipate
4 any of the steam units would be retired.

5 Q And what planning horizon was that?

6 A That planning horizon would be what they filed
7 in their IRP.

8 Q Would that be a 20-year planning horizon?

9 A Yes.

10 Q Did you use informed professional judgment in
11 relying on retirements June 30th, 2026 for AmerenUE's
12 non-nuclear steam turbine generating units?

13 A Yes, I did. I considered the age of the
14 property, the age of the steam plant in and of itself.
15 And the retirement, the estimated retirement date of 2026
16 would mean that the youngest unit, which would be Rush
17 Island Unit 2 would be 49 years at -- at the time of
18 retirement in 26, with Meramac 1, the oldest unit, being
19 retired at age 73, I felt that those ranges were, I would
20 say, typical life spans that are used for steam plants.
21 73 might even be beyond what is typically used to
22 depreciation steam plants, 73-year life.

23 Q If you used informed professional judgment in
24 your original study, why did you revise your study and
25 rebuttal testimony about the retirement dates that were

1 specific to each site?

2 A Well, the -- the retirements were refined. The
3 estimated retirement dates for each plant were refined.
4 The -- the initial retirement date of 2026 represented a
5 -- a mid point of what is likely to happen for those four
6 plants.

7 We felt that a refinement was necessary, and we
8 went ahead and made that refinement where we estimated a
9 retirement date for each plant.

10 Q Weren't the results significantly different?

11 A My -- my description of that would be different.
12 I would say they're not -- they're not significantly
13 different.

14 Q Wasn't it on the order of 5 percent?

15 A That seems right.

16 MR. WILLIAMS: No further questions.

17 JUDGE WOODRUFF: All right. Thank you. We'll
18 come up for questions from the Bench. Chairman Davis just
19 walked in. Do you have any questions for Mr. Wiedmayer?

20 CHAIRMAN DAVIS: No questions

21 JUDGE WOODRUFF: Thank you very much.

22 MR. WIEDMEYER: Thank you, Commissioner.

23 JUDGE WOODRUFF: No need for recross. Any
24 redirect?

25 MR. BYRNE: None, your Honor.

1 JUDGE WOODRUFF: Thank you. You can step down.
2 And on my list next is witnesses Mr. Gilbert from the
3 Staff.

4 MR. BYRNE: Your Honor, while Mr. Gilbert is
5 going to the stand, I guess I need to offer Mr.
6 Wiedmayer's testimony.

7 JUDGE WOODRUFF: All right. And it looks like
8 72, 73 and 74?

9 MR. BYRNE: Yes, your Honor. I would offer
10 those exhibits.

11 JUDGE WOODRUFF: All right. 72, 73 and 74 have
12 been offered into evidence. Are there any objections to
13 their receipt?

14 MR. WILLIAMS: No objection.

15 JUDGE WOODRUFF: Hearing none, they will be
16 severed into evidence.

17 (Exhibits 72, 73 and 74 were offered and
18 admitted into evidence.)

19 JUDGE WOODRUFF: Welcome, Mr. Gilbert. Please
20 raise your right hand.

21 GILBERT,
22 being first duly sworn to testify the truth, the whole
23 truth, and nothing but the truth, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. WILLIAMS:

26

1 Q It's my understanding we've waived preliminary
2 questions, so I'll cut right to do you have any revisions
3 to your rebuttal testimony that's been marked as Exhibit
4 No. 211?

5 A Yes, I do. I have the filed revision for
6 rebuttal testimony of Staff witness Guy C. Gilbert.

7 Q And what are those revisions?

8 A Should I read the document or --

9 Q Indicate what the changes are in your --

10 A Okay. The changes are -- I'm sorry -- on page 4
11 at lines 15 to 14 of my rebuttal testimony to strike that
12 Q&A. And then at --

13 Q Lines 5 to 14?

14 A Yes. On page 4, lines 5 through 14 of the
15 rebuttal testimony of Staff witness Guy C. Gilbert
16 prefiled testimony, prefiled January 31st, 2007, appear to
17 the following question and answer. And at two, I -- it's
18 stated, The foregoing does not reflect how this Commission
19 has treated net salvage associated with depreciation and
20 how the Staff approaching that salvage in this case.
21 Therefore, the Staff notified the parties. Guy C. Gilbert
22 is revising his rebuttal testimony to withdraw the
23 foregoing question and answer along with the corresponding
24 dismantlement cost index entry on page I.

25 Q Do you have any other changes to your testimony?

1 A No. 3 states that the amount of reserve over
2 accrual of about \$920 million appears in the rebuttal
3 testimony of Staff witness Guy C. Gilbert on page 7 at
4 lines 10, 13 and 16 is incorrect. The correct amount is
5 \$766 million.

6 Therefore, Guy C. Gilbert is revising
7 920 million appearing at those locations to 766 million.
8 And then at four in the same document, Schedule GCG 1-2 to
9 the rebuttal testimony of Staff witness Guy C. Gilbert
10 pre-filed January 31st, 2007 is incomplete.

11 Therefore, Guy C. Gilbert is revising the
12 schedule by adding the following entries to the end of the
13 table appearing in the schedule. And, actually, I have a
14 revision to that of the 11/4/04 depreciation plan for
15 ER-2004-70. I entered that case at rebuttal testimony.
16 And for the 12/11/06 depreciation plan of DR-2005-0422, I
17 entered that case at surrebuttal testimony.

18 Q Do you have any other corrections to Exhibit No.
19 211?

20 A I do not.

21 MR. WILLIAMS: Staff offers Exhibit No. 211.

22 JUDGE WOODRUFF: Thank you. Mr. Gilbert, you --
23 I believe you indicated that those corrections you made
24 had also been pre-filed?

25 MR. GILBERT: Yes.

1 JUDGE WOODRUFF: When was that filed?

2 MR. WILLIAMS: February 9.

3 JUDGE WOODRUFF: February 9.

4 MR. WILLIAMS: It was a pleading that noted what
5 the revisions would be. It wasn't actually made until
6 now.

7 JUDGE WOODRUFF: All right. That's fine. I
8 just wanted to be clear as to what -- what that was about.
9 All right. You tender him for cross?

10 MR. WILLIAMS: I've offered the exhibit.

11 JUDGE WOODRUFF: Oh, I'm sorry. Which the -- is
12 his testimony?

13 MR. WILLIAMS: Yes.

14 JUDGE WOODRUFF: Which is which numbers?

15 MR. WILLIAMS: Exhibit No. 211. He only has one
16 piece of testimony.

17 JUDGE WOODRUFF: Okay.

18 MR. WILLIAMS: With the corrections he's just
19 recited on the stand.

20 JUDGE WOODRUFF: Okay. 211 has been offered.
21 Any objection to its receipt? Hearing none, it will be
22 received into evidence.

23 (Exhibit 211 was offered and admitted into
24 evidence.)

25 MR. WILLIAMS: I'd offer the witness for

1 cross-examination.

2 JUDGE WOODRUFF: All right. Thank you. Does
3 any party wish to cross Mr. Gilbert? I don't see any
4 hands going up. Chairman Davis, do you have any questions
5 for Mr. Gilbert?

6 CROSS-EXAMINATION

7 BY CHAIRMAN DAVIS:

8 Q How are you doing today, Mr. Gilbert?

9 A Fine. Thank you, sir.

10 Q Have a good day, Mr. Gilbert. No further
11 questions.

12 A Thank you -- thank you, Chairman.

13 JUDGE WOODRUFF: Does anyone wish to recross
14 based on that question? Perhaps he's not having a good
15 day.

16 MR. WILLIAMS: I'll waive redirect.

17 JUDGE WOODRUFF: All right. Mr. Gilbert, you
18 can step down.

19 MR. GILBERT: Thank you.

20 JUDGE WOODRUFF: And I believe the next witness
21 is Jolie Mathis. And if you'd please raise your right
22 hand.

23 JOLIE MATHIS,
24 being first duly sworn to testify the truth, the whole
25 truth, and nothing but the truth, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. WILLIAMS:

3 JUDGE WOODRUFF: Thank you.

4 Q (By Mr. Williams) Ms. Mathis, do you have any
5 corrections to your direct testimony that's been premarked
6 for purposes of this case as Exhibit No. 222?

7 A No, I do not.

8 Q Do you have any revisions to your testimony
9 that's been pre-filed -- your surrebuttal testimony that's
10 been pre-filed in this case and marked as Exhibit No. 223,
11 which is HC?

12 A No, I do not.

13 MR. WILLIAMS: I'd offer Exhibit Nos. 222 and
14 223.

15 JUDGE WOODRUFF: All right. 222 and 223 have
16 been offered into evidence. Are there any objections to
17 their receipt?

18 MR. BYRNE: No, your Honor.

19 JUDGE WOODRUFF: Hearing none, they will be
20 received into evidence.

21 MR. WILLIAMS: Offer the witness for
22 examination.

23 JUDGE WOODRUFF: All right. Any parties wish to
24 cross-examine Ms. Mathis? Looks like Public Counsel will
25 go first.

1 MR. MILLS: Your Honor, I'd like to have an
2 exhibits marked.

3 JUDGE WOODRUFF: All right. You're up to 461.

4 CROSS-EXAMINATION

5 BY MR. MILLS:

6 Q Ms. Mathis, I've just handed you what's been
7 marked as Exhibit 461. Can you identify that as the Staff
8 response to Public Counsel Data Request 55103?

9 A Yes.

10 Q And did you provide that response?

11 A Yes, I did.

12 Q Okay. Is it correct that in this response you
13 recognized that there was an inadvertent problem in the
14 net salvage factors for Callaway as contained in the
15 original Staff filing?

16 A Yes.

17 Q Okay. And for Account 322, you agree that the
18 correct net salvage factor is smaller, that is, closer to
19 zero, than the negative 37 percent factor contained in
20 Staff direct; is that correct?

21 A Could you repeat that?

22 Q Yeah. For Account 322 in this data request
23 response, do you agree that the correct net salvage factor
24 is smaller, that is, closer to zero, than the minus 37
25 percent factor contained in the Staff direct testimony?

1 A No.

2 Q You don't -- well, okay. Do you -- well, what
3 is the answer to part D on 5103?

4 A I'm saying that I'm applying the negative 37
5 percent to interim net salvage but not for final net
6 salvage.

7 Q So do you -- do you believe that minus 37
8 percent factor should be applied to Account 322?

9 A That is reflected in my study in my direct
10 testimony.

11 Q I'm sorry. What is reflected?

12 A The negative 37 percent.

13 Q And do you believe that that's the appropriate
14 factor?

15 A We have since had discussions about that -- that
16 salvage. But that was a five-year average salvage that
17 was estimated.

18 Q And do you believe that is the correct factor to
19 use?

20 A Yes.

21 Q What was the nature of the discussions you had
22 about that factor?

23 A Well, in the settlement discussions --

24 MR. BYRNE: I'm going to object to revealing
25 settlement discussions.

1 MR. MILLS: Okay. And I'm certainly --

2 JUDGE WOODRUFF: I'll sustain that objection.

3 Q (By Mr. Mills) I'm certainly not trying to ask
4 about settlement discussions.

5 A Okay.

6 Q Well, let me ask you this: What -- what is your
7 understanding of the -- the status of your settlement --
8 of your testimony now that the settlement has been
9 objected to?

10 A My status of my testimony still remains the same
11 of the negative 37 percent.

12 Q Okay. And -- and you understand that the
13 Commission cannot simply accept that settlement now that
14 it's been contested?

15 A Right. I understand that.

16 MR. MILLS: Okay. Okay. Your Honor, I'd like
17 to offer Exhibit 461.

18 JUDGE WOODRUFF: 461 has been offered. Any
19 objection to its receipt? Hearing none, it will be
20 received into evidence.

21 (Exhibit 461 was offered and admitted into
22 evidence.)

23 MR. MILLS: I have no further questions.

24 JUDGE WOODRUFF: All right. Does AmerenUE wish
25 to cross or any other party wish to cross?

1 MR. BYRNE: Yes, your Honor.

2 JUDGE WOODRUFF: All right.

3 CROSS-EXAMINATION

4 BY MR. BYRNE:

5 Q Good afternoon, Ms. Mathis.

6 A Good afternoon.

7 Q I'd like to start by taking a look at your
8 surrebuttal testimony.

9 A Okay.

10 Q And, specifically, on page 3 of your surrebuttal
11 testimony. On line 5, you talk about Case No.

12 ER-2004-0570?

13 A Yes.

14 Q And what case is that? If you remember, what
15 company was involved in that?

16 A Empire.

17 Q Okay. And then you have a formula for the
18 depreciation rate a little below that that was set forth
19 in the report and order?

20 A Yes.

21 Q And do you remember in that case the net salvage
22 percent in that formula? Was the net salvage percent that
23 was used in the Empire case -- was there any replacement
24 of the historic inflation rate with an estimate of future
25 inflation?

1 A I don't know that.

2 Q Okay. But you're not recommending in this case
3 any replacement of historic inflation with future
4 inflation, are you?

5 A No. No, I'm not.

6 Q Okay. And is your recommendation consistent
7 with how the Staff has historically calculated the net
8 salvage percent after the Laclede decision?

9 A Yes.

10 Q Okay. And is it consistent -- well, strike
11 that. Okay. I'd like to turn to your direct testimony if
12 I could. And I'm on page 8 where you are discussing the
13 -- line 11 and it goes down to even line 18.

14 You discuss the characteristics of life span
15 properties and ask if it would apply to steam production
16 plants such as Meramac, Sioux, Labadie and Rush Island. I
17 guess -- I take it from that that you believe, as a
18 general rule, AmerenUE's steam production plant would be
19 life span property; is that correct?

20 A Yes.

21 Q Okay. And I guess -- well, let me ask you this:
22 Do you agree that eventually there will come a time when
23 an entire -- these entire plants will be retired?

24 A Eventually. Yes.

25 Q Okay. And I guess the problem -- I don't want

1 to put words in your mouth, but is the problem that you
2 don't know exactly when that day will come?

3 A Right. We haven't seen any evidence to show
4 that -- to support the retirement dates that have been
5 proposed by Ameren.

6 Q Okay. And I -- maybe -- maybe you -- you say
7 that in a certain way in your surrebuttal testimony. Look
8 at -- look at page 8 on your surrebuttal testimony, line
9 18. And -- and the sentence says, Determination of the
10 exact timing of a retirement of a particular facility can
11 only be made relatively close to the time of its
12 anticipated retirement indicate. Is that the problem? Is
13 that the issue?

14 A Yes. Yes.

15 Q Okay. But wouldn't that be true of any electric
16 utility with a big fossil plant? I mean, isn't that the
17 case for all large fossil plants owned by electric
18 utilities?

19 A Could you ask that again?

20 Q Yeah. Isn't -- isn't it the case that for any
21 big fossil plant like Meramac, Sioux, Rush Island,
22 Labadie, any plant like that that's owned by any electric
23 utility, the decision to retire that plant can only be
24 made relatively close to the time of its anticipated
25 retirement date?

1 A Yes.

2 Q Isn't that true?

3 A Yes.

4 Q Okay. Okay. And as a result, my understanding
5 is that you are using average service lives developed from
6 your retirement rate analyses of the steam production
7 plant accounts; is that correct?

8 A Yes.

9 Q Okay. And -- and without truncating the average
10 service life curves to -- to reflect the plant retirement;
11 is that correct?

12 A Yes.

13 Q Okay. Would you agree that -- in a perfect
14 world, the -- the ultimate average life that we would like
15 to know for these accounts is the average of the lives
16 experienced by interim retirements and the final
17 retirements at the end of the plant's life if we could
18 know that?

19 A Well, we're not living in a perfect world, so I
20 don't think that -- we -- we deal with real world facts
21 and looking at -- if you include the final retirement
22 data, that's something that's estimated and something that
23 is not easily able to be determined as it is historically.

24 Q But I guess I am asking you to consider a
25 hypothetical where you did know it. If you did know that,

1 wouldn't you want to use it?

2 A If I could tell the future, yes.

3 Q Okay. Let me ask you this: Are the -- I want
4 to ask you about a couple of particular accounts, Accounts
5 312 and 315.

6 A Okay.

7 Q And my -- and so maybe if you can get your work
8 papers related to those accounts. And -- and I guess my
9 first question is, are the survivor curves that you
10 estimated for those two accounts, Accounts 312 and 315,
11 the same survivor curves that Mr. Wiedmayer used for the
12 company?

13 A Yes, they are.

14 Q Okay. And -- and Mr. Wiedmayer is using those
15 survivor curves to describe interim retirement rates for
16 those accounts, is he not?

17 A I -- I can't testify to that, but I'm assuming
18 so.

19 Q Okay. And -- and it -- it includes only interim
20 retirement data, is that true, on those curves?

21 A Yes.

22 Q Okay. It's -- it's true, is it not, that
23 AmerenUE has actually experienced the final retirement of
24 power plants?

25 A For some units, it has.

1 Q Okay. And aren't those retirements reflected in
2 the company's historical depreciation data?

3 A Yes.

4 Q Okay. And since the overall life that we are
5 trying to estimate -- well, would -- wouldn't it be
6 appropriate to include both the final retirement data and
7 the interim retirement data that the company has in its
8 depreciation data in developing your curves?

9 A If we would see something in the integrated
10 resource plan that showed that AmerenUE was anticipating a
11 forthcoming retirement, then we would consider including
12 that data in our analysis.

13 Q Okay. But -- but you've already testified,
14 haven't you, that you really can't do that until you get
15 pretty close to the date of retirement, right? So -- so
16 if retirement is 20 or 30 years out, you can't -- this --
17 there would be no way to reflect that; is that correct?

18 A That's correct.

19 Q Okay. Okay. Let's -- let's look -- if you have
20 the information on those two accounts, if I could look at
21 Account 315 for a minute.

22 A Okay.

23 Q And -- and could you tell me what is -- what's
24 the title of Account 315?

25 A Accessory Electric Equipment.

1 Q And do you know what -- what does that mean?

2 What kind of stuff is in that account?

3 A That's equipment that -- control equipment,
4 equipment that helps operate the equipment in the -- in
5 the plant.

6 Q Like --

7 A Related to the plant.

8 Q How about -- I've got a list. Tell me if this
9 sounds right. Like controls, relays, cables, motors,
10 circuit breakers, storage batteries?

11 A Yes.

12 Q Okay. And -- and those are all material -- or
13 those are all things that are in a power plant; is that
14 correct?

15 A In that account, yes.

16 Q Okay. And what is the average service life that
17 you have estimated for that account?

18 A Ninety years.

19 Q Ninety years. Okay. And so you're saying if an
20 item from that account was put into service today, what
21 year would it be retired on average?

22 A 2097.

23 Q 2097. Okay. And that's just the average,
24 right?

25 A Right.

1 Q There are -- in the survivor curve, there are
2 individual items that last a lot longer than that, aren't
3 there?

4 A There are also many that last -- that are
5 shorter than that.

6 Q Well, let me ask about the longest lived ones.
7 How long would the longest lived item in that account
8 last, according to your survivor curve?

9 A I don't know.

10 Q Well, how about isn't it about double the
11 average service life for that type of a curve?

12 A Not necessarily.

13 Q Okay. So you don't know. Do you have the curve
14 in front of you that you used for that account?

15 A I don't think I have that. Is that 316? Let me
16 see.

17 Q Three -- I think it's 3315 we're talking about.

18 A No. I'm sorry. I don't have that one.

19 Q Okay. Do you know what -- what curve you used,
20 what Iowa curve you used?

21 A Let's see. The 90-R1.

22 Q 90-R1. And -- and, again, by looking at the
23 type of curve, do you have any idea what -- what the
24 longest lived -- I -- you know, my understanding is
25 approximately double, but -- but do you -- do you know

1 that or do you have any idea how long the longest lived
2 items would be, ballpark?

3 A It could be.

4 Q Could be double? Could be 180 years? 2001 --

5 A I don't want to say exactly because I really
6 don't know.

7 Q Okay. But that could be the ballpark, 2187
8 could be the ballpark of the year that the last item would
9 be retired?

10 A I don't know.

11 Q Okay. But in any event, it's considerably
12 longer than the 90-year average service life; is that fair
13 to say?

14 A It could be.

15 Q Okay. And if -- if at any point in that time
16 the plant was retired, every -- every item in that account
17 would be retired; is that correct?

18 A Yes.

19 Q So -- so you're saying -- by applying that
20 average service life, you're saying the plant's going to
21 live, well, a lot longer than 90 years, right?

22 A No.

23 Q Or otherwise the curve would be truncated and
24 the average service life would be shorter. Isn't that
25 true?

1 A I don't think I understand your question. Could
2 you repeat that?

3 Q Well, let me put it this way: By using -- by
4 having an average service life of 90 years for that
5 account, aren't you saying that the plant where the items
6 in that account are located is going to last at least
7 another 90 years?

8 A No. Not necessarily. I mean, if it retired 60
9 years from now, then you -- something that was added this
10 year or last year would -- would have a 60-year life.

11 Q Right. But you're using a 90-year life in
12 calculating the depreciation rates for that account,
13 aren't you?

14 A Yes. As an average service life.

15 Q Well, if the plants retired in 60 years, it
16 won't have a 90-year average service life, will it?

17 A Well, why wouldn't it?

18 Q Well, because it's only 60 years from now.

19 A The 90-year average service life represents --
20 the plant represents -- consists of lives that aren't only
21 90 years but shorter than that. They could be 60 years.
22 You could have a plant that was just added last year or 20
23 years ago.

24 Q Well, let me ask you this: Do you think it's --
25 do you think it's really reasonable to think that things

1 like motors and circuit breakers are going to last on
2 average 90 years?

3 A Some could.

4 Q Okay. Well, let's look -- are you familiar with
5 what an original life table is?

6 A Yes.

7 MR. BYRNE: I'd like to get an exhibit marked.

8 JUDGE WOODRUFF: Okay. Your next number is 124.

9 Q (By Mr. Byrne) Okay. Ms. Mathis, I've handed
10 you the document that's been marked --

11 MR. BYRNE: I'm sorry, your Honor. What -- what
12 was the exhibit number?

13 JUDGE WOODRUFF: 124.

14 Q (By Mr. Byrne) 124. And can you tell me what
15 that is?

16 A It's an original life table.

17 Q Is it for Account 315?

18 A Yes.

19 Q And what does it show?

20 A It's showing the age at the beginning of the
21 interval, all of the exposures at each interval, the
22 retirements during that interval, retirement ratio,
23 survivor ratio and percent surviving.

24 Q And this is real data from the companies on
25 items in these accounts, right?

1 A Yes.

2 Q And what's the longest lived item on this life

3 table? How long -- how long did it live?

4 A Sixty-three.

5 Q Sixty-three years? Okay. And you're proposing

6 an average service life for this account of 90 years?

7 A Yes.

8 Q Okay. Let's take a look at Account 312. What's

9 in Account 3 -- what's -- what's the title of Account 312,

10 if you know?

11 A Boiler Plant Equipment.

12 Q Okay. And what's -- what's in boiler plant

13 equipment?

14 A Everything related to boiler plant and all the

15 equipment associated with it from condenser tubes to what

16 have you.

17 Q Would the boiler be in that, for example?

18 A Yes.

19 Q And have the tubes and maybe dials and

20 measurement equipment --

21 A Yes.

22 Q -- related to the boilers? Okay. And what

23 survivor curve did you estimate for Account 312?

24 A LO.560.

25 Q And so does that -- what does that mean the

1 average service life is?

2 A Sixty.

3 Q And -- and let me ask you the same question. Do
4 you know how -- how long the longest lived individual in
5 that account would be under a 60 L0.5 curve?

6 A No.

7 Q I noticed you had brought some depreciation
8 textbooks with you. Would those show how long the longest
9 lived items in an L60 L.5 curve would be, depreciation
10 systems by Wolfe & Fitch in a NARUC manual?

11 A It's possible that they could. Yes.

12 Q Would you mind look at them and see?

13 A Sure. I can do that.

14 Q Which one? Wolfe & Fitch or NARUC?

15 A Give me the NARUC book. Or both.

16 Q Okay.

17 MR. BYRNE: May I approach the witness?

18 JUDGE WOODRUFF: You may.

19 A I still don't think that what's in this book
20 could tell me what the maximum life would be.

21 Q (By Mr. Byrne) It doesn't -- it doesn't have
22 those curves in that -- in that book?

23 A Yes. The curves are in there, but, you know,
24 I'm -- it's not going to have AmerenUE data associated
25 with it.

1 Q But aren't you -- aren't you fitting AmerenUE
2 data to a standard Iowa curve? I mean, once you pick the
3 curve, isn't it true that the AmerenUE data doesn't matter
4 anymore? I mean, you're just using that curve; isn't that
5 correct?

6 A I don't know.

7 Q I mean, let me -- let me back up for a second
8 and try and understand how it works. And I'm -- I'm not a
9 depreciation person, so I apologize if I'm not asking
10 these questions right. But don't you -- as I understand
11 it, you plot AmerenUE specific data on a -- on a chart; is
12 that correct?

13 And then -- and then you compare that to a set
14 of standardized curves and use judgment and -- and, you
15 know, you use -- how -- which curve fits closely, but then
16 you use some judgment to pick one of the standardized
17 curves; is that correct?

18 A Yes.

19 Q Okay.

20 A But --

21 Q Okay. Go ahead.

22 A Because I'm -- I may get maybe a 150 or 200-year
23 life. That doesn't mean that I'm saying that the plant is
24 going to --

25 Q Okay. I'm not -- I'm not there yet. But I'm

1 just saying what you did -- do you agree with me, what you
2 do is you plot AmerenUE specific data and then you -- a
3 computer, I think Gannett Fleming computer program, gives
4 you some choices as to standardized curves that fit the
5 AmerenUE data closely; is that true?

6 A Yes.

7 Q And then you pick which one of the standardized
8 curves, and it takes some judgment to decide which one to
9 pick. But you pick a standardized curve to use; is that
10 correct?

11 A That's correct.

12 Q And in this case, you picked the L0.5 curve,
13 right?

14 A That's right.

15 Q And you've picked a 60 L0.5 curve, right?

16 A That's right.

17 Q And that means that the average service life is
18 60 years, right?

19 A Yes.

20 Q And isn't the average service life the area
21 underneath the curve?

22 A Yes.

23 Q Okay. So can't you tell me by looking at that
24 curve in that book what the longest lived assets in a 60
25 L0.5 curve would be?

1 A No.

2 Q Okay. well, let me ask you this: Would you
3 agree that an LO.5 survivor curve, the maximum is
4 approximately four times the average? Do you know that or
5 not?

6 A When I look at the curve, I'm looking at between
7 80 and 20 percent of the curve to give me what the average
8 service life represents.

9 Q I thought the average service life was all the
10 area under the curve, under a hundred percent of the
11 curve. Is that true?

12 A What I remember when I was studying depreciation
13 is that what you're looking at when you're trying to at
14 least mathematically fit it, you're trying to fit between
15 80 and 20 percent of the curve. You're not looking at the
16 tail end.

17 Q So is that a no, the average service life is not
18 the area under all of the curve?

19 A The average service life is the area under the
20 curve.

21 Q Under all of the curve -- even out to the very
22 last unit that's retired; isn't that right?

23 A I don't know.

24 Q Okay. Fair enough. But in any event, we do
25 know for Account 312 it's a 60-year -- you're recommending

1 a 60-year average service life. And -- okay.

2 Let me try one more time. Would it be fair to
3 say the last unit is significantly later than the 60-year
4 average service life that you've estimated, the last
5 retirement would be significantly longer than 60 years?

6 A I don't know about significantly, but it would
7 be longer, yes.

8 Q Okay. Okay. I'm going to ask you to look at
9 the life table for that account as well.

10 MR. BYRNE: So I need to mark another exhibit.

11 JUDGE WOODRUFF: This will be 125.

12 Q (By Mr. Byrne) Okay. Again, could you identify
13 -- and this is exhibit --

14 MR. BYRNE: I'm sorry, your Honor.

15 JUDGE WOODRUFF: 125.

16 Q (By Mr. Byrne) 125. Again, could you identify
17 this for me, Ms. Mathis?

18 A It's a life table for Account 312, Boiler Plant
19 Equipment.

20 Q Okay. Does it show the same type of information
21 that the previous life table showed for Account 315?

22 A Yes.

23 Q Okay. And, again -- and this is actual company
24 data, right?

25 A Yes.

1 Q Okay. And -- and what's the longest lived piece
2 of boiler plant equipment shown on this original life
3 table?

4 A It's showing 63. But that's at 48 percent
5 surviving.

6 Q Okay. Okay. But doesn't that mean the long --
7 the oldest piece of equipment shown on this table survived
8 for 63 years?

9 A Yes.

10 MR. BYRNE: Okay. Okay. I think that's all I
11 have. Thank you very much, Ms. Mathis.

12 JUDGE WOODRUFF: Thank you. Did you wish to
13 offer 124 and 125?

14 MR. BYRNE: Yes, your Honor. I would offer 124
15 and 125.

16 JUDGE WOODRUFF: 124 and 125 have been offered.
17 Are there any objections to its receipt? Hearing none,
18 they will be received into evidence.

19 (Exhibits 124 and 125 were offered and admitted
20 into evidence.)

21 JUDGE WOODRUFF: I have no questions from the
22 Bench. There's no need for recross. Any redirect?

23 MR. WILLIAMS: Yes.

24 REDIRECT EXAMINATION

25 BY MR. WILLIAMS:

1 Q Ms. Mathis, did Staff enter into a stipulation
2 and agreement with AmerenUE regarding Account 322?

3 A Yes.

4 Q And that's been filed with the Commission?

5 A Yes.

6 Q And is it acceptable to Staff if the Commission
7 were to take net salvage out of the depreciation rate for
8 Account 322 and then add it back in at the level of .2
9 percent?

10 A Yes.

11 Q Would Staff require an exact knowledge of the
12 time when the plant would be retired in order to consider
13 using a life span approach as opposed to an average
14 service life?

15 A No.

16 Q Isn't the planning horizon for the Commission's
17 integrated resource plans for a company such as AmerenUE a
18 20-year horizon?

19 A Yes.

20 Q So some date much earlier than five years, the
21 Staff would consider perhaps using a life span approach?

22 A Yes.

23 Q And I think you may have misspoken a bit on
24 Exhibit 124. I'm not sure, but just to try to clarify
25 things, do you have that in front of you?

1 A Which one was that?

2 Q It's the Account 315, the Accessory Electrical
3 Equipment.

4 A Was that the life table?

5 Q It's one of the life tables, yes.

6 A Okay.

7 Q What does that schedule actually reflect?

8 A That shows the percent surviving of -- of the
9 curve.

10 Q Are we talking dollars, or are we talking
11 equipment?

12 A We're talking equipment.

13 Q Are you talking -- we're not talking dollars
14 associated with equipment?

15 A Exposures, which is the equipment, and
16 retirements associated with those.

17 Q Well, I want to turn your attention to the end
18 of the table. There's a page at beginning of the interval
19 that's shown as 63.5, and there's a percent surviving at
20 the beginning of interval of 76.81. What does that mean?

21 A Okay. Can you ask that again?

22 Q All I'm asking you is, at the end of the table,
23 there's a -- two numbers, one in the left column at the
24 bottom of 63.5 and one at the right column of 76.81. And
25 I'm asking you what the relationship is between those?

1 A That means that at that age, you have 76 percent
2 surviving.

3 MR. WILLIAMS: No further questions.

4 JUDGE WOODRUFF: All right. Ms. Mathis, you can
5 step down. And we're due for a break. We'll take a break
6 now and come back at 3:15.

7 (Break in proceedings.)

8 JUDGE WOODRUFF: All right. Let's come back to
9 order, please. All right. Welcome back from break.
10 Welcome from break, and we are ready for our next witness
11 -- witness, which I believe is Mr. Selecky.

12 MR. SELECKY: Yes.

13 JOHN SELECKY,
14 being first duly sworn to testify the truth, the whole
15 truth, and nothing but the truth, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. VUYLSTEKE:

18 JUDGE WOODRUFF: You may be seated. You may
19 inquire.

20 MR: Thank you.

21 Q (By Ms. Vuylsteke) Okay. Mr. Selecky, do you
22 have any corrections to your testimony?

23 A No. I really don't. I did find a small error
24 in my calculations, but I supplied that as an update in my
25 rebuttal testimony. And then my surrebuttal testimony

1 contains my steam production depreciation -- or my
2 production depreciation rates utilizing the new lives and
3 the life spans proposed by the company. So I have no
4 corrections.

5 MS. VUYLSTEKE: Okay. Your Honor, I would
6 request that Exhibits 707, 708 and 709 be admitted into
7 the record.

8 JUDGE WOODRUFF: All right. 707, 708 and 709
9 have been offered. Are there any objection to their
10 receipt? Hearing none, they will be received into
11 evidence.

12 (Exhibits 707, 708 and 709 were offered and
13 admitted into evidence.)

14 MS. VUYLSTEKE: Okay. With that, I'd like to
15 offer the witness for cross.

16 JUDGE WOODRUFF: All right. And do any parties
17 wish to cross this witness? Looks like -- yeah. I see
18 you. AmerenUE.

19 CROSS-EXAMINATION

20 BY MR. BYRNE:

21 Q Good afternoon, Mr. Selecky.

22 A Good afternoon, sir.

23 Q Just a couple of questions. I am looking at
24 your direct testimony on page 9.

25 A Yes.

1 Q On line 17 -- starting on line 17, you say, I am
2 recommending that the Commission utilize a 55-year life
3 span for Rush Island Units 1 and 2. And I -- I take it
4 from that that you would agree that fossil units like the
5 Rush Island Units 1 and 2 are appropriate for life span
6 treatment?

7 A Yes. That's how I've calculated my depreciation
8 rates utilizing the life span. Therefore, I feel it's
9 appropriate.

10 MR. BYRNE: Okay. Thank you very much. That's
11 all I have.

12 JUDGE WOODRUFF: All right. And I have no
13 questions from the Bench, so no need for recross. Any
14 redirect?

15 MS. VUYLSTEKE: No, thank you.

16 JUDGE WOODRUFF: All right. And, Mr. Selecky,
17 you can step down.

18 MR. SELECKY: Thank you.

19 JUDGE WOODRUFF: Thank you. The next name on
20 the list is Mr. Dunkel for OPC. And your attorney is not
21 back yet, is he? We won't call you without your attorney.
22 And I understand Mr. Naslund will be here on Thursday?

23 MR. BYRNE: Yes, your Honor.

24 JUDGE WOODRUFF: Let's skip ahead to Mr. Wood
25 for Staff if he's here. And he's coming forward. And

1 you've testified earlier in this proceeding, have you not?

2 MR. WOOD: Yes, I have

3 JUDGE WOODRUFF: All right. You're still under
4 oath, then.

5 MR. WOOD: Thank you.

6 MR. WILLIAMS: I have Exhibits 243, 244 or 240
7 -- if I have it right. Has 246 been admitted yet?

8 JUDGE WOODRUFF: 243, 244 and 245 and 246? Is
9 that what you said?

10 MR. WILLIAMS: I actually said 246. I think 245
11 covers other topics.

12 JUDGE WOODRUFF: It was under fuel adjustment.
13 He had --

14 MR. WILLIAMS: Has that been admitted?

15 JUDGE WOODRUFF: I'm not showing it as being
16 offered or admitted.

17 MR. WOOD: None of it has been.

18 MR. WILLIAMS: This is your last time up, isn't
19 it?

20 MR. WOOD: Yeah.

21 MR. WILLIAMS: Okay. We'll take care of all of
22 them, then.

23 JUDGE WOODRUFF: Okay. 243, 244, 245 and 246
24 have been offered. Are there any objections to their
25 receipt? Hearing none, they will be received into

1 evidence.

2 (Exhibits 243, 244, 245 and 246 were offered and
3 admitted into evidence.)

4 DIRECT EXAMINATION OF WARREN WOOD

5 BY MR. WILLIAMS:

6 Q (By Mr. Williams) Mr. Wood, do you have any
7 corrections to any of your testimony?

8 A No, I do not.

9 MR. WILLIAMS: Thank you. Offer the witness.

10 JUDGE WOODRUFF: All right. Do any of the
11 parties wish to cross-examine Mr. Wood? Looks like
12 AmerenUE.

13 CROSS-EXAMINATION

14 BY MR. BYRNE:

15 Q Good afternoon, Mr. Wood.

16 A Good afternoon.

17 Q I'm continuing the foolish practice of asking
18 experts questions about depreciation. I guess the -- the
19 topic you testified on was the 20-year life extension for
20 the Callaway plant; is that right?

21 A It is.

22 Q And one -- one of the things that you looked at,
23 I think, is other nuclear plants around the country that
24 have applied for or -- or are intending to apply for
25 license extensions; is that true?

1 A That's one of the things I looked at. Yes.

2 Q And when you looked at that, how did -- what did
3 you look at to find out that information?

4 A That information is largely from the Nuclear
5 Regulatory Commission. They provide status of license
6 renewals completed, license renewals pending and the
7 status of letters of intent that either are plant specific
8 or generic.

9 Q And where did you get that information?

10 A Nuclear Regulatory Commission web sites.

11 Q Okay. And tell me about the letters of intent.
12 How many of the plants have a letter of intent as opposed
13 to an actual application?

14 A There are 19 plants covered under specific
15 letters of intent where there's a declared plant
16 associated with a letter of intent. There are 20 plants
17 covered under non-named letters of intent where it gives a
18 -- and I can go through those if you would like.

19 Q Well, just tell me what it is in general. You
20 have don't have to go through every one of them.

21 A Well, under Entergy, Exalon and Stars, there's a
22 number of different letters of intent. And you can look
23 at those associated with the plants that they have not yet
24 declared and reach some conclusions regarding past
25 precedent from -- from their other filings how they'll --

1 what plants they're bringing in under those non-specific
2 letters of intent.

3 Q Well, let me ask you this: Are the letters of
4 intent that you referenced binding? Do they -- do they
5 require the company to go ahead and proceed with a license
6 extension?

7 A No.

8 Q Okay. And for the companies that have applied
9 for a life extension, that -- just because they've applied
10 for a life extension, that doesn't necessarily mean the
11 Nuclear Regulatory Commission is going to grant them a
12 license -- life extension, does it?

13 A That's true.

14 Q Okay. I want to ask you some specific questions
15 about the Callaway plant. Have you done any studies of
16 the condition of the components of the plant to determine
17 whether they would be able to last another 20 years with a
18 license extension?

19 A Only in terms of comments made. There is no
20 technical study, as I understand it, developed by AmerenUE
21 regarding the ability of extending the license another 20
22 years, which I put in data request requesting that
23 information.

24 So I turned to industry publications and
25 different documents from Ameren regarding that. I went to

1 about seven sources. Three of them were Ameren regarding
2 the technical feasibility or availability of the unit to
3 be extended for 20 more years.

4 Q But, I mean, I'm talking about -- and, I mean,
5 this is pretty specific. Did you yourself do a study of
6 the Callaway plant or its components to determine if those
7 components could last 20 years, a specific study of the
8 Callaway plant and its components?

9 A No. I did not go to the site and do a specific
10 technical assessment of its ability to be extended for 20
11 years.

12 Q Okay. How about the availability of water in
13 the Missouri River? Did you do any studies that would
14 show whether or not there's sufficient water in the
15 Missouri River for the next 38 years or so to support the
16 operations of the Callaway plant?

17 A No, I didn't.

18 Q Okay. Did you do any studies of any other
19 things that might impact the ability to relicense the
20 Callaway plant? Callaway plant-specific things.

21 A Looked at Board of Directors comments in
22 response to a data request. Looked at David Gerald's
23 comments from the Plan Outage Manager from an article
24 regarding reactor vessel and Mr. Naslund's comments to
25 KOMU. Outside of that, no.

1 Q Okay. Now, on all these -- on the other nuclear
2 plants that you looked at on the web site for the Nuclear
3 Regulatory Commission, how many of those did you look to
4 see what the authorized depreciation rate was by their
5 state Public Service Commission?

6 A Wolfe Creek.

7 Q Okay. Is that the only one?

8 A Yes.

9 Q And I guess for all of the plants -- so as far
10 as you know, all the other plants that you looked at other
11 than Wolfe Creek might have any level of depreciation
12 rates for the plant and its components, right?

13 A I don't know what the depreciation rates are for
14 those plants.

15 Q Okay. I mean, it might be possible that the
16 Commissions that regulate those plants might say, Gee,
17 even though they've filed a letter of intent, a
18 non-binding letter of intent, that's not good enough, and
19 I'm still going to depreciate the plant over 40 years
20 rather than assume the extension is going to be granted?
21 Isn't that possible?

22 MR. MILLS: I object.

23 MR. WILLIAMS: I'm going object. Asked and
24 answered.

25 MR. MILLS: I'm going to object because the

1 witness says he doesn't know. And now Mr. Byrne asked him
2 about what might be possible.

3 JUDGE WOODRUFF: I'll sustain the objection.

4 MR. BYRNE: Okay. Thank you very much,
5 Mr. Wood. I don't have any other questions.

6 MR. WOOD: Okay.

7 JUDGE WOODRUFF: All right. I have no questions
8 from the Bench, so no need for recross. Any redirect?

9 MR. WILLIAMS: Just a couple of questions.

10 REDIRECT EXAMINATION

11 BY MR. WILLIAMS:

12 Q Mr. Wood, do you have any reason to believe
13 there wouldn't be sufficient water for Callaway to operate
14 beyond 2024?

15 A No.

16 MR. WILLIAMS: No further questions.

17 JUDGE WOODRUFF: All right. Then, Mr. Wood, you
18 can step down, and we'll go back to Mr. Dunkel.

19 MR. DUNKEL: Thank you.

20 JUDGE WOODRUFF: And if you'd please raise your
21 right hand.

22 MR. DUNKEL: Yes, sir.

23 WILLIAM DUNKEL,
24 being first duly sworn to testify the truth, the whole
25 truth, and nothing but the truth, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. MILLS:

3 JUDGE WOODRUFF: Thank you very much.

4 MR. DUNKEL: Thank you.

5 MR. MILLS: I don't recall the number -- exhibit
6 numbers that have been assigned to Mr. Dunkel's testimony,
7 your Honor.

8 MR. WILLIAMS: I believe that's 401, 402 and
9 403.

10 MR. MILLS: Okay. And 401, the direct testimony
11 has both non-proprietary and highly confidential portions

12 JUDGE WOODRUFF: Okay. All right. 401, 402 and
13 403 have been offered. Are there any objections to its
14 receipt? Hearing none, they will be received into
15 evidence.

16 (Exhibits 401, 402 and 403 were offered and
17 admitted into evidence.)

18 MR. MILLS: Your Honor, I need to have
19 Mr. Dunkel make a couple of corrections.

20 JUDGE WOODRUFF: Okay.

21 Q (By Mr. Mills) Please go ahead with your
22 corrections.

23 A Yes. The only correction I have is to my direct
24 testimony. Turning to page 9 of my direct on -- starting
25 on line 17, there's a question and answer. Those are the

1 -- the correction is to put a quotation mark prior to the
2 letter Y. And on line 19, put a quotation mark after the
3 116 percent. This is a quote as stated in here from
4 Mr. Henderson, who was a witness on behalf of I&M. So in
5 this, I was quoting him. And the way it appears, it looks
6 like it's a question and answer to me.

7 This is a quotation from another power company
8 witness. It shows for their plant, which is the Cook
9 plant, when they went from a 40-year life to a 60-year
10 life, their depreciation rate went from 3.37 percent down
11 to 1.6 percent. So there's a huge difference when you
12 actually extend the life of the plant. That's my
13 correction.

14 MR. WILLIAMS: Thank you. And I'll tender the
15 witness for cross-examination.

16 JUDGE WOODRUFF: Okay. Do any parties wish to
17 cross-examine this witness? Again for Ameren. You win
18 the bid.

19 CROSS-EXAMINATION

20 BY MR. BYRNE:

21 Q Good afternoon, Mr. Dunkel.

22 A Hello.

23 Q First, I'd like to ask you a couple of questions
24 that I was asking Ms. Mathis. And one question I have is
25 -- we were talking about some specific curves, Iowa

1 curves.

2 A Yes.

3 Q And one curve we were talking about was an L0.5

4 curve. Are you familiar with that curve?

5 A Yes.

6 Q Do you know what the relationship is on -- on

7 that curve between the average service life and the

8 maximum life?

9 A I would have to look at one of the textbooks

10 that you have here to tell you. I mean, it's quite long.

11 An L curve has a long tail, if you will.

12 Q Does -- well, if I show you a textbook, can you

13 tell me?

14 A Sure.

15 Q Can I borrow your textbook?

16 A Well, with our luck, this book has -- doesn't

17 have the half curves. It has an L1 and L2. But I'll give

18 you L1. It's going to be in the ballpark if that's okay

19 with you.

20 Q Sure. That's fine.

21 A Okay. There is a column which is called percent

22 of average life, and the L1 -- L1 goes down to 300 -- 315

23 percent. So roughly three times whatever the average life

24 is, you will still have a -- a tiny tail. But that is --

25 doesn't mean anything. There's -- there's the pyramids

1 are still left, you know, what percent of the buildings
2 live -- you know, the average of a building maybe is 80
3 years.

4 Q Sure.

5 A But the pyramids last 2,000 years.

6 Q Sure. And that --

7 A The tail doesn't mean anything.

8 Q That would suggest the most extreme remaining
9 piece of property is 3 point something times longer?

10 A Extreme tiny, tiny speck that you can see with a
11 microscope perhaps. Yes.

12 Q Well, it's a -- it's some unit of property under
13 the curve, right?

14 A Very small.

15 Q Okay. And could you do the same thing with the
16 R-1 curve? That was the other curve we were talking
17 about.

18 A Well. I can tell you before I look, the R-1
19 curves tend to drop off more rapidly, so it will be a
20 number lower than that. But we'll -- we'll see what you
21 actually have.

22 Q Okay.

23 A The R-1, the last speck, is left at 201 percent
24 of average life, so roughly twice the average life. There
25 would be a speck left.

1 Q Okay. Thank you. Okay. I'd like to talk to
2 you a little bit about your estimates of net salvage
3 percents. And I guess I was looking at Schedule WWD- --
4 or 11-1, which is attached to your -- I think it's your
5 direct testimony.

6 Okay. And -- I mean, as I understand your
7 approach, from reading your testimony and looking at that
8 schedule, you are -- you're taking AmerenUE's average net
9 salvage percent for the period from 1996 to 2005 in
10 adjusting the percent to remove the historic inflation and
11 then put back in an estimate of future inflation. Is that
12 a reasonable characterization of what you've done?

13 A With a slight correction. It's actually the
14 units that retired during the period of 1995 to 2005.

15 Q Okay.

16 A So you study those recent retirements. Now,
17 they were installed decades before on the average.

18 Q Okay.

19 A But we're looking at just those that retired
20 during that period.

21 Q And that's -- and you're using the net salvage
22 that was incurred to retire those plants during that
23 period; is that right?

24 A Yes. What you have is a ratio that has the
25 investment when it was originally installed. If it was

1 installed in 1960, then you have the investment in 1960
2 dollars. If it was retired in the year 2004, you'd have
3 the cost of removal as that as paid and paid in year 2004
4 dollars.

5 Q Okay. And I think you show an example account
6 on WWD -- Schedule WWD-10. Is that is correct? Is that
7 an example account of what you're doing with the
8 Account --

9 A Yes. That's correct.

10 Q -- 464, which I guess is poles and the fixtures?

11 A Correct. This is one of the accounts that leads
12 to the schedule you just looked at.

13 Q Okay. And my understanding is -- I've got a
14 list of accounts that you've done that for. Let me make
15 sure I've got the same -- I've got the right list.

16 I've got 354, 355, 356, 364, 365, 366, 367,
17 369.01, 369.02 and 373. Is that right?

18 A Yes. And this is a list as shown on my Schedule
19 11. That's the list you just read.

20 Q Okay. Okay. Great. And would another way of
21 saying -- describing your opinion is that the net salvage
22 estimates that are -- that are supported by testimony from
23 AmerenUE and from the Staff are too negative because the
24 amount of historic inflation reflected in the actual net
25 salvage percents that were the bases for the estimates is

1 greater than your estimate of the amount of future
2 inflation that will be reflected in the future net salvage
3 percents?

4 A I would agree with that with the correction that
5 it's not my estimate. What I gave you in the testimony is
6 the Federal Reserve Bank of Philadelphia conducts a survey
7 of 53 professional forecasters, and then they publish the
8 results of that survey. This is the average.

9 Q Okay.

10 A This is -- this is the longest running and most
11 respected survey of future inflation that exists.

12 Q And that's -- and you end up with -- what is
13 your future -- what is that percent that you're using?

14 A There is 2.5 percent.

15 Q Okay.

16 A So the problem is the old data you had, there
17 was a lot of inflation in the '70s and '80s, sometimes 10,
18 11, 12 percent a year. That's built into the historic net
19 salvage ratio. We're not expecting that.

20 Federal Reserve is not expecting that in the
21 future. So you're really looking at old numbers that have
22 4 and a half percent inflation built into them a year.
23 The future looks like 2 and a half percent inflation. So
24 we simply need -- since we're talking about what's going
25 to happen in the future, we need to use the future

1 inflation, not the past high inflation.

2 Q Okay. Well, let me ask you this: With all else
3 being equal, would the opposite be true? In other words,
4 if the impact of future inflation was greater than the
5 impact of historic inflation, then would the future net
6 salvage percents be more negative than the historic net
7 salvage percents?

8 A Yes. Inflation that occurs between the time the
9 plant is installed and the time it's removed makes the --
10 a negative factor more negative.

11 Q So that's a yes to my question?

12 A So that's -- the answer is yes. If the past was
13 4 and a half and the future is going to be nine, you would
14 become more negative. That's correct.

15 MR. BYRNE: Okay. I guess I need to mark an
16 exhibit.

17 JUDGE WOODRUFF: And your next number is 126.

18 Q (By Mr. Byrne) And, Mr. Dunkel, do you
19 recognize these papers that have been marked as Exhibit
20 126?

21 A I'm assuming they're copies of work papers we
22 sent you. Is that your representation?

23 Q Yes. Yes, they are.

24 A I always have to check. I'm sure you didn't do
25 something to them.

1 Q No. I'm not smart enough to create this work
2 paper.

3 A Okay.

4 Q I'm barely smart enough to ask you about the
5 work paper. Okay. And this work paper addresses Account
6 365; is that correct?

7 A That's what it says. Yes.

8 Q And what's Account 365, if you know?

9 A Overhead conductors and devices.

10 Q Is that like wires?

11 A Wires. Yes.

12 Q Okay. And from looking at this work paper, it
13 looks to me like your net salvage estimate for this
14 account is negative 30 percent; is that correct?

15 A Yes. And that does actually tie back to
16 Schedule 11, which is very fortunate.

17 Q Good. And as I understand it, you derived this
18 percent by -- and this is, I think, shown on the second
19 page, but adjusting the average net salvage percent during
20 the period of 1996 to 2005; is that right?

21 A Well, the second page does not show any
22 adjustment. The second page is -- is just collecting the
23 numbers. The actual adjustment occurs on page 1.

24 Q Okay. I guess it does say on page 1 over the
25 last ten years, I guess. I was thinking the period --

1 A Right.

2 Q -- the period, '96 to 2005, is shown on page 2,
3 but it's also on page 1 because it says the last ten
4 years; is that right?

5 A Right. Right. Line 1 on page 1, it's showing
6 the data for the last ten years. Page 2, we've calculated
7 what the average inflation was between the time this
8 investment -- these investments went in service and the
9 time they retired.

10 Q Okay.

11 A And that's 4.9 percent. We backed that out, and
12 then we put back in 2 and a half percent.

13 Q Got you. And just to step back a little bit, go
14 through that a little bit more slowly. You first -- you
15 use -- you had -- the 4.09 percent actual inflation rate
16 yields a net salvage percent of negative 63 percent, is
17 that correct, before you make your adjustment?

18 A That's correct. Yes.

19 Q Okay. And so then my understanding of what you
20 do is you take all the inflation out of that calculation?
21 Is that the first step? Or I guess it's shown as No. 3 on
22 page 1. It says, Remove the historic inflation.

23 A Line 3 minus 10 percent. That's what this data
24 says that the ratio would be if there had been no
25 inflation in the last 20 or 30 years between the time the

1 plant was installed and the time it retires.

2 Q Okay.

3 A And we're not suggesting no inflation.

4 Q Sure. We're in the middle of what you're doing.

5 A Okay. That's fine. Okay.

6 Q And isn't it really -- you said 20 or 30 years,
7 but isn't it really 47 years for this account of inflation
8 that you're pulling out?

9 A Yes. That's correct.

10 Q Okay.

11 A Because that's the average life between the time
12 the plant went in service and the time it retires.

13 Q I'm trying to learn depreciation.

14 A Right.

15 Q Does that mean its average service life for the
16 account is 47 years?

17 A Correct. Yes.

18 Q Okay. Then you want to add in future inflation;
19 is that correct?

20 A That's correct.

21 Q Based on the 2.5 percent that you described --

22 A That's correct.

23 Q -- how you got before? And then when you do
24 that, my -- and you might -- do you have a calculator up
25 there?

1 A Yes.

2 Q As I calculate it, that would show an increase
3 in price level off over the whole 47 years of about 3.192
4 times; is that correct? And maybe it's -- I think it's
5 in those footnotes down there.

6 A It's probably in the footnotes here.

7 Q I think have you to divide one number by the
8 other, but -- I -- I get 3.192.

9 A That's correct. And -- and if you look at --
10 the minus 10 percent factor with no inflation minus 30
11 percent with 2 and a half percent inflation, that's three
12 times. So that's a rounding of what you just --

13 Q That's --

14 A Corresponds with what you said.

15 Q Okay. Great. And -- and that sort of results
16 in the negative 30 percent of the account?

17 A Yes.

18 Q Okay. And -- now, when you remove the
19 inflation, the historic inflation, would it be correct to
20 say that you've assumed that retirements that occurred in
21 1996 were for a plant that was installed on average 47
22 years before the date of retirement?

23 A That's correct.

24 Q Or that would -- in that case, that would be
25 1949; is that right? That's okay.

1 A On average. That's correct. Yes.

2 Q Okay. And so -- and, again, looking at the
3 historic inflation, if -- if we do the same calculation
4 between 1994 and 1996 using historic inflation, there
5 would be a -- a factor of 6.59; is that correct?

6 A I just did it quickly. I got nine times. Let's
7 see what we've got here.

8 Q Try it again.

9 A I'll try it again.

10 Q I'm pretty sure --

11 A So am I because that's consistent with some of
12 the numbers I'm seeing here. Actually, they tell me never
13 to do calculations on the stand, and that's probably why.

14 Q Well, they told me -- they tell me never to ask
15 depreciation experts questions.

16 A Six times -- roughly six times, yes.

17 Q Okay. And so 6.59 times, that sort of relates
18 to the 4.09 percent that's the historic inflation; is that
19 right?

20 A Yes. Over 47 years, the 4.9 -- 09 percent makes
21 your ratio go up six times.

22 Q Okay.

23 A So we're backing the six times out. But then
24 using 2 and a half times instead, you put in a three times
25 to replace the six times.

1 Q Okay.

2 A That's the bottom line. When you replace 4
3 percent inflation with 2 and a half percent inflation you
4 go over that period, you change from six times to three
5 times.

6 Q Okay.

7 A Okay.

8 Q Okay. Now, on -- on -- I'm looking at your
9 surrebuttal testimony, if I can find it.

10 A Okay.

11 Q Do you have that up there?

12 A Yes, I do.

13 Q And look at page 11 and you talk about,
14 somewhere in that page, the work papers Mr. Stout provided
15 to show the average age of retirements during the period
16 19 -- between 1961 and 2005. Is that correct? I guess
17 I'm looking --

18 A Yes. In his testimony, he claimed I was talking
19 about the retirements that occurred during the period 1961
20 and 2005. And we've just discussed -- I was talking about
21 the retirements that occurred during a ten-year period,
22 1996 to 2005. So he just simply misstated what I had done
23 in my work papers.

24 Q Okay. And am I correct that you were able to
25 use Mr. Stout's work papers to calculate the average age

1 of retirements for Account 364 during the period from 1996
2 to 2005?

3 A I haven't done that. No.

4 Q Okay.

5 A I had no reason to do that.

6 Q Okay. And -- but, I mean, in the question on
7 line 10, it says -- the reason I'm asking, it says, Other
8 retirements during 1961 to 2005, that time period, that
9 Mr. Stout uses his net salvage discussion responsive to
10 the Staff position. Aren't you using the work papers of
11 Mr. Stout to do your calculations?

12 A No. I -- I don't really -- other than seeing
13 that he misstated my testimony, that's what I'm stating
14 here. I used the average for five -- and then this is now
15 talking about another set of work papers.

16 Staff, when they filed their testimony, instead
17 of using retirements for the last ten years, they used the
18 plant that retired during the last five years.

19 Q Well, look at --

20 A So that's what we're now talking about here.

21 Q Look at Footnote 25 where it says 38.1 years
22 average age of retirement for Account 364. Where did you
23 get that?

24 A I believe he provided that, Mr. Stout did.

25 Q Okay. Okay. So you at least got that from

1 Mr. Stout?

2 A Yes.

3 Q Okay. And where did you -- where did you get
4 that? Was that in his work papers, or did you ask a data
5 request? Do you remember?

6 A I don't recall off the top of my head. I didn't
7 calculate it. He provided the number in some form.

8 Q Okay. Would it have been his work papers?

9 A Possibly.

10 MR. BYRNE: Okay. All right. I guess I need to
11 mark another exhibit.

12 A Matter of fact, if you look at page 12, I do
13 refer to his work papers. So the answer is this is
14 discussing his work papers.

15 Q And that's in your -- which piece of testimony?
16 Surrebuttal?

17 A We're looking at page 11. The discussion
18 continues on to page 12.

19 Q Okay. Great.

20 A Okay.

21 Q I was just on the wrong page. Thanks.

22 A All right.

23 MR. BYRNE: I need to mark another exhibit.

24 JUDGE WOODRUFF: 127. Did you wish to offer
25 126?

1 MR. BYRNE: Sure. I'll offer 126.

2 JUDGE WOODRUFF: 126 has been offered. Any
3 objections to its receipt?

4 MR. MILLS: No objection.

5 JUDGE WOODRUFF: Hearing none, it will be
6 received.

7 (Exhibit 126 was offered and admitted into
8 evidence.)

9 Q (By Mr. Byrne) Now, I've given you a copy of
10 what's been marked Exhibit 127, Mr. Dunkel.

11 A Yes.

12 Q And that, I believe, is Mr. Stout's work papers
13 associated with Account 365; is that correct?

14 A That's what it says on the top here.

15 Q Okay. And for year -- for the year 1996, what
16 do those work papers show as the average age of
17 retirements that occurred in that year?

18 MR. MILLS: Your Honor, I'm going to object to
19 this. The only thing this -- the only foundation that has
20 been laid is does this seem to be something, and
21 Mr. Dunkel's response is that's what it says at the top.

22 I don't think we've done anything to establish
23 Mr. Dunkel knows anything about the figure on this or
24 their accuracy.

25 JUDGE WOODRUFF: I'll sustain the objection. If

1 you can lay more foundation, go ahead.

2 Q (By Mr. Byrne) Mr. Dunkel, did you review
3 Mr. Stout's work papers?

4 A What I actually reviewed -- I'm not actually
5 familiar with this particular document. If you look at
6 page 11 that we were discussing on my testimony, it cites
7 to the response, Ameren response to 5062. And I believe
8 -- so --

9 Q But I guess I'm asking did you review his work
10 papers or not?

11 A I reviewed the response to 5062. I do not
12 believe I ever saw this specific work paper unless it was
13 an attachment. This was not the page I was looking at
14 when I wrote this testimony. I'll put it that way.

15 Q So you -- you -- as far as you know, you haven't
16 seen this document before?

17 A I suspect it may have been back up to his
18 response to 5062. Whether I also received it or not, I
19 can't tell you. I think the 5062 was the response I was
20 actually looking at. It may have been a summary that this
21 -- this is part of.

22 Q So that's a no, you haven't seen this document
23 before?

24 A I do not recall looking at this document. I
25 receive a lot of documents, unfortunately, as all of us in

1 this case do.

2 Q You can't identify that as a work paper of
3 Mr. Stout's?

4 A I have no reason to doubt that it is. What I
5 worked off of was a summary that this probably underlies.

6 Q Okay.

7 A I'm not trying to question that this is, you
8 know, misrepresentation in any way.

9 Q Do you have any reason to doubt that that's
10 Mr. Stout's work paper?

11 A No.

12 Q Okay. Well, let me ask you the question again.
13 For 1996, what does that work paper show the average age
14 of retirement is the curve that year?

15 MR. MILLS: Well, I'm going to have to object to
16 this because he's just said that although he has no reason
17 to doubt that this is Mr. Stout's work paper, he can't
18 authenticate that these are the actual retirement amounts
19 from 1996 because he's never seen this before.

20 I mean, if this is important, perhaps there's
21 another way Mr. Byrne can get it in the record. But he
22 can't authenticate these actual retirement amounts through
23 this witness. He just said he's never seen this before.
24 He may have seen a summary that takes some of this in.
25 And if we've got some general questions about the

1 calculations in Mr. Dunkel's testimony, that's one thing.
2 But if he wants to use this witness to establish what the
3 retirement amount was in 1996, that's not going to work
4 because he doesn't know.

5 JUDGE WOODRUFF: What is your purpose in asking
6 this question?

7 MR. BYRNE: Well, I'd like to -- Mr. Dunkel said
8 did say that he relied on the work paper of Mr. -- of Mr.
9 Stout for Account 364, and he doesn't doubt that this is
10 the work paper for Account 365. And I'd like to walk him
11 through calculations based on this work paper just like he
12 did with Account 364. And I think it's appropriate to do
13 that.

14 MR. MILLS: If we want to do some hypothetical
15 calculations, that's one thing. But to use the numbers on
16 here as though Mr. Dunkel can authenticate them, we can't
17 do that.

18 JUDGE WOODRUFF: Are you asking Mr. Dunkel to
19 authenticate these?

20 MR. BYRNE: Well, I don't think I really am
21 asking Mr. Dunkel to authenticate these documents.
22 Perhaps I could walk him through the calculation, and if
23 he hasn't seen the document and can't authenticate the
24 calculations, that's fine.

25 JUDGE WOODRUFF: All right. I'll allow you to,

1 as you say, walk him through the calculations.

2 A If I may comment, what -- the pages we were
3 talking about were Account 364.

4 Q (By Mr. Byrne) There isn't -- there isn't --

5 A You gave me 365.

6 Q Yeah. There isn't a question pending,
7 Mr. Dunkel. Okay. So looking at the Exhibit 127 for
8 1996, what does that show as the average age of
9 retirements for that year?

10 MR. MILLS: And my objection is still the same.
11 I mean, he's not -- he's not going to be able to say that
12 that's -- that this is the actual age. If he wants to
13 say, What does this exhibit show --

14 MR. BYRNE: That is what I just asked.

15 JUDGE WOODRUFF: That is what he just asked, and
16 your objection is overruled.

17 MR. MILLS: Okay.

18 A The answer is for Account 365, which is not the
19 account we were discussing on page 11 and 12.

20 Q (By Mr. Byrne) Yes.

21 A This answer shows at the bottom 21.5 is the
22 number typed there.

23 Q Okay. And so I -- does that mean on average
24 that the plant retired in 1996 according to this --
25 according to this document, which I know you can't

1 authenticate, but according to this document that would
2 mean that the plant that retired in 1996 was installed in
3 1975; is that correct?

4 A Well, if you actually look at the document, some
5 of it was installed in 1915, some 1916, some 1917, et
6 cetera. The weighted average would be apparently 21.5
7 years ago. It is not all installed at that point. Some
8 of it is extremely old as you can see.

9 MR. BYRNE: Can I have a minute, your Honor?

10 JUDGE WOODRUFF: Sure. I've learned my lesson,
11 and I have no further questions.

12 MR. DUNKEL: Thank you.

13 JUDGE WOODRUFF: I'll -- I'll ask, although I
14 think I know the answer, do you wish to offer 127?

15 MR. BYRNE: No.

16 Mr. MILLS: Let the record reflect the tone.

17 JUDGE WOODRUFF: All right. I have no questions
18 from the Bench, so there's no need for recross. Any
19 redirect?

20 MR. MILLS: Just -- just one, your Honor.

21 REDIRECT EXAMINATION

22 BY MR. MILLS:

23 Q Mr. Dunkel, at the beginning of -- of
24 Mr. Byrne's cross-examination, he asked you some questions
25 about a couple of different curves. Do you recall those?

1 A Yes.

2 Q What is the significance or lack thereof of the
3 tiny speck left at the tail end of the curves you
4 discussed with Mr. Byrne?

5 A Under the depreciation calculation used in this
6 case, it means absolutely nothing. The type of
7 depreciation used here, which is sometimes called average
8 life or whole life, only uses the average number.

9 For example, if you have a 60-year curve, it's
10 only the 60-year number that's carried forward into the
11 calculation. Whether it's 60 R-1, 60 L2 or a 60 S5, it
12 makes no difference. The only number that counts -- once
13 you've decided the number is 60 as the average service
14 life, that's the only number that's used in the
15 calculation.

16 The -- the bit that's left if it's an L1 curve
17 is -- is not even used in the calculation other than the
18 60 average life.

19 MR. MILLS: Great. Thank you very much. That's
20 all I have.

21 MR. DUNKEL: Okay.

22 JUDGE WOODRUFF: Thank you. And, Mr. Dunkel,
23 you can step down.

24 MR. DUNKEL: Thank you.

25 JUDGE WOODRUFF: And I believe that was the last

1 witness on the chart -- on the schedule for today. I do
2 want to ask the parties where we want to go from today
3 tomorrow?

4 MR. MILLS: Your Honor, I -- and I don't -- I'm
5 certainly not going to stop you from asking that, but I do
6 have some clean-up exhibits. And we can either take it
7 off the record or on the record. It doesn't matter. I've
8 got at least one or at least two that didn't properly
9 duplex and another couple that I didn't get copies of. If
10 you want to do that on the record, we can, or off the
11 record. I don't care.

12 JUDGE WOODRUFF: If you want to -- those are the
13 ones we admitted earlier today which you were going to
14 make copies of?

15 MR. MILLS: Yes.

16 JUDGE WOODRUFF: We can do it off the record
17 because they've already been admitted, I believe.

18 MR. MILLS: I think that's correct. Yes.

19 JUDGE WOODRUFF: Okay. We'll take care of that
20 off the record. While we're still on the record, where
21 are we at for tomorrow?

22 Looking at my chart here, we've got Mr. Johnston
23 and Ms. Brockway on fuel adjustment clause to start the
24 day. And then we -- I guess we go into class cost of
25 service issues.

1 MR. BYRNE: Your Honor, I -- my -- I had some
2 discussions with my client. And at this point, AmerenUE
3 is prepared to withdraw its objection to the class cost of
4 service and rate design settlement.

5 JUDGE WOODRUFF: Okay. Very good. We can all
6 sleep better tonight then. All right. So we'll -- we'll
7 take up class cost of service issues. Definitely, we're
8 not settled in agreement, then, and I'll remind you, we
9 have -- at 1:00, we have the on-the-record presentation on
10 these -- on all the stipulations that were filed.

11 MR. LOWERY: Judge Woodruff, I just wanted to
12 advise you, also, last week, we had discussed that the
13 company might want to call Steve Rackers to the stand on
14 the Pinckneyville and Kinmundy issue.

15 JUDGE WOODRUFF: Yes.

16 MR. LOWERY: And you had made three rulings on
17 Monday about evidentiary matters, one of which was
18 premised on him being called. The company is not going to
19 call Mr. Rackers. I advised Mr. Dottheim of that
20 yesterday and also Mr. Mills.

21 And in light of that, we would stipulate that
22 the one ruling you made on -- I can give you the numbers,
23 but the one rule you made the third -- I believe the third
24 of the ruling that was premised upon overruling Mr. Mill's
25 objection premised on Mr. Rackers appearing, we would

1 stipulate you can reverse that ruling in light of that.
2 We won't be calling Mr. Rackers, and he won't need to
3 appear on the Pinckneyville and Kinmundy issue.

4 JUDGE WOODRUFF: Okay. That's very good. That
5 would have been -- there was a motion to strike portions
6 of Mr. Voytas' testimony.

7 MR. LOWERY: It's page 10, line 9 to page 14,
8 line 7, I believe.

9 JUDGE WOODRUFF: Okay. Based on the agreement
10 of AmerenUE, then, that ruling is reversed and that
11 portion of Mr. Voytas' testimony will be struck.

12 MR. LOWERY: Thank you.

13 MR. WILLIAMS: Judge Woodruff -- Woodruff, I'm
14 sorry. We're taking Charles Naslund out of order. Do you
15 know when he's scheduled to appear?

16 JUDGE WOODRUFF: I believe they said Thursday.

17 MR. BYRNE: Thursday. He'll be here Thursday
18 --I think Thursday morning first thing.

19 MR. WILLIAMS: First witness on Thursday?

20 MR. BYRNE: He can be. I guess we would like
21 him to be, if possible.

22 JUDGE WOODRUFF: Okay. One other question from
23 the very first day, we had Mr. Beisher and Mr. Desmond for
24 -- do we know when they would be here?

25 MR. BYRNE: They -- they are scheduled to be

1 here on Thursday, also.

2 JUDGE WOODRUFF: Okay.

3 MR. COFFMAN: Your Honor, I said in today's
4 agenda session and I heard the discussion about Ed Martin
5 potentially coming to the stand, but there was no decision
6 by the Commission. But I -- it was implied -- I assumed
7 from the fact that they were taking the issue up again
8 Thursday that Mr. Martin will not be testifying tomorrow?

9 JUDGE WOODRUFF: That is correct.

10 MR. COFFMAN: Okay. And I just was confused. I
11 see that the Governor's office has issued a press release
12 saying that he is.

13 JUDGE WOODRUFF: And there was another press
14 release issued a moment ago saying that no decision had
15 been made.

16 MR. COFFMAN: Okay.

17 MR. WILLIAMS: I have copies of that right here.

18 JUDGE WOODRUFF: Great. I get to watch all
19 these things on my computer.

20 MR. LOWERY: Like watching a soap opera,
21 perhaps.

22 JUDGE WOODRUFF: Sometimes. Sometimes. Okay.
23 So we'll come back tomorrow beginning with fuel adjustment
24 clause and class cost of service and then consider all the
25 stipulations and agreements. Anything else anyone wants

1 to take up while we're still on the record?

2 All right, then. We are adjourned until 8:30

3 tomorrow.

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(Exhibits were retained by the Public Service
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