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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
Evidentiary Hearing  
October 10, 2012  
Jefferson City, Missouri  
Volume 29

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

MORRIS L. WOODRUFF, Presiding,  
CHIEF REGULATORY LAW JUDGE.

TERRY M. JARRETT,  
STEPHEN M. STOLL,  
COMMISSIONERS.

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

2 (WHEREUPON, the hearing began at 9:14 a.m.)

3 JUDGE WOODRUFF: We're back for another day  
4 of the Ameren rate case hearing. It's my understanding  
5 that we will be starting today with an issue out of order.  
6 Ms. Vuylsteke, if you want to explain.

7 MS. VUYLSTEKE: Yes, your Honor. Mr. Kip  
8 Smith, the CEO of Noranda, is here this morning to  
9 testify. We filed prefiled written direct testimony of  
10 Mr. Smith, and he's available here this morning for  
11 cross-examination and questions from the Commission, and  
12 Mr. Leadlove will introduce Mr. Smith and seek to have his  
13 testimony admitted into the record this morning.

14 JUDGE WOODRUFF: All right. Thank you.  
15 Mr. Leadlove.

16 MR. LEADLOVE: Thank you, your Honor.

17 JUDGE WOODRUFF: You can remain seated.  
18 That way we can hear you on the microphone.

19 MR. LEADLOVE: Okay. Very good. We would  
20 like to call Mr. Smith to the stand, please.

21 JUDGE WOODRUFF: All right. Please come  
22 forward.

23 MR. MITTEN: Your Honor, before Mr. Smith  
24 takes the stand, could I again ask that I be allowed to  
25 defer my opening statement on rate design until tomorrow

1 when the issue is regularly scheduled?

2 JUDGE WOODRUFF: Absolutely. Good morning,  
3 Mr. Smith.

4 MR. SMITH: Good morning.

5 JUDGE WOODRUFF: Raise your right hand and  
6 I'll swear you in.

7 (Witness sworn.)

8 JUDGE WOODRUFF: Thank you. You may  
9 inquire when you're ready.

10 MR. LEADLOVE: Thank you, your Honor.

11 LAYLE "KIP" SMITH testified as follows:

12 DIRECT EXAMINATION BY MR. LEADLOVE:

13 Q. Mr. Smith, would you state your full name  
14 for the record, please.

15 A. Layle Kip Smith.

16 Q. Mr. Smith, by who are you currently  
17 employed?

18 A. Noranda Intermediate Holding Corporation.

19 Q. And Mr. Smith, did you previously file  
20 direct testimony, written testimony in this case?

21 A. Yes, I did.

22 Q. All right. And has that testimony been  
23 marked as an exhibit in this matter?

24 A. Yes.

25 MR. LEADLOVE: And, your Honor, if I could

1 inquire, please, as to what exhibit number that is,  
2 please.

3 JUDGE WOODRUFF: Let me see if I can find  
4 it here. Smith direct is 524.

5 MR. LEADLOVE: Thank you, your Honor.

6 BY MR. LEADLOVE:

7 Q. And, Mr. Smith, if you were to -- have you  
8 reviewed that testimony?

9 A. Yes.

10 Q. And if I were to ask you the same questions  
11 that are in your written direct testimony, would your  
12 answers be the same?

13 A. Yes.

14 Q. And do you have any corrections to make to  
15 that testimony?

16 A. I do not.

17 Q. Any clarifications to make to it?

18 A. No.

19 MR. LEADLOVE: Your Honor, I would move for  
20 the admission into evidence of Exhibit 524.

21 JUDGE WOODRUFF: All right. 524 has been  
22 offered. Any objections to its receipt?

23 MS. McCLOWRY: No objections.

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

1 (MIEC EXHIBIT NO. 524 WAS RECEIVED INTO  
2 EVIDENCE.)

3 MR. LEADLOVE: With that, your Honor, I  
4 would tender Mr. Smith for cross-examination.

5 JUDGE WOODRUFF: Thank you. And I know we  
6 had some question about order of cross-examination being a  
7 little bit different on rate design. It looks like we  
8 probably start with MECG.

9 MR. WOODSMALL: No questions.

10 JUDGE WOODRUFF: Public Counsel then?

11 MR. MILLS: No questions.

12 JUDGE WOODRUFF: Staff?

13 MR. THOMPSON: No questions.

14 JUDGE WOODRUFF: Ameren?

15 MR. MITTEN: Thank you, your Honor.

16 CROSS-EXAMINATION BY MR. MITTEN:

17 Q. Good morning, Mr. Smith.

18 A. Good morning.

19 Q. This is not the first time that you have  
20 filed testimony in an Ameren Missouri general rate case;  
21 is that correct?

22 A. Yes.

23 Q. You filed testimony in each of the  
24 company's last two cases, ER-2010-0036 and ER-2011-0028;  
25 is that correct?

1           A.       Yes.

2                   MR. MITTEN: Your Honor, may I approach the  
3 witness?

4                   JUDGE WOODRUFF: You may.

5 BY MR. MITTEN:

6           Q.       I just handed you copies of the prefiled  
7 direct testimony that you filed in each of Ameren  
8 Missouri's last two rate cases, and let me first direct  
9 your attention to the testimony you filed in Case  
10 No. ER-2010-0036. If you can turn to page 3 of that  
11 testimony, I have highlighted a couple of sentences near  
12 the bottom of that page, and I would ask that you read  
13 those into the record, please.

14           A.       Union Electric Company's proposed rate  
15 increase of approximately 18 percent would drive the  
16 New Madrid smelter's operating costs up by around  
17 24 million annually, an increase that threatens its  
18 long-term viability in southeast Missouri. The outcome of  
19 this proceeding will have a substantial impact on the  
20 New Madrid smelter's viability in Missouri and, therefore,  
21 Noranda's deeply interested in the Commission's decision  
22 in this case.

23           Q.       Let me ask you next to turn to the copy of  
24 your prefiled direct testimony in Case No. ER-2011-0028,  
25 and I have highlighted some -- a couple of sentences on

1     **page 3 of that testimony as well. Could you please read**  
2     **those into the record?**

3             A.       Ameren Missouri's proposed rate increase of  
4     approximately 10.8 percent would drive the New Madrid  
5     smelter's operating costs up by around \$15 million  
6     annually. The Commission's decision will impact whether  
7     the New Madrid smelter will have cost competitive power  
8     and accordingly will have a significant impact on the  
9     New Madrid smelter's near-term results and its long-term  
10    sustainability.

11            Q.       Now, in the current case, at page 4 of your  
12    direct testimony, you state, and I quote, Ameren's  
13    proposed rate increase threatens the viability of the  
14    New Madrid smelter. Did I read your testimony correctly?

15            A.       I'd have to see it, sir.

16            Q.       It's on page 4. The lines aren't numbered,  
17    but it's the first sentence in the answer to the question  
18    that appears --

19            A.       I'll trust your reading of it.

20            Q.       You don't have a copy of your testimony?

21            A.       I've got it somewhere in the pile. I could  
22    dig it up if you like.

23            Q.       But you're willing to accept that that's --

24            A.       That you read it correctly, yeah.

25            Q.       Now, in your testimony in Ameren Missouri's

1 last two rate cases, you expressed concern that Ameren  
2 Missouri's proposed rate increase in each of those cases  
3 threatened the long-term viability of Noranda's New Madrid  
4 smelter, but your testimony in the current case, because  
5 it omits the phrase long-term, seems to suggest that  
6 Ameren's proposed increase in this case now poses an  
7 imminent threat to the smelter. Am I interpreting your  
8 testimonies correctly?

9 A. The testimony have -- the threatening of  
10 our viability, we don't measure that viability for a  
11 single year. So for us, the -- the concern remains that  
12 each rate increase for us is a step on a journey. Our  
13 journey is a multiyear journey, and, therefore, the  
14 comment as it was written was intended to refer to our  
15 overall viability, which is measured in more than a year.

16 Q. So you intended to imply by your testimony  
17 in this case that the proposed rate increase was a threat  
18 to long-term viability of the smelter?

19 A. Yes.

20 Q. Mr. Smith, if something poses a threat to  
21 your business, that's something that current and potential  
22 shareholders would like to know about, don't you agree?

23 A. Yes.

24 Q. Did Noranda file a Form 8K report advising  
25 investors about your belief that Ameren's proposed rate

1     **increase in this case poses a threat to the viability of**  
2     **the New Madrid smelter?**

3             A.       We did not file an 8K, but we did disclose  
4     the presence of the rate case in appropriate filings.

5             Q.       Well, did you advise investors that the  
6     rate case poses a threat to the viability of the  
7     New Madrid smelter in any of the other reports that the  
8     SEC requires the company to file?

9             A.       I don't recall the specific wording that we  
10    used.

11            MR. MITTEN: Your Honor, may I again  
12    approach the witness?

13            JUDGE WOODRUFF: You may.

14    BY MR. MITTEN:

15            Q.       Mr. Smith, I've handed you a couple of  
16    documents. Could you please take a look at them and  
17    confirm for me that those are copies of Noranda's Form 10Q  
18    reports for the first and second quarters of 2012?

19            A.       Uh-huh.

20            Q.       Now, let me first direct your attention to  
21    the 10Q for the first quarter of 2012. Do you happen to  
22    know when Noranda filed that report?

23            A.       I'm sorry. The first report?

24            Q.       Yes.

25            A.       Says filed on 04/30/2012.

1           Q.       That would have been after the date that  
2   Ameren Missouri filed the current rate case; is that  
3   correct?

4           A.       Yes.

5           Q.       Now, I have tabbed one of the pages in that  
6   10Q report. I would ask you to turn to it.

7           A.       Uh-huh.

8           Q.       And I have highlighted some language at the  
9   bottom of that page. Could you please read that aloud?

10          A.       On February the --

11                 MR. MILLS: I'm going to object to this  
12   question. This exhibit has not been admitted. None of  
13   the other counsel have seen it. To have this witness just  
14   read random passages from a document that none of us have  
15   seen that's not been made a part of the record in this  
16   case, it -- I don't even -- I'm not even able to object to  
17   the question because I don't know what he's going to read  
18   and whether it has anything to do with this case, whether  
19   it's relevant, whether there's a sufficient foundation for  
20   this document or anything.

21                 JUDGE WOODRUFF: Your response?

22                 MR. MITTEN: Judge, I don't think there's a  
23   need to admit the entire Form 10Q into the record, which  
24   is why I don't intend to, but Mr. Smith has identified the  
25   document as a copy of Noranda's first quarter 10Q for

1 2012, and I think I'm entitled to ask him to read a  
2 portion of that document into the record.

3 MR. MILLS: The entire document may or may  
4 not be relevant to this proceeding. Without giving us a  
5 chance to look at what he's asking the witness to read  
6 prohibits us from making objections as to relevance.

7 JUDGE WOODRUFF: Can you provide other  
8 counsel with a copy of the document?

9 MR. MITTEN: Judge, I don't have copies  
10 other than a copy for me and a copy for the witness, but I  
11 would note that this is standard operating procedure at  
12 the Commission for witnesses to hand documents and have  
13 them read portions of those documents into the record if  
14 they identify and authenticate the document. That's all  
15 I'm doing.

16 MR. MILLS: And, Judge, I would disagree.  
17 I think it's standard operating procedure for counsel if  
18 he's going to ask questions of a witness from a document  
19 that is not in the record to provide copies to other  
20 counsel. That hasn't been done here. So as I said, we  
21 can't meaningfully address questions directed to this  
22 document without being able to see it.

23 JUDGE WOODRUFF: I'm going to overrule the  
24 objection. You can proceed.

25 BY MR. MITTEN:

1           **Q.       Mr. Smith, could you read the portion of**  
2   **the first quarter 10Q that I've highlighted?**

3           A.       On February 3rd, 2012, Ameren filed a new  
4   rate case with the Missouri Public Service Commission  
5   seeking a 14.6 percent base rate increase. As we have in  
6   previous rate cases, we expect to be an active participant  
7   in the Missouri Public Service Commission rate setting  
8   process. Any increase approved would be effective at the  
9   beginning of the month following the Missouri Public  
10   Service Commission's ruling. We expect a ruling on this  
11   request by January the 3rd, 2013.

12          **Q.       Now, could you also look at the page in the**  
13   **second quarter 10Q that I have given you, and could you**  
14   **confirm for me that the passage that you just read also**  
15   **appears in the second quarter 10Q?**

16          A.       Yes, it does.

17          **Q.       So while Noranda did advise investors of**  
18   **Ameren Missouri's current rate case, nowhere in either of**  
19   **the first or second quarter 10Q reports did Noranda state**  
20   **that the proposed rate increase threatens the viability of**  
21   **the New Madrid smelter; is that correct?**

22               MR. LEADLOVE: Your Honor, I'm going to  
23   join in the Office of the Public Counsel's objection as to  
24   not providing a copy of this document to counsel. There's  
25   no way to check the veracity.

1 JUDGE WOODRUFF: Again, I'll overrule the  
2 objection.

3 THE WITNESS: That's correct.

4 BY MR. MITTEN:

5 Q. I'd also like to see if we can put in  
6 context the statement that you made in your testimony in  
7 this case about the potential effect of Ameren Missouri's  
8 proposed rate increase on the New Madrid smelter.

9 MR. MITTEN: Your Honor, may I again  
10 approach the witness?

11 JUDGE WOODRUFF: You may.

12 BY MR. MITTEN:

13 Q. Mr. Smith, I handed you a document that  
14 purports to be Noranda's 2011 annual report to  
15 shareholders. Is that, in fact, what it is?

16 A. Yes.

17 Q. And in that document, you identify a number  
18 of risk factors that affect your company; is that correct?

19 A. Yes, we do.

20 Q. Do you know when Noranda published the 2011  
21 annual report?

22 A. I don't recall the specific date.

23 Q. Would it have been before or after Ameren  
24 Missouri filed the current rate case?

25 A. It would have been after.

1 Q. Let me ask you to turn to page 14 of the  
2 2011 annual report, the portion of the report that  
3 consists of the 10K.

4 A. Uh-huh.

5 Q. And I'd like to see if you agree with some  
6 of the risk factors that are listed there. First of all,  
7 on page 14 it says one of the risk factors is a downturn  
8 in general economic conditions as well as a downturn in  
9 the end use markets for certain of our products could  
10 materially and adversely affect our business, financial  
11 condition, results of operations and cash flow. Is that a  
12 correct reading of the risk factor that Noranda lists  
13 there?

14 A. Yes.

15 Q. And moving over to page 16, another risk  
16 factor is we may encounter increases in the cost of raw  
17 materials which could cost our -- or could cause our cost  
18 of goods sold to increase, thereby materially and  
19 adversely affecting our business, financial condition,  
20 results of operations or cash flows, limiting our  
21 operating flexibility. Is that a correct reading of that  
22 risk factor?

23 A. Yes.

24 Q. And you also identify at page 16 the  
25 following statement: We may be unable to continue to

1 compete successfully in the highly competitive markets in  
2 which we operate. Is that correct?

3 A. Yes.

4 Q. And moving on down in that risk factor in  
5 the second paragraph it says, if we do not compete  
6 successfully, our business, financial condition, results  
7 of operations and cash flows could be materially and  
8 adversely affected. Is that what it states?

9 A. Yes.

10 Q. Moving over to page 17 of the annual  
11 report, you also state, aluminum may become less  
12 competitive with alternative materials which could reduce  
13 our share of industry sales, lower our selling prices and  
14 reduce our sales volumes; is that correct?

15 A. Yes.

16 Q. And then further down it says, that risk  
17 power which could -- risk factor which could materially  
18 and adversely affect our business, financial condition,  
19 results of operation and cash flows; is that correct?

20 A. Yes.

21 Q. Moving on down page 17, if we lose order  
22 volumes from our largest customers, our revenues and cash  
23 flows could be materially reduced. Is that a risk factor  
24 which is identified in the annual report?

25 A. Yes.

1           Q.       Moving on down the page, you also state, we  
2 do not have long-term contractual arrangements with a  
3 significant majority of our customers, and our revenues  
4 and cash flows could be reduced if our customers switch  
5 their suppliers. Is that what that states?

6           A.       Yes.

7           Q.       Next you state, our business requires  
8 substantial capital investments that we may be unable to  
9 fill; is that correct?

10          A.       I'm sorry. Is this --

11          Q.       It's about the middle of page 17.

12          A.       Yes.

13          Q.       And finally on page 17 you identify the  
14 risk factor, we may be materially and adversely affected  
15 by environmental, safety, production and product  
16 regulations or concerns --

17          A.       Yes.

18          Q.       -- is that correct?

19                   Turning over to page 18, another risk  
20 factor that you identify is climate change legislation or  
21 regulations may adversely affect -- may adversely impact  
22 our operations and markets; is that correct?

23          A.       Yes.

24          Q.       Moving further down page 18, the annual  
25 report states, our business is subject to unplanned

1 business interruptions that may adversely affect our  
2 performance; is that correct?

3 A. Yes.

4 Q. Finally on page 18, the annual report  
5 states, we could experience labor disputes that disrupt  
6 our business; is that correct?

7 A. Yes.

8 Q. And turning over to page 19, another risk  
9 factor that is identified in the annual report is, our  
10 operations have been and will continue to be exposed to  
11 various business and other risks, changes in conditions  
12 and events beyond our control in foreign countries; is  
13 that correct?

14 A. Yes.

15 Q. So it appears from Noranda's annual report  
16 that there are a number of diverse risks that affect the  
17 company, any one of which could have a material adverse  
18 effect on your business; is that correct --

19 A. Yes.

20 Q. -- Mr. Smith?

21 Let me ask you next to turn to page 1 of  
22 the 2011 annual report, the portion that is not the  
23 Form 10K, which is entitled financial highlights. Do you  
24 see that page?

25 A. Yes.

1           Q.       There are a number of graphs at the top of  
2       that page, and one of those graphs shows that year to year  
3       from 2009 through 2011 Noranda showed significant  
4       improvement in overall operating cash flow; is that  
5       correct?

6           A.       Yes.

7           Q.       And another graph shows that adjusted  
8       EBITDA, and that's E-B-I-T-D-A, which stands for earning  
9       before income tax depreciation and amortization, also  
10      improved significantly from 2009 to 2010, and improved  
11      again from 2010 to 2011; is that correct?

12          A.       Yes.

13          Q.       And moving down to the middle of that page,  
14      the portion called segment profit and loss, that shows  
15      that for primary -- for the primary aluminum segment,  
16      profits increased from 4.9 million in 2009 to  
17      111.2 million in 2010 and again to 140.3 million in 2011;  
18      is that correct?

19          A.       Yes.

20          Q.       And primary aluminum is the New Madrid  
21      smelter; is that correct?

22          A.       Yes.

23          Q.       Now, I want to shift my focus for the next  
24      few questions on how Noranda keeps track of the effects on  
25      its operations of electricity prices and the other risk

1 factors that we discussed a few minutes ago. Does Noranda  
2 have an annual operating budget?

3 A. Yes, we do.

4 Q. Does the New Madrid smelter have an annual  
5 operating budget?

6 A. Yes, it does.

7 Q. Could you please describe what is contained  
8 in those budgets?

9 A. When we construct our annual operating  
10 budget, we do a line item buildup of those items that are  
11 relevant to the costs in the business and in the end  
12 its -- and the revenue, so the volume, the price and the  
13 costs associated with the business.

14 Q. Now, when you say line item, is that -- are  
15 the budgets pretty detailed?

16 A. The buildup of the budget is pretty  
17 detailed.

18 Q. Would it be comparable to -- comparable in  
19 detail to the financial information that's reported on  
20 page 26 of the Form 10K that is attached to Noranda's 2011  
21 annual report?

22 A. What page would that be on, please?

23 Q. 26.

24 A. Thank you. The individual items would be  
25 at the -- there would be -- there would be more detail to

1 build up the plan, yes.

2 Q. More detail in the operating budget than is  
3 shown at page 26 of the annual report?

4 A. Yes.

5 Q. And do your operating budgets show a net  
6 income projection?

7 A. The --

8 MR. LEADLOVE: Let me object to that  
9 question as being unclear as to which budget he's talking  
10 about. Counsel's asked the witness about the budget for  
11 both the operation for Noranda as an enterprise as a whole  
12 and Noranda the smelter itself. I'm not sure which budget  
13 he's referring to in the question.

14 MR. MITTEN: I used the plural budgets. If  
15 that doesn't apply to one of the budgets, the witness can  
16 tell me.

17 JUDGE WOODRUFF: All right.

18 THE WITNESS: The overall budget that would  
19 be what we refer to as our operating budget would focus on  
20 EBITDA and then our net income. So each one of the  
21 business units would not have a net income budget. They  
22 would be working towards their segment profit as reported.  
23 And then the overall corporation would then build the  
24 relevant line items in to get to net income.

25 BY MR. MITTEN:

1 Q. Would the New Madrid smelter budget show a  
2 segment profit number?

3 A. Yes, it would. Yes, it would.

4 Q. Does the operating budget have a name? If  
5 you called a subordinate and said, I want to talk to you  
6 about the budget, how would you refer to it so that they  
7 know what you were talking about?

8 A. 2012 budget.

9 Q. And that would apply to both the New Madrid  
10 smelter and to Noranda corporate?

11 A. That's correct.

12 Q. And is the budget a published document or  
13 something that's capable of being published?

14 A. It would be a confidential document, yes.

15 Q. But it is a document?

16 A. It is, yes.

17 Q. Does Noranda have a three or a five-year  
18 business plan?

19 A. No. And the reason why I say no is we  
20 interchangeably run -- use the word plan for budget, and  
21 while we will run scenarios for future years, the only  
22 budget that we have is a single year budget that we  
23 operate against.

24 Q. Let me ask you to turn to page 9 of the  
25 non-10Q portion of the 2011 annual report.

1 A. Uh-huh.

2 Q. Do you have that page?

3 A. Not yet.

4 Q. Under the heading beyond 2012, there's a  
5 phrase that says, Tom Robb, vice president of strategic  
6 financial planning and development, to lead our efforts in  
7 developing a new Noranda five-year plan.

8 A. Uh-huh.

9 Q. If Mr. Robb is going to develop a new  
10 five-year plan, doesn't that suggest that you have a  
11 five-year plan?

12 A. No. We -- we -- on an annual basis we do a  
13 budget. That budget is used to track the performance in  
14 that given year. Past that year, we do -- we do scenario  
15 planning. So for this particular -- so I guess I should  
16 make a distinction, and if I make this distinction, then I  
17 would answer yes, that we do have a five-year plan, that  
18 we are building a five-year plan.

19 The distinction here would be deciding upon  
20 a scenario to pursue for our large scale growth in capital  
21 investment. So what are the plans that we're going to  
22 develop and pursue and validate to see how we should --  
23 how we should grow the business. But as far as an  
24 operating plan goes, no, we don't have a -- we don't have  
25 a five-year budget for the smelter.

1           **Q.       Do you have a forward-looking plan that**  
2       **would project revenues, expenses and net income either for**  
3       **the corporation as a whole or for your operating segments?**

4           A.       We would do scenarios in that regard, you  
5       know, because one of the challenges that we have is just  
6       the volatility of the LME, and so for us to manage the  
7       business, we run lots of scenarios to help us understand  
8       the impact of various LME scenarios on our business.

9                   But as far as having a plan where we would  
10      lay out a five-year plan and say it's this year and it  
11      goes out to '13 through '17, we would -- we would not have  
12      a document that we would be looking at in 2015 saying,  
13      okay, this is what -- this is what the five-year plan said  
14      and this is how we're measuring ourselves.

15           **Q.       Well, so maybe the record -- so the**  
16      **record's clear, what does LME stand for?**

17           A.       I'm sorry. The London Metal Exchange, the  
18      price of aluminum.

19           **Q.       As you're operating your business in 2012,**  
20      **do you have any projections for 2013 or beyond as to what**  
21      **your revenues, expenses and net income are going to be for**  
22      **those periods?**

23           A.       We have done scenarios on those years.

24           **Q.       So there are scenarios that would include**  
25      **revenues, expenses and net income; is that correct?**

1           A.       My only hesitation is most of them we do on  
2   an operating basis, and so there may be -- there would be  
3   more that didn't have net income than would, but yeah, I  
4   think there would be some out there that would have net  
5   income.

6           Q.       And when you say operating basis, what do  
7   you mean by that?

8           A.       The running of the facility, so the budgets  
9   that we give the four business segments.

10          Q.       And would you have those kind of scenario  
11   future-looking projections or budgets for the New Madrid  
12   smelter?

13          A.       Yes.

14          Q.       And just so I'm clear, those budgets would  
15   have projections as to revenues, expenses and a sector or  
16   segment to profit; is that correct?

17          A.       I'm just thinking. Yes.

18          Q.       And the kind of detail that would be in  
19   those future projections that show revenue, expense and  
20   sector profit, can you describe how much detail that would  
21   be?

22          A.       It would be less detail than the annual  
23   budget buildup. There would be -- because we -- they  
24   would use more commonsense estimates, so --

25          Q.       Again, going back to page 26 of the 10K

1     portion of the 2011 annual report, how would the detail in  
2     those forward-looking budgets or projections compare to  
3     the detail that is shown on that page?

4             A.       On the cost side, it would be a bit more.  
5     On the sales side, we'd look at volume, we'd look at  
6     product mix. You know, in general, you'd probably have  
7     one level of detail more.

8             Q.       So it would be more detail than what we  
9     show on page 26?

10            A.       Yes.

11            Q.       Now, do those forward-looking projections  
12     that have more detail than is on page 26 of the 2011  
13     annual report, do they have a name?

14            A.       We usually refer to them as our model.

15            Q.       Model?

16            A.       The model, yeah.

17            Q.       So if you were calling a subordinate, said  
18     I want to see the forward-looking projections for the  
19     New Madrid smelter, you'd --

20            A.       I'd ask for the five-year model.

21                    MR. MITTEN: Your Honor, may I approach the  
22     witness?

23                    JUDGE WOODRUFF: You may.

24     BY MR. MITTEN:

25            Q.       Mr. Smith, I have handed you three

1     **responses that were provided to Ameren Missouri to a data**  
2     **request, MIEC 015, and I'd ask you to examine those and**  
3     **tell me if any of those is the operating budget for the**  
4     **five-year plan for the New Madrid smelter.**

5             A.       The second would be the summary detail of  
6     the budget cost, in fact you can read the line items,  
7     followed by four years from the five-year model.

8             Q.       But you say summary detail. Is there a  
9     document that is either printed or printable that would  
10    have considerably more detail than the summary that is  
11    shown on the second sheet that would be either an  
12    operating budget or a five-year plan for the Noranda  
13    smelter?

14            A.       Operating budget for '12, yes.

15            Q.       And how about projections for the future,  
16    would there be more detail than that for the Noranda  
17    smelter?

18            A.       You might get one more level of detail, but  
19    this -- we refer to it as top down versus bottom up. The  
20    budget's built bottom up, so line item by line item. The  
21    model tends to be built top down. So again, basic  
22    assumptions that drive the numbers.

23            Q.       Okay. Thank you. Has Noranda completed  
24    its operating budget for 2013 for either the corporation  
25    or the New Madrid smelter?

1 A. No.

2 Q. Do you know when that process is going to  
3 be completed?

4 A. We're right in the middle of it right now,  
5 and it typically completes in the middle of December.

6 Q. Are you far enough into that process that  
7 you have formed an opinion as to what your electricity  
8 prices are going to be for 2013?

9 A. No. No. We're -- right now where we are  
10 is we're at the point where we've -- we focus first on the  
11 volume, because that's a key driver in the process, and  
12 now the teams are off working on, you know, all their  
13 various cost components, including power.

14 Q. Have you made any preliminary assumptions  
15 as to what the cost of power is going to be in 2013?

16 A. I have not seen any yet.

17 Q. Do you know what assumptions have been  
18 included in your five-year plan as to when Ameren Missouri  
19 will next come in for a rate increase?

20 A. I do not.

21 Q. And in the five-year plan that's being  
22 worked on, do you know if the New Madrid smelter is being  
23 projected to be profitable for any or all of those years?

24 A. I don't -- I don't recall from this, but  
25 there would -- there would certainly be some years in here

1 that we would expect it to be profitable.

2 Q. And as the CEO, you'd probably want to know  
3 if there were years when you were projected not to be  
4 profitable from the New Madrid smelter; is that correct?

5 A. That's correct.

6 Q. And you don't recall if there are any such  
7 projections?

8 A. Again, because we run so many scenarios,  
9 there would certainly be projections out there or  
10 scenarios where the New Madrid smelter wasn't profitable,  
11 typically driven by the swings in the LME.

12 Q. But you can't recall any of those specific  
13 projections for the next five years as you're sitting here  
14 today?

15 A. I just don't -- no. I'd have to go back  
16 and look at the models.

17 Q. Just have one final question, Mr. Smith.  
18 In allocating the revenue requirement in this case to  
19 Ameren Missouri's various rate classes, are there other  
20 factors other than the results of the various class cost  
21 of service studies that you believe the Commission should  
22 take into consideration in setting those rates?

23 MR. LEADLOVE: I'm going to object, your  
24 Honor, as being beyond the scope of his written direct  
25 testimony. I'm not sure this witness is qualified to

1 answer that question.

2 MR. MITTEN: Your Honor, there's no  
3 limitation on the scope of my cross-examination under the  
4 Administrative Proceedings Act.

5 JUDGE WOODRUFF: The objection is  
6 overruled.

7 THE WITNESS: I'm sorry. Could you repeat  
8 the question? I apologize.

9 BY MR. MITTEN:

10 Q. Yes. In allocating the revenue requirement  
11 in this case to Ameren Missouri's various rate classes,  
12 are there any factors other than the results of the  
13 various class cost of service studies that you believe the  
14 Commission should take into consideration?

15 MR. WOODSMALL: Your Honor, I'd object now.  
16 He's asking for an opinion. In order to offer an opinion,  
17 you have to be an expert. Mr. Smith has not been offered  
18 as an expert on class cost of service studies. So I  
19 believe this is beyond the scope of his expertise, and  
20 he's not able to offer an opinion on this matter.

21 MR. MITTEN: Your Honor, I didn't ask him a  
22 question about class cost of service studies. I  
23 specifically asked him if there are any factors beyond the  
24 results of the class cost of service study that should be  
25 considered when setting rates in this case. And if

1 Mr. Smith is not an expert on rate design, what was the  
2 purpose of his testimony in this case?

3 JUDGE WOODRUFF: I'm going to overrule the  
4 objection. You can answer the question if you can.

5 THE WITNESS: Thank you. First off, when  
6 we come in front of the Commission, we are always looking  
7 for -- we really come with two objectives. One is to make  
8 sure that to the best of our ability that we're able to  
9 get facts on the table that help us get to low cost,  
10 globally competitive power.

11 The vehicle that we -- that we believe in  
12 to do that is class cost of service. We believe that  
13 working within the Public Service Commission process, that  
14 we've been able -- using the class cost of service  
15 methodology that has been acknowledged by the Commission,  
16 that we've been able to achieve sustainable rates. So  
17 that absolutely is the, we believe the proper driver, and  
18 we -- and we support -- and when we come here, we support  
19 class cost of service, because ultimately for us to  
20 achieve our objective, which is to be a sustainable  
21 business in Missouri, and with power at roughly a third of  
22 our cost, it's critically important that we're -- that  
23 we're -- that we're involved in this process. We do  
24 believe that yes, class cost of service is critical.

25 Now, not being a power expert, I would also

1 say, though, that the -- when we look at the energy  
2 efficiency legislation that was passed and our compliance  
3 with that and our decision to opt out of the energy  
4 efficiency, I would expect that also to be included in how  
5 we calculate our class cost of service, and so that would  
6 be another factor.

7 Finally, it's also my understanding that  
8 the consideration of what's in the best interests of all  
9 consumers is -- is allowable, and we genuinely believe  
10 that a vibrant, healthy Noranda is in the best interests  
11 of the state of Missouri. We -- we provide over 900 jobs  
12 in the bootheel. Those jobs average, when you include  
13 benefits, \$92,000 a person. We -- we -- you know, we  
14 commissioned a study that showed that we contribute about  
15 \$336 million into the local bootheel economy. There's  
16 quite an economic effect.

17 And maybe more than anything, we're  
18 products of small communities. All of Noranda is. So  
19 this is a plant that -- that sits in a community where  
20 it's a long way to go to find a job that's as secure and  
21 sustainable and provides the benefits that ours does.

22 That all being said, we understand that we  
23 have to do our job first, which is to drive productivity  
24 in our organization. We understand that the logic and the  
25 support for our rate comes from class cost of service, and

1 that's why -- that's why we support it.

2 MR. MITTEN: Thank you. I don't have any  
3 further questions. Thank you, Mr. Smith.

4 JUDGE WOODRUFF: We'll come up to questions  
5 from the Bench. Commissioner Jarrett?

6 QUESTIONS BY COMMISSIONER JARRETT:

7 Q. Good morning, Mr. Smith.

8 A. Good morning.

9 Q. I think the last time you were here we were  
10 still dealing with the after effects of that terrible ice  
11 storm where Noranda was shut down for a period of time.

12 A. Uh-huh.

13 Q. And I know you had quite a recovery process  
14 or Noranda had quite a recovery process. My first  
15 question, I just wanted to ask, have you-all fully  
16 recovered from the effects of that storm?

17 A. We have. Thank you very much for asking.  
18 It was -- it was an amazing effort, and I would be remiss  
19 if I didn't thank Ameren publicly for the work that they  
20 did during that. Just the tireless work that they put  
21 forth to get us back online was well appreciated by the  
22 folks in the plant.

23 It did take us nearly a year to come all  
24 the way back from that outage, but we're proud that we're  
25 back running again. So thank you very much for asking.

1 Q. Good. I'm glad to see that both for  
2 Noranda and the community around that area.

3 In your testimony on page 4, at the bottom  
4 of the page, the question is asked, what impact would  
5 Ameren's proposed rate increase have on the New Madrid  
6 smelter? And you answered that, Ameren's proposed rate  
7 increase threatens the viability of the New Madrid  
8 smelter. Ameren's proposed 14.6 percent rate increase  
9 would increase the New Madrid smelter's electric rates by  
10 approximately \$22 million annually at a time when business  
11 conditions are extremely challenging.

12 So am I correct that you are couching your  
13 testimony at least on Ameren's proposed rate increase,  
14 that is if we give -- if we give Ameren everything they  
15 asked for, this is what the effect would be?

16 A. Yes. And if I could, the aluminum industry  
17 has seen a bit of its own mini recession. In the first  
18 half of this year, the London Metal Exchange price of  
19 aluminum compared to last year, it has dropped from \$1.16  
20 to 94 cents. And if you annualize that and just think  
21 about every time you make a pound of primary aluminum, you  
22 know, we just lost 22 cents on 580 million pounds.

23 And so the impact on our revenue line and  
24 profitability is staggering, but that's just the -- that's  
25 just the life we chose to live by being in a commodity.

1 The key for us to stay focused on our cost. And again,  
2 the -- the concern that we have is this journey, that  
3 every year we have to stay focused on our cost, stay  
4 focused on our productivity. And so each rate case to us  
5 is essential so that we don't end up like our competitors,  
6 who one of which has filed a Warren Notice recently to  
7 shut down. We had four, as you recall from my testimony  
8 when I came after the outage, that, you know, four  
9 smelters that shut down during the overall outage.

10 So again, we don't come in asking for a  
11 special deal. We come in looking for cost of service. So  
12 far that's worked very well for us to maintain a globally  
13 competitive rate. And, you know, in a commodity, one  
14 thing that we know is this too shall pass. We've seen  
15 this done. But we don't come here first. We come here  
16 after we daily manage our costs and we make sure that our  
17 other costs are as low as they can be.

18 And so for us it really is a -- it really  
19 is a journey, and we want to make sure that, you know,  
20 when we looked at a 14.6 percent increase on top of the  
21 22 percent that we've gotten over the last three increases  
22 and you think about the 22 percent is year in year out  
23 about \$35 million, and if we -- and the equivalent head  
24 count number for that's about 380 people. That's what  
25 we -- that's what we -- that's what it cost us for

1 380 people. So not that we would take all those people  
2 out because, frankly, after the last downsizing we don't  
3 have a -- we don't believe we have another 200-person head  
4 count reduction at New Madrid.

5 But this -- this long story short is we --  
6 we understand our responsibility to manage our costs  
7 because we compete globally in costs, and we believe  
8 strongly that if we can stay in the second quartile, where  
9 the first quartile is the very best and the four quartile  
10 is the very worst, that we can be here for the long term.  
11 So that's again why we're here.

12 Q. Well, let me say for my part that with the  
13 amount of soda that my kids drink out of aluminum cans --

14 A. Thank you for that.

15 Q. -- you have that to add to your bottom  
16 line.

17 A. Thank you for that.

18 Q. Now, on the joint list of witnesses and  
19 procedural schedule that we got that was filed by the  
20 parties, you were listed as a witness for Noranda, of  
21 course --

22 A. Yes.

23 Q. -- but also for MIEC. Is that your  
24 understanding as well, you're testifying really for both?

25 A. Principally for -- principally for Noranda,

1 but we are a member of the MIEC. We believe that our  
2 views are largely -- they're consistent with the MIEC, but  
3 just because energy is such a big component of our costs,  
4 we're the most energy intensive industry out there, it's  
5 more -- probably greater emphasis for us.

6 Q. And the reason I ask that is because, as  
7 you said, you are a member of MIEC, and MIEC is, I guess,  
8 not disputing that Ameren deserves some rate increase.  
9 The dollar number escapes me now. I don't know if you  
10 know off the top of your head what MIEC's position is, but  
11 it is -- it is some rate increase?

12 A. That's correct, and we also agree with  
13 that.

14 Q. And so you're comfortable with that?

15 A. Yes. Yes, we are.

16 Q. So I guess my question is then now, so we  
17 know at the top level that if Ameren's asking for  
18 everything, you believe that threatens the viability, and  
19 I would assume if we were to take in the case MIEC's  
20 position -- MIEC's position completely, that Noranda could  
21 live with that. Is that kind of your testimony?

22 A. I'd have to consult with my counsel.

23 Q. I mean, if you know.

24 A. I know what -- and we also have our own  
25 experts, and I know what our experts are telling us that

1 is reasonable and just, and it's about 8 percent overall,  
2 and then with the -- you know, with the opt out on the  
3 energy efficiency, ours would be about 3 percent.

4 And again, just on the opt out, I would  
5 like to mention that one of the reasons why we opt out is  
6 we're spending a lot of money on our own on energy  
7 efficiency. We have a large, it's a \$54 million project  
8 that we announced some time ago that we've been making  
9 steady progress on. We spent about \$25 million already.  
10 It's a rectifier farm project. Gives us more energy  
11 efficiency.

12 Because of the amount of electricity that  
13 we use, the quantities are just vast, so when we put  
14 together a project like this, it's quite a coincidence  
15 that we will save enough -- we'll save about 14 megawatts  
16 of power when this is done, which will be right around the  
17 amount -- just under the peak amount that the city of  
18 New Madrid needs for its -- for its peak power  
19 consumption.

20 Q. I guess I'm trying to explore, let's just  
21 say hypothetically our final decision is a number  
22 somewhere between what MIEC is saying is acceptable and  
23 what Ameren is asking for, and I don't know if this is a  
24 fair question obviously, but I'm trying to figure out at  
25 what point would you say Noranda really is in trouble

1 here? We know -- we know you say in your testimony that  
2 it's if we grant everything Ameren wants, and we know that  
3 you generally agree with what MIEC's position is.

4 A. Uh-huh.

5 Q. In that number, I mean, obviously if we get  
6 closer to the Ameren, the more troubling that is for  
7 Noranda.

8 A. Right.

9 Q. But can you give me a number or just a --  
10 just give me your thoughts.

11 A. If I could, let me -- if I can just give  
12 you some context.

13 Q. Exactly. Please.

14 A. Because we really -- we really just believe  
15 in this concept of fair and just, and I'm not -- I'm just  
16 not the subject matter expert on that. But I watch our  
17 competitors quite closely. Obviously we don't have any of  
18 their private cost data. So, you know, we -- we work to  
19 keep all of our costs in the second quartile because we  
20 think that that way if any one cost takes a short-term run  
21 up, then we can smooth that.

22 But we have -- we have a competitor that  
23 has about the same power rates as us and has filed a  
24 Warren Notice and -- and they're saying that the  
25 combination of the market conditions and power, you know,

1 are threatening the very short-term viability of their  
2 company.

3                   We have two competitors that are talking  
4 again about market conditions, and one's at about 46  
5 bucks, and our -- you know, our total is right around 40  
6 plus or minus level. One's at 46 plus a little, one's at  
7 47 plus a little, and they're both saying that they're not  
8 long-term viable at these kind of rates already. And then  
9 we've got one competitor out there that we believe's at  
10 about 56 that, you know, is saying it's just not viable.

11                   And so the context here is that we're not  
12 saying that -- and we don't come in -- and that's why I  
13 don't put in my testimony that, you know, if you give this  
14 rate we're going to shut down, because we're going to work  
15 very, very hard to figure it out. But together working on  
16 this cost of service model if we continue to drive that,  
17 that gives us the best chance for success.

18                   So as the CEO of this company, any dollar  
19 rate increase is something that I just don't want to see,  
20 just like any dollar of coke price increase I don't want  
21 to see. But we understand the need for viable suppliers.  
22 We understand and applaud this process, and we're an  
23 active participant in it because we -- we simply choose  
24 not to seek a special deal, and so that's -- that's why  
25 we're here.

1           Q.       I appreciate you bearing with me. That  
2 wasn't a very good question, and I think you answered what  
3 I -- what I meant anyway.

4           A.       Good.

5           COMMISSIONER JARRETT: And I don't have any  
6 further questions. Thank you, Mr. Smith.

7           THE WITNESS: Thank you.

8           JUDGE WOODRUFF: All right. Then we'll go  
9 to recross based on questions from the Bench, starting  
10 with MECG.

11          MR. WOODSMALL: No questions.

12          JUDGE WOODRUFF: Public Counsel?

13 RECROSS-EXAMINATION BY MR. MILLS:

14          Q.       Just one clarifying question. For those of  
15 us who don't do aluminum but do utility rates, what  
16 exactly is a Warren Notice?

17          A.       You're required by law to give a minimum  
18 notice if you're going to have a substantial layoff --  
19 shutdown that leads to a substantial layoff. So they've  
20 given the indication to their employees. I just don't  
21 recall if that's a 60 or 90-day notice, but it's a Warren  
22 Notice.

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

24          JUDGE WOODRUFF: Staff?

25          MS. McCLOWRY: No questions.

1 JUDGE WOODRUFF: Ameren?

2 MR. MITTEN: No questions.

3 JUDGE WOODRUFF: All right. Redirect?

4 MR. LEADLOVE: Thank you, your Honor. May  
5 I approach the witness, please?

6 JUDGE WOODRUFF: You may.

7 REDIRECT EXAMINATION BY MR. LEADLOVE:

8 Q. Mr. Smith, I'm going to hand you back again  
9 the 2011 annual report of your company, and counsel --

10 JUDGE WOODRUFF: They're having some  
11 technical difficulties with the screen. Ignore the  
12 interruption.

13 BY MR. LEADLOVE:

14 Q. Counsel asked you certain questions about  
15 certain portions of that annual report, and he highlighted  
16 those; is that correct?

17 A. That's correct.

18 Q. I'd like to ask you about one of those  
19 portions that I don't believe he asked you about and I  
20 notice is not highlighted in the annual report, and that's  
21 on page 15 under electricity. Are you there, sir?

22 A. Yes.

23 Q. And what portion of the annual report is  
24 that in, sir?

25 A. That's in the risk section.

1           Q.       So is this where you disclose certain risks  
2 to your -- to the public?

3           A.       That's correct.

4           Q.       And is there a risk disclosure regarding  
5 the electrical rates that Noranda pays?

6           A.       Yes, there is.

7           Q.       And would you for purposes of the  
8 Commission read the first paragraph? I don't want you to  
9 read the whole thing. I don't know if that's necessary or  
10 not. But would you read the first paragraph, please.

11          A.       Electricity is the largest cost component  
12 at our New Madrid smelter and is a key factor for our  
13 long-term competitive position in the primary aluminum  
14 business. We have a power purchase agreement with Ameren  
15 Missouri, Missouri's largest electric utility,  
16 parenthetical, Ameren, pursuant to which we have agreed to  
17 purchase substantially all of New Madrid's electricity  
18 through May 2020. The pricing structure of our power  
19 contract includes two components, a base rate and a fuel  
20 adjustment clause. And then there are follow-on  
21 paragraphs disclosing the February 3rd, 2012.

22          Q.       And I'd like to draw your attention to that  
23 third paragraph of the 2011 annual report that starts with  
24 on February 3, 2012. Would you read that, please.

25          A.       On February 3rd, 2012, Ameren filed a new

1 rate case with the Missouri Public Service Commission  
2 seeking 14.6 percent base rate increase. As we have in  
3 previous rate cases, we expect to be an active participant  
4 in the Missouri Public Service Commission rate setting  
5 process. Any increase approved would be effective at the  
6 beginning of the month following the Missouri Public  
7 Service Commission's ruling. We expect a ruling on this  
8 request by January 3rd, 2013.

9 The outcome of this case or any future rate  
10 cases Ameren may initiate could materially and adversely  
11 affect the competitiveness and long-term viability of our  
12 smelter, as well as our business, financial condition,  
13 results of operations and cash flows.

14 Q. So in the 2011 annual report, in your  
15 opinion, have you disclosed the risk of this case to the  
16 investing public?

17 A. Yes.

18 Q. And is that disclosure consistent with your  
19 testimony, in your opinion?

20 A. Yes.

21 Q. Counsel also asked you about the, I believe  
22 the EBITDA disclosure and cash flow disclosure in the 2011  
23 annual report. Do you recall that?

24 A. Yes.

25 Q. He didn't ask you about the first six

1 months. Can you describe to the Commission how Noranda's  
2 been doing with regard to EBITDA and cash flow with regard  
3 to the first six months, which I understand your testimony  
4 reflects?

5 A. That's correct. That's correct. We tend  
6 to focus on EBITDA as a measure of profitability, and also  
7 have the net income numbers, but we have had this  
8 precipitous drop in the price of aluminum. And -- and one  
9 thing I do want to mention is that the price that we  
10 typically realize is the -- is the base price of aluminum  
11 plus a transaction premium known as the midwest premium.

12 So when you look at the first six months of  
13 2012 versus the first six months of 2011, our adjusted  
14 EBITDA is less than half of what it was last year, the  
15 150 reported, 158.2 million first half of 2011 and 73.6 in  
16 2012. Now, again, this too will pass, but this -- I mean,  
17 it is the cyclical nature of our business, and so our  
18 focus has to be on our cost. It has to be.

19 Q. And I'd like for you to describe that in a  
20 little more detail for the Commission. Do I understand  
21 correctly that your business model is somewhat subject to  
22 the LME price?

23 A. We -- we have to compete globally on cost  
24 because we -- we have essentially no control whatsoever of  
25 the LME price. So we compete globally on the basis of

1 cost, and then we compete regionally on the basis of a  
2 value-added sales strategy. So for us, cost, managing and  
3 influencing all of our costs is critical to our long-term  
4 viability.

5 Q. And that's because you don't control the  
6 LME price?

7 A. That's correct.

8 Q. The only thing you can influence is the  
9 cost structure; is that right?

10 A. As far as the price goes, yes. But I do  
11 want to make it clear that we don't abdicate our  
12 responsibility to maximize our revenue. We actually try  
13 to fabricate all the aluminum that we make so that we can  
14 make sure that we're -- we know our customers better, we  
15 have direct contact with other customers, and we can in  
16 that regard make sure we have the -- do our best to make  
17 sure we have the volume.

18 The price, the LME price is the LME price.  
19 We're one of 184 smelters around the world, and the price  
20 is set on a commodity exchange, so...

21 Q. Now, you've testified something along the  
22 lines of Noranda experiencing a 22 percent increase in its  
23 electrical rate since 2009; is that correct?

24 A. Yes.

25 Q. You gave a dollar figure associated with

1     **that.**

2             A.       I believe that's about -- that's a  
3     \$35 million annual impact.

4             Q.       So is it your testimony that since 2009,  
5     due to the rate increases that Noranda's (sic) been  
6     awarded by the Commission, that Noranda has experienced an  
7     increase in its cost structure by \$35 million a year?

8             A.       Yes. I believe that's correct, yes.

9             Q.       And you also, I think in your testimony,  
10    acquainted that with head count or jobs at the plant. Can  
11    you explain that to the Commission?

12            A.       All I did was I took the average -- and  
13    it's just illustrative. We have to make choices between  
14    where we spend our money, and the last place that we look  
15    is -- frankly, the last place that we look to reduce are  
16    the people in our organization because they truly are how  
17    we create value, and head count reductions don't just  
18    affect our employees, it affects their whole family.

19                    So for us, when we look at how we invest  
20    our money, it was just a marker that at roughly \$92,000 a  
21    head when you look at labor plus benefit on average, you  
22    know, that is about 380 -- \$35 million would support about  
23    380 people.

24            Q.       All right.

25            A.       And that doesn't mean that we're going to

1 go -- that we are going to or have cut those 380 people.

2 It's just that's -- that's what it represents.

3 Q. Mr. Smith, counsel also asked you about the  
4 various projections, and I think you referred to a  
5 five-year model. Do you recall that?

6 A. Yes.

7 Q. Are those documents considered your  
8 budget --

9 A. No.

10 Q. -- five-year model?

11 A. No.

12 Q. And what is the purpose of that five-year  
13 model?

14 A. It does help us form our judgment on how to  
15 run our business. We -- we use it to look at what cash  
16 flow may occur under a variety of different LME scenarios.

17 Q. So are they assuming various hypothetical  
18 factors?

19 A. Yes, they are.

20 Q. So are they what might be referred to as  
21 what-if projections?

22 A. Yes.

23 Q. What if the LME changes?

24 A. And we have to do that because if you look  
25 at what the LME has done and just -- and we do use the

1 forward curve to look at the LME, and it just changes  
2 dramatically over the course of time in terms of both, and  
3 I think it's -- when you think about the factors that go  
4 into this, the London Metal Exchange actually publishes a  
5 forward curve, you know, what are people, if you will,  
6 betting on for the price of aluminum in the future, which  
7 becomes a bit of a forecast.

8                   And I had some data that showed -- and I  
9 looked just at September of this year, and on -- in July  
10 of 2008, that forward curve said that the aluminum price  
11 in September, this September, last month, would be \$1.65.  
12 In 2009, in January, the forward curve said it was going  
13 to be 78 cents. In May of 2011, the forward curve said  
14 that month was going to be a buck 31, and -- and then the  
15 actual was closer to 93 cents.

16               **Q.       Is it your testimony, then, that the LME**  
17 **price is first of all volatile?**

18               A.       Yes.

19               **Q.       And second of all, it's difficult to**  
20 **predict?**

21               A.       Impossible to predict perfectly, yes.

22               **Q.       All right. Now, Commissioner Jarrett was**  
23 **asking you some questions regarding the, I guess the**  
24 **purpose of your testimony. Are you here to tell the**  
25 **Commission that there's a specific rate at which that**

1     **smelter in New Madrid will close?**

2             A.       No. No. Again, this is -- this is a  
3     journey.

4             **Q.       And so what is the purpose of your**  
5     **testimony?**

6             A.       Deliver really four -- there are four  
7     themes that are really important to us. First, we need  
8     globally competitive, low-cost power.

9                     Second, we need to achieve that working  
10    within the Public Service Commission process to make it  
11    sustainable, because it's got to be good for us as well as  
12    good for Missouri.

13                    Third, that having a vibrant, dynamic  
14    Noranda is good for the state of Missouri, particularly  
15    the bootheel. And finally, we're not -- we're not here  
16    looking for a special deal. We're looking for the cost of  
17    service model that the -- that has been here today  
18    supported.

19                   MR. LEADLOVE: Thank you. I have no  
20    further questions, your Honor.

21                   JUDGE WOODRUFF: Then, Mr. Smith, you can  
22    step down.

23                   THE WITNESS: Thank you very much.

24                   JUDGE WOODRUFF: We'll take a break now  
25    before we go on to the next issue, which I believe would

1 be storm cost tracker, and we'll come back at 10:35.

2 (A BREAK WAS TAKEN.)

3 JUDGE WOODRUFF: All right. Welcome back  
4 from the break. We're now ready to move on to  
5 storm-related issues. It's my understanding that the  
6 parties have agreed that we're going to take the witnesses  
7 on all three issues involving storm cost tracker, the  
8 storm cost and storm assistance revenues so they only have  
9 to come up once, and we'll do single mini openings on  
10 those three issues.

11 Is that acceptable to everyone? I see nods  
12 of agreement out there. All right. That's what we'll do  
13 then, and we'll start with mini openings, beginning with  
14 Ameren.

15 MS. TATRO: Thank you. Good morning,  
16 Judge.

17 Today's topic is storm restoration costs,  
18 storm assistance revenues and what level should be  
19 included in the company's revenue requirement. To be  
20 clear, we're not talking about day-to-day restoration work  
21 that occurs when an automobile driver hits a pole or a  
22 small thunderstorm takes out a transformer. We're  
23 discussing the cost of restoring service when there's a  
24 widespread outage after a major storm. This might occur  
25 after an ice storm, tornado, or even a severe thunderstorm

1 with high winds.

2 Storm restoration after these disasters  
3 isn't optional for Ameren Missouri, nor is it optional for  
4 any utility. When customers are without power after a  
5 storm, it's a health and safety issue. The company's  
6 expected to restore service as soon as possible, while  
7 doing so safely.

8 Ameren Missouri is very proud of its storm  
9 restoration process. As the past several years have  
10 shown, the company has a well thought out strategy for  
11 restoring service to our customers as quickly as possible.  
12 This has resulted in Ameren Missouri being able to restore  
13 major outages, such as after the bootheel ice storm that  
14 was discussed earlier today, much faster, sometimes weeks  
15 faster than the surrounding cooperatives.

16 Over the years we've made many improvements  
17 to this process. Mr. Wakeman's direct testimony details  
18 those improvements and how they benefit customers.

19 Now, no utility, including Ameren Missouri,  
20 can predict what amount it will spend on storm  
21 restoration. It is spent when it is needed. Some years  
22 the company spends nothing. Some years the company is  
23 required to respond to multiple major storm events,  
24 causing it to spend significantly more than what was used  
25 to set rates in its last rate case. But even when that

1 occurs, the company cannot choose to not spend the money.  
2 Restoration is important, and it typically occurs during  
3 the worst possible weather and can be expensive.

4 Now, Staff argues the company already has a  
5 way to recover these costs, either through an amortization  
6 or by requesting an accounting authority order, often  
7 referred to as an AAO. Staff's argument has a hole in it,  
8 and that is that lots of the expenditures may not fall  
9 into a test year. If it falls into a test year, it's  
10 captured. If the storm is extremely large, then perhaps  
11 we can ask for an AAO, but an AAO is not automatic.

12 Staff's witness in this case will testify  
13 that costs have to be extraordinary, which he defines as  
14 5 percent of the company's net income. But what about  
15 those expenditures that fall in the middle? What about a  
16 year in which the company experiences multiple storms and  
17 spends \$11 million on storm restoration but the revenue  
18 requirement was based upon an assumption that the company  
19 would incur \$7 million of storm restoration costs? Staff  
20 would likely not support a request for an AAO for that  
21 \$4 million difference.

22 Now, one can say that it's just the way  
23 regulation works. Sometimes the company will collect more  
24 than it spends and sometimes it will collect less. But  
25 the company doesn't believe that that approach is

1 appropriate for storm restoration. These costs are  
2 different than other costs. The company -- the Commission  
3 doesn't need to provide the utility with a signal to  
4 control these costs because to a great extent they're not  
5 under the company's control, unless the Commission doesn't  
6 want Ameren Missouri to call in mutual assistance from  
7 other utilities or unless the Commission doesn't want  
8 Ameren Missouri to allow its linemen to work overtime on  
9 storm restoration efforts, and the company knows neither  
10 of those statements can be true.

11 Customers should pay no more and they  
12 should pay no less than what the company spends on  
13 restoring service after one of these storms, and that is  
14 exactly what the proposed storm restoration tracker  
15 accomplishes. The Commission will set a base amount in  
16 the company's revenue requirement. The company proposes  
17 around \$7 million.

18 But if the company experiences another year  
19 like it has to date in 2002 (sic), customers would get  
20 that \$7 million back. However, if the company experiences  
21 a year where it spends \$12 million, then customers will  
22 pay the difference to the company through the tracker  
23 process.

24 It is one of those regulatory framework  
25 improvement issues over which this commission has

1 authority to implement. A tracker is the right way to  
2 address a very necessary but unpredictable cost over which  
3 the company has little control, and it should be approved  
4 by the Commission in this case.

5 Now, a related topic to this is the  
6 storm -- is the revenues that Ameren Missouri receives  
7 when it sends linemen to assist another utility as part of  
8 the mutual assistance agreements. Staff and the MIEC  
9 believe this revenue should be credited back to customers.  
10 Specifically, Staff requests a credit of over \$500,000 and  
11 MIEC \$800,000.

12 Now, the company also wants to credit  
13 customers back, but it believes the appropriate way to do  
14 that is through and as part of the tracker mechanism.  
15 This is the only approach that makes sense. The company  
16 does not receive these revenues on a regular basis. For  
17 example, the company had storm assistance revenues in 2011  
18 but didn't have any in 2009 or 2010 and it has not  
19 received any to date in 2012.

20 If the Commission were to adopt the  
21 recommendation of either Staff or MIEC, then the company  
22 would be faced with a situation where it may not be able  
23 to earn, using that word in quotations, the projected  
24 revenue level, and that is the same economically as  
25 imposing a cost on the company.

1                   Worse than that -- good morning,  
2   Commissioner Jarrett -- you would be telling the company  
3   to undertake behavior which might not be in the customers'  
4   best interests. As Mr. Wakeman will testify, he's the  
5   person at Ameren Missouri who decides whether or not to  
6   send mutual assistance when it's requested. As he will  
7   testify, currently that decision is based solely upon  
8   whether sending those employees would pose a risk to the  
9   electric service the company provides to its own  
10  customers.

11                  For example, recently Hurricane Isaac  
12  impacted the United States. If Ameren Missouri were asked  
13  to send linemen, Mr. Wakeman would have to decide whether  
14  or not that storm could impact our service territory  
15  before he could decide to release those linemen.

16                  Now, an official request was never made,  
17  and in hindsight that storm didn't damage Ameren  
18  Missouri's service territory severely. But based upon the  
19  knowledge that the company would have had at the time, the  
20  best interests of the customers were served by not sending  
21  linemen out of the company's service territory.

22                  Now, building \$800,000 of revenue into the  
23  revenue requirement would change that dynamic. Presume  
24  Mr. Wakeman is faced with that same situation. It's  
25  October and no requests for assistance have been received.

1 Then he receives a phone call with a request for mutual  
2 assistance, but there's some chance that that storm might  
3 also impact the company's service territory.

4 Right now, Mr. Wakeman can make that  
5 decision purely based upon what's best for the customers,  
6 but in that situation, he has the added pressure of  
7 needing to achieve \$800,000 in revenue because this  
8 Commission will have told him that achieving some level of  
9 storm assistance revenue is expected, and he can't do that  
10 if he never sends any of the linemen out to assist this  
11 other utility.

12 Now, Ameren Missouri does not believe the  
13 Commission wants a decision that drives behaviors in a  
14 manner that's contrary to customers' best interests. The  
15 solution is to require the company to credit customers  
16 with any storm assistance revenues received through the  
17 storm restoration cost tracker. That way customers  
18 receive the benefit without risking encouragement of  
19 behavior which may not be driven by the appropriate  
20 motive.

21 Thank you.

22 JUDGE WOODRUFF: Thank you. For Staff.

23 MS. McCLOWRY: Good morning. May it please  
24 the Commission?

25 This morning three issues will be covered:

1 Storm costs, storm assistance revenues and a two-way storm  
2 cost tracker. I will address Staff's position on those  
3 issues in that order.

4 On the storm cost issue, Staff recommends  
5 that the Commission should not establish a two-way storm  
6 tracker, and Staff recommends also that to include  
7 \$7 million in revenue requirement for a normalized level  
8 of non-labor storm preparation and restoration costs based  
9 on a 60-month average.

10 On storm assistance revenues, Staff  
11 believes that if the Commission does establish a two-way  
12 storm tracker, storm assistance revenue should be included  
13 in the tracker.

14 And as to whether the amount of storm  
15 assistance revenue should be included in cost of service,  
16 the Commission should include \$581,189 of storm assistance  
17 revenue in the cost of service calculation based upon a  
18 five-year normalization of storm assistance revenues  
19 received by the company during the 60 months ending  
20 July 31, 2012.

21 And as to the storm cost tracker, the  
22 testimony you're going to hear on the issue of the  
23 requested storm cost tracker is testimony that may sound a  
24 little familiar. The Commission heard this issue in  
25 Case ER-2010-0036. It heard the testimony and it rejected

1 Ameren Missouri's request.

2                   The testimony is also about something  
3 besides a two-way storm tracker. It's also about a shift  
4 in Ameren Missouri's risk. In its request in this case  
5 for another tracker, the company has asked the Commission  
6 for three things, a new standard of classification,  
7 interest on the regulatory assets and liabilities created  
8 by the tracker, and also to shift the burden to the  
9 Commission's Staff.

10                  First, the company has asked the Commission  
11 to lower its standards. Embedded within the company's  
12 request for a two-way storm tracker is a corresponding  
13 request to forego the use of normal levels of storm costs,  
14 accounting authority orders and amortizations for  
15 extraordinary storm costs.

16                  As storm costs are handled today, as stated  
17 in Staff witness Boateng's testimony, a certain level of  
18 normalized storm costs are built into rates. If costs  
19 exceed the level, it is viewed as part of the risk of  
20 being a regulated utility. If costs are lower than that  
21 built into rates, it is a perk of being a regulated  
22 utility.

23                  The testimony will show that in the past  
24 extraordinary storm costs have been addressed by various  
25 AAOs which allow the company to defer extraordinary

1 non-labor-related storm restoration costs to the utility's  
2 balance sheet for recovery in the company's next general  
3 rate case, at which point the amounts are covered through  
4 amortizations.

5 In this case, Ameren Missouri instead  
6 proposes that the Commission order a two-way storm  
7 tracker. Instead of tracking extraordinary costs, Ameren  
8 witness Dave Wakeman suggests the adoption of the IEEE1366  
9 method of determining major storm events. Those events  
10 classified as major storm events plus preparation costs  
11 for major storm events that don't materialize above  
12 \$1.5 million plus the corresponding interest would be  
13 trapped in the tracker mechanism until the next rate case,  
14 until the end of that year, at which point those costs  
15 above the base level would be evaluated by Staff and put  
16 into rates also via an amortization.

17 Mr. Wakeman includes in his testimony  
18 20 events which under current practice would not qualify  
19 for any special rate treatment but that would be put  
20 through the tracker under Ameren's request.

21 Staff opposes this approach. Staff witness  
22 Boateng will testify that a certain number of storm events  
23 will occur each year in any electric utility's service  
24 territory, and the repair and restoration costs associated  
25 with these events should be considered as part of normal

1 and ongoing expenses for an electric utility and,  
2 therefore, should be included in the utility's rates at a  
3 reasonable and ongoing level. Also, witness Boateng will  
4 testify that such a tracker will reduce the company's  
5 incentive to control their costs.

6 And secondly, as previously mentioned, the  
7 company is asking for interest on the regulatory liability  
8 or asset created by this mechanism. Staff witness Boateng  
9 will testify that Staff opposes the tracking mechanism  
10 because of the shift in risk to ratepayers, and moreover  
11 does not support any further measures that would shift  
12 further risk to the company's ratepayers.

13 And lastly, the company is asking the  
14 Commission to shift the burden from itself to the  
15 Commission Staff. The company's requested storm tracker  
16 would do away with the requirement necessary to an AAO for  
17 the company to prove up the extraordinary nature of the  
18 storm and its related restoration expenses, but would  
19 instead turn the onus of the magnitude of the storm onto  
20 the Staff during the course of a general rate case. In  
21 other words, switching to a default where everything, a  
22 lot more of everything would be included in the tracker  
23 unless the Commission Staff can discern the level of  
24 spending out of pocket over the amount already baked into  
25 rates after the fact, after a storm and in the course of a

1 general rate case.

2 I suggest the Commission ask the Staff  
3 witness how such a change could affect the storm cost  
4 issue in the future.

5 In summation, the currently available  
6 ratemaking methods of normalization and accounting  
7 authority orders are sufficient to allow the company to  
8 recover both its ordinary and extraordinary storm costs,  
9 and Staff urges the Commission to deny Ameren Missouri's  
10 request for a storm cost tracker.

11 JUDGE WOODRUFF: Thank you. For Public  
12 Counsel.

13 MR. MILLS: Good morning. May it please  
14 the Commission?

15 The company's proposal for a storm cost  
16 tracker is what I call a regulatory ratchet. This is the  
17 concept where a utility company gets a favorable treatment  
18 in the regulatory process, but that's never good enough.  
19 It establishes a new baseline from which the company  
20 always wants more.

21 And why is this a particularly -- a  
22 regulatory ratchet? Because the company already has an  
23 extraordinary ratemaking mechanism to take care of storm  
24 costs, and that's the accounting authority order. The  
25 company has decided that that extraordinary mechanism is

1 no longer good enough, despite having operated with it for  
2 decades, but wants a new even more extraordinary  
3 ratemaking mechanism.

4 So Public Counsel opposes the storm  
5 tracker, and I do that conscious of the fact that this  
6 particular tracker is more likely than most to actually  
7 have benefits for ratepayers because it's a two-way  
8 tracker, and there certainly are years in which there are  
9 no storm costs or less storm costs than normal, in which  
10 case it would be a benefit to ratepayers. Nonetheless,  
11 the general concept of a tracker is so abhorrent that  
12 Public Counsel opposes this one as well.

13 Now, Ms. Tatro this morning talked about  
14 the fact that the problem that the company has with  
15 recovering storm costs, extraordinary storm costs through  
16 an accounting authority order is the recovery is not  
17 automatic. From my perspective, that's a good thing. If  
18 recovery is automatic, that essentially takes the  
19 Commission out of the equation. And as Ms. -- let me just  
20 back up. As counsel for the Staff said, it puts the  
21 burden on other parties to prove that something that is  
22 included in the tracker should not be included in the  
23 tracker, and that's an inappropriate shifting of the  
24 burden.

25 If, however, the Commission does decide to

1 approve a storm cost tracker, it's incumbent upon the  
2 Commission to include the revenues from storm assistance  
3 to other utilities because otherwise the company gets to  
4 have its cake and eat it, too. The company would be  
5 charging ratepayers for its costs of paying for storm  
6 assistance, but the company would get to benefit from the  
7 revenues that it receives from providing similar  
8 assistance.

9 Now, with respect to the notion that if the  
10 Commission were to include storm assistance revenues in  
11 the tracker, that that would somehow be too much of a  
12 temptation for the company to operate imprudently, I  
13 disagree with that. The company does not try to operate  
14 to the Commission's Report and Order. If it did, think  
15 about what it would do in terms of advertising. The  
16 company would long ago have stopped doing institutional  
17 advertising because it knows that it does not recover  
18 that. But nonetheless, the company spends that money year  
19 after year knowing that it won't recover it in rates.

20 I think if you look at the revenue side,  
21 there is absolutely no reason to believe that the company  
22 would inappropriately try to get revenues from storm  
23 assistance simply because the Commission included an  
24 amount in this case for storm assistance revenues. The  
25 company will operate as it sees fit given all the

1 constraints that it's under, and the fact that the  
2 Commission included in the Report and Order a particular  
3 amount of revenue or excluded in a Report and Order a  
4 particular expense does not influence the way the company  
5 operates going forward.

6 So for these reasons the Public Counsel  
7 opposes the storm tracker, supports the inclusion of a  
8 normalized level of storm expense and a normalized level  
9 of storm assistance revenues in base rates in this case.  
10 Thank you.

11 JUDGE WOODRUFF: Thank you, Mr. Mills. For  
12 MIEC?

13 MR. ROAM: May it please the Commission?

14 Ameren Missouri seeks a storm tracker  
15 ostensibly on the grounds that storm costs are  
16 unpredictable and Ameren Missouri wants to be able to  
17 respond quickly and safely to restore service to Ameren  
18 customers.

19 Commission, I can assure you that all of  
20 the members of the MIEC want Ameren Missouri to respond  
21 quickly and safely to restore service to Ameren customers,  
22 but a tracker is not the way to do it. A tracker does  
23 nothing to enhance the speed, safety or adequacy of Ameren  
24 Missouri's response to storms. It does nothing to enhance  
25 those things that purportedly justify the implementation

1 of a tracker. The only thing a tracker does is insulate  
2 Ameren Missouri's earnings from a consideration of all  
3 relevant factors at the time the costs are accrued.

4 The evidence will show that not only has  
5 Ameren Missouri recovered every dollar it has ever spent  
6 in storm costs, it has, in fact, received \$8 million more  
7 in rates for storm costs than it has spent restoring  
8 service to Ameren Missouri customers.

9 You may be asking, if Ameren Missouri is  
10 already \$8 million ahead, why does it want a tracker? The  
11 answer is simple. Trackers effectively insulate Ameren  
12 Missouri's earnings from the ratemaking process. For  
13 instance, in this case the record shows that Ameren  
14 Missouri is earning in excess of its authorized rate of  
15 return in the 12 months ending June 2012. However, if a  
16 storm had occurred in June of 2012 and it had cost the  
17 company \$10 million and that would have been put in the  
18 tracker, Ameren Missouri would have been allowed to  
19 collect that \$10 million in the next rate case despite the  
20 fact that it's earning in excess of its authorized rate of  
21 return.

22 With a tracker, Ameren Missouri would be  
23 allowed to recover in excess of its authorized rate of  
24 return even if it's already recovering that if those storm  
25 costs are put in a tracker. Such a practice violates the

1     longstanding and reliable all relevant factors analysis  
2     for setting rates. The current method works. Ameren  
3     Missouri has always received a sufficient level of storm  
4     expense in the past, and there's no reason to believe that  
5     it will not receive an adequate level of storm expense in  
6     the future.

7                     Moreover, in the event Ameren Missouri  
8     incurs an extraordinary storm cost above those  
9     contemplated in rates, it can always seek an accounting  
10    authority order, and it has. Any recovery from an AAO  
11    will be issued just as quickly as recovery from a tracker.  
12    So there is no basis for Ameren's argument that a tracker  
13    somehow enhances response time and safety. Indeed, the  
14    only difference between an AAO and a tracker is that a  
15    tracker is effectively not subject to an earnings review,  
16    whereas an AAO is.

17                    The bottom line is, a tracker does not help  
18    Ameren Missouri to recover storm cost expense more  
19    quickly. It doesn't allow Ameren Missouri to more quickly  
20    or safely restore service to Ameren customers. The only  
21    thing a tracker does is insulate and restore Ameren  
22    Missouri's earnings outside of a rate case. That is not  
23    good policy, and it does not justify Ameren Missouri's  
24    request for a tracker. As such, this Commission should  
25    deny Ameren Missouri's request for yet another unnecessary

1 tracker.

2 Now, with respect to storm assistance  
3 revenue, Ameren Missouri has provided assistance to other  
4 utilities to help those utilities recover from major storm  
5 damage. For its assistance, Ameren Missouri has received  
6 from those utilities approximately \$7.4 million in  
7 revenues since July 2005.

8 Here's the problem. Missouri ratepayers  
9 are covering much of the expense for Ameren to assist  
10 those other utilities with storm recovery, but Missouri  
11 ratepayers are not receiving a dime of any of the  
12 benefits. There's -- they are not receiving any reduction  
13 in rates from storm assistance revenues that Ameren  
14 receives to provide that service.

15 This is fundamentally unfair. Why should  
16 the company be allowed to use company resources, which are  
17 paid for by Missouri ratepayers, to provide service to  
18 other utilities for a healthy profit and yet not return  
19 any of those revenues to Missouri ratepayers in the form  
20 of reduced rates?

21 Ameren Missouri's only counter to this  
22 basic fairness argument is that there is variation in the  
23 number of occurrences between storms and between years.  
24 In other words, some years Ameren Missouri receives large  
25 amounts of storm assistance revenue at the expense of

1 Missouri ratepayers and some years it receives little or  
2 no storm assistance revenue at the expense of ratepayers.

3 This is precisely why the MIEC proposes a  
4 normalized level of storm assistance revenue in the amount  
5 of \$800,000 annually. Based on the amount of revenue  
6 Ameren Missouri received for its 11 prior occasions of  
7 storm assistance revenue, which approximately totaled  
8 \$1.1 million annually, the 800,000 is a conservative  
9 proposal.

10 Ameren Missouri has provided storm  
11 assistance in the past and can reasonably be expected to  
12 provide it in the future. Therefore, storm assistance is  
13 a recurring item for which Missouri ratepayers should  
14 receive some corresponding benefit.

15 And now finally with respect to storm  
16 costs. Ameren Missouri seeks a level of storm expense  
17 that is far in excess of a reasonable level of storm costs  
18 in this case. In a remarkable about face, the company has  
19 abandoned and even denounced the approach that it  
20 advocated and that the Commission adopted in the prior  
21 case to set storm costs.

22 In the prior case, Ameren Missouri  
23 supported a normalized level based upon all of the  
24 produced storm cost data in that case beginning April  
25 2007. So in the prior case Ameren took all the data from

1 April 2007, normalized it and came up with a normalized  
2 level.

3 In that case, Ameren argued that MIEC's  
4 proposed two-year average was too short as it failed to  
5 include all of the relevant and available historical data.  
6 The Commission agreed with Ameren Missouri and rejected  
7 MIEC's proposed two-year average. Indeed, on page 21 of  
8 the Commission's Report and Order in that case the  
9 Commission reasoned that a normalization over a nearly  
10 four-year period is likely to be a better predictor of the  
11 future than is a normalization over approximately two  
12 years.

13 In other words, Ameren argued and the  
14 Commission agreed that a longer normalization period for  
15 storm costs will produce better results than a shorter  
16 period.

17 In light of that decision, MIEC adopted the  
18 exact same methodology that was used by Ameren Missouri  
19 and adopted by the Commission in the last case and  
20 proposes a normalized level of storm costs based upon all  
21 of the produced data, storm cost data beginning April  
22 2007.

23 Specifically, MIEC averaged the entire 62  
24 months, that's April 2007 to May 2012, of storm costs for  
25 which Ameren Missouri has recorded major storm expenses in

1 its work papers. This normalization period results in a  
2 storm expense level of 6.5 million. In other words, MIEC  
3 did exactly what Ameren did in the prior case and what the  
4 Commission approved in the prior case, it did it in this  
5 case, and that is take all the data and normalize it.

6 On the other hand, Ameren Missouri in this  
7 case abandoned the argument that it proffered in  
8 ER-2011-0028 and has ignored the Commission's reasoning in  
9 that Report and Order. Initially in this case Ameren  
10 Missouri proposed a 36-month normalization period, a  
11 three-year period to derive Ameren Missouri's inflated  
12 request. It should be noted that the 36-month period is  
13 nearly a year shorter than the period which Ameren  
14 Missouri sponsored in the last case.

15 In direct contradiction to Ms. Barnes' --  
16 Ameren witness Ms. Barnes' position in the last case,  
17 which was that MIEC used to short a time period in order  
18 to reach an unreasonably low average, in this case the  
19 company argues that MIEC is using too long a period in  
20 which a -- too long a period in order to reach an  
21 unreasonably low average.

22 Indeed, in this case Mr. Meyer, MIEC's  
23 witness, used precisely the same methodology that was used  
24 by Ms. Barnes in the previous case. He calculated a  
25 normalized level based upon of all of the known historical

1 storm cost data to date.

2                   Sensing perhaps the futility of its  
3 position, initial position in this case, Ameren Missouri  
4 abandoned that position after a round of testimony and  
5 adopted the position of Staff. Staff's position of a  
6 five-year normalization period is certainly superior to  
7 Ameren Missouri's initial proposal but still fails to  
8 include all of the relevant historical data beginning  
9 April 2007.

10                  As such, the most reasonable level of storm  
11 expense in this case is provided by MIEC who simply  
12 adopted the methodology that was approved by this  
13 Commission in the last case.

14                  In sum, the Commission should use the same  
15 reasoning in this case that it used in the last case.  
16 That is, a longer normalization period is better than a  
17 shorter normalization period for purposes of normalizing  
18 storm costs. Accordingly, the Commission should adopted  
19 MIEC's normalized level of storm costs of 6.5 million,  
20 which is based on all known historical data beginning  
21 April 2007 through May 2012.

22                  And I'll just add briefly, if MIEC had  
23 included the additional two months that it now has data  
24 for, which would be June and July of 2012, and used that  
25 data in its normalization, MIEC's proposal would drop to

1 6.3. So 6.5 is a very reasonable and very comfortable  
2 level of storm costs.

3 Thank you.

4 JUDGE WOODRUFF: Thank you. That's all the  
5 opening statements, then. We'll move on to the first  
6 witness, which would be Lynn Barnes for Ameren, and she'll  
7 be testifying on storm cost tracker and storm costs.  
8 Welcome back, Ms. Barnes. You've testified earlier, so  
9 you are still under oath. You may inquire.

10 MS. TATRO: I believe all of her testimony  
11 has already been admitted into the record, so I tender the  
12 witness for cross-examination.

13 JUDGE WOODRUFF: Cross-examination  
14 beginning with MIEC.

15 LYNN BARNES testified as follows:

16 CROSS-EXAMINATION BY MR. ROAM:

17 Q. Good morning, Ms. Barnes.

18 A. Good morning.

19 Q. Ms. Barnes, do you have a copy of your  
20 testimony in this case, your rebuttal testimony?

21 A. I do.

22 Q. You testified in this case that Mr. Meyer's  
23 methodology of using a 62-month average from April 2007  
24 through May 2012 was inappropriate, correct?

25 A. Yes.

1           Q.       You further testified that Mr. Meyer's  
2   62-month average constituted what you called an unusual  
3   timespan and that it didn't make sense; isn't that  
4   correct?

5           A.       Yes.

6           Q.       Ms. Barnes, you used precisely the same  
7   methodology in the last rate case that Mr. Meyer used in  
8   this case; isn't that correct?

9           A.       If you say so. I don't really recall what  
10   I did last time. I had testimony from this case on my  
11   mind and really didn't go back and look at what my  
12   testimony was in the last case.

13                   MR. ROAM: May I approach the witness, your  
14   Honor?

15                   JUDGE WOODRUFF: You may.

16   BY MR. ROAM:

17           Q.       Ms. Barnes, I'm going to show you a copy of  
18   your rebuttal testimony from ER-2011-0028, which was the  
19   last rate case, and I would ask you to turn to page 14.  
20   Look at lines 15 and 16. Actually, if you'd like, you can  
21   look at the whole -- the whole answer that you gave there  
22   on page 14, and let me know if that refreshes your  
23   recollection as to what you testified in the last rate  
24   case.

25           A.       This is my testimony from the last case,

1 and we used 47 months.

2 Q. Okay. And that 47 months reflected the  
3 period from April 2007 through all of the known data in  
4 that case; isn't that right?

5 A. I believe so, yes.

6 Q. Okay. So that -- so to answer the question  
7 that I initially asked you, you used exactly the same  
8 methodology in the last case that Mr. Meyer is using in  
9 this case, correct?

10 A. We used that period because that tied back  
11 to --

12 Q. I'm going to have to interrupt and ask you  
13 to answer the question that I asked. You used the same  
14 methodology in the last case that Mr. Meyer uses in this  
15 case; isn't that correct?

16 A. Well, I disagree that it's the methodology.  
17 What I was attempting to do in this case, I believe, is  
18 take into consideration as much time as I could to get to  
19 47, which I'm looking for calendar years. And so if I  
20 could have picked up another month in March of 2011, I  
21 would have picked up 48 months for a four-year period, but  
22 our true-up ended in February. So we used what we had at  
23 that point in time, which was the 47 months.

24 Q. You --

25 A. Generally, I would prefer to average on a

1 12-month normalized period.

2 Q. So I'm going to get back to the question I  
3 initially asked. You used the exact same methodology in  
4 the last case, which is taking all of the known historical  
5 data and normalizing it, that's what you did in the last  
6 case, that's --

7 MS. TATRO: I'm going to object tot he form  
8 of the question. He keeps saying you're using the exact  
9 same methodology. What she testified is that last time  
10 she used 47 months. She didn't testify that she used the  
11 longest available data.

12 JUDGE WOODRUFF: I'll overrule the  
13 objection. You can ask the question.

14 BY MR. ROAM:

15 Q. Did you use all of the known available  
16 data?

17 A. I used 47 months of data. Whether that's  
18 all that was known and available, I can't really recall at  
19 this point.

20 Q. Do you have storm cost data -- did you  
21 produce storm cost data from before April 2007?

22 A. I believe so, yes. We've been tracking  
23 storm cost data for years.

24 Q. I'm talking about the storm cost data that  
25 was produced in the last case.

1           A.       I don't know what we produced in the last  
2 case. I can tell you that I get storm data requests all  
3 the time and that we have gone back previous to April 2007  
4 and provided storm cost data to the witnesses.

5           Q.       I'm going to walk you through it step by  
6 step, then. You testified in the last case your method  
7 was to start with April 2007, correct?

8           A.       Yes, and it doesn't say why.

9           Q.       Let me -- let me finish.

10          A.       Okay.

11          Q.       You started with April 2007, right?

12          A.       Uh-huh.

13          Q.       Mr. Meyer in this case starts with April  
14 2007, correct?

15          A.       Uh-huh.

16          Q.       You used from April 2007 to all of the data  
17 that was available to you up to the point of that case,  
18 right? From April 2007 going forward, you used all of the  
19 months from April 2007, which is 47 months, through  
20 February 2011, which is all the data that you had  
21 available at the time in that case?

22          A.       What I'm having trouble with is I frankly  
23 don't recall why we started with April 2007 in the last  
24 case.

25          Q.       I'm not asking you why you started.

1 A. Well --

2 Q. I'm asking --

3 A. -- so I can't really respond to whether or  
4 not I'm using the same methodology as Mr. Meyer or not.

5 Q. I'm not asking you why you used it.

6 A. Okay.

7 Q. I'm just trying to ask you whether or not  
8 you and Mr. Meyer used the same data. You used all the  
9 data from April 2007 going forward that was available,  
10 right?

11 A. In the last case.

12 Q. In the last case. And Mr. Meyer used all  
13 the data from April 2007 going forward in this case,  
14 right?

15 A. Yes.

16 Q. Okay. So you used the same methodology?

17 A. No.

18 Q. Whether or not you used it for different  
19 reasons, you used the same methodology, right?

20 A. We used the same data.

21 Q. Okay. Ms. Barnes, the Commission -- based  
22 on your methodology in the last case, the Commission  
23 granted Ameren Missouri's request, right?

24 A. Uh-huh.

25 Q. Now, in this case, you are not using that

1 same body of data, you're not starting April 2007 and  
2 going forward, correct?

3 A. Yes, that's correct.

4 Q. In fact, initially the company proposed a  
5 36-month period ending September 30, 2011, right?

6 A. Yes.

7 MR. ROAM: May I approach the witness, your  
8 Honor?

9 JUDGE WOODRUFF: You may.

10 BY MR. ROAM:

11 Q. Ms. Barnes, I'm going to show you the --

12 MS. TATRO: Excuse me. Do you have a copy  
13 for me?

14 MR. ROAM: I do.

15 MS. TATRO: Thank you.

16 JUDGE WOODRUFF: Are you going to mark  
17 this? I think Mr. Mills is feeling left out over there.

18 MR. ROAM: Yeah. I've got more. I don't  
19 know if we're going to seek its admission. This is HC  
20 also.

21 JUDGE WOODRUFF: Before you go into any  
22 numbers, tell me if you --

23 MR. ROAM: Let me ask counsel for Ameren,  
24 are the totals highly confidential? Do we need to go into  
25 in-camera for those?

1 MS. TATRO: The historical totals would not  
2 be. Now --

3 THE WITNESS: We typically don't publicly  
4 provide this information.

5 MS. TATRO: The 2012 would not.

6 MR. ROAM: So that would be HC. Okay. We  
7 may -- we may not need to go into camera, and if I start  
8 to drill down into the numbers, then we will.

9 JUDGE WOODRUFF: And Ameren, don't be  
10 hesitant to speak up if you want to go in-camera.

11 MS. TATRO: Thank you.

12 BY MR. ROAM:

13 Q. Ms. Barnes, this is the true-up work papers  
14 that were submitted by Mr. Weiss. Have you seen this  
15 document?

16 A. No, I have not.

17 Q. I'll give you a minute just to look it  
18 over. Have you seen these numbers before except for --  
19 well, yeah. Have you seen these totals before on some  
20 other --

21 A. Possibly. My staff accumulate all the  
22 staff -- all the storm data. So I'm sure through data  
23 requests and things I've seen them. Do I particularly  
24 recognize them? You know, I don't memorize all the  
25 numbers. I have no reason to believe Mr. Weiss would get

1     them wrong.

2                   **Q.**        Would you agree with me, subject to check,  
3     that if Ameren Missouri had stuck with the 36-month period  
4     of most available data to arrive at its level in this  
5     case, that the normalized amount would be \$4,725,104?

6                   **A.**        You know, I'd have to recalculate it, but  
7     clearly we have not had storms in 2010 or so far in 2012  
8     to speak of, so I would assume the number would be lower  
9     than using the five-year average that we have in the case.

10                  **Q.**        Okay. So my question is if you would agree  
11     with me, subject to check, to that number that I just gave  
12     you, and if not, I do have -- we can do the numbers,  
13     whichever you prefer.

14                  **A.**        It's fine.

15                  **Q.**        So you agree with me, subject to check,  
16     that if Ameren Missouri stuck with the 36-month  
17     normalization period using the most available data, the  
18     normalization amount would drop to \$4,725,104?

19                  **A.**        Yeah. I mean, that's the whole reason we  
20     think a tracker is an important element to this because  
21     the -- we cannot control when storms occur or when those  
22     costs are going to be incurred. You can pick and choose.  
23     I think you're demonstrating that you can pick and choose  
24     the period to work the way you want it to work to make the  
25     higher or lower, just depending.

1           Q.       Well, that's interesting that you say that,  
2       because using all of the known historical data is what you  
3       did last time and what we did this time. Choosing a --

4                   MS. TATRO: I'm going to object to the form  
5       of the question. The witness clearly answered that she  
6       didn't agree they were using the same methodology.  
7       Rather, they used the same starting point on the data.  
8       That's different than methodology.

9       BY MR. ROAM:

10           Q.       All right. I'll rephrase. When you say  
11       picking and choosing historical periods to arrive at a  
12       certain amount, Ameren initially chose a 36-month period,  
13       correct?

14           A.       Yes.

15           Q.       And that got Ameren to a request of, I  
16       think, about 7.5 million, right?

17           A.       Actually, I think it was 7.8.

18           Q.       7.8?

19           A.       Uh-huh.

20           Q.       But Ameren Missouri rejected -- abandoned  
21       that period?

22           A.       Abandoned. I mean, what we did is we  
23       looked at the testimony that was presented by the other  
24       witnesses, and we felt that five years was fair as the  
25       Staff had recommended, and we chose to adopt that

1 five-year period, and that only reduced the dollars to  
2 \$7 million. We felt that was reasonable based on what's  
3 currently in rates, and so we agreed that that was a  
4 reasonable base.

5 Q. Okay. So if the 36 -- if you had stuck  
6 with the 36 and used the most recent period, we would have  
7 gotten to this number. I'm going to also ask you to --  
8 let me ask you, Ms. Barnes, in this case MIEC's witness  
9 Mr. Meyer used all of the historical data, storm cost data  
10 beginning April 2007 through May 2012, correct?

11 A. Yes.

12 Q. Okay. Now, if Mr. Meyer had used the most  
13 recent data from June and July of 2012 that's on  
14 Mr. Weiss' work paper, would you agree with me, subject to  
15 check, that MIEC's normalization level would be -- would  
16 drop even lower to 6.3?

17 A. Mathematically, you could be correct about  
18 that. Again, I think we're missing the whole point of why  
19 we normalize.

20 Q. This is beyond the scope of what I just  
21 asked you. Would you agree with me, subject to check,  
22 that if Mr. Meyer included the data from June and July  
23 2012, then the normalization level would drop to  
24 6.3 million, correct?

25 A. Yes, subject to check.

1           Q.       But Mr. Meyer at the time of his initial  
2 testimony didn't have June and July, so he only went  
3 through May, correct?

4           A.       Uh-huh.

5           Q.       So that brought him to a level of  
6 6.5 million, correct?

7           A.       Yes.

8           Q.       So to compare apples to apples, if  
9 Mr. Meyer had actually used all of the data in this case  
10 that he could have used, which is what Ameren did in the  
11 last case, he would arrive at this number or this number,  
12 6.3, correct --

13          A.       Uh-huh.

14          Q.       -- not 6.5?

15          A.       Uh-huh.

16                   MR. ROAM: I have no further questions.

17                   JUDGE WOODRUFF: All right. Then we'll  
18 move to Public Counsel.

19                   MR. MILLS: No questions.

20                   JUDGE WOODRUFF: For Staff?

21                   MS. McCLOWRY: No questions.

22                   JUDGE WOODRUFF: Come up for questions from  
23 the Bench then. Commissioner Jarrett?

24                   COMMISSIONER JARRETT: Good morning,  
25 Ms. Barnes.

1 THE WITNESS: Good morning. Happy  
2 birthday.

3 COMMISSIONER JARRETT: It's been a long  
4 time. Thank you, by the way. It's been a long time since  
5 I've seen you.

6 THE WITNESS: Yeah, I know. I'm sure  
7 you're tired of me by now.

8 COMMISSIONER JARRETT: I don't have any  
9 questions on this issue. Thank you.

10 JUDGE WOODRUFF: No questions from the  
11 Bench, so no need for recross. Any redirect?

12 MS. TATRO: Just a few, thank you.

13 REDIRECT EXAMINATION BY MS. TATRO:

14 Q. Ms. Barnes, just to be clear, when counsel  
15 for MIEC was asking you about the methodology that you  
16 used this time versus the methodology you used last time,  
17 you responded by saying we used the same data. Can you  
18 explain what you mean by that?

19 A. Yeah. In the last case we used the period  
20 April 2007 through February of 2011. MIEC started with  
21 April 2007 in this case. So the data that's available  
22 that they used was the same date certain data. Whether or  
23 not we adopt the same methodology is totally different.  
24 Really what we're trying accomplish here is to set rates  
25 for the future, and so we used historical information to

1     derive what we think a reasonable basis is to assume in  
2     rates for the future, and I can't predict the weather.  
3     I'm not sure others can as well. I think what we try to  
4     do is come up with something that's reasonable, and in  
5     this case we felt after we saw the Staff's testimony that  
6     their number was reasonable and that five years was a  
7     reasonable period given that's typically what our  
8     amortization of storm cost periods are when we are able to  
9     recover those costs in rates. And so that five years  
10    seemed to fit, and the number based on the five years was  
11    \$7 million as presented by the Staff, and so we agreed to  
12    adopt that number as a reasonable estimation for future  
13    base rate consideration.

14           **Q.       That leads into the next question that I**  
15   **have for you. There was a lot of discussion about how**  
16   **originally your testimony was 36-month. Is the reason**  
17   **that you chose to go to five years after initially**  
18   **recommending 36 months, was that based on the dollar**  
19   **outcome that was going to come from that or did you have**  
20   **another reason for making that change?**

21           **A.       No. I mean, I think we looked at it and**  
22    said it was relatively close to the number that we had  
23    recommended. And again, looking at it from a  
24    normalization perspective, we used five years for other  
25    things that we normalize for rates, and going back and

1 looking at the Staff's approach, we felt that was  
2 reasonable and adopted that.

3 **Q. Do you know if the company made any other**  
4 **concessions on storm restoration costs in your testimony?**

5 A. I don't believe so.

6 **Q. Did the company originally ask for costs**  
7 **related to the storm that didn't happen?**

8 A. Well, we did ask for recovery of the  
9 difference between storm costs that were in the test year  
10 compared to what's currently in rates, which was about  
11 \$7 million, and we subsequently agreed not to request that  
12 and primarily for the reasons that Mr. Roam was trying to  
13 present in the cross, in that we have not had storm costs  
14 in 2012 commensurate to what we've been collecting in  
15 rates, and so we felt that we were getting recovery of  
16 those additional costs and did not request an additional  
17 amortization of those difference costs.

18 **Q. And you made that decision despite the fact**  
19 **that it was -- it reduced the company's requested revenue**  
20 **requirement?**

21 A. Yes.

22 MS. TATRO: Thank you. I have no further  
23 questions.

24 JUDGE WOODRUFF: Ms. Barnes, you can step  
25 down. Next Ameren witness then is David Wakeman. He's

1 going to be talking about storm cost tracker and storm  
2 assistance revenues. Good morning, Mr. Wakeman. I  
3 believe this is the first time you've testified in this  
4 hearing; is that correct?

5 MR. WAKEMAN: Good morning. That's  
6 correct.

7 (Witness sworn.)

8 (AMEREN EXHIBIT NOS. 30, 31 AND 32 WERE  
9 MARKED FOR IDENTIFICATION.)

10 JUDGE WOODRUFF: Thank you. You may  
11 inquire.

12 DAVID WAKEMAN testified a follows:

13 DIRECT EXAMINATION BY MS. TATRO:

14 Q. Would you please state your name and  
15 business address for the Commission?

16 A. My name is David Wakeman. My business  
17 address is 1901 Chouteau, St. Louis, Missouri.

18 Q. Are you the same David Wakeman who prefiled  
19 direct, rebuttal and surrebuttal testimony that has been  
20 marked Exhibits 30, 31 and 32 in this case?

21 A. Yes, I am.

22 Q. An do you have any changes or corrections  
23 to make to that testimony?

24 A. No, I do not.

25 Q. If I were to ask you the questions that are

1     **listed in that testimony, would your answers be**  
2     **substantially the same?**

3             A.       Yes, they would.

4             MS. TATRO: I would move for the admission  
5     of Exhibits 30, 31 and 32 and tender the witness for  
6     cross-examination.

7             JUDGE WOODRUFF: 30, 31 and 32 have been  
8     offered. Any objections to their receipt?

9             (No response.)

10            JUDGE WOODRUFF: Hearing none, they will be  
11    received.

12            (AMEREN EXHIBIT NOS. 30, 31 AND 32 WERE  
13    RECEIVED INTO EVIDENCE.)

14            JUDGE WOODRUFF: And for cross-examination,  
15    beginning with MIEC.

16    CROSS-EXAMINATION BY MR. ROAM:

17            Q.       **Good morning, Mr. Wakeman.**

18            A.       Good morning.

19            Q.       **Only a couple of questions for you. The**  
20    **first question is, if you know, would a tracker allow**  
21    **Ameren Missouri to recover extraordinary storm costs any**  
22    **sooner than would an AAO?**

23            A.       For the extraordinary storms, I don't  
24    believe so. I think it would be the same.

25            Q.       **What about for the non-extraordinary**

1     **storms?**

2             A.       Yeah, I believe it would, because I think  
3     there's a risk in -- I think there's an element in being  
4     above the \$7 million that's in base rates right now that  
5     wouldn't maybe reach the extraordinary. So those may be  
6     costs that we can't recover. So if we had a \$10 million  
7     storm, it's above the \$7 million in base rates but it's  
8     not probably going to reach the 5 percent number.  
9     Therefore, that would get lost in the middle.

10            **Q.       I understand that. I'm talking about the**  
11     **actual timing, the timing of when Ameren Missouri would**  
12     **actually receive that revenue. If you received it through**  
13     **a tracker or if you received it through an AAO, you**  
14     **wouldn't receive it any more quickly through a tracker**  
15     **than you would an AAO, correct?**

16            A.       I believe that's correct. As far as  
17     getting it allowed in the rates, I guess the amortization  
18     schedule could be different.

19            **Q.       So any recovery from a tracker or from an**  
20     **AAO would actually not be realized until the following**  
21     **rate case?**

22            A.       That's correct.

23                    MR. ROAM: No further questions. Thank  
24     you.

25                    JUDGE WOODRUFF: Public Counsel?

1 MR. MILLS: Just briefly.

2 CROSS-EXAMINATION BY MR. MILLS:

3 Q. Mr. Wakeman, it's not your contention that  
4 the company does not frequently receive revenues from  
5 storm assistance efforts; is that correct?

6 A. Could you repeat the question, please?

7 Q. Let me put it in a positive way. Does the  
8 company frequently receive revenues from storm assistance  
9 granted to other utilities?

10 A. I would say we have received them. I think  
11 the word frequently is probably a judgment call. I would  
12 say that they're not regular. So some years we receive  
13 them sometimes more than once and sometimes not at all.

14 Q. 11 times since 2006, do you agree with  
15 that?

16 A. Yes, I do.

17 MR. MILLS: That's all I have.

18 JUDGE WOODRUFF: For Staff?

19 CROSS-EXAMINATION BY MS. McCLOWRY:

20 Q. Good morning, Mr. Wakeman.

21 A. Good morning.

22 Q. If you know, did Ameren Missouri propose a  
23 two-way storm tracker as part of ER-2010-0036?

24 A. I believe we did, yes.

25 Q. And the Commission rejected that request,

1     **did it not?**

2             A.       I believe that's true.

3             MS. McCLOWRY: No further questions.

4             JUDGE WOODRUFF: All right. Come up for  
5 questions from the Bench. Commissioner Jarrett?

6     QUESTIONS BY COMMISSIONER JARRETT:

7             Q.       **Good morning, Mr. Wakeman.**

8             A.       Good morning.

9             Q.       **I have one question, and depending on your**  
10 **answer, I might have a couple more follow-ups. But are**  
11 **you familiar with what other -- what other states may or**  
12 **may not do with regard to mitigation costs of storms for**  
13 **natural disasters?**

14            A.       I know there's different amounts that they  
15 put in base rates. I think -- I'm not sure if others use  
16 trackers, to be honest.

17            Q.       **Okay. So you're not -- you're not aware,**  
18 **for example, of Alabama having a rainy day fund, for**  
19 **example?**

20            A.       Yeah, I know some states do that. I think  
21 Florida does that as well where they build up a rainy day  
22 fund, and then they, once it gets to a certain amount, my  
23 understanding is anyway it gets to a certain amount and  
24 then I think that comes out of their -- I think it might  
25 even be a line item on their bill is what I heard in the

1 past. I'm just going by hearsay is what I believe I've  
2 heard.

3 Q. Are you aware of any other -- any other  
4 types of programs for storm costs?

5 A. I am not directly. Not directly.

6 Q. How about Illinois, does Illinois do  
7 anything as far as Ameren Illinois? Is that part of their  
8 formula rates? Is there anything in the --

9 A. I'm not sure about the formula rates. I  
10 know there's some in base rates.

11 Q. But there's no sort of tracker or AAOs?

12 A. I'm not exactly sure, to be honest.

13 COMMISSIONER JARRETT: Okay. Thank you.  
14 Appreciate it.

15 JUDGE WOODRUFF: Recross based on questions  
16 from the Bench, MIEC?

17 MR. ROAM: No questions.

18 JUDGE WOODRUFF: Public Counsel?

19 MR. MILLS: No questions.

20 JUDGE WOODRUFF: Staff?

21 MS. McCLOWRY: No questions.

22 JUDGE WOODRUFF: Redirect?

23 REDIRECT EXAMINATION MS. TATRO:

24 Q. Mr. Wakeman, the counsel for MIEC asked you  
25 if there was a timing difference between when we would

1     **recover, the company would recover funds. Do you recall**  
2     **those questions?**

3             A.       I do.

4             **Q.       If there's not a timing difference, what's**  
5     **the benefit of the tracker to the company?**

6             A.       I think the benefit to the tracker overall  
7     is that customers will reimburse the company for the  
8     expenses associated with storm restoration, and whether  
9     that's above or below the base amount in rates, I think  
10    that's important. I think we demonstrated this year that  
11    it's been low, and so that would be a benefit to  
12    customers. If it's above, I think really what we want is  
13    customers -- I think it's really important work that we do  
14    around storm restoration. I think we've done a very good  
15    job, and I think we really want the opportunity for  
16    customers just to reimburse the company for the expenses  
17    that are associated with those storm restorations.

18            I think that's one of the benefits, and I'm  
19    also concerned about the storms that are in the middle,  
20    they're not extraordinary, but as storms build up over a  
21    year, we certainly can have costs that are above and, as I  
22    said, below what the base amount is. I think a tracker is  
23    an opportunity to reconcile those costs going forward.

24            MS. TATRO: Thank you, Mr. Wakeman. I have  
25    no further questions.

1 JUDGE WOODRUFF: Right. Then Mr. Wakeman,  
2 you can step down.

3 And our next witness then would be  
4 Mr. Meyer for MIEC. He'll be talking on all three issues,  
5 storm cost tracker, storm costs and storm assistance  
6 revenues. Mr. Meyer, of course you've already testified  
7 earlier this hearing and you are still under oath. You  
8 may inquire.

9 MR. ROAM: At this time MIEC tenders  
10 Mr. Meyer for cross-examination.

11 JUDGE WOODRUFF: For cross-examination,  
12 begin with Public Counsel.

13 MR. MILLS: No questions.

14 JUDGE WOODRUFF: For Staff?

15 MS. McCLOWRY: No questions.

16 JUDGE WOODRUFF: For Ameren?

17 MS. TATRO: No questions. Thank you.

18 JUDGE WOODRUFF: Come up for questions from  
19 the Bench Commissioner. Commissioner Jarrett?

20 COMMISSIONER JARRETT: Good morning,  
21 Mr. Meyer. No questions.

22 JUDGE WOODRUFF: All right. And I have no  
23 questions, so there's no read for recross or redirect, and  
24 Mr. Meyer, you can step down.

25 All right. Then our next witness will be

1 Mr. Boateng for the Staff. And Mr. Boateng, you also  
2 testified previously, so you are still under oath. You  
3 may inquire.

4 MS. McCLOWRY: I tender the witness for  
5 cross-examination.

6 JUDGE WOODRUFF: Beginning with MIEC?

7 MR. ROAM: No questions, Judge.

8 JUDGE WOODRUFF: Public Counsel?

9 MR. MILLS: No questions.

10 JUDGE WOODRUFF: Ameren?

11 MS. TATRO: Thank you.

12 KOFI BOATENG testified as follows:

13 CROSS-EXAMINATION BY MS. TATRO:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. Your recommendation in this case is for the  
17 base amount for storm restoration costs for the amount to  
18 be built into the revenue requirement is how much?

19 A. As of start it was about approximately  
20 7 million, and then through the updated period July 31st  
21 it's about 6.8 million.

22 Q. Do you have your rebuttal with you, sir?

23 A. Yes, I do.

24 Q. On page 3, starting around line 22, you say  
25 if a storm falls within the test year, then the company

1 would be able to amortize those costs over five years, and  
2 if it falls outside of a test year and is extraordinary,  
3 then the company can request an accounting authority  
4 order. Is that a valid summary of what you say there?

5 A. That is correct.

6 Q. Can you tell me what you consider an  
7 extraordinary storm to be?

8 A. Yes. Generally Staff have considered  
9 extraordinary storm to be when the restoration cost is  
10 about 5 percent of the company's net income.

11 Q. 5 percent of the company's net income?

12 A. That is correct.

13 Q. Do you know what about the company's net  
14 income is?

15 A. I don't know, but I believe it's -- not for  
16 sure, but -- I don't know.

17 Q. Would you accept it's around \$300 million?  
18 Does that sound reasonable to you?

19 A. I haven't seen it, and I have no reason to  
20 doubt it.

21 Q. Okay. Let's presume for a moment it's  
22 \$300 million.

23 A. Okay.

24 Q. What would 5 percent of that number be?

25 A. I don't have a calculator here with me.

1 Q. All right. I'll be happy to provide one.

2 MS. TATRO: May I approach?

3 JUDGE WOODRUFF: You may.

4 BY MS. TATRO:

5 Q. It's an attorney calculator, so it's got  
6 big buttons. And by that I mean it's my boss' calculator.

7 A. Excuse me. Your net income you said is  
8 about?

9 Q. 300 million. Would you agree 5 percent?

10 A. Yeah.

11 Q. Do you have the number?

12 A. Yes, I have.

13 Q. Okay. What would it be?

14 A. It's about 1.5 million.

15 Q. Okay. If 5 percent -- it's 15 million,  
16 right?

17 A. 15 percent, that's correct.

18 Q. So would there be storms that the company  
19 will incur where the restoration costs won't be at or  
20 above \$15 million?

21 A. Your question again?

22 Q. Do you agree there will be storms where the  
23 storm restoration costs to the company is less than  
24 \$15 million?

25 A. Yes.

1           Q.       In fact, would you agree that the company  
2 incurs many storms that it doesn't cost \$15 million to  
3 restore?

4           A.       That is correct.

5           Q.       And do you agree it's possible that the  
6 company can experience multiple non-extraordinary storms  
7 in any given year?

8           A.       That is correct from what I've seen.

9           Q.       Is it possible that the company might spend  
10 more than the 7 million or 6.8 million on  
11 non-extraordinary storms in a year?

12          A.       That may be true.

13          Q.       In fact, if Ameren Missouri were to request  
14 an AAO for a storm that cost it \$5 million to restore,  
15 Staff would not consider that amount extraordinary,  
16 correct?

17                   MR. ROAM: Judge, I'm going to object to  
18 leading on this whole line of questioning, leading the  
19 witness.

20                   JUDGE WOODRUFF: It's cross.

21                   MS. TATRO: It's cross.

22                   MR. ROAM: I understand that they agree on  
23 the position, so I was seeing this as direct.

24                   MS. TATRO: We disagree on the tracker,  
25 which is what this goes to.

1 JUDGE WOODRUFF: I'll overrule the  
2 objection.

3 BY MS. TATRO:

4 Q. Let me ask my question again. If Ameren  
5 Missouri requests an AAO for a storm that cost \$5 million  
6 to restore, Staff would not consider that amount to be  
7 extraordinary, correct?

8 A. Yes, depending on the maturity by using the  
9 standard of 5 percent of net income, and also that in  
10 certain situation, depending on the magnitude in part of  
11 the damage, even if it's less than the 5 percent the  
12 company has the option to apply for AAO, and the  
13 Commission may decide at the time whether to approve it.

14 Q. Okay. So the Commission could overrule  
15 Staff, but Staff's position is what I'm asking about, and  
16 Staff's position uses the benchmark of the 5 percent --

17 A. That is correct.

18 Q. -- net income, right?

19 A. That is correct.

20 Q. All right. Do you know how many of the  
21 storms that have hit Ameren Missouri service territory in  
22 the last five years cost the company more than \$15 million  
23 to restore?

24 A. Based on the data that I've seen, I haven't  
25 seen any that would rise up to that level.

1           Q.       Okay. Do you know how many storms hit  
2 Ameren Missouri's service territory in the last five  
3 years?

4           A.       I'm sorry. I haven't counted them.

5           Q.       You didn't investigate that as part of your  
6 preparation for this case?

7           A.       I've looked at them, but I didn't count the  
8 frequency, meaning the one, two, you know, the number of  
9 times they've had, but I would say many.

10          Q.       Okay. Now, I'd like you to assume for me  
11 that the Commission orders a revenue requirement with the  
12 \$6.8 million in it for storm restoration costs. Okay?

13          A.       Okay.

14          Q.       Also, I want you to assume that the company  
15 experiences multiple storms throughout the year, and that  
16 its storm restoration expenditures in total is \$12  
17 million. Let's also presume it's not in a test year.  
18 Would you agree with me that using Staff's approach and  
19 definition of extraordinary, in this circumstance the  
20 company would have experienced more storm costs than were  
21 used to set rates?

22          A.       The purpose of setting the base rate at 6.8  
23 is to look based on the historical data to determine for  
24 what is going to happen and not specifically exactly what  
25 is going to happen, but reasonable amount. So if it

1 happens that Ameren incurs more than what was built in  
2 rates, I would say that that's a sense of the cost of  
3 doing business, the risk part it in this situation,  
4 especially in for the last few months that a company  
5 hasn't experienced --

6 Q. Can I ask you to answer the question that I  
7 asked, please? Let me reask it. Given the parameters  
8 that I gave you, you agree that using your approach, the  
9 company would have experienced more storm costs than were  
10 used to set rates?

11 A. That is correct.

12 Q. Okay. And conversely, there could be years  
13 where Ameren Missouri spends less than the amount that's  
14 used to set rates, correct?

15 A. That may be true.

16 Q. Okay. Sir, do you know if Staff has ever  
17 argued that Ameren Missouri was imprudent in its storm  
18 restoration practices or expenditures?

19 A. I'm not aware of any of that.

20 Q. Okay. Did you look at that as part of your  
21 preparation for this case?

22 A. I'm not aware of if there's any. I haven't  
23 seen it.

24 Q. Does that mean you looked for it and you  
25 couldn't find it or you didn't look for it?

1           A.       I don't know whether they have been  
2 imprudent. I don't know.

3           Q.       Okay. Do you know if the Commission has  
4 ever issued an order stating that Ameren Missouri was  
5 imprudent in its storm restoration expenditures?

6           A.       I'm not aware of any.

7           Q.       Okay. Again, I have to ask if you're not  
8 aware because you didn't look or because you did the  
9 research and you were unable to find any?

10          A.       Well, based on the knowledge that I have, I  
11 think there was a time whether in 2007 or there was a  
12 discussion to the effect that Ameren based on their  
13 restoration wasn't up to the level, and I don't know the  
14 details of it, so I wouldn't want to venture to speak  
15 about that.

16          Q.       So you know there was some controversy in  
17 2007. Do you know if the Commission made a finding of  
18 imprudence?

19          A.       I don't know into the details.

20          Q.       You didn't look?

21          A.       I would say I didn't look, so I don't know.

22          Q.       All right. Thank you. Also in -- well,  
23 let me ask you this question: If the Commission -- if the  
24 Commission approves Ameren Missouri's request for a storm  
25 tracker, will Staff still review expenditures for

1     **prudence?**

2             A.       Yes.   Whenever Staff conducts an audit, we  
3   review the costs, and if we found any imprudent, you know,  
4   cost been incurred, recommend that it be removed.

5             Q.       All right.   So if Staff were to find an  
6   imprudent expenditure, even if that expenditure is  
7   captured in a tracker, Staff would still make a  
8   recommendation for disallowance?

9             A.       That is correct.

10            Q.       What steps should a utility take to  
11   prudently manage its storm expenditures?  I meant storm  
12   restoration expenditures.

13            A.       Well, I'm not an expert in that, so I don't  
14   think I can have an opinion as to what the company needs  
15   to do to be able to handle its restoration activities.

16            Q.       All right.   Would you agree that  
17   Mr. Wakeman probably is an expert on that aspect?

18            A.       I think so.

19            Q.       Okay.   Have you examined Ameren Missouri's  
20   storm restoration policy?

21            A.       I have not.

22            Q.       Do you know what steps Ameren Missouri  
23   takes to ensure its expenditures are prudent?

24            A.       I haven't seen it.

25            Q.       Okay.   On your rebuttal, page 10, around

1 line 6, you talk about the storm tracker mechanism. I'm  
2 sorry. Are you on page 10?

3 A. Yes, I am.

4 Q. All right. I didn't mean to get ahead of  
5 you. Around line 6 you make the statement that the storm  
6 tracker mechanism will reduce the risk Ameren Missouri  
7 will not earn its authorized rate of return. Is that a  
8 fair summary of what you're saying there?

9 A. That is correct.

10 Q. All right. Did you calculate the level of  
11 risk reduction for your testimony?

12 A. No, I have not.

13 Q. Okay. Did you look at any of the utilities  
14 that are in Mr. Murray's and the company's ROE proxy group  
15 to see how their storm costs are recovered?

16 A. No, I did not.

17 Q. Do you know what percentage of the  
18 company's non-fuel O&M is currently tracked?

19 A. No, I do not.

20 MS. TATRO: Thank you. I have no further  
21 questions.

22 JUDGE WOODRUFF: Come up for questions from  
23 the Bench. Commissioner Jarrett?

24 COMMISSIONER JARRETT: Good morning,  
25 Mr. Boateng. How are you doing?

1 THE WITNESS: Good morning.

2 COMMISSIONER JARRETT: I don't have any  
3 questions, but thanks for your testimony.

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: No questions from the  
6 Bench, so no need for recross. Any redirect?

7 MS. McCLOWRY: Just one question.

8 RECROSS-EXAMINATION BY MS. McCLOWRY:

9 Q. Mr. Boateng, Ms. Tatro discussed with you a  
10 lot about the level of storm costs in base rates and the  
11 amount the company might spend on storm restoration either  
12 over that amount or under that amount. How much did  
13 Ameren Missouri, if you know, spend on storm restoration  
14 costs in 2010?

15 A. In 2010, let me refer. In 2010, I believe  
16 the company spent about 38,000.

17 Q. And if you know, how much was built into  
18 base rates for storm costs?

19 A. Just a minute.

20 MR. ROAM: Judge, I'm actually not sure if  
21 this is an objection, but I think the witness may have  
22 misspoke on that last number based on the -- on the  
23 document that was circulated. It's \$38, not \$38,000.

24 THE WITNESS: Thank you. I think that is a  
25 correct number.

1 JUDGE WOODRUFF: Is there a question  
2 pending at this time?

3 MS. McCLOWRY: Yeah. I asked him how much  
4 was in base rates at that time.

5 THE WITNESS: I think it was about  
6 6.4 million.

7 MS. McCLOWRY: I have no further questions  
8 for this witness.

9 JUDGE WOODRUFF: Mr. Boateng, you can step  
10 down.

11 THE WITNESS: Thank you.

12 JUDGE WOODRUFF: Last witness for staff,  
13 it's Mr. Cassidy. Before we call him, I do want to let  
14 you know I wanted to plan on taking a break for lunch at  
15 12 o'clock today. Do we expect extensive  
16 cross-examination for Mr. Cassidy?

17 MS. TATRO: I certainly have more than  
18 15 minutes.

19 JUDGE WOODRUFF: Let's go ahead and take a  
20 break now for lunch and we'll come back at one o'clock.

21 (A BREAK WAS TAKEN.)

22 JUDGE WOODRUFF. All right. We're back  
23 from lunch, and Mr. Cassidy has taken the stand. As I  
24 recall, you have testified earlier in this proceeding?

25 MR. CASSIDY: Yes.

1 JUDGE WOODRUFF: All right. So you're  
2 still under oath, and you may proceed.

3 MS. McCLOWRY: I tender the witness for  
4 cross-examination.

5 JUDGE WOODRUFF: Okay. For  
6 cross-examination, beginning with MIEC.

7 MR. ROAM: No questions, Judge.

8 JUDGE WOODRUFF: Public Counsel?

9 MR. MILLS: No questions.

10 JUDGE WOODRUFF: Ameren?

11 MS. TATRO: Thank you.

12 JOHN CASSIDY testified as follows:

13 DIRECT EXAMINATION BY MS. TATRO:

14 Q. Good afternoon, Mr. Cassidy.

15 A. Good afternoon.

16 Q. Staff's recommendation is to include some  
17 normalized level of storm assistance revenues in the  
18 company's revenue requirement; is that accurate?

19 A. Yes.

20 Q. What amount do you recommend is included?

21 A. \$581,189.

22 Q. And if I -- I believe that that's a  
23 60-month or five-year average?

24 A. Yes, based on five years ending July 31,  
25 2012.

1 MS. TATRO: May I approach?

2 JUDGE WOODRUFF: You may. Would you like  
3 to mark this?

4 MS. TATRO: Please.

5 JUDGE WOODRUFF: Your next number is 76.

6 (AMEREN EXHIBIT NO. 76 WAS MARKED FOR  
7 IDENTIFICATION.)

8 BY MS. TATRO:

9 Q. Have you had an opportunity to look over  
10 the data request?

11 A. Yes, I have.

12 Q. Do you agree with me this is a data request  
13 that shows the storm assistance revenues received by the  
14 company?

15 A. This is the initial response to that data  
16 request. I believe there was a subsequent response  
17 provided on September 13th.

18 Q. And what did that additional response  
19 include?

20 A. That additional response included storms,  
21 revenue associated with storm assistance provided to ComEd  
22 during the time period covering July 2nd through July 6th  
23 of 2012 in the amount of \$374,234. It also provided a  
24 level of storm assistance revenue provided to --  
25 associated with assistance Ameren Missouri provided to

1 Consumers Energy from July 6th through July 9th of 2012,  
2 and that totaled \$294,631. So this data request response  
3 you've handed me does not include that storm revenue.

4 Q. And if we added those two figures, the  
5 374,234 and 294,631, then does that exhibit contain a  
6 complete list of all the storm assistance revenues?

7 A. If you add those two other storm events  
8 where Ameren received revenue, storm assistance revenue,  
9 yes.

10 Q. And what year did those occur in?

11 A. Those two events occurred in July of 2012  
12 within the true-up cutoff period established in this case.

13 Q. Okay. Great. For purposes of your  
14 testimony, you added up the revenues. You told me you  
15 took a five-year average. So is the first dollar amount  
16 that you started with the line on the first sheet that  
17 shows utility, date of assistance and FERC account, you  
18 started with the one labeled KCPL, the utility labeled  
19 KCPL?

20 A. No. Actually, it would cover the storm  
21 assistance revenue from the Louisville Gas and Electric  
22 Company, the 257,658, and if you added all the way down to  
23 the Public Service Electric and Gas Company amount of  
24 521,080, that would be 2.9 million. If you divide that by  
25 five, I believe the answer is approximately \$581,000.

1           Q.       Did you also add in -- if you look at the  
2 last sheet of that page, there was 565,715 for Northeast  
3 Utilities?

4           A.       Yes, it has that amount in there as well.

5           Q.       All right. And then also the ComEd and  
6 Consumers that you just discussed?

7           A.       Yes.

8           Q.       You added all of those together --

9           A.       Yes.

10          Q.       -- and divided it by five?

11                   Now, looking at the second page of what's  
12 been labeled Exhibit 76.

13          A.       Okay.

14          Q.       Can you tell me, did the company receive  
15 storm assistance revenues equal to or more than 581,000 in  
16 2007?

17          A.       During calendar 2007, it received less than  
18 that amount.

19          Q.       In fact, there was none, correct?

20          A.       That's correct.

21          Q.       Okay. How about for 2008, did the company  
22 receive equal to or more than 581,000?

23          A.       It received something less than that  
24 amount.

25          Q.       Okay. And, in fact, it was 265,000,

1       **approximately?**

2               A.       Approximately, yes.

3               Q.       Okay. Did the company receive 581,000 or  
4       **more in 2009?**

5               A.       It did not. It received zero revenue.

6               Q.       Same question for 2010.

7               A.       Same question, same answer.

8               Q.       And that's because the company received no  
9       **revenue for 2010 --**

10              A.       That's correct.

11              Q.       -- for that?

12                      **All right. How about for 2011?**

13              A.       In 2011, it received more.

14              Q.       And how much did it receive in 2011? And  
15       **I'd offer you my calculator, but you told me you already**  
16       **have one.**

17              A.       Yes, I do have one. Approximately  
18       2.6 million.

19              Q.       Okay. And then for 2012, do you know that  
20       **amount?**

21              A.       In 2012, it was approximately 669,000.

22              Q.       All right. So if the Commission set rates  
23       **in this case crediting customers \$581,000 for storm**  
24       **assistance revenues, the company would not have met, have**  
25       **achieved that level or earned that level of revenue in**

1       2007, 2008, 2009 or 2010, right?

2               A.       That's correct.

3               Q.       So four of the last six years, they  
4       wouldn't have earned that amount?

5               A.       Yes.

6               Q.       And if the Commission set rates assuming  
7       the company would receive storm assistance revenues of  
8       800,000, the company would have only have met that once  
9       since 2007, correct?

10              A.       I believe it's met it in 2011 and also  
11       during the first seven months of 2012, so twice.

12              Q.       Well, to date it's 669,000, approximately?

13              A.       Yes.

14              Q.       So when you say it's met it in '12, you're  
15       assuming it will double in the second half of the year?

16              A.       Are you saying the level that we've  
17       normalized, has it met? Maybe I misunderstood the  
18       question.

19              Q.       800,000?

20              A.       Oh, 800,000. Okay. It has not -- in '12  
21       it hasn't reached MIEC's proposed \$800,000 level, but  
22       Staff's has.

23              Q.       Right. And it may or may not get to  
24       800,000 in '12, correct?

25              A.       It may or may not, that's true.

1           **Q.       You'd agree with me, Mr. Cassidy, that the**  
2   **level received in 2011 certainly drives your five-year**  
3   **average up?**

4           A.       It may drive it up, but there are other  
5   years where there's no revenue, which drives it down.

6           **Q.       There are multiple years there's no**  
7   **revenue, isn't there?**

8           A.       Yes.

9           **Q.       There's one year that it's over \$2 million,**  
10   **right?**

11          A.       Yes.

12          **Q.       Can you add that back -- can you add those**  
13   **numbers up leaving out the 2011 number, please?**

14          A.       Sure. So do you want four years of average  
15   or would you like five?

16          **Q.       I'll let you do five. We can still do**  
17   **five, but let's skip 2011.**

18          A.       Okay. Assuming no revenue was recorded in  
19   2011. Okay. A five-year average of that would be just  
20   the level that was included for Louisville Gas and  
21   Electric. So it's the 257,658 divided by five, which  
22   equals approximately \$52,000.

23          **Q.       And what if you also included the 2012**  
24   **dollars?**

25          A.       So would you like me to move my average to

1 a five-year ending 2012 level?

2 Q. Yes, let's do that.

3 A. Okay. That would be approximately \$185,000  
4 over five years.

5 Q. All right. \$185,000?

6 A. Using the five-year average, excluding  
7 2011.

8 Q. So the five-year average ending 12/31/11,  
9 setting aside the higher levels of 2011, gives you an  
10 average that is less than the 581 that Staff's proposing,  
11 correct?

12 A. That's correct.

13 Q. And certainly less than the 800,000 that  
14 MIEC is proposing?

15 A. That's correct.

16 Q. And using five years ending July 31st,  
17 2012, the same result, correct?

18 A. Yes.

19 Q. Mr. Cassidy, would you agree with me that  
20 when Ameren Missouri sends individuals, allots individuals  
21 or linemen to go to another utility to provide storm  
22 assistance, that Ameren Missouri bills that utility for  
23 those employees' work?

24 A. It bills them at cost, yes.

25 Q. And what do you mean when you say bills

1     **them at cost?**

2             A.       It doesn't -- it doesn't include a markup  
3     or a profit on those services.

4             Q.       **Okay. If that individual is working**  
5     **overtime, does the company charge that utility overtime?**

6             A.       It charges whatever level of cost that  
7     employee would have incurred otherwise.

8             Q.       **And if they had done that amount of**  
9     **overtime for the utility for Ameren Missouri, they would**  
10    **have been paid overtime, right?**

11            A.       That's true.

12            Q.       **So they're getting paid overtime when they**  
13    **go to provide mutual assistance?**

14            A.       Yes.

15            Q.       **Probably a lot of overtime, right?**

16            A.       I don't know. It depends, but probably.

17            Q.       **Okay. Do you suppose it would be more**  
18    **overtime spent on the time -- let me rephrase my question.**

19                    **The time an individual lineman, for**  
20    **example, is at another utility providing mutual assistance**  
21    **after a storm, do you suppose that individual at that time**  
22    **is working more or less overtime than they would work in a**  
23    **non-storm situation for Ameren Missouri?**

24                    MR. MILLS: I object. That calls for  
25    speculation.

1 THE WITNESS: I don't know.

2 MR. MILLS: The question itself was posed  
3 as do you suppose.

4 MS. TATRO: To the best of your knowledge.

5 JUDGE WOODRUFF: I'll allow it with that  
6 qualification.

7 THE WITNESS: I don't know.

8 BY MS. TATRO:

9 Q. Do you look at the bills that Ameren  
10 Missouri provides other utilities for storm assistance  
11 revenue?

12 A. Yes.

13 Q. And is there overtime billed?

14 A. There was.

15 Q. And how much overtime is billed compared to  
16 straight time?

17 A. I don't recall.

18 Q. Do you suppose there's more overtime? Do  
19 you believe there's more overtime than straight time? Do  
20 you believe it's an equal amount?

21 A. I don't recall.

22 Q. If it's true that the lineman's working  
23 more overtime during times that they're providing mutual  
24 assistance than what they would work if they were working  
25 their regular job back at the utility, then do you agree

1     that refunding all of that money back to customers would  
2     actually overcompensate customers?

3             A.       Could you rephrase your question? I'm not  
4     sure that I followed that.

5             Q.       All right. Presume for a moment that the  
6     lineman has been released to go provide mutual assistance  
7     to a utility in another state.

8             A.       Okay.

9             Q.       Presume that lineman's working more  
10    overtime than he or she would have worked had they stayed  
11    in Ameren Missouri's service territory where there's not a  
12    major storm going on.

13            A.       Yes.

14            Q.       So the amount of money that the other  
15    utility is paying back to Ameren Missouri is higher than  
16    the amount of overtime that would be built into the  
17    company's regular rate; would you agree?

18            A.       That's possible.

19                    MS. TATRO: Before I forget, I'd like to  
20    move for the admission of 76.

21                    THE WITNESS: 76 has been offered. Any  
22    objections to its receipt?

23                    (No response.)

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

1 (AMEREN EXHIBIT NO. 76 WAS RECEIVED INTO  
2 EVIDENCE.)

3 MS. TATRO: Mr. Cassidy, you were a  
4 cooperative witness and I'm done.

5 THE WITNESS: Thank you.

6 JUDGE WOODRUFF: Thank you. We'll come up  
7 for questions from the Bench, then, and Commissioner  
8 Jarrett.

9 COMMISSIONER JARRETT: Good afternoon,  
10 Mr. Cassidy.

11 THE WITNESS: Good afternoon.

12 COMMISSIONER JARRETT: I don't have any  
13 questions for you, but thanks for your testimony.

14 THE WITNESS: Thank you.

15 JUDGE WOODRUFF: Commissioner Stoll?

16 COMMISSIONER STOLL: I have no questions,  
17 your Honor.

18 JUDGE WOODRUFF: All right. No questions  
19 from the Bench, so no need for recross. Any redirect?

20 MS. McCLOWRY: I have one question.

21 REDIRECT EXAMINATION BY MS. McCLOWRY:

22 Q. Mr. Cassidy, Ms. Tatro went through the  
23 years when the company did receive revenues for storm  
24 assistance and when they didn't. Why does Staff believe  
25 that there should be a base level set in rates for these

1     **amounts?**

2             A.       Well, the company -- the Staff has  
3     attempted to normalize these revenues because they do  
4     occur kind of on a sporadic fashion. So we've attempted  
5     to include some level of storm assistance revenue on an  
6     ongoing basis, and to just simply, you know, put a zero  
7     level in like the company has is really an unfair  
8     calculation.

9                     MS. McCLOWRY: I have no further questions.

10                    JUDGE WOODRUFF: Thank you. Mr. Cassidy,  
11     you can step down. And that completes the storm issue.  
12     Then we'll move on into vegetation management and  
13     infrastructure inspection tracker, and we'll start with  
14     mini openings on that. Before we get started, I do want  
15     to state that we may have to take a short break at two  
16     o'clock because of some court reporter issues. I'll let  
17     you know if that has to happen.

18                    So for mini opening, we'll begin with  
19     Ameren.

20                    MS. TATRO: Good afternoon. The good news,  
21     Commissioners, is that there are fewer issues related to  
22     the vegetation management and infrastructure inspection  
23     tracker that are left for your decision. That is, the  
24     parties are in general agreement on the amount to be used  
25     that was used in the test period true-up period and the

1 parties have agreed to use that amount.

2                   So the issue before you really is whether  
3 or not you will continue to allow Ameren Missouri to track  
4 these expenditures and compare the expenditures, the  
5 actual expenditures against the amount included in the  
6 company's revenue requirement with the difference to be  
7 collected or refunded through the next several rate cases.

8                   Staff and the company agree on this one.  
9 We say the tracker should be continued, while MIEC  
10 disagrees. The Commission should remember why trackers --  
11 this tracker was established. These expenditures are not  
12 discretionary. The Commission has very specific  
13 requirements in its regulations. These rules dictate when  
14 and how often and how much the company must trim  
15 vegetation.

16                   These costs will vary depending on the  
17 amount of growth of the vegetation during the four or  
18 six-year cycle, whether it's an urban or rural area, how  
19 close the trees are to the lines and various other  
20 factors. A wet summer season may increase the amount of  
21 vegetation growth and require the company to spend more  
22 money to remove more vegetation. An extremely hot summer  
23 like the one we just came out of may damage or kill off  
24 vegetation, again meaning the company might have to remove  
25 more vegetation than it would on a normal cycle.

1                   At this point in time, while the company  
2     has completed its first cycle of urban trimming, it has  
3     not completed a rural cycle. Additionally, as Mr. Wakeman  
4     will testify, the company doesn't know what conditions it  
5     will face as it starts and goes through its second urban  
6     trim cycle. Vegetation grows as it grows.

7                   The Commission's own rules acknowledge this  
8     by requiring utilities to have an arborist on staff,  
9     because it isn't as simple as having an auditor or an  
10    accountant look at the average spend over some number of  
11    years. It is about dealing with the conditions as they  
12    exist.

13                  And the only witness in this case that can  
14    speak to those conditions is Mr. Wakeman. He will testify  
15    that he cannot know with certainty what he will have to  
16    spend in order to comply with the rules that you  
17    implemented.

18                  Now, perhaps there will come a time when  
19    the company will feel more confident that it knows what it  
20    will cost to comply with these rules, and perhaps at that  
21    time it will even be able to beat the amount that is  
22    included in the revenue requirement. If the tracker is in  
23    place, customers will benefit because they will receive  
24    the unused amount back. That doesn't happen without a  
25    tracker. Maintaining the tracker removes the guesswork

1 both for customers and for the company, and you should  
2 continue it in this case.

3 JUDGE WOODRUFF: Thank you. For Staff?

4 MS. MOORE: Good afternoon, Commissioners,  
5 Judge.

6 As you know, we have a situation where  
7 there's really not much left to determine on this issue.  
8 There are actually two differences of opinion, two  
9 questions to address today for the vegetation management  
10 and infrastructure inspection trackers. First, should the  
11 unamortized balance for these trackers be amortized over  
12 two or three years? It's a small question. And then  
13 second, probably the main issue for us today is whether or  
14 not the tracker should be continued or eliminated.

15 For the first question, Staff recommends  
16 the balances for these trackers as of the true-up period  
17 ending July 31st, 2012 be amortized over three years.  
18 This approach is consistent with how Staff amortizes  
19 similar expenditures, three to five years depending on the  
20 cost. There's no reason to treat these trackers  
21 differently.

22 As to whether these trackers should be  
23 eliminated, they should not, at least not at this time.  
24 Staff recommends these trackers be continued at least  
25 through the end of the company's first trimming cycle. As

1 Ms. Tatro mentioned, the company has completed its first  
2 urban trimming cycle but has not yet completed its first  
3 rural trimming cycle, and then, of course, the cycles  
4 start over.

5                   These trackers were created to allow the  
6 company to monitor the expense of complying with new  
7 Commission rules, those mandatory actions that the  
8 Commission determined would be appropriate to encourage  
9 reliability.

10                   Establishing a foundation for predicting  
11 those costs in the future is an important role for these  
12 trackers, and it has not yet been accomplished because  
13 Staff is not convinced the cost of the vegetation  
14 management and infrastructure inspection programs have  
15 stabilized in such a way that would allow the company to  
16 reliably predict those costs in the future.

17                   It is reasonable and appropriate to allow  
18 the company to observe its costs for these programs for at  
19 least one full cycle of operation in the hopes the data on  
20 a full cycle would accomplish the purpose for which the  
21 Commission established these trackers. After a full cycle  
22 is complete, if the company's costs appear to be  
23 stabilized, Staff would be willing to reexamine whether  
24 the tracker should continue at that time.

25                   Thank you.

1 JUDGE WOODRUFF: For Public Counsel?

2 MR. MILLS: Good afternoon. May it please  
3 the Commission?

4 The vegetation management and  
5 infrastructure inspection tracker is another example of  
6 what I call the regulatory ratchet. It's a little bit  
7 different than the previous one, but it still is operating  
8 in a ratchet.

9 The Commission established the vegetation  
10 management and infrastructure inspection tracker because  
11 the rules that the companies were operating under were  
12 brand-new and the companies did not have any experience  
13 with them. That was five years ago. The company has had  
14 a lot of experience under these rules. Granted they have  
15 not completed a full cycle, but they've completed many,  
16 many, many miles. There's absolutely no reason to believe  
17 that the last 30 percent of the rural cycle will be any  
18 different than the first 70 percent of the rural cycle,  
19 and the company has completed 100 percent of its urban  
20 cycle.

21 So the company has taken a mechanism that  
22 the Commission put in place that was specifically designed  
23 to be a temporary mechanism and is now trying to consider  
24 that as a permanent mechanism. That's the ratchet locking  
25 into place. That's not getting rid of anything no matter

1 what purpose it was originally put into place to address.

2 So it's my opinion that we will see in the  
3 next case, even if we have completed a full cycle on urban  
4 and rural, we'll have the company back in here saying,  
5 well, gosh, we've only completed one cycle. We don't know  
6 what these costs are going to be in the second cycle. And  
7 after two, we may hear that we've only completed two. And  
8 that's just exactly how these mechanisms operate.

9 It is clear that the company knows very  
10 well what these costs are going to be. There is very,  
11 very little volatility in these costs, and there's  
12 absolutely no reason to continue to track them. These  
13 trackers should be eliminated. Thank you.

14 JUDGE WOODRUFF: Thank you. MIEC?

15 MR. ROAM: May it please the Commission?

16 Like a houseguest who has worn out its  
17 welcome, it's time for Ameren Missouri's veg management  
18 and infrastructure inspections tracker to go away. This  
19 tracker has been hanging around since ER-2008-0318 when it  
20 was initially established because of the uncertainty  
21 surrounding Ameren's cost to comply with the new  
22 vegetation management and infrastructure inspection rules.  
23 The continued use of the tracker was again approved -- let  
24 me just say, in that initial case, the Commission made it  
25 clear that this was not to be a permanent tracker, but

1     rather a temporary tracker to establish a rate because of  
2     the new rules and the uncertainty for the expenses  
3     surrounding them.

4                     The continued use of the tracker was again  
5     approved in two subsequent rate cases. However, at this  
6     point any justification that may have supported the  
7     tracker's initial implementation, that may have supported  
8     its renewal in the last two cases, any justification has  
9     long since evaporated.

10                    The expenses associated with veg management  
11     and infrastructure inspections have shown very little  
12     volatility and have remained level since the tracker was  
13     put in place five years ago. Indeed, any variation in  
14     expense levels from year to year have been immaterial.

15                    However -- moreover, Ameren Missouri  
16     completed its entire urban trim cycle almost a year ago,  
17     and its six-year rural trim cycle is already 78 percent  
18     completed. The company has nearly five years of expense  
19     data on this issue, and it shows very little fluctuation.  
20     It has stabilized, it's remained stable and normalized  
21     ever since the beginning, and the data demonstrates  
22     unequivocally that the tracker is just simply no longer  
23     needed. Any justification for its continued use has long  
24     disappeared.

25                    Accordingly, MIEC respectfully requests

1 that this Commission send this long overdue houseguest  
2 packing. Thank you.

3 JUDGE WOODRUFF: Thank you. That completes  
4 the opening statements. Then we'll call our first  
5 witness, which would be Ms. Barnes for Ameren. Welcome  
6 back to the stand, and you are also still under oath. You  
7 may inquire when you're ready.

8 MS. TATRO: I tender the witness for  
9 cross-examination.

10 JUDGE WOODRUFF: Based on the opening  
11 statements, it appears that Staff is the least adverse  
12 party, so I'll let them go first for cross.

13 MS. MOORE: No questions.

14 JUDGE WOODRUFF: Public Counsel?

15 MR. MILLS: I have no questions.

16 JUDGE WOODRUFF: MIEC?

17 MR. ROAM: No questions, Judge.

18 JUDGE WOODRUFF: All right. We'll come up  
19 for questions from the Bench, then. Commissioner Jarrett?

20 COMMISSIONER JARRETT: No questions.

21 JUDGE WOODRUFF: Commissioner Stoll?

22 COMMISSIONER STOLL: No questions, your  
23 Honor.

24 JUDGE WOODRUFF: All right. No need for  
25 recross or redirect, then, and Ms. Barnes, you can step

1 down. I think that's --

2 MS. TATRO: She's finally done permanently.

3 JUDGE WOODRUFF: She's finally done at this  
4 hearing.

5 MS. BARNES: Not that I didn't enjoy being  
6 here.

7 COMMISSIONER JARRETT: Come back and visit  
8 us any time.

9 MS. BARNES: Oh, I'm sure I'll be back.

10 JUDGE WOODRUFF: The next witness is  
11 Mr. Wakeman. And Mr. Wakeman, you are also still under  
12 oath.

13 MR. WAKEMAN: Yes.

14 JUDGE WOODRUFF: You may inquire when you  
15 are ready.

16 MS. TATRO: I will tender the witness for  
17 cross-examination.

18 JUDGE WOODRUFF: And beginning with Staff.

19 MS. MOORE: No questions.

20 JUDGE WOODRUFF: Public Counsel?

21 MR. MILLS: No questions.

22 JUDGE WOODRUFF: MIEC?

23 MR. ROAM: Just a couple very quick ones.

24 May I approach?

25 JUDGE WOODRUFF: You may. Is this going to

1 be an exhibit?

2 MR. ROAM: Yes.

3 JUDGE WOODRUFF: This will be 533.

4 MR. ROAM: It will actually be two  
5 exhibits.

6 JUDGE WOODRUFF: And which is which?

7 MR. ROAM: Let's do 24.1 and 24.2 in order.

8 JUDGE WOODRUFF: 533 for 24.1, and the next  
9 one would be 534.

10 (MIEC EXHIBIT NOS. 533 and 534 WERE MARKED  
11 FOR IDENTIFICATION.)

12 DAVID WAKEMAN testified as follows:

13 CROSS-EXAMINATION BY MR. ROAM:

14 Q. Mr. Wakeman, would you mind to look at the  
15 response to Data Request 24.1?

16 A. Okay.

17 Q. And you see there where it says, Ameren --  
18 yes, Ameren is current in its inspections for all phases  
19 of the infrastructure standards of the Commission?

20 A. Correct.

21 Q. Is that accurate?

22 A. Yes.

23 Q. Is that an accurate statement?

24 A. Yes, it is.

25 Q. The second one, 24.2, the question is, is

1 Ameren Missouri current in the vegetation management trim  
2 cycle intervals for its rural and urban service  
3 territories? Do you see that?

4 A. Yes, I do.

5 Q. And the answer is, yes, Ameren Missouri is  
6 current in the vegetation management trim cycle intervals  
7 for its rural and urban service territories. Is that an  
8 accurate statement?

9 A. Yes, it is.

10 MR. ROAM: At this time I would move to  
11 have these exhibits admitted.

12 JUDGE WOODRUFF: 533 and 534 have been  
13 offered. Any objections to their receipt?

14 MS. TATRO: No objection.

15 JUDGE WOODRUFF: Hearing none, they will be  
16 received.

17 (MIEC EXHIBIT NOS. 533 AND 534 WERE  
18 RECEIVED INTO EVIDENCE.)

19 MR. ROAM: That's all the questions I have.  
20 Thank you, Mr. Wakeman.

21 JUDGE WOODRUFF: Come up for questions from  
22 the Bench. Commissioner Jarrett?

23 COMMISSIONER JARRETT: No questions.

24 Thanks.

25 JUDGE WOODRUFF: Commissioner Stoll?

1 COMMISSIONER STOLL: No questions, your  
2 Honor. Thank you.

3 JUDGE WOODRUFF: All right. No questions  
4 from the Bench, so no need for recross. Any redirect?

5 MS. TATRO: Yes. Thank you.

6 REDIRECT EXAMINATION BY MS. TATRO:

7 Q. Mr. Wakeman, if Ameren Missouri is current  
8 on its inspections and on the trim cycles, why is it  
9 still -- do you believe it still needs a tracker?

10 A. Well, I would say that we haven't yet --  
11 we're current as per the schedule. We haven't completed  
12 our first cycle in the rural areas of yet, and it's not  
13 fully understood what the cost of -- costs will be going  
14 forward in a four and six-year cycle. So as we go back  
15 through the second trim, it's not well known since this is  
16 our first time back through what might happen and what we  
17 might encounter with trees that are diseased, trees that  
18 have insect problems and other things that occur. As was  
19 mentioned in the opening statement about drought  
20 conditions, we could have a lot of tree removals, and in  
21 some years it could be less.

22 So I think the tracker pays -- or plays an  
23 important role in both protecting customers and the  
24 company from making sure that the recovery of this expense  
25 as a mandatory requirement of the Commission is

1 appropriate for the level that we spend, so the recovery  
2 is in line with what we spend, not in line with some kind  
3 of an average that we use from prior years. I think the  
4 tracker protects customers and the company in that vein.

5 MS. TATRO: Thank you. I have no further  
6 questions.

7 JUDGE WOODRUFF: Mr. Wakeman, you can step  
8 down.

9 THE WITNESS: Thank you.

10 JUDGE WOODRUFF: Next witness then is Greg  
11 Meyer.

12 MR. ROAM: I think Staff witness.

13 JUDGE WOODRUFF: Okay. Roberta Grissum  
14 then. Good afternoon, Ms. Grissum.

15 MS. GRISSUM: Good afternoon.

16 JUDGE WOODRUFF: This is your first time  
17 testifying.

18 THE WITNESS: It is.

19 (Witness sworn.)

20 JUDGE WOODRUFF: You may inquire.

21 ROBERTA GRISSUM testified as follows:

22 DIRECT EXAMINATION BY MS. MOORE:

23 Q. Ms. Grissum, would you state your full name  
24 for the record.

25 A. Roberta Grissum.

1                   Q.       Where are you employed and in what  
2       capacity?

3                   A.       I'm a utility regulatory auditor with the  
4       Missouri Public Service Commission.

5                   Q.       And are you the same Roberta Grissum who  
6       prepared and caused to be prepared certain sections of the  
7       Staff cost of service revenue report that we've discussed  
8       earlier and also surrebuttal testimony that's been marked  
9       as Exhibit No. 223?

10                  A.       I am.

11                  Q.       Do you have anything you wish to correct in  
12       either of those items?

13                  A.       No, I do not.

14                  Q.       If asked the same questions today, would  
15       your answers be the same?

16                  A.       Yes, they would.

17                  Q.       And is the information in those documents  
18       true and correct to the best of your knowledge and belief?

19                  A.       Yes, it is.

20                             MS. MOORE: Your Honor, Staff offers  
21       Exhibit 223 and tenders the witness for cross.

22                             JUDGE WOODRUFF: 223 has been offered. Any  
23       objections to its receipt?

24                             (No response.)

25                             JUDGE WOODRUFF: Hearing none, it will be

1 received.

2 (STAFF EXHIBIT NO. 223 WAS RECEIVED INTO  
3 EVIDENCE.)

4 JUDGE WOODRUFF: For cross-examination, who  
5 would be appropriate to go first?

6 MR. MILLS: I'll go first. I have no  
7 questions.

8 MR. ROAM: We have no questions.

9 JUDGE WOODRUFF: All right. Ameren?

10 MS. TATRO: No questions. Thank you.

11 JUDGE WOODRUFF: Well, that makes it all  
12 academic then, doesn't it? Questions from the Bench.  
13 Commissioner Jarrett?

14 COMMISSIONER JARRETT: None for me.  
15 Thanks.

16 JUDGE WOODRUFF: Commissioner Stoll?

17 COMMISSIONER STOLL: No questions, your  
18 Honor.

19 JUDGE WOODRUFF: I have no questions, so no  
20 recross or redirect, and you can step down.

21 Now Mr. Meyer, and you are also still under  
22 oath. So you can inquire when you're ready.

23 MR. ROAM: At this time I tender the  
24 witness for cross-examination.

25 JUDGE WOODRUFF: All right. Let's begin

1 with Ameren.

2 MS. TATRO: No questions.

3 JUDGE WOODRUFF: Public Counsel?

4 MR. MILLS: No questions.

5 JUDGE WOODRUFF: Staff?

6 MS. MOORE: No questions.

7 JUDGE WOODRUFF: And questions from the  
8 Bench. Commissioner Jarrett?

9 COMMISSIONER JARRETT: No questions.

10 COMMISSIONER STOLL: Make it unanimous. No  
11 questions.

12 JUDGE WOODRUFF: No need for recross,  
13 redirect. Mr. Meyer, once again you can pack up your  
14 stuff and get back.

15 And I believe that takes care of the  
16 vegetation management issue, and that is all the issues  
17 that we have on tap for today. Where will -- what will we  
18 be doing tomorrow?

19 MR. THOMPSON: Tomorrow we have rate  
20 design, Judge, and we also have David Murray.

21 JUDGE WOODRUFF: Are we going to do  
22 Mr. Murray first or at the end?

23 MR. THOMPSON: I have no preference. What  
24 about you guys, do you want to do Mr. Murray first?

25 MS. TATRO: You know, Mr. Byrne is handling

1 that. I don't know the answer to that question.

2 MR. THOMPSON: Let's make him get up early.

3 MS. TATRO: I think we can do Murray first.

4 JUDGE WOODRUFF: All right. We'll start

5 again tomorrow morning at 8:30 with David Murray

6 testifying on the ROE issue.

7 All right. With that, then, we are

8 adjourned.

9 (WHEREUPON, the hearing was adjourned at

10 1:40 p.m.)

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C E R T I F I C A T E

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STATE OF MISSOURI )

) ss.

4

COUNTY OF COLE )

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I, Kellene K. Feddersen, Certified

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Shorthand Reporter with the firm of Midwest Litigation

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