

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 November 27, 2007
9 Jefferson City, Missouri
Volume 2

10 In the Matter of the Application)
11 of Southern Missouri Gas)
Company, L.P., d/b/a Southern)
12 Missouri Natural Gas, for a)
Certificate of Public)
13 Convenience and Necessity)
Authorizing It To Construct,) Case No. GA-2007-0168
14 Install, Own, Operate, Control,)
Manage and Maintain a Natural)
15 Gas Distribution System to)
Provide Gas Service in Branson,)
16 Branson West, Reeds Spring,)
and Hollister, Missouri.)

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19 BENJAMIN LANE, Presiding
20 REGULATORY LAW JUDGE
JEFF DAVIS, Chairman,
21 CONNIE MURRAY,
LINWARD "LIN" APPLING,
22 COMMISSIONERS.

23
24 REPORTED BY:
25 PAMELA FICK, RMR, RPR, CCR #447, CSR
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1 P R O C E E D I N G S

2 JUDGE LANE: Good morning, ladies and
3 gentlemen. My name is Benjamin Lane. I'm the
4 regulatory law judge that's assigned to hear this
5 case. And we're here today for an evidentiary
6 hearing in Case No. GA-2007-0168.

7 The caption of that case is, In The
8 Matter of the Application of Southern Missouri Gas
9 Company, LP, doing business as Southern Missouri
10 Natural Gas For a Certificate of Public Convenience
11 and Necessity Authorizing It to Construct, Install,
12 Own, Operate, Control, Manage and Maintain a Natural
13 Gas Distribution System to Provide Gas Service in
14 Branson, Branson West, Reeds Spring and Hollister,
15 Missouri.

16 I didn't realize there's been a flurry
17 of activity here in the last few days and maybe a few
18 preliminary matters, but before we do that, I think
19 what takes precedence, I know that the attorneys for
20 all the parties have entered written entries of
21 appearance, and if you haven't, if you would please
22 submit a form to our court reporter today, Pam Fick.
23 But I'd like to take oral entries of appearance just
24 for my own notes and for the record.

25 The parties to this proceeding are

1 Southern Missouri Natural Gas. Any problem with me
2 referring to them by the d/b/a name? Southern
3 Missouri Natural Gas, the Staff of the Commission,
4 the Office of the Public Counsel, Southern Star
5 Central Pipeline, Missouri Gas Energy and Ozark
6 Energy Partners, LLC. Some of those are intervenors,
7 of course. And so let's begin with the applicant in
8 this case, and that's Southern Missouri Natural Gas.

9 MR. FISCHER: Thank you, your Honor.
10 Let the record reflect the appearance of James M.
11 Fischer and Larry W. Dority with the law firm of
12 Fischer & Dority, PC. Our mailing address is 101
13 Madison Street, Suite 400, Jefferson City, Missouri
14 65101. Appearing today on behalf of Southern
15 Missouri Gas Company, LP, doing business as Southern
16 Missouri Natural Gas.

17 JUDGE LANE: Thank you very much. For
18 the Staff of the Commission?

19 MS. SHEMWELL: Good morning and thank
20 you, your Honor. Lera Shemwell representing the
21 Staff of the Missouri Public Service Commission, Post
22 Office Box 360, Jefferson City, Missouri 65102.

23 JUDGE LANE: Thank you, Ms. Shemwell.
24 For the Office of Public Counsel?

25 MR. POSTON: Thank you. Marc Poston

1 appearing today for the Office of the Public Counsel
2 and the public, P. O. Box 2230, Jefferson City,
3 Missouri 65102.

4 JUDGE LANE: Mr. Poston, thank you and
5 good morning. Any appearance for Southern Star?

6 (NO RESPONSE.)

7 JUDGE LANE: No? Missouri Gas Energy?

8 MR. COOPER: Yes, your Honor. Dean L.
9 Cooper from the law firm of Brydon, Swearngen &
10 England, P.C., P. O. Box 456, Jefferson City,
11 Missouri 65102, appearing on behalf of Missouri Gas
12 Energy, d/b/a Southern Union Company.

13 JUDGE LANE: Thank you very much,
14 Mr. Cooper. And Ozark Energy Partners?

15 MR. STEINMEIER: Thank you, your Honor.
16 Please let the record reflect the appearance of
17 William D. Steinmeier and Mary Ann (Garr) Young,
18 William D. Steinmeier, PC, Post Office Box 104595 in
19 Jefferson City, Missouri, appearing on behalf of
20 Ozark Energy Partners, LLC.

21 JUDGE LANE: I'm sorry, Mr. Steinmeier.
22 Who -- who was the other attorney?

23 MR. STEINMEIER: Mary Ann (Garr) Young,
24 Garr in parentheses.

25 JUDGE LANE: So I should just direct my

1 question to her. Would you prefer to be addressed as
2 Ms. -- Ms. Young?

3 MS. YOUNG: Yes, that's fine, thank you.

4 JUDGE LANE: Thank you. I think that
5 completes the entries of appearance and covers all
6 the parties. We've already noted that Southern Star
7 is not present today. All the other parties,
8 however, are represented and are here -- here this
9 morning.

10 I'd like to go into a couple of
11 preliminary matters. First of all, as it can cause
12 interference with our video system, if everyone would
13 please turn off -- that is, turn them off, not just
14 mute them, but turn off all cell phones, PDAs,
15 anything like that. It can cause video interference.
16 Also can be distracting if one goes off in the middle
17 of our proceedings. So I just wanted to remind you
18 of that.

19 I also want to indicate -- indicate
20 there's obviously going to be some highly
21 confidential informa -- information that's been
22 designated highly confidential. We're obviously
23 gonna want to close the streaming portion to the
24 public when that information is discussed, so if you
25 will just give me some advance notice so that I could

1 go -- we can go in-camera and take care of that, that
2 information, I would appreciate that for -- before it
3 comes up.

4 Excuse me. As far as pending motions
5 are concerned, I've gone through all the motions that
6 have been filed here in the last ten days or so, and
7 I believe the only one that needs to be ruled at this
8 moment -- and you -- you certainly can correct me if
9 I'm incorrect on that -- is Ozark Energy Partners'
10 pending motion to consolidate this case which is
11 GA-2007-0168 with Case No. GA-2007-0212. That motion
12 is going to be denied. Those cases will not be
13 consolidated.

14 Are there any other pending -- I realize
15 that in the same motion, Ozark requested some
16 alternative forms of relief. I do not believe it's
17 necessary to rule on those requests for alternative
18 relief at this time. If anyone has any different
19 thoughts, I'd be willing to entertain them at this
20 moment.

21 (NO RESPONSE.)

22 JUDGE LANE: No?

23 MR. STEINMEIER: Your Honor?

24 JUDGE LANE: Yes, sir.

25 MR. STEINMEIER: Just -- just to

1 clarify, you are only ruling on the consolidation
2 portion; you -- there is no ruling as yet on the
3 alternative remedies set out in that motion?

4 JUDGE LANE: That's correct,
5 Mr. Steinmeier. I'm only ruling on the motion to
6 consolidate. The other matters do not require
7 resolution at this -- at this moment.

8 MR. STEINMEIER: Thank you.

9 JUDGE LANE: Yes, sir. Having taken
10 care of those preliminary matters, I think we're
11 ready to proceed on -- I guess yesterday a list of
12 issues, order of witnesses and order of
13 cross-examination was filed, and I believe this is --
14 this is -- this is a joint -- joint notice indicating
15 those issues, and I thank the parties for their
16 efforts in getting that out on a very short -- short
17 period of time.

18 And that specifies the order and I
19 will -- I will go ahead and just to remind the
20 parties what the -- what the order is and anyone who
21 may be watching. Also appreciate the list of issues.
22 I understand it is not necessarily exclusive, but I
23 think it's a fine start to the major issues that are
24 presented by the application today.

25 According to the order of issues and

1 witnesses that was filed, we'll have opening
2 statements in the following order: Southern Missouri
3 Natural Gas followed by Staff, then Public Counsel,
4 then Ozark Energy Partners, then MGE, and then
5 Southern Star, but they won't be present so they will
6 not be presenting an opening statement.

7 And as far as the order of witnesses go,
8 we'll just go -- go with the -- with the witnesses as
9 they go along, but those -- those witnesses, the
10 order in which they will be called and
11 cross-examined -- cross-examined is also specified in
12 the order, so there's probably no need for me to go
13 over those. I just wanted to get the opening
14 statements straight since we want to get those
15 started as soon as possible.

16 So are the parties ready to proceed?

17 MR. FISCHER: Yes, your Honor.

18 MS. SHEMWELL: Yes.

19 JUDGE LANE: Very well. We will begin
20 with an opening statement on behalf of Southern
21 Missouri Natural Gas.

22 MR. FISCHER: Thank you very much, your
23 Honor. May it please the Commission. As you know,
24 my name is Jim Fischer and I'm representing Southern
25 Missouri Natural Gas in this proceeding. But before

1 we get into the real business, I do want to publicly
2 congratulate my partner and all the other Mizzou fans
3 for a great victory Saturday night. My Jayhawk
4 quarterback had a lot of sod on his helmet at the end
5 of the day, and as hard as it is for me to admit it,
6 we do have the No. 1 team in the country in Missouri,
7 and I hope they go all the way to the big 12.

8 So having said that and publicly
9 acknowledging it, I think we should go on to our
10 issues that are before the Commission.

11 This case is a case that involves the
12 application filed by Southern Missouri Natural Gas to
13 serve Branson, Hollister and Branson West. Southern
14 Missouri Natural Gas has a municipal franchise to
15 serve Branson and Hollister, and it's also requesting
16 a conditional certificate to serve Branson West,
17 conditioned upon the grant of admissible franchise by
18 the community of Branson West.

19 The original application filed by
20 Southern Missouri Natural Gas's predecessor, Alliance
21 Gas Energy Corporation, had also requested a
22 certificate to serve Reeds Spring. However, the
23 company has withdrawn that -- that request to serve
24 Reeds Spring since another company, Ozark Energy
25 Partners, has been granted the municipal franchise to

1 serve that community.

2 On August 16th, 2007, the Commission
3 issued its Report and Order in Case No. GA-2007-0212
4 which granted Southern Missouri Natural Gas a
5 Certificate of Convenience and Necessity to serve --
6 to serve Lebanon, Houston and Licking, conditioned
7 upon the company obtaining necessary financing to
8 expand into those areas.

9 Your Honor, at this time I'd ask the
10 Commission to take administrative notice of its
11 decision, the Report and Order in that case,
12 GA-2007-0212 which was issued on August 16th, 2007.

13 JUDGE LANE: That request is granted,
14 being the proper subject of official notice.

15 MR. FISCHER: Okay. In -- in that
16 decision, the Commission reaffirmed its criteria for
17 granting a Certificate of Convenience and Necessity.
18 There must be a need for the service, the applicant
19 must be qualified to provide the service, the
20 applicant must have the financial ability to provide
21 the service, the applicant's proposal must be
22 economically feasible and the proposed service
23 promotes the public interest.

24 In that decision issued just three
25 months ago, the Commission found that Southern

1 Missouri Natural Gas met those criteria and it
2 granted the company a Certificate of Convenience and
3 Necessity to serve Lebanon, Houston and Licking,
4 Missouri.

5 More specifically, the Commission found
6 that there was a public need for the service, the
7 Commission found that the granting of the company's
8 certificate for those services -- or service areas
9 would benefit the public by offering another choice
10 of energy providers, increasing operational
11 convenience and potentially decreasing energy costs.

12 The Commission specifically found that
13 the addition of natural gas will result in the
14 creation of jobs in the community by allowing the
15 city to attract new industries and aiding its
16 industrial base, its existing industrial base. The
17 Commission also found that the proposed service was
18 economically feasible and will meet a definite need
19 for those communities and will confer tangible
20 benefits upon those communities.

21 And finally, the Commission found that
22 the grant to the company was in the public interest.
23 The Commission did condition that order upon the
24 company presenting a financing proposal that would be
25 acceptable to the Commission, and the company has now

1 entered into a definitive agreement with an equity
2 and debt lender, but it needs a certificate for the
3 Branson area in order to finally close the
4 transaction with the equity provided in financing.

5 Now, in this case, Southern Missouri
6 Natural Gas will present essentially the same case as
7 it did in the Lebanon case. There's the same need
8 for natural gas and transportation services in
9 Branson, Hollister and Branson West. I don't really
10 think there's any dispute among the parties that
11 there is a need for gas in that region.

12 The evidence will also show that
13 Southern Missouri Gas is qualified to provide natural
14 gas service and has the financial ability to provide
15 the service. As the Commission knows, this company
16 has been providing natural gas and transportation
17 services to over 7,500 customers in southern Missouri
18 since 1994.

19 The evidence will also show that
20 Southern Missouri's proposal is economically
21 feasible. In fact, the economic feasibility study
22 that Southern Missouri Gas will be sponsoring in the
23 case is the same financial model that was approved in
24 the Lebanon case just three months ago. The only
25 real difference in this study is that there's an

1 additional cost of constructing a lateral pipeline
2 from Aurora to Branson.

3 In this case, the company is proposing
4 to recover the additional cost of constructing this
5 lateral to Branson by adding an additional 20 cents
6 per Ccf to the distribution usage charges. With the
7 addition of this charge, the Branson area customers
8 will pay for the cost of the lateral, and the
9 addition of the service area will not burden the
10 other Southern Missouri existing customers.

11 Finally, the evidence will show that the
12 proposed service to Branson, Hollister and Branson
13 West is clearly in the public interest. I have with
14 me today Randy Maffett, the President of Sendero
15 Capital Partners. He's the managing partner of
16 Southern Missouri Natural Gas. Mr. Maffett will
17 provide an overview of the company's application and
18 demonstrate that the approval of the application is
19 reasonable and in the public interest.

20 In particular, Mr. Maffett will testify
21 that there is a need for natural gas service and
22 transportation services in this region, and that the
23 company is financially and technically capable of
24 providing natural gas and transportation services to
25 these particular communities.

1 He will also sponsor the company's
2 economic feasibility study that shows that the
3 proposed service is economically feasible, and
4 finally, he'll demonstrate that the approval of the
5 applications would promote the general public
6 interest.

7 In addition, a little later today, the
8 mayor of Branson, Mrs. Raeanne Presley, is hopefully
9 going to be here and testify, and she will explain
10 the reasons why the City of Branson has been trying
11 to get natural gas service for a number of years.
12 She will testify about the public need for the
13 service and hopefully can answer any questions that
14 you might have about that area and the franchise that
15 that city has granted to our company. Finally,
16 she -- well, we'll just leave it at that.

17 The company believes that the Commission
18 should resolve this case in the same manner and with
19 the same result as the Commission resolved the case
20 involving the company's request to serve Lebanon,
21 Houston and Licking. The company believes it would
22 be appropriate to grant Southern Missouri a
23 conditional certificate to serve the requested areas
24 conditioned upon the company obtaining financing that
25 is acceptable to the Commission.

1 Unlike the last case, however, the
2 Commission's Staff has not issued a Staff
3 recommendation recommending the approval of the
4 application in this case. I believe Staff is going
5 to explain their position in more detail in a few
6 minutes in their opening statement, and since they
7 haven't filed a Staff recommendation or a Staff
8 report, I may not completely understand what their
9 position is.

10 But it's our understanding that the
11 principal concern Staff has is that Staff believes
12 that the Commission should add a new condition to the
13 grant of a certificate in this case. As I understand
14 Staff's position, Staff is recommending that the
15 condition that is contained in the list of issues
16 that's listed in the second issue should be added to
17 the certificate in this case.

18 In particular, that condition reads,
19 "Should the Commission specifically condition the
20 certificate upon the following agreement by Southern
21 Missouri Natural Gas Company?" And that condition
22 would be: "Southern Missouri Natural Gas agrees that
23 if at any time it sells or otherwise disposes of its
24 assets before Southern Missouri Natural Gas as
25 cost-based rates and a sale merger consolidation or

1 liquidation transaction at a fair value less than its
2 net original cost for those areas, the purchaser/new
3 owner shall be expected to reflect those assets on
4 its books at the purchase price or the fair value of
5 the assets rather than at the net original cost of
6 the assets."

7 Your Honor, Southern Missouri Natural
8 Gas is adamantly opposed to this new and
9 unprecedented condition. To our knowledge, this
10 condition and anyone -- anything like that has never
11 been added by the Commission to any Certificate of
12 Convenience and Necessity granted by the Commission
13 since the inception of the Commission in 1913.

14 Had it not been for the Staff's
15 insistence on this unprecedented condition, we
16 believe the case probably would have settled and
17 Staff would be recommending a position consistent
18 with the position it took in the Lebanon case just
19 three months ago.

20 The company is adamantly opposed to the
21 Staff's proposed condition because it would have the
22 effect of having Southern Missouri Natural Gas
23 attempt to bind some future purchaser of the
24 company's natural gas system on an agreement to use a
25 specific accounting adjustment that would cause an

1 immediate write-down of its rate base on its books if
2 that future buyer purchased the property at less than
3 book value.

4 As the Commission's well aware, the
5 Commission has strong precedence against allowing
6 acquisition premiums to be reflected in rates.
7 Similarly, the Commission has held that it will not
8 require a company to write down its rate base when
9 the assets are sold at less than book value. In this
10 state the Commission has consistently used net
11 original cost rate base when setting rates even if
12 the company paid more or less than book value for the
13 assets when it's purchased by the -- by another
14 company.

15 Southern Missouri believes that this is
16 an issue that's better left for the future when the
17 Commission knows what the situation will be, whether
18 the company's assets are being sold and at what price
19 and what the structure of the deal would be, whether
20 it's a stock purchase or an asset purchase.

21 According to our outside auditors, if
22 the transaction's a stock purchase, as was the case
23 when Sendero purchased the stock of DTE in 2004, then
24 it would not be appropriate under general
25 accounting -- generally accepted accounting

1 principals to write down the company's assets as the
2 Staff is apparently suggesting here.

3 But if the Commission adopted this
4 unprecedented condition in this case, it would be
5 prejudging a future rate case issue or a future sale
6 of assets issue even though there is really no need
7 to decide this -- that particular issue now.

8 More importantly, it will effectively
9 make it much harder for the company to ever sell
10 those assets since Southern Missouri Natural Gas
11 would have already agreed to a condition if it had
12 decided to go forward and build the distribution
13 system in Branson that would bind some future
14 purchaser.

15 There's no reason why a condition like
16 that couldn't be added at the time the sale was being
17 approved, but it's premature to try to forecast the
18 future and add that condition now when we're just
19 trying to go into the Branson, Branson West and
20 Hollister area.

21 Now, if Southern Missouri had agreed to
22 this condition, as apparently Ozark Energy -- Energy
23 Partners has done in this stipulation in Case
24 No. GA-2006-0561, Southern Missouri believes that
25 Staff would not be -- would not have a concern about

1 our application to serve Branson. Southern
2 Missouri's clearly capable of providing the service,
3 it's economically feasible and it's clearly in the
4 public interest.

5 Finally, there is one other intervenor,
6 Ozark Energy Partners, in this case which may be
7 actively participating. Southern Missouri's not sure
8 what position Ozark may take, but it's recently
9 suggested in pleadings before the Commission that my
10 client is trying to bully Ozark, railroad Ozark or
11 has entered into a plot against Ozark. None of these
12 allegations are correct, and such rhetoric in our
13 opinion has no place in the Commission proceedings.

14 Ozark Energy Partners does have a
15 municipal -- does not have a municipal franchise to
16 serve Branson. However, the City of Hollister has
17 granted both companies, my company and -- and Ozark,
18 to a franchise to serve Hollister. And apparently,
19 because both Southern Missouri and Ozark have a
20 franchise with Hollister, Ozark views these two
21 companies in a race to serve the Ozarks. Southern
22 Missouri does not view the situation in that way.

23 Southern Missouri does not believe that
24 it would be economic to bring natural gas to the
25 area -- to this area unless the City of Branson is

1 being served by a local distribution system. Our
2 application in this case is primarily intended to
3 serve Branson, and when that happens, it will be
4 possible to serve other municipalities including
5 Hollister and Branson West. However, without the
6 certificate to serve Branson, Southern Missouri does
7 not believe it would be economically feasible to
8 build a lateral pipeline to serve these outlying
9 areas.

10 Thank you very much for your attention
11 today and we look forward to your questions.

12 JUDGE LANE: Thank you, Mr. Fischer.

13 CHAIRMAN DAVIS: Judge, can I just ask
14 Mr. Fischer a couple of questions to clarify?

15 MR. FISCHER: Yes, sir.

16 CHAIRMAN DAVIS: Okay. Your last
17 statement, you said that without serving Branson, you
18 know, you didn't think it would be economically
19 feas -- I mean, correct me if I'm wrong, but if I
20 understood your last statement correct, you're saying
21 that it wouldn't be feasible to serve the outlying
22 areas of Branson without serving Branson; is that
23 correct?

24 MR. FISCHER: Yes, your Honor. From our
25 standpoint, Branson is the -- the -- the jewel, is

1 the anchor tenant in the -- in the area, and in order
2 to make that pipeline work going down to that area,
3 we need to have the Branson certificate.

4 CHAIRMAN DAVIS: Okay. All right. And
5 who's gonna testify -- is there anybody -- is anybody
6 gonna proffer expert witness testimony on that issue
7 today or --

8 MR. FISCHER: Yes, Mr. Maffett will be
9 the initial witness, and Mat Gimble is also available
10 if we go into more technical areas.

11 CHAIRMAN DAVIS: Okay. And Judge, do
12 we -- do we have a -- I see a map over there, but
13 that's a very -- very detailed -- I'm just trying to
14 figure out where Branson, Hollister and all these
15 other places in terms of the --

16 MS. SHEMWELL: If I may approach?

17 CHAIRMAN DAVIS: Okay.

18 MS. SHEMWELL: This was in the
19 application, so everyone should have it.

20 CHAIRMAN DAVIS: Okay.

21 MS. SHEMWELL: And I'll be happy to make
22 more copies, but here's Branson and Hollister.

23 CHAIRMAN DAVIS: Okay. Well, we may
24 need to -- okay. Thank you. I'll -- that will be
25 marked and be put in as an exhibit?

1 MS. SHEMWELL: Yes, sir.

2 JUDGE LANE: Yes.

3 MR. FISCHER: Any other questions?

4 CHAIRMAN DAVIS: No, thank you, not at
5 this time, Mr. Fischer.

6 MR. FISCHER: Thank you.

7 JUDGE LANE: Thank you. The next
8 opening statement will be from Staff, but before we
9 do that, I noticed you've been joined at counsel
10 table by another attorney.

11 MS. SHEMWELL: No. This is Mr. Imhoff.
12 He's Staff.

13 JUDGE LANE: I'm sorry. I did not know.
14 I just wanted to -- just wanted to make sure. Yes.

15 MS. SHEMWELL: Thank you.

16 JUDGE LANE: Please proceed.

17 MS. SHEMWELL: Before I start, I'd note
18 for the record that the map that I showed Chairman
19 Davis is part of the application, so it's already in
20 the case. Good morning, I'm Lera Shemwell. I
21 represent the Staff in this case.

22 We generally think of competition as a
23 good thing that may result in lower prices, but when
24 it comes to the provision of utility services,
25 competition may be destructive, and that's the entire

1 reason that the Commission was created in 1913.

2 Competition in gas utilities creates a
3 number of problems, including duplication of service
4 and gas safety concerns. Staff does not believe that
5 this case is like the Lebanon case. It's very
6 different from Lebanon.

7 Branson is going to be much more
8 expensive to serve because of the need to install the
9 lengthy service line. I'll point to that on the map,
10 that red line, much longer than the line to serve
11 Lebanon. The topography in this area is very
12 difficult in that you have to excavate through rock
13 which makes it very expensive to lay pipe.

14 There's limited industrial, however,
15 enormous commercial activity in Branson. A
16 duplication of service is not an answer as far as
17 Staff is concerned. It's been Staff's experience
18 that natural gas systems in smaller communities with
19 competition from propane struggle to generate
20 sufficient revenue to support the cost of
21 constructing the system.

22 When there's competition for propane and
23 electric as there is in this area, it's difficult for
24 a natural gas utility company to become profitable.
25 That's one of the reasons that Staff likes to see the

1 applicant take responsibility for the financial
2 success of the company. Mr. Fischer discussed that
3 at some length, the provision that Staff had asked
4 for. That's part of the list of issues.

5 And Mr. Oligschlaeger will explain to
6 the Commission why Staff believes that not only is
7 this not a new or unique provision, but one that's
8 been adopted in many Certificates of Convenience and
9 Necessity for the smaller pipelines perhaps in a
10 different form. But there's a reason that MGE which
11 already serves in this area has not expanded into
12 Branson, and I'm sure that they'll be able to explain
13 some of the reasons.

14 However, once Alliance and Ozark Energy
15 Partners submitted applications that were at least
16 mostly complete, Staff started working with both
17 applicants to try to reach a stipulation and
18 agreement. Staff was able to reach agreement with
19 Ozark Energy Partners. They worked with Staff to
20 resolve Staff's concerns, and we worked quite
21 diligently and we recommend that the Commission issue
22 OEP a conditional certificate dependent upon
23 financing.

24 CHAIRMAN DAVIS: We're taking both of
25 these at the same time?

1 JUDGE LANE: Both applications. We're
2 consolidating.

3 CHAIRMAN DAVIS: That's what I thought
4 so I wondered why she's talking about OEP.

5 MS. SHEMWELL: If I may answer that, I
6 would say that certainly the cases have not been
7 consolidated but they're closely related.

8 The Commission's question that it needs
9 to answer in this case is whether or not natural gas
10 service is in the public interest and is it an
11 improvement justifying the cost? Again, in this
12 case, the cost is going to be quite high.

13 Branson is a built-up area. It's not
14 like they can go into areas of new construction where
15 there aren't any sidewalks or streets and build the
16 system then. And that's a time when it's most
17 economic to put in a natural gas system.

18 Public convenience and necessity is not
19 the desire for other facilities. It must be clearly
20 shown that there is a failure, breakdown,
21 incompleteness or inadequacy in existing regulated
22 facilities in order to prove the public
23 inconvenience, requiring the issuance of another
24 certificate.

25 There is propane service in this area.

1 That clearly is not a regulated activity. There's
2 both electric from Empire and electric from co-ops in
3 the area. There has not been a breakdown in existing
4 service. However, there does seem to be a demand for
5 natural gas service.

6 And the history of this area is that a
7 number of companies have tried to go into this area
8 but have been unable to obtain financing. And that's
9 why Staff suggests that that is the true test of the
10 financial viability of building a system in Branson,
11 is the ability of the applicants to get reasonable
12 financing on reasonable terms.

13 SMNG is an existing company. Staff does
14 not doubt that it is qualified to provide the
15 service. However, Staff is also not under the
16 impression that Southern Missouri Natural Gas's
17 current system has been able to develop or generate
18 enough revenue to support its costs, and therefore
19 has not become an economically strong revival system.

20 This is true despite the fact that
21 Sendero purchased the Southern Missouri Natural Gas
22 assets from DTE at significantly less than book
23 value. While we think that Lebanon might add to
24 SMNG's financial situation, we are not convinced that
25 Branson will.

1 As I said, Branson is a
2 capital-intensive area to build. The cost to
3 construct the pipeline from Southern Star is
4 significant, and then building in an already
5 established, well-built-up area with lots of
6 sidewalks, parking lots, established landscaping and
7 traffic is a challenge in comparison to building in a
8 new subdivision.

9 In this case, however, Staff is
10 recommending that if the Commission decides to grant
11 a Certificate of Convenience and Necessity, it
12 condition that on the company's ability to get,
13 again, financing acceptable to the Commission which
14 is at reasonable cost, and then whichever company,
15 since we have competing certificates, could actually
16 begin construction first so that the company that
17 would essentially win and receive a final CCN would
18 be the company that could get reasonable financing
19 and actually begin construction.

20 In terms of the condition that's shown
21 in the list of issues, Staff would indicate that this
22 condition is not new, is not a new approach for the
23 Staff, and Mr. Oligschlaeger will be happy to discuss
24 that with the Commission.

25 Staff believes that the risk of

1 financial viability should remain on the company.
2 It's part of Southern Missouri Natural Gas's CCN in
3 its existing territory that they take responsibility
4 for the lack of conversions, if that happens, and the
5 inability of the company to generate sufficient
6 revenue to recover its cost and charge cost-based
7 rates. That's why Staff recommended this particular
8 condition and does note that OEP did accept that
9 particular condition.

10 Staff would recommend that all of the
11 conditions in the stipulation that it entered into
12 with OEP also be conditions that SMNG would need to
13 meet to serve this area for their service to be in
14 the public interest.

15 Staff would also note that Mr. Fischer
16 mentioned a sale. If the sale is the stock of the
17 company, the Commission does not generally become
18 involved in those sales, so the Commission might not
19 pass on this at a later date.

20 Also, the condition really only arises
21 if the company is for sale, and that's something that
22 we will address with Mr. Maffett, his concerns with
23 this particular condition when his concerns would
24 arise and who is willing to accept the risk of
25 financial feasibility of the system.

1 I have a document, Staff's position on
2 the issues, that we intend to file later. Would the
3 Commission find it convenient to have that now?

4 JUDGE LANE: I would think -- I would
5 think so. It's something that we've kind of been
6 waiting on for a period of time. Thank you. All
7 right. This will be marked and offered?

8 MS. SHEMWELL: Yes, or we'll file it if
9 that's --

10 JUDGE LANE: Or file it?

11 MS. SHEMWELL: Or file it, yes.

12 JUDGE LANE: All right. But I have
13 enough copies for everyone. Thank you.

14 COMMISSIONER MURRAY: Ms. Shemwell?

15 MS. SHEMWELL: Yes.

16 COMMISSIONER MURRAY: Judge, may I? I
17 just have -- I just have a couple of questions for
18 you.

19 MS. SHEMWELL: Yes, ma'am.

20 COMMISSIONER MURRAY: In your opening
21 statement, it appeared that you were indicating that
22 Staff would not be opposed to granting two
23 certificates for the same areas.

24 MS. SHEMWELL: That is correct.

25 However, they should both be conditional. We do not

1 believe that the area can actually support two
2 natural gas utilities, so we would not support -- we
3 don't think it's in the public interest for the
4 Commission to issue unconditional certificates to
5 both.

6 We think that probably the best way to
7 proceed is to let the companies see if they can
8 obtain financing from a sophisticated lender. And if
9 they can convince a lender of the viability of their
10 system, then that's a good indication that they have
11 convinced someone who's willing to put their money
12 out there that this system can become viable. That
13 should be one of the conditions.

14 And the other condition is that
15 whichever company can actually begin construction in
16 the area first, to provide natural gas service in the
17 area. Financing has been the challenge for this
18 system in the past. Other people have come in with
19 applications to serve Branson, particularly Alliance,
20 but they haven't been able to get financing.

21 So our recommendation would be if the
22 Commission decides to issue two certificates, that
23 they both be conditional.

24 COMMISSIONER MURRAY: And just let it
25 then be sort of a race for financing?

1 MS. SHEMWELL: Exactly. And who can
2 begin construction initially so that service gets to
3 the area quickly because we have had certificates
4 granted to Branson and construction hasn't started in
5 the past and -- because of the inability to get
6 financing. So if they can get financing and actually
7 begin construction. Mr. Chairman? I'm sorry.

8 COMMISSIONER MURRAY: Okay. Thank you.

9 CHAIRMAN DAVIS: Okay. So Ms. Shemwell,
10 is it who begins construction first or who gets solid
11 financing first, or is it a combination thereof?

12 MS. SHEMWELL: Mr. Chairman, we would
13 suggest that the company that can get financing would
14 come into the Commission, show their financing to
15 Staff. We have specific provisions for financing
16 applications. Clearly, if they were able to get a
17 loan but it was at 20 percent interest or there were
18 some other onerous conditions, then Staff would not
19 support that particular application.

20 The Commission would grant a CCN to that
21 company who could show that they were ready to begin
22 construction. Now, you would know that they were
23 ready to begin construction because they had
24 contracts in place, they had contractors lined up,
25 they were actually ready to --

1 CHAIRMAN DAVIS: Okay.

2 MS. SHEMWELL: -- start moving earth.

3 CHAIRMAN DAVIS: And so all of the
4 things that apply to Southern Missouri Natural Gas
5 also apply to OEP's application too, correct?

6 MS. SHEMWELL: That would be our
7 recommendation.

8 CHAIRMAN DAVIS: Well, in -- but just in
9 terms of the general, you know -- you know, having to
10 drill through rock, et cetera, being -- there's
11 nothing about the terrain that -- that OEP is trying
12 to serve that's any different from the terrain that
13 SMNG is trying to serve, is there?

14 MS. SHEMWELL: Not that I'm aware of.
15 As far as I know, the terrain is the same.

16 CHAIRMAN DAVIS: Okay.

17 MS. SHEMWELL: There is a difference in
18 the two plans, however.

19 CHAIRMAN DAVIS: Okay. And what -- what
20 is -- what is the difference?

21 MS. SHEMWELL: OEP's plan is highly
22 confidential, unless they're going to change that.

23 CHAIRMAN DAVIS: Okay. Well, we can --
24 we can --

25 MR. STEINMEIER: No, not here at the

1 moment.

2 CHAIRMAN DAVIS: -- we can --

3 MR. STEINMEIER: We'd be more than
4 pleased to discuss it in-camera.

5 CHAIRMAN DAVIS: All right. Well, we
6 can -- we can go in-camera later. I'll skip -- I'll
7 skip that question for the time being. And is
8 Staff's recommendation in this case based in part on
9 its experiences with Missouri Pipeline Company and,
10 you know, the -- you know, the situation where I
11 guess Aquila originally built that pipeline, you
12 know, down to that area and then it was sold and
13 then -- you know, we have all of this history with
14 all of our current actors?

15 MS. SHEMWELL: Yes, sir, yes, sir. Not
16 that so much as we have MGU as well, and we have the
17 West Plains system. And these are small systems in
18 small areas, and because of the lack of concentrated
19 population, they have a very difficult time earning
20 enough revenue to get cost-based rates which always
21 leaves them precarious financially.

22 Let's take MGE, for example, since
23 they're here. They add incrementally to their system
24 so that they can afford to do that because they have
25 a big base of customers that supports that addition.

1 But when you're going out into an area and you don't
2 have any customers and you have to build a line out
3 to that, the costs are significant. When you couple
4 that with competition from propane and electric, then
5 you really get a situation where economic viability
6 is a challenge.

7 We have seen them become profitable, and
8 you mentioned the pipelines, because eventually the
9 initial owner sells at a deep discount. The new
10 owner then has less interest to pay and they have a
11 greater chance of becoming economically viable
12 because their rate base is lower, so they don't have
13 as much of a loan to pay.

14 Sometimes it's a third sale and at the
15 end of the line.

16 CHAIRMAN DAVIS: Right.

17 MS. SHEMWELL: And that's why Staff is
18 looking at customers not bearing the responsibility
19 for the financial viability. We have applicants who
20 say we can come in and we can make a -- we can make
21 it work. When they can't, we don't want that risk
22 shifted to customers --

23 CHAIRMAN DAVIS: Right.

24 MS. SHEMWELL: -- but we want customers
25 served.

1 CHAIRMAN DAVIS: Right. And I know you
2 stated your position in terms of what convenience and
3 necessity means. Obviously, here in Branson there --
4 you have regulated electric providers, which that's
5 Empire Electric.

6 MS. SHEMWELL: Yes, sir.

7 CHAIRMAN DAVIS: Okay. They -- you
8 know, in terms of Missouri's four investor-owned
9 electric utilities, I would assume that their rates
10 are either the highest or next to highest, you know,
11 with Aquila's. I'm not sure who would probably be
12 higher at this point.

13 Have you done -- has Staff looked at
14 the -- you know, where natural gas has come into
15 these smaller communities, what it has done for the
16 overall energy costs of consumers in that area,
17 particularly with regard to propane, for instance?

18 You know, I know here in Jefferson City,
19 that if you call the propane company and say, I want
20 some propane, they'll ask you where you live because
21 they have a different price for you depending on
22 whether or not they are in an area where competition
23 exists. So has Staff looked at that issue at all?

24 MS. SHEMWELL: Again, I'll go back to
25 Staff's experience in other areas and we have looked

1 at the issue. Propane -- the primary cost, as you
2 know, Mr. Chairman, is the cost of the commodity
3 itself.

4 CHAIRMAN DAVIS: Correct.

5 MS. SHEMWELL: The cost of propane has
6 gone up recently while natural gas has not. However,
7 the propane dealers have been there for years,
8 they're their neighbors in Branson. We expect people
9 would do some conversions, but we don't think
10 electric consumers are going to convert until they
11 have to replace their furnaces. That's why it's best
12 if you can get in when a system -- or when a land is
13 under development.

14 CHAIRMAN DAVIS: Right.

15 MS. SHEMWELL: So when the --

16 CHAIRMAN DAVIS: Right.

17 MS. SHEMWELL: -- cost of commodity is
18 something that's beyond anyone's control, and that's
19 a primary cost, it's of benefit perhaps to
20 industrials who can switch back and forth easily.
21 Branson, however, is not a heavy industrial area,
22 it's a heavy commercial area.

23 CHAIRMAN DAVIS: Right.

24 MS. SHEMWELL: Lebanon, in contrast, has
25 industrial consumers.

1 CHAIRMAN DAVIS: Right.

2 MS. SHEMWELL: So that was part of our
3 thinking in this area. Whether or not it might lower
4 prices, we would not expect it to lower electric
5 prices.

6 CHAIRMAN DAVIS: Okay.

7 MS. SHEMWELL: In terms of propane,
8 again, it's more likely to be effective in areas that
9 are being built.

10 CHAIRMAN DAVIS: Got it. All right.
11 Thank you, Ms. Shemwell.

12 MS. SHEMWELL: Yes, sir.

13 JUDGE LANE: Thank you very much.
14 Mr. Poston, for the Office of Public Counsel?

15 MR. POSTON: Thank you. May it please
16 the Commission. My name is Marc Poston and I
17 represent the Office of the Public Counsel and the
18 public. I've got a bit of a cough today, so I
19 apologize if I start hacking halfway through this.

20 Expanding the gas distribution system
21 into a new area includes a great deal of risk, and
22 our primary concern is with defining who shoulders
23 the burden should Southern Missouri be wrong with its
24 feasibility estimates. There are several groups of
25 people to consider here. There are the existing

1 customers, and that is the 8,000-plus customers
2 currently served by Southern Missouri. There are the
3 new customers in the proposed area, and then there
4 are the investors.

5 For the sake of new customers, we
6 welcome the introduction of natural gas into new
7 markets. But the investors should bear 100 percent
8 of the financial risk should Southern Missouri's
9 feasibility study be incorrect in its assumptions
10 that the service expansion is cost effective.

11 Existing customers should be held
12 harmless against Southern Missouri's decision to
13 serve Branson, which is a rocky area that certainly
14 has higher excavation costs as you heard Ms. Shemwell
15 talk about.

16 In Case GA-2007-0212 which is the
17 certificate area application for Lebanon, Houston and
18 Licking which the Commission conditionally approved
19 in its August 16th Report and Order, in that order
20 the Commission conditioned its certificate on
21 Southern Missouri's investors shouldering the risk
22 should the company's estimated conversion rates,
23 those converting to natural gas, not be achieved.

24 At a minimum, the Commission should
25 place this same condition on Southern Missouri in

1 this case as well. This condition in addition to the
2 condition that the Commission approve Southern
3 Missouri's financing.

4 In his descent from the order in the
5 Lebanon case, Commissioner Clayton wrote that before
6 the Commission grants certificate power to a utility,
7 quote, it must do more to ensure that current and
8 future ratepayers are sufficiently protected from
9 potential risk of this business venture, closed
10 quote.

11 That's exactly what this is, a business
12 venture of Southern Missouri's investors. And just
13 like the investors of a truly competitive business
14 venture must bear the financial risk of a failed
15 venture, Southern Missouri's investors should
16 shoulder all the financial risks here. The investors
17 are the ones saying this project is feasible, not
18 consumers. And we are also very skeptical of
19 Southern Missouri's rosy projections for customer
20 growth and conversions.

21 Public Counsel is also concerned with
22 the last minute addition by Southern Missouri into
23 its application to raise rates above the approved
24 tariff rates by 20 cents per Ccf. For a customer
25 using 100 Ccfs in a month, this would be a \$20 rate

1 increase.

2 We question whether Southern Missouri
3 has met its burden of supporting this single-issue
4 rate increase, and we question the legality of this
5 rate increase outside a rate case, and these legal
6 issues we will address in our brief. Thank you.

7 JUDGE LANE: Thank you, Mr. Poston.
8 Next opening statement will be Ozark Energy Partners.

9 MR. STEINMEIER: Thank you, your Honor.
10 May it please the Commission. More than 25 years ago
11 I decided I did not want to become a trial lawyer.
12 I'm a preacher's kid. In your face is not the way I
13 was raised. So I applied for a job as a hearing
14 examiner at the Missouri Public Service Commission
15 and was offered that job and moved on to what was,
16 for me, a more comfortable side of the bench.

17 Well, here I am today appearing before
18 that same Commission as an advocate, and ironically
19 embroiled in what has become a hotly contested battle
20 for a Certificate of Convenience and Necessity to
21 bring natural gas service to the Ozarks. And
22 opposing counsel are former colleagues and still, I
23 hope, friends, yet we each have a professional
24 responsibility to advocate on behalf of our clients
25 vigorously and honestly.

1 While the situation is uncomfortable for
2 me personally, I have a job to do. I am here to
3 advance the cause of my client, Ozark Energy
4 Partners, LLC. I am further strengthened in this
5 endeavor by the fact that I believe in our client.
6 Ozark Energy Partners does not aspire to become the
7 next Enron or even the next SMNG. It is not trying
8 to build assets or apparent assets to sell on the
9 market to others. Rather, OEP aspires to finally
10 bring natural gas home to the Ozarks, to build it and
11 operate it and see it through for the long haul in
12 the beautiful and fast-growing Ozarks region of our
13 great state.

14 Dan Eppes is the managing director of
15 OEP. His grandfather, a former mayor of the City of
16 Branson, helped bring Table Rock Dam to fruition, and
17 Dan is wholeheartedly committed to bringing natural
18 gas to the Ozarks. His energy and enthusiasm inspire
19 all of us who work with him on this project.

20 In this hearing, the Commission will
21 hear evidence that Appendix C to SMNG's application
22 is not really a feasibility study for its proposed
23 Branson expansion, but is simply a financial model
24 designed to attract money from the market.
25 Appendix C does not even meet the Commission's

1 minimum requirements for a feasibility study. It is
2 woefully inadequate, confusing and
3 self-contradictory, and SMNG has not carefully
4 evaluated the Branson-specific information that it
5 needed to in order to present convincing evidence
6 that its proposal in this case is economically
7 viable.

8 The Commission will hear evidence that
9 SMNG has sent dishonest information into the
10 community it wishes to serve declaring itself to
11 already hold an exclusive franchise to bring natural
12 gas to the area. SMNG was granted a conditional
13 certificate to bring -- to provide gas to Lebanon,
14 Houston and Licking on an expedited basis in August,
15 but has not yet begun construction there. Now it is
16 seeking approval of financing in that case that would
17 finance its proposed Branson expansion in this case
18 as well.

19 At the end of the week, at the end of
20 this hearing and of the hearing on Ozark Energy
21 Partners' application, we believe that the Commission
22 will see that SMNG has not demonstrated the economic
23 feasibility of its plan to expand into the Ozarks
24 region. It's not strong enough financially to
25 undertake the expansive new territories it seeks and

1 is not amenable to regulation.

2 At the same time, we believe the
3 Commission will also see that Ozark Energy Partners
4 presents a fresh outlook on how to bring natural gas
5 to the Ozarks, has a sound and creative
6 Ozarks-specific feasibility study to prove it, and
7 should be the company which receives a conditional
8 Certificate of Convenience and Necessity from this
9 Commission, providing it the opportunity to bring
10 natural gas home to the Ozarks region.

11 And one additive, Mr. Chairman, just to
12 point out that the -- the OEP plan is classified as
13 highly confidential, but it's clearly set out in the
14 feasibility study filed in GA-2006-0561. Thank you
15 very much.

16 JUDGE LANE: Thank you, sir. I just
17 want to remind the parties that the commissioners
18 will be leaving shortly for agenda, but we have only
19 one opening statement left, and that's going to be on
20 behalf of Missouri Gas Energy. Mr. Cooper?

21 MR. COOPER: Good morning. I do
22 represent Missouri Gas Energy here today which is an
23 intervenor in this matter. MGE's interest in this
24 matter is twofold, and this will echo some comments
25 that were -- were made by Ms. Shemwell earlier.

1 First, MGE is concerned as to the
2 possible duplication of natural gas facilities in
3 some of the areas that have been requested by
4 Southern Missouri Gas. And second, MGE is concerned
5 as to some safety issues related to construction and
6 maintenance of two natural gas systems in close
7 proximity to one another.

8 MGE's concerns relate primarily to what
9 has been described in the application as the Branson
10 route only, and I think that's on a highly
11 confidential document that you will see if you have
12 not already. The proposed route overlaps MGE's
13 certificated territory in several sections, and is in
14 sections adjacent to MGE's territory in many other
15 places.

16 To address MGE's concerns, MGE would
17 suggest that if a certificate is issued to Southern
18 Missouri, that, one, that certificate for the Branson
19 route only as it's described in the application be
20 limited to a line certificate, and that such
21 certificate be further conditioned on a requirement
22 that Southern Missouri Gas coordinate its
23 construction of the Branson route with MGE so that
24 potential conflicts may be addressed. That's all I
25 have. Thank you.

1 JUDGE LANE: Thank you very much.

2 COMMISSIONER MURRAY: One question,
3 please.

4 JUDGE LANE: Commissioner Murray?

5 COMMISSIONER MURRAY: Mr. Cooper, are
6 you -- does MGE also have the same concerns regarding
7 the other application?

8 MR. COOPER: I'm hesitating for a moment
9 just because of some things that Mr. Steinmeier said
10 in terms of what portions of their proposal are
11 highly confidential. Probably the easiest way to
12 answer that question is that, as to the OEP
13 application, Missouri Gas Energy has entered into a
14 stipulation and agreement with OEP that addresses
15 MGE's concerns.

16 COMMISSIONER MURRAY: All right. Thank
17 you.

18 JUDGE LANE: That completes the set of
19 opening statements. Southern Missouri Natural Gas as
20 the applicant will proceed first with their
21 witnesses. And the first witness that is scheduled
22 is Mr. Randal Maffett, so if you would please
23 approach, sir, the witness stand.

24 Before we proceed any further, I'd like
25 to ask if the parties would have any objection to a

1 recess for approximately one hour so that the
2 commissioners who are here now can go through the
3 agenda, complete their business and come here -- come
4 back to -- to be present for the testimony of
5 Mr. Maffett?

6 MR. FISCHER: We certainly would
7 appreciate that opportunity, your Honor.

8 MS. SHEMWELL: Staff has no problem with
9 that.

10 MR. STEINMEIER: No objection, your
11 Honor.

12 MR. COOPER: That's fine.

13 JUDGE LANE: All right. Hearing no
14 objection, then, we are adjourned for one hour. We
15 will reconvene at 10:30. Thank you.

16 (A RECESS WAS TAKEN.)

17 (EXHIBIT NOS. 1, 2 NP AND HC AND 3 NP
18 AND HC WERE MARKED FOR IDENTIFICATION BY THE COURT
19 REPORTER.)

20 JUDGE LANE: Well, we're back on the
21 record in GA-2007-0168. And when we took our break,
22 we were ready for the direct examination of SMNG's
23 first witness, Mr. Randal Maffett. So Mr. Maffett,
24 if you would come to the witness stand?

25 Mr. Maffett, will you spell your name

1 for the court reporter, please.

2 MR. MAFFETT: M-a-f-f-e-t-t.

3 JUDGE LANE: And that's Randal with

4 one L?

5 MR. MAFFETT: Correct.

6 JUDGE LANE: Please raise your right

7 hand to be sworn.

8 (THE WITNESS WAS SWORN.)

9 JUDGE LANE: Thank you very much.

10 Direct examination. You may proceed.

11 MR. FISCHER: Thank you, Judge.

12 DIRECT EXAMINATION BY MR. FISCHER:

13 Q. Mr. Maffett, will you please state your
14 name and address, business address for the record.

15 A. Randal T. Maffett, 1001 Fannin Street,
16 Suite 550, Houston, Texas 77002.

17 Q. And what is your position in
18 relationship with Southern Missouri Natural Gas?

19 A. I am one of the owners and the managing
20 partner.

21 Q. Would you briefly just describe your
22 education experience? I have a resumé I'm going to
23 introduce, but just briefly, for the record, tell
24 what your background is.

25 A. Yes. I've been in the natural gas and

1 energy industry for 25-plus or minus years. I have a
2 petroleum engineering degree from Louisiana State
3 University.

4 MR. FISCHER: Judge, rather than go
5 through his background in any more detail, I'd just
6 like to have his resumé marked as an exhibit.

7 JUDGE LANE: Any objection to that
8 procedure?

9 (NO RESPONSE.)

10 JUDGE LANE: All right. I think it will
11 save some time.

12 MR. FISCHER: I gave the court reporter
13 the exhibits that we've marked this morning.

14 JUDGE LANE: Could we -- could we have a
15 copy for the chairman as well?

16 MR. FISCHER: Oh, I'm sorry. Sure.

17 JUDGE LANE: All right. Exhibit 1 has
18 been marked, the resumé of Randal T. Maffett.

19 BY MR. FISCHER:

20 Q. Mr. Maffett, can you identify your
21 resumé there?

22 A. If somebody shows it to me. That's it.

23 Q. Okay. Does it accurately describe your
24 background?

25 A. I believe it does.

1 MR. FISCHER: I move for the admission
2 of Exhibit No. 1.

3 JUDGE LANE: Any objections?

4 MS. SHEMWELL: None.

5 JUDGE LANE: Hearing none, Exhibit 1 is
6 offered and admitted into evidence.

7 (EXHIBIT NO. 1 WAS RECEIVED INTO
8 EVIDENCE AND MADE A PART OF THE RECORD.)

9 BY MR. FISCHER:

10 Q. Have you also previously testified
11 before this Commission?

12 A. Yes, sir, I have.

13 Q. Can you describe which cases you were
14 involved with?

15 A. Most recently, the Certificate of
16 Convenience and Necessity related to the Lebanon,
17 Houston and Licking expansions, and prior to that,
18 related to a PGA filing.

19 Q. Were you also involved in the actual
20 sale case as well when -- when -- when your company
21 was involved with purchasing Southern Missouri
22 Natural Gas?

23 A. Yes, I was.

24 Q. Would you please explain the nature of
25 Southern Missouri Natural Gas's application for a

1 Certificate of Convenience and Necessity in this
2 proceeding?

3 A. Southern Missouri is requesting a
4 Certificate of Convenience and Necessity to expand
5 its service territory to include the municipalities
6 of Branson, Branson West and Hollister, Missouri.

7 Q. And what are your plans -- how do you
8 plan to go about doing that?

9 A. We would construct, own and operate,
10 maintain the entire system, including a trunk line
11 lateral from Aurora, Missouri down to the Branson
12 area and all the distribution facilities required to
13 service the area.

14 Q. Mr. Maffett, are you sponsoring the
15 application -- the first amended application and the
16 second amended application and the attached exhibits
17 that were filed in this case?

18 A. Yes, sir.

19 MR. FISCHER: Your Honor, at this time
20 I'd like to have those marked as exhibits. There
21 is -- the first exhibit would be the first amended
22 application, HC version and NP version, and the
23 second exhibit would be -- or actually, the third
24 exhibit, I guess, would be the second amended
25 application, an HC version and an NP version, and

1 I've already provided those to the court reporter.

2 JUDGE LANE: And they've been marked as
3 Exhibit 2 being the first amended application, NP and
4 HC versions?

5 MR. FISCHER: Yes.

6 JUDGE LANE: And Exhibit 3 being the
7 second amended application, being NP and HC versions?

8 MR. FISCHER: Yes.

9 BY MR. FISCHER:

10 Q. Mr. Maffett, would you describe the --
11 the exhibits, the first amended application and the
12 second amended application?

13 A. The first amended application -- I'm
14 trying to look at the date when it was submitted. I
15 guess this -- no, sorry. This was submitted
16 August 10th, 2007; is that correct?

17 Q. Yes. I think that's on the certificate
18 of service.

19 A. This was just a -- an amended
20 application mentioning the motion to substitute
21 parties for Southern Missouri Natural Gas for
22 Alliance Gas Energy. It also included a metes and
23 bounds legal description and a copy of Southern
24 Missouri's feasibility study.

25 Q. Okay. Was -- was that prepared by you

1 or under your direction?

2 A. Yes, it was.

3 Q. And is it accurate and -- best of your
4 knowledge and belief?

5 A. Yes, sir.

6 Q. Okay. And then --

7 JUDGE LANE: Excuse me. Are you
8 referring to the NP or HC version or both?

9 THE WITNESS: Both.

10 JUDGE LANE: All right. Thank you.

11 BY MR. FISCHER:

12 Q. And then the second amended application
13 was filed to correct a couple of concerns in the
14 first amended application; is that right?

15 A. Correct, yes. It was filed to correct
16 some of the metes and bounds legal description and
17 also to correct the description of the additional
18 charges to pay for the lateral.

19 Q. And was that prepared by you or under
20 your direction?

21 A. Yes, sir, both versions.

22 Q. And are -- are all of the exhibits
23 accurate to the best of your knowledge and belief?

24 A. They are.

25 MR. FISCHER: Judge, I would move for

1 the admission, then, of Exhibits 2 and 3, both the NP
2 and the HC versions.

3 JUDGE LANE: Exhibits 2 and 3 as
4 previously marked have been offered into evidence by
5 SMNG. Any objections?

6 (NO RESPONSE.)

7 JUDGE LANE: Hearing none, they are
8 admitted.

9 (EXHIBIT NOS. 2 AND 3 NP AND HC WERE
10 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
11 RECORD.)
12 BY MR. FISCHER:

13 Q. Mr. Maffett, are there other witnesses
14 available from the company to answer technical
15 questions regarding these applications if necessary?

16 A. Yes, sir. Mathew Gimble who is our
17 chief analyst and chief financial officer is
18 available to answer questions which might be beyond
19 my knowledge in the economic feasibility study, and
20 Mr. Michael Lewis is available to answer construction,
21 operations, engineering, project-management-related
22 questions.

23 Q. Okay. Will your proposed project
24 benefit the citizens of the State of Missouri in the
25 proposed service areas?

1 A. Absolutely. The project will provide a
2 number of different benefits, first and foremost to
3 provide an alternative choice of energy for the
4 citizens of the area.

5 Secondly, with propane costs being at
6 the levels they're at, it would provide a significant
7 cost reduction for those who have the ability to
8 convert.

9 And third, it would provide -- in
10 addition to providing additional jobs for the area,
11 it would also be an economic -- economic stimulus for
12 future development.

13 Q. Can you describe the investments that
14 you propose to be making in this project?

15 A. Yes, sir. The -- the capital
16 expenditures that we've estimated include
17 approximately \$18 million to build the 35-mile
18 lateral from Aurora to the Branson area, and
19 approximately six to six and a half million dollars
20 to develop and build out the distribution system
21 itself. So total cap ex is in the range of about
22 \$24 million.

23 Q. Do you believe that that would have a
24 beneficial effect on the economies of southwest
25 Missouri?

1 A. We do for the reasons previously stated.

2 Q. Okay. Would you just identify for the
3 record the -- the municipalities that you'd like to
4 serve?

5 A. Branson, Branson West and Hollister.

6 Q. And you have franchises in which of
7 those communities?

8 A. We have a franchise in Branson, we have
9 a franchise in Hollister and we are waiting for
10 Branson West.

11 Q. Have you had expressions of interest in
12 Branson West?

13 A. We have. We've had direct meetings with
14 the mayor, with the city administrator on a number of
15 occasions, and they're very interested.

16 Q. Mr. Maffett, can you give the Commission
17 an idea of the number of people or households that
18 are in those communities?

19 A. According to the 2000 U.S. Census
20 Bureau, Branson was shown with a population of 6,050
21 and 3,366 households. Hollister was shown with a
22 population of 3,867 with 1,931 households, and
23 Branson West with a population of 408 with 161
24 households. So the total for the three areas,
25 population is approximately 10,325, and the number of

1 households, 5,458.

2 Q. Do these communities have natural gas
3 available currently?

4 A. No, sir, they do not.

5 Q. During the opening statement of Missouri
6 Gas Energy, I heard counsel express a concern about
7 the lateral going down from Aurora to Branson and how
8 close in proximity that might be to some of the
9 Missouri Gas Energy facilities. Do you have any
10 comments to -- that would alleviate those concerns?

11 A. Yes. With respect to the duplicity of
12 service, Southern Missouri would not nor does it
13 intend to try or attempt to serve any customers that
14 are already in areas certificated to Missouri Gas
15 Energy or any other regulated utilities. So our --
16 our sole purpose for the trunk line, or the Branson
17 lateral as we call it, is to basically effect gas
18 from Southern Star's main line pipeline system down
19 to the Branson area.

20 Q. Have you had discussions with MGE to try
21 to resolve any issues related to that?

22 A. We have. We are -- I believe we are
23 very close to having a settlement agreement that
24 would address those issues to MGE's satisfaction.
25 Essentially, we would agree not to serve or attempt

1 to serve people that are already in their
2 certificated areas.

3 And with respect to where our system
4 does overlap with theirs, we have agreed in principle
5 that we would coordinate any farm taps or any other
6 services that could be duplicative or overlapping.

7 Q. Changing gears a little bit, is there a
8 public need for natural gas service in the areas that
9 you're proposing to serve?

10 A. We believe there is. We have had many
11 discussions with city, county officials, local
12 business leaders, general public, and we have heard
13 nothing but, when can you get here, how fast can you
14 get here and we wish you were here yesterday.

15 Q. Have you estimated the cost of some of
16 the forms of alternative energy that are available,
17 for example, propane?

18 A. We have. Currently -- and the data that
19 I have is kind of general southwest Missouri data, so
20 it's not necessarily specific to Branson today or to
21 Lebanon or Hollister, but it's just in that general
22 region. Propane prices currently are running
23 anywhere from \$1.80 to over \$2 a gallon. And when
24 you convert that on a BTU basis, that's approximately
25 \$19.65 per MMBTU up to about 21.80 per MMBTU.

1 Our current PGA and the current price
2 including the additional charge for the lateral would
3 be somewhere in the range of about \$15 per MMBTU. So
4 based on an average household use of about 60 MCF per
5 year, that's about a 30 -- 25 to 30 percent cost
6 savings versus propane.

7 Q. So you're -- are you saying that your
8 natural gas prices will be competitive with propane?

9 A. Oh, they're extremely competitive.

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

12 A. Southern Missouri has been in operation
13 for over 12 years, and we currently have four gas
14 supply contracts with companies like BP Amoco, ONEOK,
15 Conoco Phillips and Tenaska Energy Ventures.

16 Q. Do you believe that Southern Missouri
17 Natural Gas is otherwise qualified to develop and
18 operate --

19 A. Yes.

20 Q. -- the proposed project?

21 A. Yes. As I said before, Southern
22 Missouri has been in operation for over 12 years. We
23 have approximately 35 employees with collective
24 industry experience of over 2 or 300 years not
25 including the management team of Sendero.

1 Q. Do you have the necessary experience and
2 financial strength to successfully complete the
3 project in your opinion?

4 A. We believe we do as part of our
5 financing application, which is somewhat tied to the
6 certificate process for Branson.

7 Q. Will the proposed project be operated in
8 accordance with the current safety codes?

9 A. Absolutely. I mean, that's the law,
10 that's what's required.

11 Q. How will this project serve the public
12 convenience and necessity in your opinion?

13 A. Again, it will provide first and
14 foremost an alternative choice of energy, and we
15 believe it will provide a lower cost of energy. It
16 will provide economic stimulus with jobs and then
17 additional income or -- or regenerative economics as
18 the dollars get churned in -- into the local
19 economies.

20 Q. Could you elaborate on the market demand
21 that you believe exists in the service area you want
22 to -- you want to serve?

23 A. Natural gas is one of the preferred
24 forms of energy across the United States, and we
25 believe that we can deliver gas to this area that

1 currently does not have any gas service quite
2 competitive with the current cost for what customers
3 pay vis-à-vis alternative energy sources.

4 Q. Have you estimated what the total cost
5 of the project might be?

6 A. Approximately \$24 million.

7 Q. Would you please explain the status of
8 this project other than the fact that we're trying to
9 get regulatory approval to begin construction?

10 A. All of the project design and
11 preliminary engineering is complete and ready to go.
12 We're basically waiting on the regulatory process and
13 closing the financing to begin construction.

14 Q. What are the proposed rates that you
15 would request be approved for this project?

16 A. We have requested that our existing
17 tariffs are adequate to serve the Branson area, plus
18 an additional 20 cents per Ccf to pay for the trunk
19 line which is the bulk of the capital expenditures
20 required. It is intended that over time, as that
21 trunk line is amortized and depreciated, that
22 eventually those rates would be consolidated and
23 rolled in with existing tariffs. But by having the
24 additional charge levied strictly on the Branson area
25 customers, you're not burdening the nonBranson area

1 customers with having to subsidize getting gas to the
2 Branson area.

3 But in the long run, the -- the growth
4 that we believe is present in that area will create
5 an economic benefit for the entire Southern Missouri
6 system.

7 Q. If you rolled in the cost of that
8 lateral and just charged the same rates, would it
9 have an impact on customers in the 12 communities
10 you're currently serving?

11 A. Yes, sir, it would raise the rates.

12 Q. Will you employ additional personnel to
13 serve the expanded service area?

14 A. At this time we're estimating
15 approximately 20 full-time employees. The bulk of
16 those would be full-time construction and conversion
17 jobs, service technicians, a few meter readers, a few
18 back office and a couple of sales and marketing
19 people.

20 Q. Mr. Maffett, I believe Staff indicated
21 that they had not filed a formal Staff recommendation
22 in this case, but you -- you heard the opening
23 statement of counsel this morning; is that correct?

24 A. I did.

25 Q. Is it your understanding that this

1 project would be acceptable from Staff's perspective
2 if you would agree to the condition that is laid out
3 in the list of issues?

4 A. Make sure I understand the question. I
5 believe that if we were willing to accept the
6 accounting issue that Staff put in the stipulation,
7 that we -- we would have a deal.

8 Q. One of the -- one of the conditions that
9 they have in their Staff recommendation is that,
10 "Southern Missouri shall be responsible in future
11 rate cases for the economic consequences of any
12 failure of the system to achieve forecasted
13 conversion rates and/or its inability to successfully
14 compete against propane." Are you familiar with that
15 condition?

16 A. Yes. That was the condition that was
17 imposed upon us when we acquired Southern Missouri in
18 2004. It was also a condition that was requested and
19 we accepted -- as we did in 2004, we accepted the
20 same condition in the Lebanon and Houston and Licking
21 CCN, and we are -- and have always been prepared to
22 accept the same condition with respect to Branson,
23 Hollister and Branson West.

24 Q. So you have no objection to that
25 condition in this case?

1 A. None -- none whatsoever.

2 Q. Do you have any comments upon the
3 condition -- the condition that was contained in
4 paragraph 3 of the -- I think it's the Ozark Energy
5 Partners stipulation that is referred to in the list
6 of issues?

7 A. I do. This is an accounting-related
8 issue that has nothing to do with the viability or
9 the feasibility of a natural gas system and the
10 certification process in Branson. First of all, it's
11 trying to bind some future unknown event and some
12 future unknown purchaser to a future unknown
13 write-down or adjustment of rate base.

14 Just like when Southern Missouri
15 acquired -- or when Sendero acquired Southern
16 Missouri, we accepted the risks associated with the
17 regulatory and the accounting treatment at the time
18 of the acquisition. It was not -- no one tried to
19 address it five or ten or 15 or 20 years ahead of
20 time.

21 Q. Was that condition contained in the
22 Lebanon certificate case?

23 A. No, it was not.

24 Q. Have you ever seen it in any case that
25 you've been involved with?

1 A. No, I have not.

2 Q. Would you explain why you believe it to
3 be better to address that at some future time?

4 A. Again, you're -- you're trying to
5 predetermine the accounting treatment for an event
6 and/or for a buyer, neither of which can be
7 identified nor the time frame in which it may occur
8 can be identified. I don't see how you can put
9 parameters around the unknown.

10 Q. If the transaction was a stock purchase,
11 do you think this would be applicable at all?

12 A. No, I do not.

13 Q. Do you have any other comments about the
14 applicability of the other Ozark stipulations that
15 are contained in the Ozark stipulation and agreement
16 that has been referenced in this case?

17 A. Only to the extent that since Southern
18 Missouri has been operating the company for over 12
19 years, most of the other conditions in the
20 stipulation are conditions that we're already
21 required and are -- to comply with and are already
22 complying with. So we have no objections to any of
23 the other terms and conditions in the stipulation and
24 settlement except for this accounting issue.

25 Q. Does Southern Missouri have existing

1 depreciation rates?

2 A. We do.

3 Q. Do you adhere to the Missouri PSC rules?

4 A. We do.

5 Q. Do you follow the affiliated transaction

6 rules?

7 A. Absolutely.

8 Q. Do you keep corporate allocation

9 information?

10 A. We do.

11 Q. Do you provide Staff with reliability

12 and natural gas supplied planning information?

13 A. At least once or twice a year.

14 Q. And have your hedging activities been

15 reviewed and addressed by the staff of Public

16 Counsel?

17 A. Very closely.

18 Q. And you utilize the PGA CA review

19 process for your natural gas costs?

20 A. We do.

21 Q. And do you comply with gas safety rules?

22 A. We do.

23 Q. You follow the Uniform System of

24 Accounts?

25 A. We do.

1 Q. And you provide surveillance information
2 to the Staff of the Commission?

3 A. As requested.

4 Q. The Staff recommendation -- or position
5 statement also recommended the Commission condition
6 the CCN on the company submitting a financial plan
7 for the Commission's approval. Are you familiar with
8 that?

9 A. Yes, I am.

10 Q. Is that acceptable to the company?

11 A. It -- it is.

12 Q. Would you explain the nature of your
13 pending application for financing and what the status
14 of that is?

15 A. To what extent is any of this highly
16 confidential?

17 Q. It's -- yes. Let's not go into highly
18 confidential information, but --

19 A. Okay.

20 Q. -- just generally describe what is
21 pending in -- in GA-2006-0212 in regard to financing.

22 A. Southern Missouri originally filed an
23 application to recapitalize the company by bringing
24 in a new infusion of equity capital in the range of
25 ten to \$13 million and approximately 40 to \$50

1 million of additional debt capital.

2 Subsequently, that was amended to
3 provide in the same financing application the ability
4 to procure the funds necessary to include Branson.
5 We have been in definitive discussions and
6 negotiations. All the -- the primary terms and
7 conditions have been negotiated, the identity of the
8 investor and the lender has been provided to Staff
9 and we're basically waiting on the regulatory outcome
10 to finalize the due diligence and close the -- all
11 the financings.

12 Q. And I believe you've committed to file a
13 second amended application to give more specific
14 details regarding those term sheets?

15 A. Yes. The original application provided
16 what we felt at the time were the general terms and
17 conditions that the market would be willing to
18 accept, but the markets always change and we are
19 prepared to follow that application.

20 Q. Assuming for a minute that that
21 application was approved, would that provide the
22 necessary financing for you to complete the Branson,
23 Hollister and Branson West projects?

24 A. It would provide that as well as
25 Lebanon, Houston and Licking, and we're prepared to

1 begin construction literally the day after.

2 Q. Can you -- I think in one of the
3 pleadings in this -- in this case, the Staff may have
4 suggested separating those financing applications
5 between Lebanon and Branson. Do you see any problems
6 with that, if that was -- from your perspective?

7 A. Well, any time you -- you -- you have
8 multiple transactions, you're gonna have multiple
9 costs related to those transactions. So if -- if you
10 were looking at a Lebanon financing as -- as one
11 transaction and a Branson financing as another
12 transaction, you're gonna pay twice as much in legal
13 fees, twice as much in document fees, application
14 fees, all the fees that the banks have -- you know,
15 can charge you.

16 Additionally, you lose the benefit of
17 the economies of scale. By having them in one
18 financing transaction, you not only cut your fees
19 down, but because you're borrowing more money, you're
20 more apt to get more favorable rates. All of that is
21 a cost savings that gets passed right back to --
22 through to our customers.

23 Q. Are those fees substantial?

24 A. Yes, they are.

25 Q. Are there any other factors or matters

1 which you wish to bring to the attention of the
2 Commission regarding the need for service or the
3 proposal that the company has on the table that you'd
4 like to have approved?

5 A. Well, when -- when we first acquired --
6 were in the process of acquiring Southern Missouri
7 Natural Gas, in one of my first meetings with Staff,
8 I was asked by Staff if we had any interest in
9 expanding to Branson. You know, I, at that time,
10 said we definitely did. We're here two years later
11 trying to effect that.

12 But we believe that based on the
13 feedback from the local businesses, from local county
14 and city officials and the general population, that
15 there's a tremendous amount of economic benefit, and
16 the people of the Branson, Hollister and Branson West
17 areas are very excited about having natural gas.

18 Q. Assuming that you received approval from
19 the Commission in this case and the financing that
20 you're hoping to get, when would you be able to begin
21 construction of this project?

22 A. We could literally begin construction
23 easily within 30 days of closing the financing, so
24 early -- early to mid first quarter of 2008.

25 Q. Do you believe the proposed expansion of

1 your current service territory to serve Branson,
2 Hollister and Branson West would be reasonable and in
3 the public interest?

4 A. Yes.

5 Q. Do you believe that Southern Missouri
6 has the technical and financial ability to serve that
7 expanded region?

8 A. Yes.

9 Q. In the opening statement from Ozark
10 Energy Partners, Mr. Steinmeier raised an issue
11 related to a customer survey that was referenced --
12 that referenced an exclusive franchise. It's my
13 understanding that there is a complaint that might
14 deal with the details of that. Is that your
15 understanding?

16 A. Yes.

17 Q. But do you have any comments that you'd
18 like to make to the Commission regarding that
19 particular situation?

20 A. Yes, I would. When we completed the
21 acquisition of Alliance Gas Energy's assets in June
22 of 2007, as we began formulating business plans and
23 strategies, we also began working on sending out a
24 market survey to the general public just to find out
25 how close their -- what the response and/or the level

1 of interest they had in having natural gas and their
2 willingness to convert.

3 In the -- in the haste of busy workdays
4 and long hours, when I reviewed the final draft of
5 the survey that went out, there was the use of the
6 word that said we had the exclusive franchise to
7 serve the area. It was my mistake. The word
8 "exclusive" should not have been included in that --
9 in that survey. It was an honest mistake.

10 We do have the only franchise for
11 Branson, so in that sense it is an exclusive
12 franchise, but the City of Branson is not prohibited
13 from issuing a -- an additional franchise to Ozark or
14 to any other applicants if they so choose. But we
15 did make a mistake, it was my mistake, I was the
16 final proof on the -- on the survey form and I have
17 to take responsibility for that.

18 Q. Mr. Maffett, in Mr. Steinmeier's opening
19 statement, he also indicated that he might be
20 presenting a witness to discuss your feasibility
21 study. Did you hear that?

22 A. I did.

23 Q. Would you like to reserve the
24 opportunity to -- to address those comments in
25 rebuttal if necessary?

1 A. For myself and for Mathew Gimble.

2 MR. FISCHER: Okay. Your Honor, with
3 that, I have no other questions. I'd be happy to
4 tender the witness for cross-examination. And did I
5 move for the -- I moved for the admission of the
6 exhibits. Okay. Thank you.

7 JUDGE LANE: Thank you. According to
8 our order of cross-examination, the first is MGE.

9 MR. COOPER: Your Honor, I have no
10 questions for Mr. Maffett. However, I would like,
11 for the Commission's benefit, to -- to supplement my
12 opening here somewhat and state that I -- I do agree
13 with Mr. Maffett's statements that Southern Missouri
14 Gas and Missouri Gas Energy have had settlement
15 discussions that -- that would address the concerns
16 that I raised in my opening, that those settlement
17 discussions are ongoing and that I would also agree
18 with his characterization that -- that we are close
19 to a stipulation that would address those identified
20 concerns.

21 JUDGE LANE: Thank you. That's helpful
22 because I see you're not planning on presenting any
23 witnesses. So to have that background I think is
24 helpful. Very good.

25 OPC, any cross-examination?

1 MR. POSTON: Yes, thank you.

2 CROSS-EXAMINATION BY MR. POSTON:

3 Q. Good morning.

4 A. Good morning.

5 Q. In the Lebanon case that we've talked
6 about, the GA-2007-0212, you may recall a few
7 questions that I asked you regarding who should bear
8 the financial risk should the Lebanon expansion fail.
9 And in that testimony, you testified that the
10 shareholders have historically carried that risk
11 and -- and that the company should also do so in the
12 Lebanon example. Was that -- was that your
13 testimony?

14 A. It was.

15 Q. And you agree that such condition should
16 also be placed on Southern Missouri Gas in this case?

17 A. We're -- we're willing to accept that
18 same condition, yes.

19 Q. And in the Lebanon case, the Commission
20 placed the financial risk of incorrect conversion
21 estimates on the company, would you agree?

22 A. Yes.

23 Q. And you agree that same condition should
24 be placed here as well?

25 A. We do.

1 Q. And what is a conversion?

2 A. A conversion is what we referred to as
3 an existing -- an existing potential customer using
4 an alternative form of energy who is actually
5 converting their home or their business to use
6 natural gas or whatever alternative energy of their
7 choice.

8 Q. Would you also agree that the
9 shareholders should bear the financial risk should
10 Southern Missouri's customer growth projections be
11 incorrect?

12 A. We did.

13 Q. And which company witness can answer
14 questions regarding the feasibility study?

15 A. I can answer quite a few, but if -- if
16 you get into a lot of the detailed line items, I
17 would refer to Mathew Gimble.

18 Q. Okay. And who prepared the electronic
19 workbook containing the feasibility study?

20 A. Mr. Gimble did.

21 Q. Is it correct that you provided an
22 electronic copy of the feasibility study to the
23 Staff?

24 A. It is.

25 Q. And that feasibility study includes

1 projections of investments, operations, maintenance,
2 expenses, initial customer account projections and
3 projected customer growth over a 20-year period?

4 A. Correct.

5 Q. And those projections are shown on
6 various worksheets in the electronic copy of the
7 feasibility study that you provided to the Staff?

8 A. Correct.

9 Q. And does that electronic file contain a
10 worksheet named "Growth"?

11 A. I -- I don't know the names of each of
12 the worksheets, so --

13 Q. So are you familiar with a worksheet
14 named "Growth"?

15 A. Not right off the top of my head, no.

16 Q. Okay. I'll save that line of questions
17 for the other witness. Which company witness can
18 answer questions regarding the current customer base
19 or number of customers by class in the usage?

20 A. Again, I can provide a number of that as
21 can Mr. Gimble.

22 Q. Okay. And would you be familiar with
23 the annual reports your company files with the
24 Commission?

25 A. Yes.

1 MR. POSTON: If I could approach the
2 witness with a couple exhibits I would like to have
3 marked, please?

4 JUDGE LANE: Please do.

5 (EXHIBIT NOS. 4 AND 5 WERE MARKED FOR
6 IDENTIFICATION BY THE COURT REPORTER.)

7 BY MR. POSTON:

8 Q. Okay. Mr. Maffett, are you familiar
9 with Exhibit 4?

10 A. Relatively.

11 Q. Okay. Could you please describe what
12 this exhibit is?

13 A. This is a supplemental report, I
14 believe, to the FERC form 2 that was prepared in '05.

15 Q. I'm looking at this one.

16 A. Correct.

17 Q. Okay.

18 A. It's a supplemental report to the annual
19 report, correct?

20 Q. I think that's --

21 A. Because this was the year the
22 acquisition took place, and I think DTE filed a
23 report and this was the supplement to it, if I'm not
24 mistaken.

25 Q. Okay. And you've seen this before?

1 A. It's been two years, yes.

2 Q. And this is an accurate copy of, I
3 guess, certain pages of that report, right?

4 A. To the best of my knowledge, yes.

5 Q. And if you'd turn the cover over, you
6 see a page that has a series of questions and
7 answers. And would you agree that this is
8 accurate -- the document showing that -- that
9 document you filed with the FERC?

10 A. To the best of my knowledge, yes.

11 MR. POSTON: Your Honor, I move to have
12 Exhibit 4 entered into the record.

13 JUDGE LANE: Exhibit 4, SM -- SMGC gas
14 annual report supplement, has been marked and has
15 been offered into evidence. Do I hear any objection?

16 MR. FISCHER: No objection.

17 JUDGE LANE: Hearing none, it's so
18 admitted.

19 (EXHIBIT NO. 4 WAS RECEIVED INTO
20 EVIDENCE AND MADE A PART OF THE RECORD.)

21 BY MR. POSTON:

22 Q. Okay. And then turning to Exhibit 5,
23 can you please describe that exhibit?

24 A. This is the FERC form 2 annual report
25 for the year ending 2006.

1 Q. Okay. And is this an accurate document?
2 Does this accurately reflect the report?

3 A. Again, to the best of my knowledge, yes.

4 Q. And if you turn the page, there is a --
5 we've included one page from that report, and does
6 that appear to be accurate to you?

7 A. Yes.

8 MR. POSTON: Okay. Your Honor, I move
9 to have Exhibit 5 entered as well.

10 JUDGE LANE: Exhibit 5, FERC financial
11 report, has been marked by OPC and is now offered
12 into evidence. Any objections?

13 MR. FISCHER: No objections.

14 JUDGE LANE: No? It is admitted.

15 (EXHIBIT NO. 5 WAS RECEIVED INTO
16 EVIDENCE AND MADE A PART OF THE RECORD.)

17 MR. POSTON: Thank you.

18 BY MR. POSTON:

19 Q. And would you agree that the numbers
20 contained in these two FERC reports are accurate?

21 A. To the best of my knowledge, yes.

22 Q. Okay. Turning gears here for a minute,
23 does your company offer special promotions to provide
24 an incentive for customers to use natural gas
25 appliances?

1 A. We do provide the sale of natural gas
2 appliances at our cost. We do not mark those up
3 for -- and make any profit on the sale of those
4 appliances.

5 Q. Okay. And does -- do you have any other
6 promotions of that type?

7 A. Not that I'm aware of.

8 Q. And is it fair to say that that
9 promotion helps the company compete with propane?

10 A. It does, yeah.

11 Q. And is it true that shareholders bear
12 the cost of offering that promotion?

13 A. The shareholders bear all the -- the
14 risks of Southern Missouri.

15 MR. POSTON: That's all the questions I
16 have. Thank you.

17 JUDGE LANE: Thank you, Mr. Poston.
18 Staff?

19 MS. SHEMWELL: Thank you, Judge.

20 CROSS-EXAMINATION BY MS. SHEMWELL:

21 Q. Good morning, Mr. Maffett.

22 A. Good morning.

23 Q. I'm actually the one that asked you
24 about going into Branson, and I had just gotten back
25 from that area. Has it just been two years ago?

1 A. May well be three.

2 MS. SHEMWELL: Your Honor, I think it
3 might be a good time to go ahead and mark this
4 exhibit. It was attached to the application. I
5 believe it was shown as HC, but my indication is from
6 Mr. Fischer that they're willing to make it public;
7 is that correct?

8 MR. FISCHER: Is that the map? Yes.

9 (EXHIBIT NO. 6 WAS MARKED FOR
10 IDENTIFICATION BY THE COURT REPORTER.)

11 MS. SHEMWELL: Mr. Maffett, I'm going to
12 ask the court reporter to mark the map that's the
13 smaller one, and some attached -- and some other maps
14 that are part of the -- there are four maps total.

15 JUDGE LANE: Let the record show that's
16 four sheets -- maps dated August 14th, 2007.

17 BY MS. SHEMWELL:

18 Q. Mr. Maffett, do you recognize the map,
19 the small map that's there beside you?

20 A. Yes.

21 Q. Did Southern Missouri Natural Gas or
22 Sendero attach this map to its application?

23 A. I believe so. I -- I don't remember
24 exactly which map, when the original application or
25 the amended application.

1 Q. Would you agree that while basic, this
2 map is accurate?

3 A. Yes.

4 MS. SHEMWELL: I'd like to move for the
5 admission of Exhibit 6, your Honor.

6 MR. FISCHER: No objection.

7 MR. POSTON: No objection.

8 JUDGE LANE: Hearing no objections, it
9 is admitted.

10 (EXHIBIT NO. 6 WAS RECEIVED INTO
11 EVIDENCE AND MADE A PART OF THE RECORD.)

12 BY MS. SHEMWELL:

13 Q. Mr. Maffett, you did not pay the
14 original cost for what I'm gonna refer to as the West
15 Plains system?

16 A. I'm -- I'm not sure what you're
17 referring to.

18 Q. The original cost to construct the
19 Cabool/West Plains, the current system, you did not
20 pay the original cost; is that correct?

21 A. No. We didn't build it.

22 Q. And you paid less than the original
23 cost; is that correct?

24 A. We didn't buy the West Plains system.

25 We -- we bought Southern Missouri Natural -- but with

1 the stock of Southern Missouri Natural Gas, we bought
2 the limited partnership interest of the company.

3 Q. So Mr. Maffett, can you tell the
4 Commission whether or not you paid or -- for the
5 assets of what would have been the original cost?

6 A. We did not pay for the assets.

7 Q. What portion of what you paid would have
8 been considered assets?

9 A. Nothing. We bought the stock -- the
10 membership interest from DTE and one other -- of
11 their other subsidiaries.

12 Q. Is that how you intend to sell SMNG as
13 well?

14 A. I'm not aware of any plans to sell SMNG.

15 Q. Does that mean that neither you nor
16 anyone who works for you has approached anyone in the
17 last year about selling Southern Missouri Natural
18 Gas?

19 A. Not to my knowledge, no.

20 Q. No agent for you has approached anyone
21 about selling Southern Missouri Natural Gas?

22 A. No.

23 Q. Have you been approached by anyone?

24 A. To sell it?

25 Q. Yes.

1 A. Not that I'm aware of, no.

2 Q. Have your invested -- investors
3 indicated a desire for you to try to sell the system?

4 A. No.

5 Q. Are you in the process of refinancing?

6 A. Yes, we are.

7 Q. Will the current investors be the future
8 investors?

9 A. As well as potentially new investors.

10 Q. Mr. Maffett, how much pipe have you
11 actually laid in the State of Missouri?

12 A. Over the -- the last two and a half
13 years that we've owned and operated the company, I
14 would have to go back to my operations people to get
15 that.

16 Q. Can you give us some idea? Is it ten
17 miles or is it 300?

18 A. I really don't know. I'd have to look
19 at the number of customers added and the average
20 install -- installation length per customer.

21 Q. What about a supply line, have you built
22 any supply lines in Missouri?

23 A. We have not.

24 Q. You don't have a franchise in Branson
25 West?

1 A. We do not.

2 Q. Do you know, is Branson West interested
3 in having you build a distribution system for them?

4 A. According to meetings that I've had with
5 Mayor John Rhodes and the city administrator, Kenneth
6 Smith, yes.

7 Q. Were they interested in buying that?

8 A. No, they've never expressed an interest
9 in buying it, but it seems that each time that we
10 have a discussion with a city council about a new
11 franchise, they always want to reserve the option for
12 some period of time, usually it's about five years,
13 to purchase that. I believe the Lebanon certificate
14 has that same option for the City of Lebanon.

15 Q. Has Staff expressed a concern with
16 Sendero or Southern Missouri Natural Gas being both
17 an LDC and an intrastate pipeline company?

18 A. Staff has expressed that concern, but
19 Southern Missouri has never proposed that it provide
20 that service or structure itself as such.

21 Q. You moved to substitute for Alliance; is
22 that correct?

23 A. Yes, ma'am.

24 Q. What date?

25 A. It appears that that was filed on

1 June 29th, 2007.

2 Q. And with that you attached the
3 conditions of the sale; is that correct?

4 A. I believe so.

5 MS. SHEMWELL: I'd like to have another
6 exhibit marked, please.

7 MR. FISCHER: My recollection is this is
8 highly confidential.

9 MS. SHEMWELL: Yes, this is highly
10 confidential.

11 (EXHIBIT NO. 7 HC WAS MARKED FOR
12 IDENTIFICATION BY THE COURT REPORTER.)
13 BY MS. SHEMWELL:

14 Q. Mr. Maffett, do you recognize this
15 particular sheet?

16 A. Yes, I do.

17 Q. And was that part of the agreement that
18 you entered into with Alliance?

19 A. Yes, it was.

20 Q. Without saying the specific numbers so
21 we don't have to go in-camera, does Section 3.2
22 contain the purchase price to be paid by, is it
23 Sendero or Southern Missouri Natural Gas?

24 A. It was Southern Missouri Natural Gas,
25 and I believe it's Section 3.1 defines the purchase

1 price.

2 Q. And then 3.2 describes the conditions
3 under which it will be paid?

4 A. Or the -- the three steps, correct.

5 Q. And without referring to the specific
6 purchase price, I'd like to ask you, was this for the
7 Branson franchise?

8 A. This was for the Branson franchise and
9 the Hollister franchise.

10 Q. Has Branson voted to allow Southern
11 Missouri Natural Gas to substitute for Alliance?

12 A. Yes, it has.

13 Q. What about Hollister?

14 A. Hollister did approve the assignment of
15 the franchise from Alliance to Southern Missouri.

16 Q. The amount shown here, how will that be
17 recovered from ratepayers?

18 A. This is already embedded in our total
19 cost for the system.

20 Q. In your feasibility study?

21 A. Correct.

22 Q. And where is it in your feasibility
23 study? Under what section?

24 A. I -- I -- Mat -- we'll need to defer
25 that to Mat -- Mat Gimble.

1 Q. Do you know the ratio of electric
2 customers to propane customers in Branson?

3 A. Approximately.

4 Q. That's fine. What is that?

5 A. Give me just a minute.

6 Q. Certainly.

7 A. Based upon a market study that Alliance
8 Gas Energy had done, approximately 40 percent of the
9 residential mix in the Branson proper area is all
10 electric. Approximately 50 percent is a mix of
11 propane and electric and approximately 2 percent is
12 propane only, and 8 percent other fuels, wood fuel,
13 coal, et cetera.

14 Q. Where they're a mix, is there an
15 assumption in there that the propane is used for
16 heating?

17 A. Not that I'm aware of, no.

18 Q. Have -- have you been told that there's
19 any breakdown in existing service for heating in the
20 Branson area?

21 A. No, but it's not a question that we've
22 asked.

23 Q. Are you aware of propane customers being
24 unable to receive propane?

25 A. Yes.

1 Q. For what reason?

2 A. Economic or delivery problems,
3 operational problems, Chateau on the Lake for one.

4 Q. Meaning that they could not get delivery
5 of propane to heat their facility on -- in a
6 particular time?

7 A. No. Meaning their existing propane
8 tanks blew a safety relief valve. I believe it was
9 on Mother's Day morning. Approximately two o'clock
10 in the morning, they had to evacuate the entire
11 hotel.

12 Q. Any other instances?

13 A. That's the only one that I'm
14 specifically familiar with.

15 Q. You mentioned the cost ratio in
16 comparison for -- Southern Missouri Natural Gas in
17 comparison with propane. What is that comparison for
18 electric?

19 A. I would -- I can't do the electric
20 numbers off the top of my head. I just -- the -- the
21 conversion's a little bit more elaborate. But
22 electric rates in the area, if I'm not mistaken, are
23 in the 8 to 9 cents a kilowatt hour range.

24 Q. Yes?

25 A. I -- I -- I need a calculator to -- and

1 a little help with some conversion ratios to make
2 that conversion. The electric market is not a very
3 significant part of our feasibility study.

4 Q. I'm just asking, let's say, for future
5 development, are you going to be able to provide
6 service more economically than electric?

7 A. Oh, we can -- we can provide service a
8 lot cheaper than electric. The question is whether
9 or not the electric customers will convert their
10 electric appliances or not convert. You can't
11 convert them --

12 Q. Uh-huh.

13 A. -- but exchange them or swap them.

14 Q. In other words, buy new appliances?

15 A. Correct.

16 Q. Yes. And how many of those would you
17 expect to actually buy new appliances in the next 20
18 years, let's say?

19 A. Yeah, we -- we see a conversion -- call
20 it a conversion ratio for the electric customers in
21 the range of about 20 percent of all electric
22 customers.

23 Q. And would that be as they're replacing a
24 furnace more likely than going in and actually making
25 an unnecessary replacement?

1 A. Most of the time it is, yes. Or a hot
2 water heater or stove or an oven.

3 Q. In the area where you compete, who are
4 the electric suppliers?

5 A. As far as I know, Empire Electric and
6 White River Co-op are the only two providers in the
7 area.

8 Q. And are their fees -- is the cost about
9 the same?

10 A. Same as what?

11 Q. Is Empire about the same as the co-op?

12 A. I -- I don't know that, but I don't
13 think they are.

14 Q. When you compared your prices at
15 approximately \$15 per MMBTU, does that include the
16 service charge?

17 A. The --

18 Q. Monthly fee?

19 A. Monthly, yes, yes.

20 Q. And what about connection charges?

21 A. We don't -- we don't -- to -- to the
22 best of my knowledge, we don't charge a connection
23 charge. We have the latitude within our tariffs to
24 give up to, I believe it's \$240 of free installation
25 and conversions.

1 So to the extent that a conversion costs
2 over whatever that number is that's approved in our
3 tariff, the customer pays that. But to the extent
4 that it's less than that, then that is part of the
5 conversion service.

6 Q. I'd like to refer to the map that we
7 marked as Exhibit 6. Can you tell me exactly how
8 long the supply line, the lateral extends from
9 Southern Star Central? It's --

10 A. It's a --

11 Q. We're not talking anything highly
12 confidential when --

13 A. Right.

14 Q. -- we indicate that it's from Southern
15 Star, right?

16 A. No. It's approximately 35 miles.

17 Q. Mr. Maffett, in the federal gas group,
18 we consider an approximate cost for a mile of
19 pipeline to be in the 750,000 to \$1 million range.
20 How does that compare with what you're estimating?

21 A. We're, I believe, estimating somewhere
22 closer in the five to \$600,000 per mile range. One
23 of the reasons is, I don't know what the federal
24 benchmarks you're referring to because that wouldn't
25 apply in Colorado equally as it would apply in the

1 coastal plains of Texas.

2 So when you talk about a federal
3 average, it's kind of meaningless. The second thing
4 is, the right-of-way that we intend to follow is down
5 an existing power line right-of-way.

6 Q. This entire line is in an existing
7 electric line right-of-way?

8 A. Not -- I don't think the whole -- I
9 think there is some deviation off of that, but the
10 vast majority follows an existing power line
11 right-of-way.

12 Q. And have you obtained the necessary
13 authorization to use that right-of-way for your
14 construction?

15 A. We have not because we didn't want to
16 spend money without a certificate to serve the area.

17 Q. So does that mean you're going to have
18 to buy --

19 A. Yes.

20 Q. -- the right to use that?

21 A. Correct.

22 Q. Have you contacted the owner of that
23 right-of-way?

24 A. There are multiple owners of the
25 right-of-way, and to the best of my knowledge, we've

1 not made direct contact yet.

2 Q. How much right-of-way do you still need?

3 A. We haven't acquired any right-of-way.

4 Q. Okay. How long do you expect that to

5 take?

6 A. I'm not experienced in the right-of-way

7 acquisition. Michael Lewis could answer that.

8 Q. The line you're going to build, is it

9 steel or plastic?

10 A. That will be a steel line.

11 Q. And how big?

12 A. I can't remember if it's six- or

13 eight-inch.

14 Q. And you indicated earlier, I believe,

15 that the point of connection is near Aurora,

16 Missouri, correct?

17 A. Correct.

18 Q. Have you contacted Southern Star Central

19 to discuss the interconnect?

20 A. Yes, we have.

21 Q. Have you contracted with them?

22 A. We have not contracted formally with

23 them, again, waiting to make sure that we have a CCN

24 first.

25 Q. What will be the cost of that?

1 A. Of the interconnect, I would have to
2 defer that to Mr. Lewis.

3 Q. Will you pay for that or will Southern
4 Star?

5 A. Again, I'll defer to Mr. Lewis.

6 Q. Who's going to build the lateral?

7 A. Mr. Lewis can answer. He's been
8 managing the construction interface.

9 Q. I guess my question is between Southern
10 Missouri and SSC. Is --

11 A. No, Southern Missouri will build the
12 lateral, Southern Missouri and/or contractors.

13 Q. Are there other costs besides the actual
14 physical interconnection associated with making that
15 connection to Southern Star Central?

16 A. Not that I'm aware of.

17 Q. Who will operate the interconnect?

18 A. I believe Southern Star's responsible
19 for operating the interconnect itself, but everything
20 downstream of the meter would be Southern Missouri.

21 Q. Do you know what conditions they have in
22 order to make that interconnect?

23 A. Just the regulatory -- or FERC-regulated
24 conditions, the same as what we would have -- as what
25 we currently have at Rogersville.

1 Q. And does that mean that you would have
2 to apply to FERC for authorization for the
3 interconnect?

4 A. I don't believe we have to apply to FERC
5 for an interconnect.

6 Q. Does Southern Star?

7 A. Not that I'm aware of, no.

8 Q. Any environmental impact analysis
9 necessary?

10 A. Not that I'm aware of, no.

11 Q. Have you contacted DNR?

12 A. Again, let me defer that to Mr. Lewis.

13 Q. Do you intend to purchase line pack?

14 A. You have to.

15 Q. For the supply line?

16 A. Correct.

17 Q. So that's a yes?

18 A. Yes.

19 Q. What kind of pressures will this supply
20 line need to have to operate?

21 A. Let me again, operations, defer to
22 Mr. Lewis.

23 Q. Do you know how you are going to book
24 the line pack?

25 A. From an accounting treatment?

1 Q. Uh-huh, gas cost or ...

2 A. Ooh. I have -- I don't at this time.

3 Q. Or plant?

4 A. I have not looked at it.

5 Q. So as we look at the map, we see that

6 the dark red portion ends just outside of Branson; is

7 that correct?

8 A. Yes.

9 Q. And your estimate of, what was it, 32

10 miles?

11 A. 35 miles.

12 Q. Does that include any pipe to actually

13 go into the city?

14 A. It does. I believe that that does

15 include taking the main line through the city down to

16 what was called Branson Landing.

17 Q. Branson Landing is the new commercial

18 development; is that correct?

19 A. That's correct.

20 Q. Mr. Maffett, about halfway down this

21 line, I see that there's a part of what I think is

22 probably Table Rock Lake. It looks like it's in

23 Stone County. How do you plan to cross that body of

24 water?

25 A. Let me again defer to Mr. Lewis.

1 Q. And would Mr. Lewis be able to answer
2 the question about do you have the same issue with
3 crossing water to get to Hollister?

4 A. Yes.

5 Q. Do you have a plan once you get to
6 Branson for either circling around or going through
7 Branson to get to Hollister?

8 A. We have a plan, yes.

9 Q. What is that plan?

10 A. I would say that's highly confidential.

11 Q. Okay. That's something that we're
12 interested in knowing. First, I'm gonna ask you, is
13 there some way that you can answer that that's not
14 confidential? And if not, we'll defer it for later.

15 A. No.

16 Q. Does that mean we need to defer?

17 A. It means I cannot answer it
18 unconfidentially.

19 Q. Okay. What cost did you assume for the
20 materials, the steel pipe?

21 A. Mr. Lewis did all the cost estimates.

22 Q. And did he estimate the cost for labor
23 as well?

24 A. Yes.

25 Q. Mr. Maffett, I indicated that if -- I

1 believe I indicated in my opening that there's a
2 reason that Branson doesn't have natural gas service,
3 and one of those reasons is the cost of construction
4 in that area.

5 How did you account for the cost of
6 construction in this area? First let me ask, how
7 does it compare to building to Lebanon in terms of
8 the geology and geography?

9 A. With respect to the geography, it is
10 going to be more challenging than building to
11 Lebanon. And I'll -- as a general rule, and again,
12 I'll defer specific details to Mr. Lewis, but as a
13 general rule, I believe our construction cost
14 estimates for Branson are roughly twice what we
15 estimated for Lebanon.

16 Q. When you lay the electric line, I
17 believe Staff describes it as excavating, will you
18 need to blast? Have you included blasting in your
19 plan?

20 A. Again, let me defer that to Mr. Lewis.

21 Q. In considering that the costs are
22 approximately doubled, did that include water
23 crossings?

24 A. All of the cost estimates should
25 include, but again, I'll defer to Mr. Lewis.

1 Q. Can you tell us where the terminus point
2 or the point where this ends outside of Branson, how
3 far that is outside of Branson, or is it at the city
4 limits?

5 A. Well, I -- as I said earlier, I believe
6 the terminus is gonna go all the way down to Branson
7 Landing, so that's in the city limits.

8 Q. Will that then become part of the
9 distribution system?

10 A. It will be used, yes, to feed the
11 distribution system.

12 Q. Will you be able to begin Lebanon or
13 Branson first?

14 A. We can actually begin them at the same
15 time.

16 Q. Do you have contracts in place for
17 Lebanon?

18 A. "Contracts" meaning construction
19 contracts?

20 Q. Yes.

21 A. I don't believe we have signed any
22 contracts.

23 Q. Will there be any delays in being able
24 to get steel piping?

25 A. Not that we're aware of, no.

1 Q. What about experienced trenching and
2 welding teams?

3 A. Mr. Lewis will -- will have to answer.
4 These are all very detail-related construction
5 questions.

6 Q. What have you estimated the time for
7 construction of the supply line?

8 A. Of the Branson lateral?

9 Q. Yes.

10 A. I want to say three months.

11 Q. And what else may influence that? For
12 example, weather?

13 A. Weather, availability of contractors,
14 availability of pipe. I mean, all the normal issues.

15 Q. Can we agree to call the Branson lateral
16 the supply line for purposes of the hearing? Is that
17 okay with you if I refer to it that way?

18 A. Why not the Branson lateral?

19 Q. Well, let me ask. If I under -- if I
20 say the supply line, will you understand that to mean
21 the Branson lateral?

22 A. I do now. Your earlier question about
23 had -- had we built a supply line, I did not
24 understand.

25 Q. That to mean the Branson lateral?

1 A. Correct.

2 Q. But you understand that now?

3 A. Correct. And -- and I would change my

4 answer to say, yes, we have built supply lines in

5 Missouri.

6 Q. So where are those?

7 A. They exist all up and down our system.

8 Q. You personally built those?

9 A. Well, I didn't personally build them but

10 our employees did, yes.

11 Q. During the time that you've owned the

12 company?

13 A. Yes.

14 Q. Those weren't in existence at the time

15 you bought the company?

16 A. No.

17 Q. Do you consider your capacity

18 arrangements to serve this area to be highly

19 confidential?

20 A. A portion --

21 Q. Let me ask the question and you can --

22 if it's all right with you?

23 A. Right.

24 Q. Will you need additional interstate

25 pipeline capacity to serve proposed Branson area?

1 A. Not for the short- to medium-term
2 future, no, ma'am.

3 Q. And what is the medium-term future?

4 A. I would say in the range of five to
5 seven years.

6 Q. So that means that you've already
7 contracted with Southern Star for adequate capacity?

8 A. That's correct.

9 Q. Based upon your projected growth?

10 A. That's correct.

11 Q. Will a customer charge in this area be
12 the same as your other customers?

13 A. That's what we've proposed, yes.

14 Q. Is that -- so that's a yes. But the
15 20 percent, will that be an adder on the customer's
16 bill or how will they see that reflected?

17 A. The 20 -- the 20-cent per Ccf?

18 Q. Yes.

19 A. That would be an adder or I guess an
20 individual item on the Branson area customers' bills.

21 Q. And when you were comparison --
22 comparing with propane, did you include that?

23 A. Yes, I did.

24 Q. And you base that on what usage?

25 A. Approximately 60 MCF per year per

1 residential household which is the average
2 consumption in our existing market.

3 Q. How many commercial customers do you
4 expect to take natural gas within the first year?

5 MR. FISCHER: Mr. Maffett, would that
6 answer be confidential too or not?

7 THE WITNESS: I don't think so.

8 MR. FISCHER: Okay.

9 THE WITNESS: I'm not sure that I have
10 that readily available. The way that the feasibility
11 study has been printed out, it's not sequential, the
12 one that I have in front of me. Mr. Gimble could --
13 could answer that.

14 BY MS. SHEMWELL:

15 Q. Thank you. In terms of industrial
16 customers, how does Branson compare to Lebanon in
17 terms of the number of industrial -- potential
18 industrial customers?

19 A. The number of customers is slightly
20 lower in Branson for what we refer to as an
21 industrial customer, but there are a couple that are
22 very, very large in volume. So volumetrically,
23 there's -- they're not that different.

24 Q. And who are those, can you say?

25 A. I would rather not.

1 Q. Have they committed to you to take
2 natural gas service?

3 A. Yes, we have signed letters of intent
4 with a number of the large industrials.

5 Q. And what are the conditions for those
6 letters of intent?

7 A. That I would consider to be
8 confidential.

9 Q. Let me just ask, is there a time frame,
10 for example, by which you would have to provide
11 service in order to --

12 A. I don't believe so, no.

13 Q. Do you believe with your current peak
14 day capacity on Southern Star you can provide peak
15 day capacity for Branson?

16 A. Yes.

17 Q. Do you expect Branson to be more or less
18 seasonal than your current customers?

19 A. We would expect it to be less seasonal
20 which would help normalize our load curve for the
21 entire system.

22 Q. Have you figured your estimated peak day
23 were you to be serving both Lebanon and Branson?

24 A. Yes, we have.

25 Q. And again, you have enough capacity for

1 that?

2 A. For the -- as I said earlier, the -- the
3 medium-term, five to seven years.

4 Q. After that point -- or is Southern Star
5 fully subscribed at this time?

6 A. As far as I know, yes.

7 Q. What's your plan to get additional
8 capacity?

9 A. We've been in discussions with them
10 about how we address the beyond five to seven years,
11 and they have a number of different alternatives that
12 they can propose.

13 Q. Such as?

14 A. That are highly confidential.

15 Q. Can we talk in very general terms, like
16 compression or -- maybe not?

17 A. I would rather not.

18 Q. You indicated that some of the estimates
19 for propane have been done by Alliance. Did I
20 understand that correctly in a conversion?

21 A. I don't believe I said that.

22 Q. Okay. Do you know the cost per gallon
23 of propane today, essentially this week in Branson?

24 A. I can't say this week. It's Tuesday and
25 I didn't make any calls yesterday, but --

1 Q. Well --

2 A. In the last couple of weeks, we've heard
3 prices as I've referenced earlier in the \$1.80 to
4 \$2 -- in excess of \$2 per gallon.

5 Q. The surcharge that you have indicated
6 which we've referred to as 20 cents, do you expect
7 that to be the equivalent of approximately \$2 per
8 month per customer or would it be in excess of that?

9 A. Well, that would be 20 cents per Ccf, so
10 it's not \$1 per customer per month charge. So over
11 the course of a year, that would be an additional
12 \$120 over the course of a year. So if it were evenly
13 spread over 12 months, \$10 a month.

14 Q. Will that reduce plant costs associated
15 with this line as the surcharges are collected?

16 A. Eventually, as the -- as the supply line
17 is depreciated and amortized and paid for, yes, it
18 will reduce plant costs.

19 Q. Do you know the growth rate for Branson
20 for residential?

21 A. The --

22 Q. Growth rate?

23 A. -- growth rate that we've assumed in our
24 model or the growth rate projected by the city
25 council or the census bureau?

1 Q. Yes.

2 A. Which -- which growth rate?

3 Q. Any of them that you would like to say
4 that you know.

5 A. In our model we have assumed the first
6 five years to be identical to the growth rates that
7 we experienced in our existing market in the first
8 five years, 1996 through 2001. Thereafter, we
9 assumed pretty much a levelized mature growth rate of
10 somewhere around one and a half to 2 and a half
11 percent per year.

12 Q. So the first five years is how much?

13 A. The first five years grows parabolically
14 because you're starting from zero, so your growth
15 rate is extremely high the first year, and it starts
16 to level off to a typical utility growth rate of 2 to
17 3 percent.

18 Q. What's the first year for residential?

19 A. Ooh, off the top of my head, I would
20 probably say it's around 30 percent.

21 Q. Commercial?

22 A. I think we used the same -- Mat Gimble
23 can address that.

24 Q. And for industrial as well possibly the
25 same?

1 A. I think so. Well, no. For -- in
2 Branson for the large general -- the large volume and
3 the transport, that's based upon the actual knowledge
4 we have of customers in that service territory. It's
5 not based upon growth projections, it's based on the
6 actual due diligence.

7 Q. And when you say that, are you talking
8 about the customers with whom you've signed letters
9 of intent, you're including those?

10 A. Those and any others that we're aware
11 of.

12 Q. What community in the area is
13 experiencing the highest growth rate?

14 A. I -- on a percentage basis or on a
15 notional basis?

16 Q. Percentage.

17 A. I -- I would assume the City of Branson,
18 but percentages are -- are, as you know, a function
19 of the denominator, so I -- I just don't know the
20 answer right off.

21 Q. Do you know how many homes they're
22 adding per year?

23 A. I do know there are approximately 6,000
24 new residential homes, condos, units being permitted
25 and built at this time.

1 Q. In the city limits?

2 A. Not necessarily all inside the city
3 limits.

4 Q. Do you know what the growth rate is in
5 Hollister?

6 A. I don't know the exact growth rate.

7 Q. Staff -- I had asked that you bring with
8 you any materials that you prepared for the
9 possibility of selling Southern Missouri Natural Gas.
10 Do you have any documents with you today?

11 A. No, we -- we have not contemplated
12 selling Southern Missouri Natural Gas.

13 Q. Do you have the marketing documents that
14 you prepared for potential investors?

15 A. The info memorandum?

16 Q. Yes.

17 A. Yes.

18 Q. With you today?

19 A. No. When I received your e-mail, I was
20 home for the Thanksgiving holidays and did not have a
21 chance to get it printed out, but Staff was copied on
22 that approximately a year ago.

23 Q. Have you not updated the information?

24 A. No, there's not been any changes to the
25 info memorandum. I believe specifically the dates

1 they were provided were January 29th and
2 January 30th, 2007.

3 Q. You haven't executed any loan
4 agreements; is that right?

5 A. That's correct.

6 Q. Are you working with more than one
7 potential lender?

8 A. Not at this time, no. We went through a
9 process and narrowed it down to a short list, and
10 we've now picked a preferred investor/lender.

11 Q. Have you estimated the current market
12 value of Southern Missouri Natural Gas?

13 A. I mean, we're -- we're always cognizant
14 of the current market value, so I would say yes.

15 Q. And what is that?

16 A. I would say that's confidential.

17 Q. You didn't put Branson on the
18 stand-alone feasibility study, correct?

19 A. No.

20 Q. Why not?

21 A. Because there's a lot of functions that
22 are already embedded in Southern Missouri's call
23 structure, and if we were to treat Branson as a
24 stand-alone, we would have to duplicate all of the
25 already embedded costs, and that's not a realistic

1 picture of our strategy and our feasibility analysis.

2 Q. Did you do that, though? Did you
3 actually separate Branson when you looked at it and
4 then rule it in, or did you not look at it
5 separately?

6 A. We did not look at it separately. We
7 used the same general manager, we used a lot of the
8 same accounting and billing softwares, so inventory,
9 warehousing, there's no need to duplicate all that.

10 Q. Who's your current general manager?

11 A. Michael Lumby.

12 Q. Who's your local general manager?

13 A. Michael Lumby.

14 Q. What plans do you have to serve
15 customers off of the supply line?

16 A. At this time we don't. We have no
17 plans. There's always, you know, the chance that you
18 could have a -- you know, an isolated farmhouse
19 request a farm tap, and they would be looked at on a
20 case-by-case basis. And as I referred to earlier,
21 with MGE in areas, there may be some overlapping
22 service. We would coordinate that with MGE.

23 Q. Would those customers be subject to the
24 same rates and tariffs as your other customers?

25 A. Yes, they would.

1 Q. What potential cost overruns have you
2 estimated in construction of the line?

3 A. Let me defer that to Mathew Gimble with
4 respect to the contingencies.

5 Q. I believe you testified that you used
6 SMNG's actual growth rate experience for your
7 feasibility study; is that correct?

8 A. That's correct.

9 Q. You'd agree with me that Branson's
10 already a developed area in many respects?

11 A. Yes, with a whole lot of new development
12 ongoing.

13 Q. But they already have a lot of
14 sidewalks, parking lots, commercial businesses?

15 A. Yeah, all of the towns that Southern
16 Missouri were certificated to serve 12 years ago
17 already had streets and sidewalks and businesses.

18 Q. Is Hollister -- would you consider
19 Hollister as developed as Branson?

20 A. Yes, you know, to the degree that
21 Hollister's much smaller geographically than Branson,
22 but yes, there's a lot of -- of already built out
23 infrastructure.

24 Q. You said they were certificated 12 years
25 ago. They didn't actually start construction, did

1 they, Alliance?

2 A. I didn't refer to Alliance being
3 certificated 12 years ago.

4 Q. Would you repeat, then, for me what you
5 said about 12 years ago?

6 A. Yeah. All of the towns that Southern
7 Missouri currently serves --

8 Q. Uh-huh.

9 A. -- that were certificated 12 years ago,
10 were already towns in existence with streets and
11 sidewalks and buildings and parking lots. So -- so
12 moving into a new market like Branson or Lebanon or
13 Houston and Licking doesn't propose anything that we
14 haven't already been through and managed and, you
15 know, succeeded.

16 Q. What is the differential on cost in
17 going into a developed area as opposed to laying new
18 pipe in a residential development? What's the
19 differential?

20 A. Yeah, let me defer to Mike Lewis to
21 answer that.

22 Q. You've indicated that you are willing to
23 accept the risk for the financial feasibility of the
24 system and the viability of the system; is that
25 correct?

1 A. That's correct.

2 Q. But you're unwilling to accept Staff's
3 proposal that we believe would protect customers from
4 the financial failure of the company; is that
5 correct?

6 A. I don't believe that's correct.

7 Q. The condition that Staff has proposed
8 that's in the list of issues, you have declined to
9 accept that?

10 A. The only issue we've declined to accept
11 is the accounting treatment issue.

12 Q. That's in the list of issues?

13 A. That's correct.

14 Q. What substitute would you propose, then,
15 for language to protect ratepayers from the financial
16 risk of this system?

17 A. I think the language is already in
18 there. You've already put all of the financial risk
19 on the shareholders and we've already said we would
20 accept that, just like we did in the acquisition,
21 just like we did in the Lebanon certificate and just
22 like we're proposing here today.

23 Q. Would you agree with me that that
24 language would only come into play if and when you
25 decide to sell Southern Missouri Natural Gas?

1 A. I'm not -- I'm not a regulatory expert,
2 but I believe that language could come into play any
3 time a rate case were filed.

4 Q. Mr. Maffett, when you went into the
5 Lebanon case, unfortunately, I wasn't able to be here
6 for that. Was Branson -- was the Branson project
7 included in your feasibility proposal as it related
8 to Lebanon?

9 A. No, it was not.

10 Q. Was it included in -- specifically in
11 your financing case?

12 A. At that time I don't believe it was.

13 Q. When were you projecting actually
14 starting -- or actually providing service in Lebanon?

15 A. We had originally hoped to provide
16 service for -- by this December, but with delays from
17 the city council issuing the franchise, and then the
18 city council erroneously thinking that it did not
19 require a vote, the propane dealers, as you well
20 know, delayed us probably six months.

21 Q. Your current projection for Lebanon?

22 A. Would be to start construction
23 immediately upon approval of our financing plan in the
24 first quarter of 2008 with service being available
25 late second quarter, early third quarter 2008.

1 MS. SHEMWELL: Judge, if I could have
2 just a moment, please?

3 JUDGE LANE: Of course. Well, and when
4 looking ahead here, when you complete your
5 cross-examination, then we'll have Ozark, and then I
6 believe the next witness is -- is Mayor Presley who
7 will not be available until after 2:00 p.m.; is
8 that -- is that correct?

9 MR. FISCHER: Yes, we're anticipating
10 she'll arrive around two o'clock.

11 JUDGE LANE: All right. So I'm thinking
12 if we can -- if we can push forward till like, you
13 know, maybe one o'clock, then take an hour for lunch
14 or -- is that all right?

15 THE WITNESS: Judge, is there a time for
16 a little boy's room break?

17 JUDGE LANE: Oh, if you need that,
18 absolutely there is.

19 (A RECESS WAS TAKEN.)

20 JUDGE LANE: Well, we're back on the
21 record in Case No. GA-2007-0168, that's Southern
22 Missouri Gas Company's application for a
23 certificate -- a Certificate of Public Convenience
24 and Necessity for a gas system in the Branson area.

25 When we finished up just before our last

1 ten-minute break, I believe Staff was continuing --
2 continuing its cross-examination of SMNG's first
3 witness, Mr. Randal Maffett. So if you're prepared
4 to resume your cross-examination, Ms. Shemwell,
5 please -- please do.

6 MS. SHEMWELL: Thank you, Judge.

7 BY MS. SHEMWELL:

8 Q. I just have one follow-up question,
9 Mr. Maffett, and I was unable to word the question
10 artfully enough, so let me try again. In the stock
11 purchase of S -- Southern Missouri Gas by Sendero,
12 what was the implied fair value of the Southern
13 Missouri Gas assets?

14 A. I'm just making sure I'm not violating
15 confidentiality with respect to the DTE agreements,
16 but it would have been the purchase price is the
17 implied fair market value, right? That's what a
18 willing buyer and a willing seller are willing to
19 transact upon. I guess I'm asking a question: Is
20 the purchase price itself protected under a
21 confidentiality clause somewhere in the -- in the
22 purchase agreements?

23 Q. I don't -- I don't remember.

24 MR. FISCHER: I don't recall either. I
25 think at one point it was confidential, and I don't

1 know that I've ever seen it public.

2 THE WITNESS: Yeah.

3 JUDGE LANE: It may have -- he may have
4 answered your question, I mean, to the extent he was
5 equating fair market value with the contract price,
6 but --

7 BY MS. SHEMWELL:

8 Q. Well, let me see if this -- was it equal
9 to the net original cost?

10 A. The net original cost of --

11 Q. -- the pipeline system.

12 A. No.

13 MS. SHEMWELL: That's all I have.

14 Thanks.

15 Well, was it less?

16 THE WITNESS: Yes.

17 MS. SHEMWELL: That's all I have. Thank
18 you, Judge.

19 JUDGE LANE: Thank you very much. And
20 our next is Ozark. This is your witness for
21 cross-examination. And I just wanted to ask since --
22 how long -- how long do you anticipate your
23 cross-examination, did you have any idea?

24 MR. STEINMEIER: I have an idea that
25 we'll be -- well, we can get it done by tomorrow,

1 your Honor. I -- I have a feeling you'll want to --
2 you were supposed to chuckle at that, but I actually
3 don't -- I actually don't --

4 JUDGE LANE: Well, you got a wry grin.
5 Is that close enough?

6 MR. STEINMEIER: I'm lousy at estimating
7 such things in the first place. Wherever we are in
8 the process when you want to go to lunch, and if you
9 want to take the mayor out of turn, we're entirely
10 flexible and at your service. But I'm confident we
11 will not be finished with our cross-examination by
12 one o'clock.

13 JUDGE LANE: All right. That's fair
14 enough. Let me ask this, Mr. Fischer and Mr. Dority:
15 Mayor Presley, we need to get her in today, right?

16 MR. FISCHER: Yes, she's traveling up
17 here especially to be here and she has to return
18 tonight.

19 JUDGE LANE: Okay. I'll tell you what
20 we're gonna do just -- I think just -- let's go ahead
21 and break for lunch now. It's 15 till 1:00, and
22 let's say -- is that correct, 15 --

23 THE WITNESS: Correct.

24 JUDGE LANE: Yeah, 15 till 1:00. Let's
25 resume at 2:00. That gives us an hour and 15

1 minutes, gives everyone a chance. Then we'll go
2 ahead and if you're expecting her at that time, could
3 we maybe take her up as a witness and then resume the
4 cross-examination of Mr. Maffett?

5 And Mr. Maffett, I hope you're gonna be
6 available --

7 THE WITNESS: Yes.

8 JUDGE LANE: -- possibly tomorrow if
9 your cross-examination takes longer?

10 THE WITNESS: Yes.

11 JUDGE LANE: All right. Very good.
12 That sounds like a plan to me. So we're adjourned
13 until two o'clock. Thank you very much.

14 (A RECESS WAS TAKEN.)

15 JUDGE LANE: Well, we are back on the
16 record in Case No. GA-2007-0168, and we had completed
17 the cross-examination of Mr. Maffett, all except for
18 OEP. Have you heard from your witness, Mayor
19 Presley?

20 MR. FISCHER: Yes, Judge. Mayor Presley
21 is -- is in the hearing room, and it would be very
22 helpful if we could get her on and let her go on her
23 way if she'd like today.

24 JUDGE LANE: All right. Do I hear any
25 objection to taking Ms. Presley out of order, and

1 then after that -- after she is done, continuing --
2 completing the cross-examination of Mr. Maffett?

3 (NO RESPONSE.)

4 JUDGE LANE: All right. Hearing none,
5 let's go ahead and do that, then. Ms. Presley, would
6 you come forward to the witness stand? Ms. Presley,
7 would you state your name for the court reporter,
8 please.

9 MS. PRESLEY: Raeanne Presley.

10 JUDGE LANE: And would you spell it out?

11 MS. PRESLEY: R-a-e-a-n-n-e,
12 P-r-e-s-l-e-y.

13 JUDGE LANE: Thank you very much.
14 Please raise your right hand to be sworn.

15 (THE WITNESS WAS SWORN.)

16 JUDGE LANE: Thank you very much.
17 Please be seated. Mr. Fischer?

18 MR. FISCHER: Thank you, Judge.

19 DIRECT EXAMINATION BY MR. FISCHER:

20 Q. Welcome, Ms. Presley. Is this the first
21 time you've been at the Public Service Commission?

22 A. It is.

23 Q. Well, welcome. Would you state your
24 name and address for the record and the court
25 reporter?

1 A. I am Raeanne Presley. I'm the mayor of
2 Branson, Missouri.

3 Q. Okay. And what are your current duties
4 as the mayor of Branson?

5 A. Well, I was elected in April, and I
6 serve, of course, as the leader of the City of
7 Branson along with six members of the Board of
8 Aldermen.

9 Q. Okay. Do you believe that there is a
10 need for natural gas and transportation services in
11 the City of Branson?

12 A. Yes, I do.

13 Q. Would you explain why you think that
14 that's the case, what public benefits there might be
15 to your community if natural gas was to come to the
16 City of Branson?

17 A. Well, if I had to put it in one word, I
18 guess I would say choice. I think it's important
19 both to our citizens and to our developers to have a
20 choice when they look for different types of utility
21 service.

22 Q. Are there economic benefits that you
23 could foresee if you did have the choice of natural
24 gas available, for example, for industrial customers
25 and others?

1 A. Yes, I've spoken to some -- for our
2 community what would be very large users, our
3 hospital. I serve on the hospital board, Chateau on
4 the Lake which is our conference center and hotel, as
5 well as our school district. And they're very
6 anxious to -- to see what opportunities there might
7 be with natural gas.

8 It's also important to our community as
9 we look at new types of development that that be
10 available to them as a choice.

11 Q. Have potential employers come to your
12 town thinking about locating and asking about what
13 services are available?

14 A. Well, Branson, of course, is a very
15 rapidly growing community, and we have seen many
16 folks come and inquire about moving their businesses
17 to Branson. I must be honest, I have not
18 specifically been in those conversations.

19 Q. Would you believe that it would be a
20 positive factor in those discussions with your
21 economic development people if that -- that option
22 was available?

23 A. Well, absolutely. It's -- it's always a
24 negative when you have to say that you don't have a
25 service available.

1 Q. Do you happen to know how old your town
2 is, how old is Branson?

3 A. It was formed in the early 1900s.

4 Q. And you haven't had natural gas since --
5 at all since that time?

6 A. Oh, no.

7 Q. Okay. Has the City of Branson adopted
8 an ordinance giving Alliance Gas Energy which was the
9 predecessor to the current applicant, Southern
10 Missouri Natural Gas, a municipal franchise to bring
11 natural gas into Branson?

12 A. Yes, we have.

13 Q. And has the city also approved the
14 assignment of the franchise to Southern Missouri
15 Natural Gas?

16 A. Yes.

17 Q. Would it be correct to conclude that the
18 City Board of Aldermen, I believe you called it, has
19 had an interest in obtaining natural gas for the City
20 of Branson for some time?

21 A. Yes, this has been a long process, and
22 I'm certain folks are wondering where it is, but we
23 continue to be hopeful.

24 Q. Do you have any other comments you'd
25 like to make to Commissioner Appling or Judge Lane

1 regarding why you think that this would be a good
2 thing?

3 A. Well, I also wanted to mention that we
4 are in the process of developing a 300-acre commerce
5 park. It's what we would call a smart park. It sits
6 across from a very large underground that's quite
7 phenomenal for our region. A lot of big name
8 companies are moving in there. Jack Henry has
9 recently moved a lot of their processing and software
10 development in there, and we believe that has real
11 potential to diversify our economy.

12 As you know, we are tourism-based. That
13 is all that we do in Branson. But it does have its
14 limits in terms of year-round employment and wages.
15 And we're looking for folks to move into our
16 community that would be involved in different types
17 of industries that would have a higher wage.

18 We are in desperate need of workforce in
19 our community, and we hope that natural gas will be
20 one piece of that puzzle.

21 Q. Very good. Are you experiencing quite a
22 bit of residential growth there too in the area?

23 A. We are. It's very difficult to build in
24 Taney County. Stone and Taney County, as you know,
25 are difficult to build in, and so we struggle with

1 workforce housing. But we -- with the help of the
2 Housing Commission, we've been able to secure some
3 tax credits that have allowed us to expand our housing.

4 MR. FISCHER: Okay. There may be other
5 people that have questions for you today, but thank
6 you very much on behalf of the company for coming up
7 from Branson.

8 THE WITNESS: Uh-huh, happy to be here.

9 MR. FISCHER: That's all I have.

10 JUDGE LANE: Thank you very much.
11 Mr. Cooper, do you have any questions of Ms. Presley?

12 MR. COOPER: No questions.

13 JUDGE LANE: All right. Office of
14 Public Counsel?

15 MR. POSTON: No questions, thank you.

16 JUDGE LANE: Staff?

17 MS. SHEMWELL: Thank you.

18 CROSS-EXAMINATION BY MS. SHEMWELL:

19 Q. Mayor Presley, I'm Lera Shemwell. I
20 represent the Staff of the Commission in this case.
21 And you had just indicated that it's difficult to
22 build. Would you say a little more about that,
23 please?

24 A. Well, Taney County is -- that's what
25 makes it so beautiful, so we are aware that -- that

1 there are extra costs associated with building.

2 Q. For what reason?

3 A. Basically rock.

4 Q. Do you have a preference of one company
5 over another? Does it matter to you who provides
6 natural gas service?

7 A. Well, I believe that the city has
8 researched diligently the background of Missouri
9 Southern -- Southern Missouri Gas, and certainly
10 feels that they have the credibility, they have the
11 backing, they have the knowledge that would allow us
12 to move forward. We're very pleased with what
13 they've presented to us and we're anxious to move
14 forward.

15 Q. Have you issued them an exclusive
16 franchise?

17 A. It is not exclusive, but if we should
18 decide to change, we would have to revote that issue,
19 is my understanding. And so we would have to go
20 through an entire process with a separate company,
21 and right now they have -- they have the ability to
22 provide the service as far as we're concerned once
23 they get your approval.

24 Q. Who is "we" when you say, "We would have
25 to go through the process"?

1 A. The City of Branson. The City of -- the
2 Board of Aldermen would have to find a new company,
3 they would have to negotiate those terms and they
4 would have to vote it. They would have to put it
5 before a vote of the people because the vote that we
6 held specifically named Alliance and then was
7 transferred, of course, to Southern Missouri. So we
8 would have to go through that process, which I
9 believe would take months.

10 MS. SHEMWELL: Thank you. I appreciate
11 it. Thank you.

12 JUDGE LANE: Thank you very much.
13 Mr. Steinmeier, Ms. Young, any questions of this
14 witness?

15 MR. STEINMEIER: Thank you, your Honor.

16 CROSS-EXAMINATION BY MR. STEINMEIER:

17 Q. Mayor Presley, Bill Steinmeier on behalf
18 of Ozark Energy Partners. At the end of the day, the
19 city's ultimate concern is that as soon as possible
20 it be receiving natural gas service from a
21 financially viable, safe and reliable natural gas
22 utility. Would that be an accurate statement?

23 A. If all things were equal, but I'm not
24 certain that all things are equal.

25 Q. Okay. And I'm sure it's important to

1 you and folks in the city to -- that your local
2 utility have a strong knowledge of the -- of the
3 Branson area?

4 A. I guess -- I guess I would simply say
5 that Branson is used to working with folks from
6 throughout the nation, so while we welcome people
7 that come in and learn about our community, I would
8 not say that it's important to us that they be based
9 in our community.

10 MR. STEINMEIER: Okay. Thank you very
11 much. No further questions.

12 JUDGE LANE: Thank you. Commissioner
13 Appling?

14 COMMISSIONER APPLING: Mayor Presley,
15 how are you doing?

16 THE WITNESS: I'm just fine, and you?

17 COMMISSIONER APPLING: Good. Well,
18 thank you for taking the time out of your busy
19 schedule to come up and visit with us. It's always
20 good to have the elected officials out of the areas
21 to support what we do and thank you for visiting the
22 Public Service Commission. I always like to come
23 down to Branson. I wish I had a lot of money to stay
24 longer, but, you know, a couple of nights is about
25 all I can afford to do.

1 THE WITNESS: Well, we welcome you any
2 time. It's beautiful this time of year.

3 COMMISSIONER APPLING: Thank you very
4 much for coming. Judge, I have no questions for this
5 witness. Thank you.

6 JUDGE LANE: Thank you.

7 QUESTIONS BY JUDGE LANE:

8 Q. I have one brief question and that is,
9 do you happen to know in terms of the hospitality,
10 the tourism industry, do you happen to know what form
11 of energy a lot of the hotels, restaurants, motels
12 use for their heating purposes?

13 A. I believe most of them would be
14 electric.

15 Q. Most are electric?

16 A. Uh-huh.

17 Q. Maybe some propane or --

18 A. Maybe some, yeah.

19 Q. All right. And are you familiar if
20 there are any economic benefits that might be
21 achieved through the use of gas?

22 A. Only what others have shared with me and
23 folks that I know in the different industries that
24 feel that there are times when natural gas is quite
25 beneficial.

1 JUDGE LANE: All right. That concludes
2 my questions. Any further cross-examination based on
3 questions from the bench?

4 (NO RESPONSE.)

5 MS. SHEMWELL: No, thank you.

6 JUDGE LANE: And any redirect?

7 MR. FISCHER: Just briefly.

8 REDIRECT EXAMINATION BY MR. FISCHER:

9 Q. Mrs. Shemwell asked you there about
10 the -- excuse me. Ms. Shemwell asked you about the
11 rock, I think. And does the city itself have a
12 water -- or a public utility function at all where
13 you would be digging in rock in Branson?

14 A. Well, we have both our own water
15 treatment and sewer treatment plants, sure.

16 Q. So you'd be familiar with --

17 A. Oh, yes.

18 Q. It's certainly possible to do that --

19 A. It's also very stable.

20 MR. FISCHER: Okay. Thank you very
21 much. That's all I have. Thank you again for
22 coming.

23 JUDGE LANE: Thank you very much. Any
24 recross?

25 (NO RESPONSE.)

1 JUDGE LANE: Hearing none, you may step
2 down, ma'am, and I believe you may be finally
3 excused.

4 THE WITNESS: Thank you.

5 JUDGE LANE: Thank you very much for
6 coming.

7 Mr. Maffett, if you would come take your
8 rightful place at the stand again. Just remember you
9 are still under oath.

10 THE WITNESS: Yes, sir.

11 JUDGE LANE: And we'll begin with
12 cross-examination of Mr. -- Mr. Maffett by Ozark
13 Energy Partners.

14 MR. STEINMEIER: Thank you, your Honor.

15 CROSS-EXAMINATION BY MR. STEINMEIER:

16 Q. Mr. Maffett, how long were you employed
17 by Enron?

18 A. Approximately ten years.

19 Q. Mostly or entirely in the global
20 marketing?

21 A. No, sir. I was involved originally with
22 a company called Enron Gas Marketing, later Enron
23 International working in South America. I did stuff
24 in Europe, Asia. So Enron was a place where you
25 could move around quite a bit.

1 Q. I'm spotting something that I'll need to
2 defer until our in-camera session, so I won't ask
3 that now.

4 Can you tell me when SMNG sent to Staff
5 its responses to Staff data request 6 through 9 in
6 this case?

7 A. No, sir, I can't tell you that right off
8 the top of my head.

9 Q. The response to data request 9 mentions
10 a number of worksheets, six, seven different
11 worksheets. We've received a copy of the response
12 but not of the worksheets. Are -- are you aware that
13 OEP requested those worksheets but have not received
14 them?

15 A. Are these worksheets relative to the
16 feasibility study?

17 Q. Yes.

18 A. Okay. They're -- they're in --

19 Q. Apparently, and they're all referred to
20 in your response to data request 9.

21 A. Right. If they're -- if they're part of
22 the feasibility study, the worksheets are individual
23 worksheets within the Excel workbook. So if you have
24 the feasibility study, you have the worksheets.

25 Q. And is that the electronic feasibility

1 study worksheet that Mr. Poston was speaking of
2 earlier?

3 A. If it's -- again, if it's the
4 feasibility study, it -- yes, it would be.

5 Q. Okay. I'm just trying to figure out if
6 there's an electronic document out there that we
7 haven't seen yet, and ask if there's a way to make
8 sure that we do before the day's out.

9 A. Yeah, everything's been filed through
10 EFIS as far as I know, so you should have access
11 through EFIS to everything that's been filed.

12 Q. That -- that may be true, and if you
13 would explain that to EFIS, I'd be grateful. I have
14 yet to access a single document in the case through
15 EFIS, but that's not your fault or your problem.
16 Would you be willing to arrange to have your folks
17 just e-mail it to us?

18 A. The feasibility study, as long as
19 it's --

20 Q. The electronic feasibility study.

21 A. Yeah, as long as it's under the
22 protective highly confidential order --

23 Q. Oh, absolutely.

24 A. -- and subject to all the rules therein.

25 Q. We -- I understand that.

1 A. Yeah, we have no opposition to that.

2 Q. Can we get it by suppertime?

3 A. Possibly.

4 MR. FISCHER: How long is your cross
5 gonna be, Mr. Steinmeier?

6 MR. STEINMEIER: Is that gonna affect
7 suppertime?

8 MR. FISCHER: That's right.

9 MR. STEINMEIER: Is that your point,
10 Counselor?

11 MR. FISCHER: That's my only point.

12 MR. STEINMEIER: Sorry.

13 BY MR. STEINMEIER:

14 Q. Can you tell us what the amount of
15 existing business infrastructure is that you've
16 allocated to Branson? There was a discussion earlier
17 about some of your -- about how you would approach
18 allocations.

19 A. On a specific basis, I believe Mathew
20 might be able to go through this in more detail, but
21 if I'm not mistaken, the bulk of the 20 employees
22 that we would be hiring are construction, conversion
23 and service techs that would be located in the
24 Branson area. So they're, again, just an estimate of
25 probably three or four office employees and one or

1 two meter readers and/or sales and marketing people.

2 So the bulk of the -- the existing
3 allocation, billing, payables and all the accounting
4 software, everything else, general manager, the
5 accounting comptroller, customer service manager, HR
6 manager, all of that would still be based in Mountain
7 Grove and would be spread across the whole system.

8 MR. STEINMEIER: Your Honor, just for
9 the sake of jumping back and forth as an after-lunch
10 exercise, we -- OEP also asked for the Lebanon
11 feasibility study. And since we're not parties to
12 that case, we do not have access to that Lebanon
13 feasibility study in GA-2007-0212, et al. through
14 EFIS, whether EFIS is working correctly or not.

15 And we would request that your Honor
16 direct SMNG to provide us with a copy of that Lebanon
17 feasibility study. It's already been testified to
18 here today, both referred to by counsel and testified
19 to by this witness that the Branson feasibility study
20 was -- was based on it or started from it, and we
21 need -- we believe we need to be able to see that
22 study.

23 MR. FISCHER: Your Honor, I guess I have
24 to object and question the relevancy of that. That
25 Lebanon case has been closed, the Report and Order

1 was issued three months ago, it's a final order.
2 We're standing on the -- on the Branson feasibility
3 study.

4 While the model is the same, the inputs
5 are different, and there's just no relevance to that.
6 And counselor could have asked this question weeks or
7 months ago and has not chosen to do so until the 11th
8 hour. Discovery is over with, and I would object.

9 JUDGE LANE: Do you have any rejoinder?

10 MR. STEINMEIER: Well, they've stated
11 here this morning that costs -- some of the costs
12 related to Branson are twice the cost of Lebanon. We
13 need to be able to see the two documents side by
14 side.

15 JUDGE LANE: Well, I believe this --
16 this issue was -- was addressed in some of the
17 motions that were filed in this case that I indicated
18 would not be ruled on at this point, and I don't plan
19 to -- to rule those motions right away. I'll take a
20 look at the issue. Let's just hold that motion in
21 abeyance for right now.

22 MR. STEINMEIER: If -- if -- if I might,
23 if -- your Honor, respectfully, I mean, first of all,
24 all it takes is attaching a file with an e-mail, but
25 unless we can see it tonight, we -- we would not have

1 any opportunity to analyze it or evaluate it in
2 relation to possible rebuttal testimony in this case.

3 JUDGE LANE: Are you saying that Ozark
4 cannot make its own independent assessment of the
5 adequacy of the feasibility -- of the feasibility
6 study performed for the Branson area without looking
7 at the Lebanon application? Is that your --

8 MR. STEINMEIER: No, sir, absolutely
9 not. And we are, in fact, making that assessment.
10 We -- we also think it's important to be able to see
11 in order to understand what Southern Missouri Natural
12 Gas has done in developing this -- this mathematical
13 formula that is filed as Appendix C in this case.
14 We -- we need to be able to see the two documents
15 side by side. We think we have a right to do that.

16 MR. FISCHER: Judge, they could have
17 asked that question months ago. They have not done
18 so. The DRs have been answered and we see no
19 relevance to that exercise. I mean ...

20 JUDGE LANE: I agree. The motion is
21 denied. Please continue.

22 BY MR. STEINMEIER:

23 Q. Mr. Maffett, if -- if your investors
24 tell you that if you get a certificate for Branson
25 and -- but then they'll finance it if you'll just add

1 one more city and get a conditional certificate for
2 it, what's the longest you're willing to wait?

3 A. I'm not sure I understand the question,
4 Counselor.

5 Q. Well, you were ready to go in Lebanon
6 according to all the testimony in that case. I sat
7 through that hearing. Sometime after that it was
8 determined that instead of filing your financing
9 application in Lebanon on which your Lebanon
10 certificate was conditioned, you were also going to
11 pursue Branson to fruition.

12 It's been suggested here today, if I
13 understood it correctly, that your financing is now,
14 in fact, conditioned on your receiving a Branson
15 certificate and not just the conditional certificate
16 for Lebanon which you already hold. Did I understand
17 that testimony correctly?

18 A. Yes, you did. Our financing in Lebanon
19 was filed prior to the issuance of the Certificate of
20 Convenience and Necessity. However, during the
21 interim period was when we reached a commercial
22 agreement with Alliance Gas Energy to acquire their
23 assets. And once that was completed, and once that
24 we had met with the city officials in Branson and
25 Hollister and had an inclination that the assignment

1 of those assets would be approved, that's when we
2 decided to bundle the financing for both expansions
3 into one financing transaction for the benefits of
4 reducing the transaction costs on the order of
5 probably a million to \$2 million, and by combining
6 the financings and going into the market with a
7 bigger tranche, we're getting some economies of scale
8 with respect to the rates.

9 Q. You have no immediate plans to seek yet
10 another certificate somewhere else before finally
11 filing the financing?

12 A. No, sir, I don't.

13 Q. Mr. Maffett, what is your depreciation
14 rate for transmission assets?

15 A. I believe it's 2 percent per year.

16 Q. And for distribution assets?

17 A. I'm not completely sure but I think it's
18 2 percent also.

19 MR. STEINMEIER: Your Honor, I'd like to
20 mark an exhibit.

21 (EXHIBIT NO. 8 WAS MARKED FOR
22 IDENTIFICATION BY THE COURT REPORTER.)

23 MR. STEINMEIER: I just ask that this be
24 marked Exhibit --

25 JUDGE LANE: -- No. 8.

1 MR. STEINMEIER: Thank you.

2 BY MR. STEINMEIER:

3 Q. Mr. Maffett, I've handed you what's now
4 been marked Exhibit 8, and it's already been
5 discussed in your direct testimony. Is this, in
6 fact, the document called Customer Survey 2007 that
7 was sent to residents in the proposed service area
8 during October 2007 by your company?

9 A. Yes, sir, I believe it is.

10 Q. So this is the customer survey which you
11 and Mr. Fischer spoke about during your direct
12 earlier today?

13 A. Yes, sir.

14 Q. And can you just tell me what the
15 purpose of this survey was?

16 A. Basically, to get a direct response from
17 the residential customers of their knowledge of
18 natural gas, their willingness to convert and what
19 kind of mix of -- of energy usage is in the area.

20 Q. You know exactly when it was mailed out?

21 A. I don't know the exact date, no, sir.

22 Q. It was during October 2007?

23 A. It was in and around that time frame,
24 yes, sir.

25 Q. And it went to people in what towns?

1 A. As far as I know, the City of Branson,
2 the City of Hollister and the City of Branson West.

3 Q. Very well. Your Appendix C was filed,
4 if I'm not mistaken, on or about August 10th of this
5 year?

6 A. (Nodded head.)

7 Q. That's an affirmative nod for the
8 record?

9 A. Well, you haven't asked a question yet,
10 you've made a statement.

11 Q. Oh, I -- I thought that was sort of a
12 question. Your Appendix C was already filed, so it
13 was not anticipated that the results of this customer
14 survey would have any bearing either on whether you
15 would seek to acquire the assets of Alliance Gas
16 Energy, you said it had already been done in June,
17 nor would the results of this customer survey affect
18 any input into your Appendix C feasibility study; is
19 that true?

20 A. More or less, that's correct.

21 Q. And I know you testified earlier that
22 the statement about SMNG being awarded an exclusive
23 franchise was what you called an honest mistake. So
24 has SMNG sent out a corrected mailing or taken any
25 other measures to correct the record on the point?

1 A. No, sir, we have not.

2 MR. STEINMEIER: Your Honor, if you'll
3 bear with me just a moment, the only complication is
4 that I don't want to ask things in executive session
5 or in-camera that I could have asked in daylight.

6 JUDGE LANE: I appreciate that.

7 BY MR. STEINMEIER:

8 Q. Mr. Maffett, how often have you been in
9 Branson?

10 A. Over the last probably six to eight
11 months, I would guess at least ten, 12 times. Quite
12 a bit lately.

13 Q. I'm sure. How about prior to the last
14 six or eight months? Had you ever been there before?

15 A. Yes, I have. After we acquired and even
16 prior to acquiring Southern Missouri Natural Gas, we
17 were looking at what other potential areas of
18 expansion might exist.

19 Q. Never vacationed there?

20 A. Yes, sir, I have.

21 Q. I was a little confused by your
22 testimony earlier about whether you built
23 transmission lines in Missouri before, and you
24 expressed some confusion on the point, as I recall,
25 and -- and changed an answer after understanding a

1 definition better.

2 The change in answer, as I recall it,
3 was that you have indeed built supply lines up and
4 down your system. Would you define a supply line for
5 me, please, including both some sense of whether
6 there are limits of length and width -- yeah, length
7 and width?

8 A. Quite honestly, I'm not familiar with
9 the term "supply line" in the industry, so I'm --
10 when counsel for Staff asked the question, that's
11 why I was confused. I'm -- we don't use that term.

12 Q. In Exhibit 1 which is your resumé, your
13 current -- well, 2004 to present work experience
14 includes an item that you, "Successfully bid on the
15 acquisition of a \$45 million natural gas pipeline
16 and distribution business in the first three months
17 of operation" -- I assume that's Sendero's operation,
18 "with final closing awaiting regulatory approval
19 anticipated to occur in January '05."

20 So I assume that is, in fact, Sendero's
21 acquisition of SMNG.

22 A. It was. The date of that resumé
23 predates the actual closing, and the closing didn't
24 occur until May of 2005.

25 MR. STEINMEIER: Your Honor, I have

1 quite a bit more cross, but it's almost entirely
2 based on the highly confidential portions of
3 Appendix C.

4 JUDGE LANE: Very well. We'll go into
5 an in-camera session. I'm going to turn off the
6 direct feed in the sound and the picture.

7 MS. SHEMWELL: And the mayor will have
8 to leave.

9 JUDGE LANE: Excuse me?

10 MS. SHEMWELL: The mayor, the mayor.

11 JUDGE LANE: Oh, yes.

12 MR. STEINMEIER: I probably have one
13 more question I could ask him. Is it too late?

14 JUDGE LANE: You've got one more
15 question to ask while we're still in open session?

16 MR. STEINMEIER: Well, yeah, unless
17 everybody's leaving already.

18 (EXHIBIT NO. 9 WAS MARKED FOR

19 IDENTIFICATION BY THE COURT REPORTER.)

20 BY MR. STEINMEIER:

21 Q. Mr. Maffett, I've just handed you
22 what's been marked as Exhibit 9 and would ask you
23 simply if that is a fair and accurate representation
24 of the company profile from your web -- company's
25 web page?

1 A. Assuming that no changes have been made
2 to it, yes.

3 Q. I assure you none have been made by me.
4 I'm not technically sophisticated enough to make them
5 if I was devious enough to want to do it.

6 MR. FISCHER: There's no plots in this
7 case.

8 MR. STEINMEIER: Your Honor, I would
9 offer Exhibits 7 and 8 -- I'm sorry -- 8 and 9, and
10 from there ask to go into in-camera session.

11 JUDGE LANE: Exhibits 8 and 9 which are
12 respectfully the SMNG Customer Survey 2007 and the
13 Sendero Capital Partners, Inc. company profile have
14 been marked and offered into evidence. Are there any
15 objections?

16 (NO RESPONSE.)

17 JUDGE LANE: Hearing none, they are
18 received into evidence.

19 (EXHIBIT NOS. 8 AND 9 WERE RECEIVED INTO
20 EVIDENCE AND MADE A PART OF THE RECORD.)

21 JUDGE LANE: Now we will go into
22 executive session and I remind everyone -- or
23 executive. We'll go into our in-camera session, and
24 I remind -- I think we have cleared the room of
25 everyone who is not authorized to remain for this

1 portion of the hearing, so I'm going to take us --
2 I'm going to turn off the recorded portion and we'll
3 just go with the court reporter for the proceedings
4 from this point forward.

5 If you'll just give me a moment.

6 (REPORTER'S NOTE: At this point, an
7 in-camera session was held, which is contained in
8 Volume 3, pages 162 through 240 of the transcript.)

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1 JUDGE LANE: All right. We are back on
2 the record in open session, and we are -- SMNG has
3 completed its -- the -- the direct examination of its
4 witnesses. They've reserved the right to call
5 rebuttal witnesses or recall those witnesses as
6 needed.

7 So we're now to presentation of evidence
8 by Staff, and the first individual that Staff is
9 going to call is Mike Straub. Mr. Straub, would you
10 please give your name -- spell your name for the
11 court reporter.

12 MR. STRAUB: Yes, Michael W. Straub,
13 S-t-r-a-u-b.

14 JUDGE LANE: Would you please raise your
15 right hand to be sworn?

16 (THE WITNESS WAS SWORN.)

17 JUDGE LANE: Thank you very much.
18 Ms. Shemwell, your witness.

19 MS. SHEMWELL: Thank you.

20 DIRECT EXAMINATION BY MS. SHEMWELL:

21 Q. Mr. Straub, what is your business
22 address?

23 A. My business address is 200 Madison
24 Street, Jefferson City, Missouri 65102.

25 Q. For whom do you work?

1 A. I am employed by the Missouri Public
2 Service Commission.

3 Q. What do you do at the Commission?

4 A. I'm a part-time employee in the
5 procurement analysis department of the services
6 division.

7 Q. Utility services division, correct?

8 A. Yes, correct.

9 Q. Had you worked for the Commission before
10 you became a part-time employee?

11 A. Yes, I've been employed with the
12 exception of approximately a six-month period with
13 the Commission since 1970. From 1970 to -- to 2000,
14 I was a full-time employee. I was employed -- and
15 since 2001, I have been a part-time employee.

16 Q. Have you worked on other cases in which
17 a company was applying for a Certificate of
18 Convenience and Necessity?

19 A. I have been involved in other cases, in
20 CCN cases, yes.

21 Q. How many cases here at the Commission
22 have you -- have you filed testimony in cases?

23 A. Yes. Just to give you my qualifications
24 and experience, in 1970 I graduated from Capital
25 Business College of Jefferson City with a two-year

1 degree in accounting. Upon graduation I was employed
2 by the Commission as an engineer, an engineering aide
3 in the depreciation valuation section where I
4 assisted with studies in depreciation and
5 depreciation rates.

6 From 1976 through May of 1995, I was
7 employed as a rate and tariff examiner in the gas and
8 electric operation of the utility -- of the
9 Commission. And from May 1995 through August of
10 2000, I was the assistant manager of rates in the
11 energy department of the operations division. I have
12 testified in approximately 50 to 55 cases for the
13 Commission, either in oral or written or both forms.

14 Q. Would you generally describe the
15 materials that you have reviewed in this case?

16 A. We've reviewed the application filed by
17 the applicant, Southern Missouri Gas Company, and its
18 related DRs, data requests, and have held various and
19 lengthy discussion with the applicants as well.

20 Q. Today the Staff filed with the
21 Commission its statement of position on the issues.
22 Do you support that position on the issues?

23 A. Yes, I do.

24 Q. Is it Staff's position that the
25 Commission should grant Ozark Energy Partners and

1 Southern Missouri Natural Gas CCN to serve the area?

2 A. It's Staff's position that conditional
3 CCNs should be granted at this time, and those
4 conditions are based on the company's ability to
5 achieve financing and the financial wherewithal to --
6 to actually get the natural gas service into the
7 Branson area.

8 And also, the other condition that
9 Staff -- the major condition is the accounting issue
10 that Mr. Oligschlaeger will be addressing when he
11 takes the stand.

12 Q. You said "a conditional CCN." Are there
13 conditions specific to Southern Missouri Natural Gas
14 that would not apply to Ozark?

15 A. I can't think of anything offhand
16 that -- Southern Missouri is an existing utility
17 that -- a lot of the information in the Ozark
18 stipulation dealt with a new company that wouldn't
19 need to be in the Southern Missouri stipulation if we
20 had one.

21 Q. Are you suggesting that the same or
22 different conditions be applied to each CCN?

23 A. Well, I think the same conditions should
24 apply to each. This -- this allows the companies,
25 both applicants, to keep their destiny within their

1 hands. It gives them the opportunity to go out and
2 get whatever appropriate financing they may need to
3 make this a go.

4 I think just granting one a CCN at this
5 point would possibly eliminate the other company
6 when, in fact, we don't know if one or both will also
7 achieve the financing ability to provide the service
8 in the Branson area.

9 Q. So this is a race for financing?

10 A. Well, it's not a race. It's -- it's
11 more of an opportunity for the companies to still --
12 to still stay alive and to stay -- to keep with the
13 ability to control their own destiny.

14 Q. Have you evaluated the feasibility
15 studies for both companies?

16 A. The Staff has done that, yes.

17 Q. Does Staff prefer one company over the
18 other?

19 A. Not at this time, no.

20 Q. For what reason?

21 A. Well, there again, although the
22 feasibility study is an extremely important part of
23 the application, the feasibility study has not been
24 the mechanism that's prevented other applicants from
25 achieving a successful operation in Branson or even

1 getting gas into the Branson area.

2 It's been the financing problem or the
3 lack of the -- the money in order to develop those
4 systems down there. So in Staff's view, the most
5 important issue in these two applications is their
6 ability to get the financing that would enable them
7 to build the systems.

8 Q. What would happen if both companies
9 filed completed financing applications for plans,
10 let's say, on the same day or in the same week?

11 A. Well, the Staff would have to evaluate
12 at that time the financing plans for both of the
13 companies. And we wouldn't be in a position at this
14 time to indicate which Staff believes would be the
15 better plans, and we would just have to wait for that
16 time.

17 Q. Which part of our position statement of
18 Staff had to do with beginning construction? Is that
19 part of the financing plan?

20 A. No. The construction aspect in -- in
21 the stipulation that we signed with Ozark and in our
22 recommendation in the Southern Missouri that no
23 construction begin until the company has obtained a
24 full CCN from the Commission. I lost my train of
25 thought.

1 Q. About construction.

2 A. Right, okay. Thank you. So
3 construction isn't part of the overall condition.
4 The construction -- Staff prefers that the
5 construction begin as soon as possible after the full
6 CCN, but we have built in a year's time span to give
7 the company a year from the time they get the --
8 their final order from the Commission granting a CCN,
9 and that they have to begin construction in a
10 systematic manner.

11 Q. When you say "we've built in a year's
12 time span," what are you referring to?

13 A. Well, we have a year in the Ozark
14 stipulation, a requirement that Ozark must begin
15 construction within a year of getting a full CCN, and
16 Staff proposes that same requirement for Southern
17 Missouri, whether it be through a stipulation or
18 through a Commission order.

19 Q. Did you hear Mr. Maffett testify this
20 morning about farm taps off of the main line, the
21 supply line, the Branson line?

22 A. Yes. Yes, I did. And in my review of
23 Southern Missouri's application, when I got the
24 application -- and by the way, I -- I'm the artist of
25 this map, and I do have one more copy, but we

1 would -- we would probably need that for Thursday's
2 Ozark's presentation. But -- I'm sorry. I don't
3 remember, but this one was copied from the one I did,
4 so there is one more of these available, if that
5 helps you any.

6 Q. A map where you can see farm taps?

7 A. Taps, yeah. When I -- when I developed
8 this map, if you -- if you can see it, the red --
9 regarding Southern Missouri Gas Company, the red area
10 is the area in which they requested an area of
11 certificate. The blue area or the blue sections in
12 this case are the sections in which they requested a
13 supply line.

14 Now, when I read their application, I
15 interpreted their application to state that this was
16 a supply line route only, and they had no intentions
17 of serving customers off of this line other than in
18 their requested service area.

19 So because of that, a farm tap would not
20 be something that would be available to Southern
21 Missouri at this time. If Southern Missouri wants to
22 serve customers off of the supply line, that they
23 would either need to file -- they would need to file
24 a CCN for the sections in which they propose to serve
25 customers that this line may be located in.

1 Q. And what is Staff's concern with having
2 that specifically identified?

3 A. The supply line?

4 Q. Versus whether or not they serve --

5 A. Whether it's an area certificate, yeah.
6 You know, there -- there are cases where there is
7 confusion as to a CCN, exactly what it -- utilities
8 have been granted. Have they been granted just a
9 line to -- to get the molecule of gas from one
10 service area location to another, or is it a line in
11 which they propose to serve customers from along the
12 way?

13 And we have had issues where there has
14 been confusion on those, and some companies have
15 served customers off of a supply line when they, in
16 essence, didn't have a CCN to do so.

17 So it's not that Staff would be opposed
18 to Southern Missouri having an area of certificate in
19 those sections; it's just that their application at
20 this time doesn't provide for that. So a farm tap,
21 even though there are no more farm tap customers, is
22 not an option at this time for Southern Missouri to
23 be served off of that line.

24 Q. So your concern is simply clarity; it's
25 not that they not have it?

1 A. Exactly.

2 Q. Mr. Straub, do you have a recommendation
3 for the treatment of what we've called the 20-cent
4 adder or the 20-cent surcharge, how that should be
5 dealt with in a tariff?

6 A. Yes. The 20-cent per Ccf should be a
7 commodity portion of the margin rate. In other
8 words -- or it could be a surcharge, but it would
9 need to be on the margin rate and not in the PGA
10 factor. So if -- if I were to do it, I would -- I
11 would propose it as a surcharge with an expiration.

12 MS. SHEMWELL: Thank you. That's all I
13 have, Judge.

14 JUDGE LANE: Thank you very much.
15 Mr. Cooper, any questions?

16 MR. COOPER: Yes, your Honor.

17 CROSS-EXAMINATION BY MR. COOPER:

18 Q. Mr. Straub, since you -- you've already
19 fessed up to being the artist behind that -- I think
20 it's Exhibit 12 there, I have a couple of questions
21 for you in regard to that.

22 A. Sure.

23 Q. Is one of the things you -- you
24 represented on that map the previously certificated
25 territory of Missouri Gas Energy?

1 A. Yes, it's also on the map.

2 Q. Okay. What color did you use to
3 represent that?

4 A. I think it's purple.

5 Q. And I think you also indicated during
6 Ms. Shemwell's questions that the colors of blue and
7 red represent the -- the areas that have been
8 requested by Southern Missouri Gas Company; is that
9 correct?

10 A. Correct.

11 Q. Does that area that has been -- or
12 that -- the areas that Southern Missouri Natural Gas
13 has requested, did they overlap with Missouri Gas
14 Energy's existing certificated territories in any
15 way?

16 A. They do in six sections for the service
17 line.

18 Q. And I think when you were discussing the
19 service line, you referred to it at one point in time
20 or referred to the type of certificate that might be
21 requested as a supply line. Would you be -- or would
22 that be synonymous with what we might refer to as a
23 line certificate from time to time?

24 A. Yes. Now, keep in mind that there are
25 two types of line certificates. Primarily, when you

1 think of a line certificate, you think of just a
2 transportation of the product from one location to
3 the next, but on the electric side, there have been
4 and there are line -- line certificates that allow
5 utilities to serve off of a certain line of
6 reasonable distance.

7 So there are line certificates that also
8 grant service area. Just a line certificate itself
9 isn't automatically a distinction of being a supply
10 line or a service line.

11 Q. How did you interpret it in this case?

12 A. In this case, based on the application,
13 the supply line is just that, a supply line. And
14 there was nothing in the application where the
15 company requested to serve customers from the supply
16 line.

17 And I remember reading in there where
18 they specifically indicated that they were not going
19 to serve customers off of that line, but I don't have
20 it with me and it would probably take me a while to
21 find that. If you were to ask me to find that right
22 now, I -- it would take me a while, so ...

23 MR. COOPER: Thank you very much.

24 That -- that's all the questions I have, your Honor.

25 JUDGE LANE: Mr. Poston?

1 MR. POSTON: Thank you.

2 CROSS-EXAMINATION BY MR. POSTON:

3 Q. Good evening.

4 A. Good evening.

5 Q. In the Staff's position on the issues
6 that the filed -- that you filed, Staff recommends a
7 condition be placed on SMNG. And I'm quoting from
8 that position of issues: Quote, SMNG shall be
9 responsible in future rate cases for the economic
10 consequences of any failure of this system to achieve
11 forecasted conversion rates and/or its inability to
12 successfully compete against propane." Are you
13 familiar with that condition?

14 A. What page are you on?

15 Q. Page 3.

16 A. Yes.

17 Q. Top of the page.

18 A. Yes, first paragraph.

19 Q. Do you agree with that condition?

20 A. Yes.

21 Q. And what I'd like to know is, why -- why
22 limit this to their forecasted conversion rates? Why
23 not, you know, look at their forecasted growth and
24 why limit it to their ability -- inability to compete
25 against propane? Why not also have a competition for

1 electric?

2 A. Well, in essence, those are all -- all
3 in there. I do agree the statement specifically
4 references conversion rates, but all of the areas
5 that you listed are concerns and are areas that are
6 not known until after the fact. So Staff has those
7 same concerns for all of the parameters that you just
8 mentioned.

9 Q. Would you agree that the -- a condition
10 placed by the Commission should include those other
11 parameters identified?

12 A. Absolutely, yes.

13 MR. POSTON: Thank you. That's all.

14 JUDGE LANE: Mr. Steinmeier?

15 CROSS-EXAMINATION BY MR. STEINMEIER:

16 Q. Mr. Straub, can you tell us a little bit
17 about how the Staff will assess the financing plans
18 that are filed with it?

19 A. I cannot give you specific requirements
20 that the Staff will be looking for at this time. And
21 if a financing case is required, those issues will be
22 addressed in that financing case if the assets are
23 encumbered and require a financing case. It will
24 be -- it will be determined when the financing cases
25 are filed.

1 have a couple.

2 JUDGE LANE: You know what, you're
3 right. You used to be last, you used to be next to
4 last. Now -- now you are last. I'm so sorry.

5 MR. FISCHER: I won't take too much
6 time, though.

7 CROSS-EXAMINATION BY MR. FISCHER:

8 Q. Mr. Straub, you've been around 37 years,
9 I guess, right?

10 A. Boy, isn't that amazing? Most people
11 don't believe it, including me.

12 Q. As I understand the Staff's position,
13 Staff is supporting the Commission granting both
14 applicants conditional certificates with the same
15 conditions that have been accepted by OEP in the Case
16 No. GA 2006-0561.

17 A. That's -- that's correct.

18 Q. Okay. If Southern Missouri Gas had
19 agreed to the same conditions that were contained in
20 the Ozark stipulation, would Staff be recommending
21 the approval of Southern Missouri's application in
22 this case?

23 A. Yes.

24 Q. Okay. And is it your understanding that
25 Southern Missouri Gas is generally comfortable with

1 the conditions contained in the Ozark stipulation
2 with the exception of the one on paragraph 3 that
3 relates to the accounting treatment of a future
4 purchase?

5 A. Yes, that's correct.

6 Q. Setting aside our disagreement with that
7 paragraph 3 in the Ozark stipulation, Staff would
8 agree that there is a public need for gas service in
9 Branson, Hollister and Branson West; is that correct?

10 A. That's correct.

11 Q. And in the Lebanon case, Staff supported
12 the approval certificate to Southern Missouri for
13 Lebanon, Houston and Licking; is that correct?

14 A. That's correct.

15 Q. Is it also correct that in the Lebanon
16 CCN case, Staff believed that Southern Missouri would
17 be technically capable of providing the proposed
18 service?

19 A. I wasn't involved in the case, but I
20 would make that assumption, that, yes, since Staff
21 recommended the -- the certificate be granted, that,
22 yes, they would.

23 Q. Is it your understanding that in the
24 last three months, the management team at Southern
25 Missouri Gas has remained essentially the same, do

1 you know?

2 A. I don't know enough about the management
3 team of Southern Missouri to know -- to know that one
4 way or the other.

5 Q. The Commission and the Staff, though,
6 have been regulating and been familiar with Southern
7 Missouri Gas Company since 1994, whenever it was
8 first certificated?

9 A. Yes.

10 Q. Now, Staff has recommended in the
11 Lebanon case that the certificate be conditioned upon
12 Southern Missouri obtaining the necessary --
13 necessary financing for that project as well; is that
14 right?

15 A. That's my understanding, yes.

16 Q. And with that condition, Staff was
17 comfortable recommending the grant to Southern
18 Missouri in the Lebanon case; is that also true?

19 A. That's my understanding, yes.

20 Q. Are you aware of anything that's changed
21 the financial capability of Southern Missouri since
22 the Commission granted the Lebanon CCN case just
23 three months ago?

24 A. I am not personally aware of anything.

25 Q. Okay. Are you aware that the company

1 has provided the Commission Staff, particularly the
2 financial analyst group, with definitive term sheets
3 regarding financing of that project?

4 A. I'm not -- I'm not familiar with that at
5 all. I know they have provided Staff with something.

6 Q. Would it be correct to conclude that if
7 the company agreed to this accounting treatment for
8 future sale that the Staff is proposing, then the
9 Staff would be willing to agree that the company's
10 proposal in this case is economically feasible?

11 A. Staff agrees that the proposal -- that
12 the feasibility you filed indicates that it is
13 feasible.

14 Q. So really, it really comes down to the
15 difference on this accounting adjustment between
16 Staff and company; isn't that true?

17 A. That's true.

18 Q. Now, Mr. Straub, as a part of your
19 investigation, did Staff review the -- the background
20 and qualifications of both applicants?

21 A. As a company?

22 Q. Yes.

23 A. Yes. And I'm hesitant to say yes or no
24 in that Staff is very familiar with the individuals
25 involved in both companies.

1 Q. Okay. By "the individuals," are you
2 talking about the -- the owners of the company?

3 A. Well, with the Southern Missouri Gas
4 personnel as well as the individuals hired by Ozark
5 to represent their interest in this case as in Steve
6 Cattron, Bill Steinmeier and Mark Pallard [sic]
7 (phonetic spelling).

8 Q. Okay. Are you also as familiar with
9 the -- the actual owner group at -- at Ozark?

10 A. I'm not familiar with either owner
11 personally.

12 Q. Do you know if Staff investigated the
13 background or experience levels of the owners of
14 either group?

15 A. I see what you're asking. No, we did
16 not that I'm aware of.

17 Q. Okay. Are you aware that Staff has been
18 quite concerned about the identity of the equity and
19 lenders to Southern Missouri in the financing case?

20 A. No, I'm not familiar with what's going
21 on in the financing case.

22 Q. Okay. Now, on the topic of farm taps,
23 is it correct that Staff's really not opposed to farm
24 taps, but you just weren't sure that it was really
25 being requested here; is that right?

1 A. We're not -- we're not opposed to
2 serving customers. Farm taps are a historical entity
3 that happened many years ago when our nation was
4 developing its pipeline system, and the pipeline
5 companies would give landowners or -- a tap onto the
6 pipeline for gas. Sometimes it was free, sometimes
7 it was a penny, it -- just varying rates. And they
8 did that in exchange for an easement to go across
9 their farm, and -- so that's really where the term
10 farm tap has originated.

11 And since that time, the interstate
12 pipeline companies have rid themselves of farm tap
13 customers, and in essence turned them over to
14 whatever the closest local distribution company
15 happened to be. And these were being served and
16 billed by the local distribution companies even
17 though the local distribution company didn't have a
18 certificate to serve in that area.

19 So when we refer to farm taps, in
20 essence, you know, that's really what we're referring
21 to. In this case, even though we referred to it
22 earlier as a farm tap, in essence, it's -- it's the
23 same as any other customer on the system. They're
24 just serving it from a different size line.

25 And that's why I indicated that farm

1 taps are something that -- that are not permissible
2 under your application, and if you want to serve a
3 customer off of this supply line, that you do need a
4 CCN to do so.

5 Q. But as a philosophical matter, you're
6 not opposed to farm taps; is that right?

7 A. That's correct.

8 Q. And as I heard you testify, isn't it
9 true that a lot of times the pipeline companies that
10 you were referring to needed to give farm taps to
11 folks so that they'd give them the right-of-way or
12 the easement --

13 A. Absolutely.

14 Q. -- so they got something out of the
15 deal?

16 A. Right.

17 Q. Okay. And if that was the case with
18 Southern Missouri Gas Company in order to go down
19 that 35 miles and there aren't any other local
20 distribution companies out there, would Staff be
21 really concerned about it if we did grant them a farm
22 tap, assuming we had regulatory approval to do so?

23 A. Yes, we would. We wouldn't be opposed
24 to you serving them, provided you serve them in
25 accordance with your Commission-approved tariffs, and

1 we would encourage you to serve any that had a desire
2 for service that you were in a position to serve.

3 What I am saying is, Staff would
4 oppose -- as an example, if I had a farm on your
5 proposed route and you came up to me and said, we
6 want to run this across your back 40, and since we're
7 close enough to your house, here, we'll put a tap in
8 it and you can just use the gas, you know, in
9 exchange for giving us the easement, Staff would be
10 opposed to that.

11 Q. But if we provided that gas service
12 pursuant to a tariff, that wouldn't be a concern?

13 A. Provided you have a CCN to serve
14 customers in that area, that's correct.

15 Q. And as you understand the application,
16 this is for a distribution system, it's not an
17 intrastate pipeline or a transmission line?

18 A. That's correct, it's not an intrastate
19 pipeline, it is simply a service lateral or supply
20 line. It's part of the facilities of the Southern
21 Missouri Natural Gas Company.

22 Q. As part of your investigation, have you
23 investigated who's actually going to be making policy
24 decisions and -- for both applicants in this case?

25 A. I'm not sure I --

1 Q. Individuals that might be in charge.

2 A. Staff individuals?

3 Q. No, no, the company individuals.

4 A. That may be in charge of?

5 Q. Making decisions, for example, on
6 construction and serving customers and providing gas
7 supplies and ...

8 A. Oh, okay. All right. Now that I know
9 who you're asking me about, what was the question
10 again?

11 Q. Have you investigated the experience
12 levels of the folks that are actually going to be
13 making the decisions for these companies?

14 A. Nothing in addition to what was supplied
15 in the applications.

16 MR. FISCHER: Okay. That's all I have.
17 Thank you very much.

18 QUESTIONS BY JUDGE LANE:

19 Q. Well, thank you for explaining that
20 about the farm taps because I was kind of wondering
21 about that. So what it sounds like to me is that --
22 I mean, are these still done from time to time
23 anymore?

24 A. Not really, at least in Missouri they
25 haven't been. And they haven't -- you don't -- one,

1 you don't have the inter or intrastate pipeline
2 construction that you had going on in the '50s when
3 most of this was really taking place, '50s and '60s
4 and even '40s.

5 Most of the distribution systems that
6 have been developed -- or transmission system has
7 been developed even though there are -- they are
8 adding new lines. But from what I understand, there
9 are no farm taps any longer. The -- the pipelines
10 were -- were tired of messing -- I hate to use that
11 word, but they were tired of dealing with individual
12 customers along the way. So that's why they -- they
13 just gave them to whatever local distribution company
14 was in the area.

15 Q. But in the -- in the current
16 application, we're not talking about individual
17 people kind of willy-nilly coming to Southern
18 Missouri and going, hey, you know, hook me up
19 straight off the --

20 A. The tap, yeah.

21 Q. -- straight off the tap, right? I
22 mean --

23 A. Well, I hope we cleared that up here.

24 Q. Yeah.

25 A. Yeah, that's -- that was the purpose of

1 discussing the farm taps. And I wanted to discuss it
2 because I heard the term used earlier. And just to
3 ensure that we didn't -- weren't confused on -- on
4 what we're really talking about and what's necessary,
5 it's not that Staff's opposed, as I indicated, to
6 serving these customers, we definitely want them
7 served, it's just the conditions in which they're
8 being served that Staff has a concern over.

9 JUDGE LANE: Okay. Well, that clears
10 up -- that clears up my question. Any further
11 cross-examination based on my question?

12 (NO RESPONSE.)

13 JUDGE LANE: Any redirect?

14 MS. SHEMWELL: No, thank you, your
15 Honor.

16 JUDGE LANE: All right. No recross.
17 And that will take care of this. I did not talk to
18 the Commission about your availability for tomorrow,
19 but --

20 THE WITNESS: I'll be here tomorrow.

21 JUDGE LANE: You will be here?

22 THE WITNESS: Yes.

23 JUDGE LANE: All right. Very well,
24 then. I'll go ahead and you can step down but you're
25 not -- please don't consider yourself finally excused

1 until we talk to the commissioners.

2 THE WITNESS: Sure.

3 JUDGE LANE: Thank you very much.

4 Well, that completes the testimony and
5 cross-examination of Mr. Straub, leaving
6 Mr. Oligschlaeger as the last Staff witness.

7 MS. SHEMWELL: Staff would call
8 Mr. Oligschlaeger.

9 JUDGE LANE: Olig -- I'm sorry.
10 Oligschlaeger. Now, you are one where we really need
11 you to spell your name for the court reporter.

12 THE WITNESS: Sure. Okay. Mark
13 Oligschlaeger, O-l-i-g-s-c-h-l-a-e-g-e-r.

14 JUDGE LANE: Would you please raise your
15 right hand to be sworn?

16 (THE WITNESS WAS SWORN.)

17 JUDGE LANE: Thank you very much.
18 Please be seated. And Ms. Shemwell, you may inquire.

19 MS. SHEMWELL: Thank you, Judge.

20 DIRECT EXAMINATION BY MS. SHEMWELL:

21 Q. Mr. Oligschlaeger, where do you work?

22 A. I work within the auditing department of
23 the Missouri Public Service Commission.

24 Q. What is your business address?

25 A. My business address is Post Office Box

1 360, Suite 440, Jefferson City, Missouri 65102.

2 Q. Would you say specifically what you do
3 for the Commission in terms of what types of data you
4 review?

5 A. I am a regulatory auditor 5, again, with
6 the auditing department of the Commission, which
7 means I am generally assigned to coordinate and lead
8 the auditing department's work in different
9 proceedings including rate cases, both major rate
10 cases and informal ones, and accounting authority
11 orders and other dockets such as this.

12 Q. Mr. Straub addressed the Staff's
13 memorandum on the issues that was filed with the
14 Commission today. What's the purpose of your
15 testimony?

16 A. My purpose is to support the Staff's
17 proposed condition relating to accounting for plant
18 in service by any subsequent owners of the property
19 in question in this application.

20 Q. And what is the particular provision or
21 condition?

22 A. The condition can be found in part 2 A
23 of the list of issues, order of witnesses and order
24 of cross-examination that I think was filed yesterday
25 here with the Commission. I'd be happy to read the

1 condition for you, if you desire.

2 MS. SHEMWELL: I do not desire unless
3 the judge would like that read into the record?

4 JUDGE LANE: No, we've got -- we've got
5 the document.

6 MS. SHEMWELL: Thank you.

7 JUDGE LANE: Unless there's some
8 question as to whether the document reciting the
9 condition is not an accurate -- in the pleading.

10 BY MS. SHEMWELL:

11 Q. As you look at the pleading,
12 Mr. Oligschlaeger, is that representative of Staff's
13 position as to the condition that should be imposed?

14 A. Yes, it is.

15 Q. What is the purpose of the condition?

16 A. The purpose of the condition is to, in
17 the Staff's position, provide a meaningful protection
18 of customer interests if this application is
19 ultimately approved by the Commission.

20 Given the past history of these natural
21 gas startups in the state and the economic
22 difficulties experienced by many of those initial
23 applicants, the Staff would not be willing to make a
24 recommendation to proceed or recommend approval of
25 such applications without some meaningful protection

1 of customer interest and meaningful assumption of all
2 economic risk by the shareholders.

3 In situations where new gas systems may
4 be overbuilt and reflect uneconomic levels of plant,
5 the net original cost concept of ratemaking is, in
6 my -- in Staff's opinion, no longer applicable in
7 that that is a value that generally cannot and
8 definitely should not be used in the rate process for
9 companies, again, in these situations where cost
10 based ratemaking cannot be implemented. And our
11 concern about the use of net original cost in that
12 situation is not changed in any way if new owners
13 appear to take over operation of the assets.

14 In fact, a third -- or an agreement
15 between -- to transfer ownership of the assets
16 through a third-party, arm's length transaction is a
17 much more accurate and appropriate valuation of the
18 assets for economic and rate purposes bending that
19 original cost to the original owner.

20 For this reason, it is our belief that
21 when ownership passes to a new owner, that the
22 presumed rate valuation of the assets should be based
23 on the new purchase price, not that original cost.
24 And for that reason, the purchase price should also
25 be the basis for the new owners recording and

1 accounting for the plant assets, though I would add
2 that nothing in this condition prohibits a new owner
3 from seeking some different rate treatment for the
4 assets in subsequent rate proceedings other than the
5 purchase price.

6 Q. Does that indicate that you believe that
7 this provision would apply in a future rate case as
8 opposed to in a sale?

9 A. Would this provision apply in a future
10 rate case?

11 Q. Yes.

12 A. What this provision would -- if adopted,
13 would -- would have the company book, the new owner
14 book the plant assets at the purchase price. It
15 would put the burden on the owner by proposing
16 adjustments to that purchase price if it wished to
17 have it valued -- the plant assets valued in a
18 different manner for rate purposes.

19 Q. Let's say the present owner files a rate
20 case. Is it your opinion that this provision would
21 apply?

22 A. Well, this provision -- well, let me --
23 okay. I think this provision specifically applies
24 only if the initial owner or SMNG, as we're
25 discussing today, would choose to sell or otherwise

1 dispose of its assets.

2 If SMNG does not do so and seeks some
3 sort of rate treatment for -- or a rate increase or a
4 rate change, then presumably its assets may be
5 recorded at -- still recorded at net original cost
6 and then the parties would discuss at that time
7 whether that's an appropriate rate valuation.

8 Q. So you're indicating that the parties
9 would negotiate the valuation rather than Staff
10 claiming that this provision in some way applied in a
11 rate case?

12 A. Well, it could be negotiated or it could
13 be heard before the Commission, but, no, this is
14 not -- this condition kicks in only in the event that
15 there is a subsequent sale of the properties.

16 Q. Earlier Mr. Fischer described this
17 condition as being novel and unique. Was this type
18 of -- or has this type of condition been recommended
19 by the Staff in prior gas certificate cases?

20 A. We believe that very similar conditions
21 in -- or in concept and in intent have been proposed
22 by the Staff, accepted by applicants and approved by
23 the Commission.

24 If you are interested in protecting or
25 making sure that the company and its shareholders

1 assume all economic risk of failing to convert enough
2 customers or being successful against propane and
3 electric, there's two different alternative ways of
4 doing it.

5 One way, which has been done in the
6 past, is to require a minimum imputation of a level
7 of revenues consistent with the actual plant
8 investment installed by the initial owners. Such a
9 provision -- revenue imputation provision was agreed
10 to by Tartan Energy in the 19 -- its 1994
11 application, and further, that provision in the
12 stipulation was written to also be applicable to any
13 subsequent owner of Tartan's plant.

14 So the concept of -- in order to protect
15 customer interest, of trying to reasonably ensure
16 that those provisions are applicable not only to the
17 initial owner but subsequent owners, is not something
18 new or novel. In this particular case now here,
19 we're not going the revenue imputation route;
20 instead, we are taking a route or suggesting that the
21 company's earnings or subsequent owner's earnings on
22 rate base may be limited to a level consistent with
23 the actual customer levels in load.

24 But the intent of what the Staff's
25 trying to accomplish here is no different than what

1 was tried in the Tartan Energy application through
2 the revenue imputation provision.

3 Q. Is SMNG a later owner from the Tartan
4 application?

5 A. I believe it is.

6 Q. Have other gas utilities in Missouri
7 accounted for acquired plant assets on the basis
8 other than the net original cost?

9 A. Yes, in several instances. AmerenUE
10 acquired some -- a natural gas system from Aquila, I
11 believe, in 2004, and reflected those assets at a
12 level consistent with Aquila's previous impairment
13 right down to those assets to a level significantly
14 below the net original cost.

15 Also, Missouri Gas Utility, when it
16 purchased the municipal gas systems of Gallatin and
17 Hamilton, Missouri also is -- recorded that
18 acquisition at the purchase price for those assets,
19 not the cost reflected -- previously reflected on the
20 municipalities' books.

21 Q. Did you mention whether or not you're a
22 CPA, Mr. Oligschlaeger?

23 A. I didn't, but I am.

24 Q. Are you familiar with GAP accounting?

25 A. In general terms, yes.

1 Q. And the Uniform System of Accounts?

2 A. Yes, I am.

3 Q. Do you believe that this provision would
4 require Mr. Maffett or any future owner to account
5 for the value of the assets in any way contradictory
6 to either of those methods?

7 A. Well, the Uniform System of Accounts
8 does reflect a general rule that net original cost
9 ratemaking's appropriate for plant assets. Again,
10 that is -- we would agree that that's the right
11 approach to take under normal ratemaking in
12 regulatory environment. However, our concern is here
13 that, again, from past history, this isn't or isn't
14 likely to be a normal ratemaking in regulatory
15 environment, particularly in the fact that cost-based
16 rates may not be -- it may not be possible for these
17 utilities to fully recover their cost of service and
18 the rates charged to its customers.

19 And in that sense, net original cost,
20 and I think by necessity, no longer is the
21 presumptive or preferred method of recording and
22 ultimately recovering their plan investment in rates.
23 So to that extent, an approach different than the
24 Uniform System of Accounts may be -- or is being
25 called for here, but Staff believes that's fully

1 justified.

2 Q. When you say "these situations," would
3 you distinguish what you mean by that?

4 A. These situations -- in particular, where
5 we have seen these gas startup companies struggle to
6 some degree economically, I believe largely because
7 the initial level of customers was over -- was
8 overestimated, or their degree of success in
9 competing against propane and perhaps electric was
10 overestimated. That's the situation I'm talking
11 about where their plant systems had been overbuilt
12 and uneconomic as a result.

13 Q. Did you hear Mr. Maffett testify that as
14 the owner of the company, he was willing to accept
15 financial risk of these proposed projects?

16 A. I heard him testify to that. My opinion
17 is, while there's agreement, I think, on the concept,
18 I'm not sure that there's agreement on how that
19 concept should be practically applied in future
20 situations. And for that reason, I'm not sure
21 there's a meaningful agreement.

22 Q. And your suggestion for the practical
23 application is what?

24 A. Is the condition listed in 2 A of the
25 list of issues.

1 MS. SHEMWELL: That's all I have for
2 this witness. Thank you, Judge.

3 JUDGE LANE: Thank you very much.
4 Mr. Cooper?

5 MR. COOPER: Yes, your Honor.

6 CROSS-EXAMINATION BY MR. COOPER:

7 Q. Mr. Oligschlaeger, you referenced the
8 Missouri Gas Utility startup case a few minutes ago,
9 I believe, correct?

10 A. That's correct.

11 Q. And I believe you indicated that it's
12 your belief or your understanding that Missouri Gas
13 Utility's assets were initially recorded at the
14 purchase price; is that correct?

15 A. Well, I think initially and currently,
16 yes.

17 Q. Would you also -- would you agree with
18 me that the stipulation in that case also leaves open
19 for Commission decision how those assets are going to
20 be treated in the first rate case?

21 A. Certainly.

22 MR. COOPER: That's all I have, your
23 Honor.

24 JUDGE LANE: Mr. Poston?

25 MR. POSTON: No questions. Thank you.

1 JUDGE LANE: All right. Mr. Steinmeier?

2 MR. STEINMEIER: No questions, your
3 Honor. Thank you very much.

4 JUDGE LANE: And this time I will not
5 forget you, Mr. Fischer.

6 MR. FISCHER: Oh, thank you, Judge.

7 CROSS-EXAMINATION BY MR. FISCHER:

8 Q. Mr. Oligschlaeger, the Staff is
9 proposing that Southern Missouri Natural Gas shall be
10 responsible in future rate cases for the economic
11 consequences of any failure of this system to achieve
12 forecasted conversion rates and/or its inability to
13 successfully compete against propane; is that
14 correct?

15 A. That's correct.

16 Q. Is it your understanding that that
17 provision has already been a part of previous CCN
18 cases for this -- for this company, particularly the
19 Lebanon case?

20 A. For this company and other companies,
21 yes.

22 Q. And is it your understanding that
23 that -- that condition is acceptable to the company
24 in this proceeding as well?

25 A. The way you worded it, yes.

1 Q. And I believe you also referenced a
2 provision that you said had the same intent, I
3 believe, or same spirit, the imputation of volumes
4 that was adopted for Tartan Energy; is that correct?

5 A. Yes.

6 Q. And you understand that this company is
7 a successor to Tartan Energy, and that that provision
8 would be applicable and for that part of the system;
9 is that right?

10 A. I -- I'm not aware of it being revoked
11 or waived in any way, yes.

12 Q. Well, did -- did the Staff propose this
13 particular paragraph 3 provision in the Lebanon CCN
14 case that was recently approved by the Commission?

15 A. No, it did not.

16 Q. Did it approve it when -- I mean, did it
17 suggest it when -- when Tartan Energy requested a CCN
18 in either of the two previous cases where Tartan came
19 forward and wanted to build the -- the distribution
20 system which ultimately became owned by -- by
21 Southern Missouri Natural Gas Company?

22 A. I'm only aware of one Tartan CCN case,
23 but having noted that, the revenue imputation
24 provision which we previously talked about, again, as
25 it was generally worded in the '94 CCN case, could be

1 a possible substitute for this kind of condition.
2 You could either go through it through revenues or
3 through rate base. Either way will work.

4 Q. But in either case, the Staff didn't
5 propose in that -- in that case that this particular
6 provision be adopted by the Commission as a condition
7 to the certificate, did it?

8 A. That is correct.

9 Q. And you also mentioned the Missouri Gas
10 Utility sale, and I believe the Missouri Gas
11 Utility's recently expanded their certificate, didn't
12 it?

13 A. Yes.

14 Q. Did Staff propose this particular
15 certificate -- this particular provision in the
16 Missouri Gas Utility certificate case?

17 A. No. I would note that that was an
18 expansion to, I think, encompass one large industrial
19 customer. So I'd probably make that distinction, but
20 no, we did not propose one.

21 Q. Has the Staff proposed this specific
22 provision in any other certificate case other than
23 OEP to your knowledge?

24 A. No.

25 Q. Has Staff consistently taken the

1 position that acquisition premiums should not be
2 permitted in this state?

3 A. Recovery of acquisition premiums?

4 Q. Yes, yes.

5 A. Yes.

6 Q. And by that, if a company buys a company
7 for more than the book value, the Staff would not
8 support having the ratemaking be at the -- the
9 purchase price; is that correct?

10 A. That is correct, and that is also true
11 for negative acquisition adjustments under the
12 conditions of cost-based ratemaking.

13 Q. And that's -- that's been consistent
14 too, hasn't it, that this Commission has not gone
15 down the road of writing down the rate base in a --
16 in a situation where a company buys it for less than
17 book value, assuming cost-based rates?

18 A. That's correct.

19 Q. So Staff is proposing this condition for
20 the first time being imposed on a company that has
21 not agreed to this provision previously as a
22 condition to its certificate; is that correct?

23 A. Along Ozark Energy, this is the first
24 time we're proposing this specific condition.

25 Q. And Ozark Energy has voluntarily agreed

1 to that condition; is that correct?

2 A. Yes.

3 Q. So this would be the very first time the
4 Commission would be imposing such a condition over
5 the objection of a company on -- as a condition of
6 the CCN. Is that your understanding?

7 A. That's our recommendation that they do
8 so, yes.

9 Q. And is it your understanding that Staff
10 and Southern Missouri have had an ongoing discussion
11 about maybe proper treatment of -- of their current
12 rate base in light of the fact that the company
13 bought stock and it was a stock purchase whenever
14 they first bought it, and I think Staff has suggested
15 that maybe some treatment -- some -- some write-down
16 ought to be done on their -- on the regulated
17 company's books?

18 A. I'm familiar with those discussions in
19 the context of your filed -- or Southern Missouri's
20 filed annual reports with the Commission.

21 Q. Okay. And have you seen a letter from
22 the outside auditor from -- from Southern Missouri
23 that takes a different position than what the Staff
24 is proposing?

25 A. In regard to the question of whether

1 write-downs are appropriate? Yes, I have seen
2 that.

3 MR. FISCHER: Judge, I'd like to have an
4 exhibit marked at this time.

5 JUDGE LANE: Very well. That will be
6 Exhibit 13.

7 (EXHIBIT NO. 13 WAS MARKED FOR
8 IDENTIFICATION BY THE COURT REPORTER.)

9 JUDGE LANE: That's Exhibit 13. I'm
10 referring to this as a July 6th, 2000 letter to
11 Mr. Maffett from Sartain Fischbein & Company.

12 BY MR. FISCHER:

13 Q. Mr. Oligschlaeger, do you know, has the
14 Staff received this letter in reference to that
15 discussion that you were having with them about the
16 proper accounting treatment of the purchase price?

17 A. Yes, I have seen this letter before.

18 Q. Okay. And is it your understanding that
19 Sartain Fischbein is the outside auditor for Southern
20 Missouri Gas Company?

21 A. Yes.

22 MR. FISCHER: I'd move for the admission
23 of whatever the exhibit was.

24 JUDGE LANE: 13. 13 has been marked and
25 offered. Are there any objections?

1 (NO RESPONSE.)

2 JUDGE LANE: Hearing none, it's
3 admitted.

4 (EXHIBIT NO. 13 WAS RECEIVED INTO
5 EVIDENCE AND MADE A PART OF THE RECORD.)
6 BY MR. FISCHER:

7 Q. Mark, if I understood your testimony,
8 you were suggesting that this treatment would be
9 something different than generally accepted
10 accounting principles; is that right?

11 A. You mean the treatment in the disputed
12 Staff condition?

13 Q. Yeah, the condition in paragraph 3 of
14 the OEP or in the -- in the list of issues that we're
15 talking about here.

16 A. I think my testimony more went to it
17 would call for treatment of plant that is not the
18 normal treatment provided for in the Uniform System
19 of Accounts.

20 Q. I'm sorry. That's right, Uniform System
21 of Accounts. Assuming that the company wanted to
22 come forward and do this on their own, wouldn't you
23 agree that it would take a waiver from the Uniform
24 System of Accounts before that would be permitted by
25 the Commission?

1 A. I believe that to be true and, of
2 course, accounting authority -- accounting authority
3 order applications are not uncommon here at the
4 Commission.

5 Q. Is the Staff proposing a waiver from the
6 Uniform System of Accounts in this case?

7 A. I think this condition would provide for
8 the Commission ordering a treatment for plant
9 reporting by the subsequent owner that would be
10 different than the normal Uniform System of Accounts.
11 Now, whether that technically requires some sort of
12 waiver be granted, I don't know.

13 Q. Had you suggested that that would be the
14 case to the Commission?

15 A. That -- concerning a waiver?

16 Q. Yes.

17 A. I'm not sure I've suggested -- or the
18 Staff has suggested anything.

19 Q. Okay. Let's talk about this future sale
20 situation. What company would be buying the -- the
21 assets of Southern Missouri Natural Gas under this
22 provision?

23 A. Whatever company would agree to acquire
24 the system, the assets. I'm not sure I understand
25 your question.

1 Q. I think you're probably getting the gist
2 of it. Do you know what the purchase price would be
3 of this future hypothetical situation?

4 A. No, I do not.

5 Q. Do you know when this would be
6 occurring?

7 A. I do not.

8 Q. Wouldn't you agree that this provision,
9 as it's -- as it's being suggested by the Staff,
10 would effectively bind that future hypothetical
11 purchaser to a specific accounting treatment if he
12 decided to buy the -- the company with this condition
13 on the certificate?

14 A. That's the intent, yes, is to specify
15 the accounting treatment.

16 Q. Is one of the Staff's reasons for
17 proposing this to put on notice any future buyer that
18 this is going to be the Staff's position on this
19 particular accounting adjustment?

20 A. I would not want to limit that reference
21 to being the Staff's position. I think it is --
22 would be to notify the future owner of the general
23 policy which I think has been generally agreed to and
24 adopted by the Commission concerning economic risk
25 being assumed by the company, not the customers.

1 Q. But didn't you agree with me that the
2 Commission has never imposed a specific condition on
3 any CCN in the past?

4 A. Not this specific condition. Similar
5 ones, I believe.

6 Q. But is one of the primary goals of the
7 Staff in proposing this to put on notice any future
8 buyer that this will be the position of the Staff?

9 MS. SHEMWELL: Asked and answered.

10 MR. FISCHER: I'm not sure I understood
11 the answer, Judge, if ...

12 MS. SHEMWELL: Well, then, he can ask
13 questions about the answer, but it's been asked and
14 answered.

15 MR. FISCHER: Okay. Let me rephrase it.
16 I'm sorry.

17 BY MR. FISCHER:

18 Q. As I understand your position, you're
19 asking the company to agree to this condition which
20 would effectively bind a future buyer who we don't
21 know who it is, when it would be or what the purchase
22 price would be, to a specific accounting adjustment
23 which has never been adopted by the Commission in a
24 specific CCN case; is that correct?

25 MS. SHEMWELL: Objection.

1 Argumentative.

2 MR. FISCHER: Withdrawn.

3 BY MR. FISCHER:

4 Q. Mr. Oligschlaeger, would you agree with
5 me that if the Commission adopted this specific
6 provision as a condition to the CCN, that any future
7 buyer would effectively be bound by it even though
8 they're not a party to the case today?

9 A. I think generally that is true. There
10 may be other avenues by a potential buyer to seek a
11 waiver from a specific provision in some future
12 proceeding, but ...

13 Q. Now, in any sale case that you've been
14 involved with, have you as a Staff person ever
15 recommended this specific provision as a condition to
16 the approval of a sale?

17 A. No, I have not.

18 Q. That would be another alternative,
19 wouldn't it, that could be pursued?

20 A. Okay. Can you run that scenario by me
21 again?

22 Q. Yes. For example, if -- if a company
23 sold a set of assets for less than book value and
24 they came to the Commission to ask for approval of
25 that sale, under that scenario, couldn't Staff come

1 in and suggest that it is appropriate that as a
2 condition to the approval of the sale of those
3 assets, that the specific accounting treatment that
4 Staff believes is appropriate would be adopted?

5 A. That is one alternative. We believe
6 that this condition is superior to that in that it
7 would provide for the -- any prospective buyers being
8 fully aware of this Commission's policies regarding
9 economic risk before they would just choose or decide
10 to enter into a transaction.

11 Q. But that hypothetical company wouldn't
12 have a say in it at all if it's -- if that's the
13 approach that's taken; is that right?

14 A. Say, as to the accounting?

15 Q. Yes.

16 A. That would be something they would have
17 to take into account, so to speak, in terms of
18 determining whether to enter into the transaction.

19 Q. So effectively, isn't Staff basically
20 leveraging a prejudgment of an accounting issue now
21 as the condition to allowing this company to go into
22 serve an expanded area in Branson?

23 A. Again, this would apply only if Southern
24 Missouri is not in a position to charge cost-based
25 rates. And in that situation, there is no reason for

1 the normal presumption that net original cost should
2 be the basis for either accounting or for rate
3 purposes, and this condition reflects that belief.

4 Q. Mr. Oligschlaeger, what do you mean by
5 "cost-based rates"?

6 A. Rates that are intended to fully recover
7 a company's full cost of service including a
8 reasonable rate of return.

9 Q. Does that mean that if the company comes
10 in for a rate case, that then we would have
11 cost-based rates as from Staff's definition?

12 A. If they apply for a rate increase, and
13 the Commission after judging all the evidence either
14 decides to change rates or leave rates as they are,
15 yes, we would view the result as being cost-based
16 rates.

17 Q. And is it your understanding that this
18 company has had a rate case?

19 A. I believe there was a rate case in 2000.
20 I'm not sure whether it was -- okay. Southern
21 Missouri. I think it was under previous ownership,
22 but yes, it was a Southern Missouri rate case.

23 Q. Under that definition of having a rate
24 case, then, doesn't the company have cost-based rates
25 today?

1 A. That was -- from what I've understood or
2 read about the case, that was rather unusual. The
3 company made a request for a certain rate increase.
4 The Staff, after looking at the company's total
5 costs, found an increase in excess of that amount was
6 justified. But, of course, the rate increase was
7 limited to what the company requested. That set of
8 circumstances suggests to me that perhaps cost-based
9 rates was not fully in effect.

10 MR. FISCHER: Okay. I think that's all
11 I have, Judge. Thank you very much. I appreciate
12 your patience, Mark, and thank you.

13 JUDGE LANE: Thank you. And that's -- I
14 have a question.

15 QUESTIONS BY JUDGE LANE:

16 Q. The condition that we're talking about
17 here only basically kicks in if SMNG sells or
18 otherwise disposes of its assets before it has
19 cost-based -- cost-based rates in effect, right?

20 A. That is true.

21 Q. Okay. And you also -- I believe you
22 also testified that if -- if there were a rate case
23 to be filed, whether -- whether this would be a good
24 idea or not, would be something that would be -- that
25 the parties could negotiate or the Commission could

1 consider?

2 A. This is not intended to be binding
3 certainly on the Commission or even on the parties of
4 the rate positions of future parties to rate case --
5 or rate cases involving these properties. In other
6 words, I'm not suggesting that the options for plant
7 valuation for rate purposes be limited to purchase
8 price. It could -- if the company or other parties
9 thought some alternative method was preferable, that
10 they are free to seek that, yes.

11 Q. So in that case, neither the parties'
12 hands or the Commission's would be tied?

13 A. Yes.

14 Q. All right. Now, given those two
15 considerations, my -- I guess my question kind of
16 echoes the question that you were asked before. Why
17 impose this thing on the front end? Why not the back
18 end where the parties would go into negotiations with
19 full knowledge?

20 Every one of these sales contracts says,
21 requires regulatory approval by the PSC for the sale
22 to go through. Why -- why not do it on the back end
23 instead of the front end? I don't -- what's the
24 benefit to doing it on the front end as opposed to
25 the back end?

1 A. Because, again, in limited
2 circumstances, this would kick in in which Southern
3 Missouri has not been able to charge cost-based
4 rates, and in turn, they are proceeding to turn over
5 ownership of the assets to an -- to a new purchaser,
6 a new entity, then at that point, the preferred or
7 the presumed method of rate recovery based on that
8 little circumstances would not be the net original
9 cost of the assets because that would not be an
10 appropriate -- that would lead to customers being
11 charged excessive amounts because for the reasons I
12 got into earlier, often these systems are overbuilt
13 in relation -- the plant in relation to the actual
14 number of customers served.

15 It is our belief that the subsequent
16 valuation of these properties through a purchase sale
17 transaction using -- with arm's length use with third
18 parties is a much more accurate and appropriate
19 valuation of these properties -- of these plant
20 assets. And that should be the presumed accounting
21 method and presumed future method of basing rates
22 recovery on. The parties, again, are free to
23 challenge them as they -- as they see fit.

24 Q. All right. But despite this belief or
25 this thought that this is a superior way of doing it,

1 the Commission and Staff has never done it before?

2 A. Well, again, not using plant valuation,
3 as I discussed earlier, there's another way of
4 limiting the risk to customers, and that is imputing
5 a future level -- or imputing a certain level of
6 revenues consistent with the actual plant investment
7 made by the initial owner.

8 And that has been imposed in past cases
9 and that has even been agreed to apply to subsequent
10 owners of the -- of -- of these properties up front
11 in this type of application as opposed to waiting in
12 the future when a new owner appears and rates are
13 being set or the sales transaction is being reviewed.

14 JUDGE LANE: All right. Thank you very
15 much. That answers my question.

16 Are there any -- any further
17 cross-examination based on the questions that I
18 asked?

19 MR. FISCHER: Yes.

20 CROSS-EXAMINATION BY MR. FISCHER:

21 Q. Mr. Oligschlaeger, in answer to the
22 judge there, you were talking about the -- I think
23 the imputation of volumes condition that was imposed
24 on companies?

25 A. Yes.

1 Q. Now, would you agree with me that that
2 was imposed in the context of a -- a voluntary
3 agreement by a company?

4 A. I read it in a stipulation, so I believe
5 that's true.

6 MR. FISCHER: Okay.

7 JUDGE LANE: All right.

8 MR. FISCHER: Thank you.

9 JUDGE LANE: Thank you. Any redirect?

10 MS. SHEMWELL: Thank you.

11 REDIRECT EXAMINATION BY MS. SHEMWELL:

12 Q. Mr. Oligschlaeger, has Staff's intent or
13 goal changed in recommending this as opposed to
14 imputing certain levels of revenue?

15 A. No, there are two alternative paths that
16 should lead to the same result.

17 Q. Do you believe that this is more onerous
18 than the other?

19 A. I don't believe it's more onerous. I
20 believe it's actually a more fair way of doing it
21 because again, it uses an objective measurement -- or
22 seeks to use an objective measurement of what two
23 parties agree to as a fair purchase price for assets
24 that is based on actual customer number and load
25 information.

1 Q. When you say "fair," do you mean to the
2 company or to customers?

3 A. Both.

4 Q. Why was this not recommended in the
5 Lebanon case?

6 A. In retrospect, it should have been and
7 obviously the Commission will have its say, but it is
8 our intent to make this a consistent recommendation
9 in future gas CCN startup cases such as this and what
10 we've seen elsewhere recently.

11 I will note, though, that it is the
12 Staff's belief that the Lebanon application did not
13 quite have the same level of risk associated with
14 this application by SMNG.

15 Q. Are you indicating you believe that the
16 Branson situation is more risky than the Lebanon?

17 A. That's the Staff's belief.

18 Q. In saying that Staff will adopt this
19 going forward, again, would you describe that as a
20 change of policy or a change of method?

21 A. It's a change of method. I don't
22 believe it's a change of policy.

23 Q. What does SMNG's reluctance to accept
24 this condition indicate to you about its commitment
25 to bear the economic risk of success or failure of

1 this system?

2 MR. FISCHER: Objection. Calls for
3 speculation. She's been asking him to speculate
4 about what -- what Southern Missouri Gas's intention
5 or -- I think is.

6 MS. SHEMWELL: I specifically asked what
7 does it say to him. What does their reluctance mean
8 to him.

9 JUDGE LANE: Well, he can answer that.

10 THE WITNESS: It means while there may
11 have been -- there may potentially be an agreement on
12 words in terms of protection of customers from
13 economic failure, that there is no substantive or
14 meaningful agreement on the ground of how best to
15 achieve that in the future in the likely circumstance
16 that perhaps new owners come into play to -- that
17 will purchase and operate the system at a lower
18 purchase price than the net original cost of the
19 company.

20 BY MS. SHEMWELL:

21 Q. You have indicated only very limited
22 circumstances under which this would apply; is that
23 correct?

24 A. That's correct.

25 Q. And that SMNG's rates are -- you do not

1 believe are currently cost-based?

2 A. I don't know that. I know the Staff
3 hasn't done a full review of SMNG's rates since the
4 year 2000. Certainly, when you -- I think it's clear
5 when you look at the net original cost of these
6 properties now operated by SMNG which has been wrote
7 down significantly at the parent company number, a
8 level -- parent company level a number of times by
9 the owners of these properties, that when taking into
10 account that net original cost, Southern Missouri's
11 rates are not sufficient to fully recover that -- the
12 net original cost.

13 Q. Do you expect the Branson expansion to
14 be different? What's your expectation?

15 MR. FISCHER: Your Honor, I'm gonna
16 object. I think it's going well beyond
17 cross-examination on any topic.

18 JUDGE LANE: Yeah, I don't recall a lot
19 of testimony about that before.

20 MS. SHEMWELL: Okay.

21 BY MS. SHEMWELL:

22 Q. The judge asked you why now as opposed
23 to waiting. Why would Staff be concerned with notice
24 to future owners now?

25 A. Our concern is -- again, our paramount

1 interest is protection of customers from any
2 consequences of economic failure. That concern in no
3 way goes away or evaporates just because new
4 ownership may take the place of SMNG if these
5 properties aren't economic and have subsequently
6 sold.

7 So for that reason and for the same
8 reason why we were interested in the revenue
9 imputation condition also being applicable to future
10 owners, we think it's the best protection for
11 customers not only to deal with the issues as it --
12 as it applies in this case to SMNG, but also as
13 much as reasonably possible that they also apply
14 to any future owners so they're fully aware of our
15 concerns and the Commission's policies on allocation
16 of economic risk.

17 Q. And again, back to the issue of
18 cost-based rates. If this system becomes economic
19 and they were -- they are able to actually come in
20 and charge cost-based rates, the situation would not
21 continue to apply?

22 A. This condition would not apply.

23 MS. SHEMWELL: I think that's all I
24 have. Thank you, Judge.

25 QUESTIONS BY JUDGE LANE:

1 Q. All right. I have one further question
2 and that is, you mentioned the idea of economic risk
3 being what separates this case from the Lebanon case
4 in terms of Staff's recommendations. And I guess my
5 question to you is, how do you quantify that? I
6 mean, you know, is there any principled standard upon
7 which you decide that something is sufficiently risky
8 that something like this needs to be imposed?

9 A. Well, again, perhaps my answer wasn't
10 clear. While we do believe there is a higher level
11 of risk with this application in the Lebanon
12 application, and it has to -- I think, to do with all
13 the rock issues and things which I'm certainly not
14 the best person to address; in other words, there may
15 be some unique issues making it more expensive to
16 serve customers in the Branson area and thereabout
17 than in the Lebanon area.

18 But regardless of the difference of
19 risk, I believe that in the future, we will be
20 proposing a condition, either this same condition or
21 one very similar to it for applications similar to
22 the Lebanon case as well as applications -- the
23 current application before you.

24 So I'm not trying -- in other words, I
25 don't -- we're not trying to make a distinction

1 between Lebanon where this condition was -- it was
2 not necessary and this case where it is. In
3 retrospect, we could have or perhaps should have
4 proposed the same condition, but, you know, it's a
5 work in progress. We try to do our best thinking and
6 our positions sometimes evolve over time.

7 Q. Okay. So what I hear you saying, and
8 correct me if I'm wrong in this, but are you saying
9 that on a going-forward basis this is gonna be
10 routinely recommended?

11 A. With the obvious caveat that the
12 Commission will have a say in that as well.

13 Q. Right. Okay. And -- but it wasn't
14 routinely recommended just a few months ago with
15 Lebanon, right? This is a -- this is a -- this is a
16 position that's evolving over time?

17 A. That is correct, and this case and the
18 Ozark Energy case are the first times it's -- we are
19 recommending this specific condition.

20 JUDGE LANE: All right. Thank you. And
21 finally?

22 MR. FISCHER: And finally.

23 CROSS-EXAMINATION BY MR. FISCHER:

24 Q. Mr. Oligschlaeger, in answer to the
25 judge's question, it's my understanding that this is

1 going to be a general policy that would be applied to
2 all gas companies in the future under these
3 circumstances. Is that your -- what you said?

4 A. Well, all CCN cases in which we believe
5 there's a risk of a failure to be able to charge
6 cost-based rates, yes.

7 Q. It would be applicable across the board,
8 across the state, not just to Southern Missouri Gas?

9 A. I think we've had any number of startup
10 operations. I think I can count at least five or
11 possibly more over the last ten or 15 years, and for
12 those types of applications, yes, it would be across
13 the board.

14 Q. It would be a generally applicable
15 policy being adopted by the Commission?

16 A. That would be our recommendation.

17 Q. More in the nature of a rulemaking
18 rather than a contested case. Is that your --
19 your --

20 MS. SHEMWELL: Objection, your Honor.
21 That calls for a legal conclusion.

22 MR. FISCHER: Your Honor, this man has
23 been with the Commission a long time and is certainly
24 familiar with the difference between contested cases
25 and rulemakings.

1 MS. SHEMWELL: He's still not a lawyer.

2 JUDGE LANE: You've made your point.

3 MR. FISCHER: Okay. Thank you very
4 much.

5 JUDGE LANE: Ms. Shemwell, you may have
6 the final word if you want it.

7 MS. SHEMWELL: And thank you, your
8 Honor, and I will decline and indicate that I am
9 through for the day.

10 JUDGE LANE: Very well. Then that --
11 that completes this witness. Sir, we would also like
12 you to be available tomorrow. Will you be available
13 tomorrow?

14 THE WITNESS: I will be here.

15 JUDGE LANE: All right. Thank you.
16 We're going to reconvene tomorrow morning at 8:30 and
17 we'll start with Public Counsel's witness. I'm not
18 sure if --

19 MR. POSTON: We won't be calling a
20 witness.

21 JUDGE LANE: You will not be calling a
22 witness? Then in that case, Ozark, you're --
23 you're -- you're up first thing in the morning.
24 Thank you very much and good evening.

25 MR. STEINMEIER: Your Honor, if I didn't

1 offer Exhibit 10, I do.

2 JUDGE LANE: You did not offer it, but
3 before we -- before we actually adjourn here, that
4 was the data request No. 9 HC. That's -- that's been
5 marked as Exhibit 10. It's offered. Any objections?

6 (NO RESPONSE.)

7 JUDGE LANE: Hearing none, it's
8 received.

9 (EXHIBIT NO. 10 HC WAS RECEIVED INTO
10 EVIDENCE AND MADE A PART OF THE RECORD.)

11 MR. STEINMEIER: Thank you, your Honor.

12 JUDGE LANE: Thank you. See you
13 tomorrow.

14 (WHEREUPON, the hearing of this case was
15 recessed until November 28, 2007, at 8:30 a.m.)

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| 12 | Exhibit No. 13 | | |
| 13 | July 6th, 2000 letter to | | |
| 14 | Mr. Maffett from | | |
| 15 | Sartain Fischbein & Company | 283 | 284 |
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