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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
September 15, 1997
Jefferson City, Missouri
Volume II

In the Matter of Associated Natural)
Gas Company's Tariff Revision) Case
Designed to Increase Rates for Gas) No. GR-97-272
Service in the Missouri Service Area)
of the Company.)

BEFORE:

GREGORY T. GEORGE, Presiding,
ADMINISTRATIVE LAW JUDGE.
SHEILA LUMPE, Chair,
M. DIANNE DRAINER,
HAROLD CRUMPTON,
CONNIE MURRAY,
COMMISSIONERS.

REPORTED BY:

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8 and

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13 FOR: Associated Natural Gas.

14 ROBIN E. FULTON, Attorney at Law
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18 FOR: Noranda Aluminum, Inc.

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24 FOR: Westar Gas Marketing.

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FOR: Office of Public Counsel and the Public.

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FOR: Staff of the Missouri Public Service
Commission.

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P R O C E E D I N G S

(Written Entries of Appearance filed.)
(EXHIBIT NOS. 1 THROUGH 45 WERE MARKED FOR
IDENTIFICATION.

ALJ GEORGE: This is the hearing for
GR-97-272, in the matter of Associated Natural Gas
Company's tariff revision designed to increase rates
for gas service provided to customers in the Missouri
service area of the Company.

We have previously premarked the exhibits
and discussed preliminary matters, including
Mr. Dangeau participating pro hac vice for Associated
Natural Gas, and the parties have indicated they were
ready for the opening statement, so we'll begin with
the opening statement of the Company, Associated
Natural Gas. Thank you.

MR. DUFFY: Good morning. Associated
Natural Gas proposed to waive any kind of formal
opening statement. Our position on the issues that
are going to be litigated in the next couple of days
is set out in the hearing memorandum already. If I --
I don't see any reason to just go through and read you
what's already in the record, and you've probably
already read it anyway. So at this point we'd waive
our opening statement. Thank you.

1 ALJ GEORGE: And the Staff of the
2 Commission?

3 MS. MCGOWAN: May it please the Commission.
4 I will attempt to address just a few of the key issues
5 that are of most concern, leaving, as did Mr. Duffy,
6 the majority of the issues which are clearly set out
7 in the hearing memorandum for the Commission until
8 briefing.

9 As the Commission is aware, several of the
10 contested issues set out in the hearing memorandum
11 filed in this docket have been settled by the parties.
12 The details and terms of the settlement are set out in
13 a unanimous stipulation and agreement and a first
14 amendment to that stipulation and agreement that were
15 filed by the parties.

16 The first amendment, which the Commission
17 did not receive until this morning, merely represents
18 an allocation between the three districts of the
19 \$1.5 million that's represented in the settlement
20 agreement, and that is an agreement by all of the
21 parties that's on the stipulation as to how the
22 allocation should be made. And I believe the issues
23 contained in that stipulation and agreement will be
24 addressed by the Commission when those documents are
25 presented for the Commission's review.

1 Notwithstanding the settled issues, there
2 are several issues before the Commission in this
3 proceeding, and based upon updated discovery, the
4 Staff has modified its position to two additional
5 issues which I will address as I go through the other
6 issues in the order they are set out in the order of
7 issues and witnesses filed in this docket.

8 The first issue that I would like to discuss
9 before the Commission is whether to require ANG to
10 incorporate non-discrimination standards into its
11 transportation tariff. The Staff believes that the
12 Commission should approve the non-discrimination
13 standards of conduct pertaining to all ANG's
14 transactions with its marketing affiliates contained
15 in Schedule 5 to Wendell Hubbs' direct testimony and
16 as modified in Schedule 1 to his surrebuttal
17 testimony.

18 The proposed standards of conduct are
19 designed to protect ANG's rate payers and the general
20 public against the direct and adverse effects that can
21 result by allowing local distribution companies, such
22 as ANG, to participate in unregulated markets and
23 engage in unsupervised transactions with their
24 affiliates. The proposed standards set out reasonable
25 reporting requirements and procedures for ANG to

1 follow when engaging in transactions with the
2 affiliate or the customer of an affiliate. The
3 standard would prevent ANG from offering an
4 unregulated affiliate products or services below the
5 current market value of its cost for services and also
6 from offering services below its cost to provide those
7 services.

8 Further, in instances where ANG purchases
9 the products of an unrelated affiliate, the standards
10 require that the purchases be subject to a
11 Commission's prudence review or that ANG provide the
12 Staff with sufficient documentation to justify that
13 the price is reasonable.

14 The Staff further proposed several other
15 modifications to ANG's tariff. I won't go into the
16 majority of those modifications because they are set
17 out in the hearing memorandum. I would like to note
18 that pursuant to ANG's modified data request responses
19 related to transportation capacity, the Staff has
20 altered its position as set out in Schedule 1 to
21 Mr. Hubbs' surrebuttal testimony, and we no longer
22 intend to pursue a modification relating to firm
23 capacity.

24 Originally, the Staff had proposed that all
25 of ANG's transportation be modified and to be

1 considered the firm, and new updated data request
2 responses relating to the capacity on the system have
3 altered Staff's position on that issue, and we will
4 clearly set that out in briefs so the Commission can
5 clearly see which issue we moved on.

6 Okay. The Commission is also asked to
7 determine an appropriate interest rate for customer
8 deposits and an appropriate mechanism to derive that
9 rate. The Staff wanted to make clear to the
10 Commission that we're not merely saying that we're
11 figuring out an appropriate rate, but an appropriate
12 method to derive a rate. And the Staff believes that
13 the interest rate for customer deposits should be tied
14 to some market rate. And part of what the Commission
15 is going to be asked to do is determine what the
16 appropriate market is and what the appropriate rate
17 is.

18 Let's see. All right. I will skip over the
19 majority of the issues and address the final issue
20 that has changed. It is one of the rate design
21 issues. Staff originally proposed that an imputation
22 of 100 percent of the load factor for interruptible
23 rates of upstream pipelines should be made. That is,
24 that 100 percent of the load base should be
25 attributed.

1 Based on rebuttal testimony of ANG's witness
2 Randy Gun -- or, excuse me, Ricky Gunter, the Staff
3 believes the ANG's interruptible customers may be
4 paying the appropriate percentage, and there would not
5 be a need to impute the 100 percent factor. The Staff
6 cannot determine that at this time. We need to do
7 some more review and investigation, so we're not going
8 to pursue that issue any longer in this docket, but we
9 will potentially pursue it in another docket if we
10 find that we don't believe after investigation that
11 they are not paying the appropriate rates.

12 The rest of the Staff's position on issues
13 are set out in the hearing memorandum in detail, and,
14 as I stated, the issues that we have moved on I will
15 put at the beginning of Staff's brief, initial briefs,
16 so that the Commission is not in any doubt as to which
17 issues we've moved on. And I thank the Commission for
18 their time.

19 ALJ GEORGE: Thank you.

20 Public Counsel?

21 MR. MICHEEL: May it please the Commission.
22 Douglas E. Micheel, appearing on behalf of the Office
23 of the Public Counsel and the Public, P.O. Box 7800,
24 Jefferson City, Missouri, 65102-7800.

25 I want to talk about today the contested

1 issues that the Office of the Public Counsel is going
2 to be presenting to this Commission for its decision.

3 As Ms. McGowan alluded to and Mr. Duffy
4 alluded to, the parties have reached a non-unanimous
5 stipulated agreement as it relates to our proposal to
6 solve the revenue issue, save interest on customer
7 deposits. And on that position, the Office of the
8 Public Counsel has a different position than the
9 Staff. Specifically, Public Counsel believes that the
10 correct interest on customer deposits should be equal
11 to the pretax effective rate of return decided in this
12 case.

13 Since the parties have stipulated to the
14 rate of return, all parties have agreed in this
15 proceeding that for the purposes of determining that,
16 should the Commission decide to accept the Public
17 Counsel's proposal, that we will utilize the
18 Staff's midpoint ROR, rate of return, and that's
19 12.73 percent. That is found in the body of the
20 unanimous stipulation and agreement, which has been
21 marked as Exhibit 1 in this proceeding.

22 Public Counsel's position, if accepted by
23 this Commission, will cause the revenue requirement to
24 be equal to that which would occur if customer
25 deposits were not collected. Public Counsel believes

1 that any reduction in the revenue requirement due to
2 the collection of customer deposits represents a
3 subsidy to the general body of rate payers by those
4 rate payers who are forced to pay the deposit in order
5 to receive service. And I think this is a key part of
6 Public Counsel's position here.

7 I think the evidence is going to show that
8 in order to obtain service that these particular
9 clients are forced, are required as a condition of
10 service to pay the deposit. This subsidy is
11 quantified by the amount of production in the revenue
12 requirement. This sub group of rate payers does not
13 place greater risk of increased cost borne by other
14 rate payers if the Commission deposit rules are
15 followed, i.e., as long as the Company is following
16 their deposit rules and requiring the two months'
17 deposit, and you'll hear about what the requirements
18 are specifically, there is no increased risk of
19 default or anything like that on the other rate
20 payers.

21 Again, these financially disadvantaged
22 customers should not be required to provide this
23 subsidy absent a specifically identified and
24 quantified increase in the risks due to serving these
25 customers. And I don't think you're going to hear or

1 see any evidence in this proceeding that indicates
2 that there is any increased risk from this
3 requirement.

4 As an alternative to this proposal, Public
5 Counsel has said that we're willing to accept the
6 prime plus one, the prime interest rate plus one, and
7 that was based on a decision this Commission made in
8 the last St. Louis County water rate case.

9 Just a little comment about the Staff's
10 position: I'm a little bit confused. Staff's
11 position in this case seems to be prime -- the prime
12 rate minus one-and-a-quarter; however, recently Staff
13 filed direct testimony in St. Louis County's pending
14 rate case which recommends prime plus 1 percent, so
15 we'll explore that.

16 The second issue that's contested in this
17 proceeding is the affiliated transactions rules and
18 standard of conduct. This isn't a revenue issue.
19 This is a tariff issue, and I think that this is a
20 very important issue.

21 I think that the Commission has had ability
22 to hear a little bit of testimony about this issue
23 in Missouri Public Service's last ACA docket, but let
24 me just say that the Office of the Public Counsel
25 thinks that these type of provisions in tariffs

1 relating to standard of conduct are very important to
2 level the playing field out for competition and
3 guarantee that all of the customers are getting a fair
4 shake.

5 I would say that we generally support
6 Mr. Hubbs' proposed tariff language; however,
7 Mr. Trippensee has proposed a brand name recognition
8 for ANG's use of the brand name that has essentially
9 been funded by rate payers and also a requirement that
10 the Company develop a cost allocation manual so we
11 have a road map before we get to this allocation
12 issue. Instead of doing something post hoc, we're
13 recommending that we do something pro-active and set
14 out what we're going to do and how we're going to
15 allocate those costs beforehand.

16 The third contested issue is what I like to
17 call the class cost of service rate design issue, and
18 I just wanted to touch basically on two large issues
19 there. The first is allocation of mains, and Public
20 Counsel witness Barry Hall has utilized the modified
21 relative system utilization method, or the modified R
22 sum method, and we believe that method is the best
23 method to adequately allocate a main between customer
24 classes.

25 Secondly, as it relates to the dividing up

1 the class cost of service, I like to say "cutting up
2 the pie," we've already decided that the pie should
3 have approximately \$1.5 million, we've already
4 requested that this Commission do that.

5 The way Public Counsel Witness Meisenheimer
6 essentially recommended to cut it up is based upon our
7 cost of service study, and we recommend that the
8 Commission move halfway to the cost of service of --
9 represented by our study. However, we also recommend
10 that no customers in any division should receive a
11 decrease if someone else in ANG's districts is getting
12 an increase. So that's just kind of a synopsis of the
13 position we take on class cost of service and how
14 we're going to divide up the pie.

15 Thank you very much for your time.

16 ALJ GEORGE: Thank you.

17 And next is the Intervenor, Westar.

18 MR. GARDNER: There will be no opening
19 statement from Westar.

20 ALJ GEORGE: Would you like to make an entry
21 of appearance, please?

22 MR. GARDNER: Yes. Paul H. Gardner, Goller,
23 Gardner and Feather, attorney for Westar Gas
24 Marketing.

25 ALJ GEORGE: Thank you.

1 And for the Intervenor, Noranda?

2 MR. FULTON: Yes. My name is Rob Fulton.
3 I'm an attorney from down in Fredericktown, Missouri.
4 I'm here representing the largest customer of ANG,
5 which is Noranda Aluminum, Incorporated, which is an
6 interruptible transportation customer.

7 We're interested in numerous of the issues,
8 some of which have been discussed here, some of which
9 have been not. One of them is that we feel that
10 everybody, and I'll repeat, everybody's cost of
11 service study in this case indicates that Noranda has
12 been paying excess -- has been taking too much, more
13 than what their actual cost of service is, that, in
14 effect, what they've been doing is subsidizing Public
15 Counsel's client, the residential -- the public of the
16 state of Missouri of these districts to a great
17 extent. That's why we're opposed to Public Counsel's
18 suggestion that we only move to 50 percent of the cost
19 of service.

20 Our rates should be decreased according to
21 everyone's test cost of service studies, including
22 Public Counsel's, from a -- basically from \$200,000 a
23 year down to about \$500,000 or \$400,000 a year
24 approximately over what we're already paying based
25 upon the various cost of service.

1 One of the issues that we're violently
2 interested in, we're at the current time paying a
3 monthly customer charge of \$12,500 per month. That is
4 ten -- vastly in excess of any other large customer in
5 the state of Missouri.

6 In our rebuttal -- surrebuttal testimony of
7 Mr. Mallinckrodt, we've kind of looked at the charges
8 for all of the other industry interruptible
9 transportation tariffs in the state, and they range
10 from a low of about \$21 a month up to a high of about
11 \$790 per month. And, in fact, each and every one of
12 the cost of service studies done in this case
13 indicates that the monthly customer charge should be
14 somewhere -- Staff, from their low of about \$200 a
15 month up to the Company's high of \$1,700 a month in
16 customer charges.

17 Again, all of these things will be coming
18 out in the record, and we'll be asking this Commission
19 to reduce our customer charge to more properly reflect
20 the cost of service, as well, of course, as our other
21 rates.

22 There has been other things proposed by the
23 Staff that we're a little bit concerned about,
24 balancing provisions, unauthorized use charges,
25 non-sale of gas to transportation customers only, and

1 our basic premise in all of that is, it-ain't-broke-
2 now-why-fix-it sort of a theory, so what we're going
3 to do is be cross-examining on those issues and
4 present some testimony almost.

5 The one point I forgot to mention, with
6 regards to the customer charges, we are not hooked
7 directly to any distribution system. We are hooked
8 directly to transmission lines, and all of the parties
9 have -- with the exception of us have allocated a
10 distribution cost to our cost of service. We don't
11 believe that to be appropriate, and that will be an
12 issue in this case.

13 Bear with me. I believe that's all we have.
14 All of the other issues, I believe, are adequately
15 addressed in the hearing memorandum. Thank you.

16 ALJ GEORGE: Thank you.

17 And now questions from the Bench, beginning
18 with the Commission Chair Lumpe?

19 CHAIR LUMPE: No.

20 ALJ GEORGE: And then Vice Chair Drainer?

21 COMMISSIONER DRAINER: I just have one
22 question.

23 With respect to -- I see this morning we
24 received an amendment to the stip and agreement that
25 then allocates where the 1.5 million comes from by

1 district, so I guess my question is, since the
2 testimony that we've been given throughout has rate
3 design issues not really tied to those revenues in
4 that allocation, to save a little time down the road I
5 guess I would just up front ask that we be given a
6 document that shows what those revenues by district --
7 how they would be allocated to each class of customer
8 giving the positions of each of the parties by
9 district, that we also, besides the revenues based on
10 the cost of -- class cost of service study, that we
11 can see how the percentage allocation is currently and
12 then how it changes under each of the Company's
13 proposals, so that should this Commission accept the
14 stipulation and agreement, 1.5, and also accept the
15 distribution that's been given in the first amendment
16 to your unanimous stipulation and agreement, we would
17 be able to tell each party's position and what that
18 effect would be on each class of customer.

19 MR. DUFFY: Your Honor, it's my
20 understanding we have initiated some conversations to
21 produce a document like that this morning, and I think
22 it's -- I think it's underway, so we --

23 COMMISSIONER DRAINER: You will be working
24 on that?

25 MR. DUFFY: Right. We will get it to you as

1 quick as we can.

2 COMMISSIONER DRAINER: Okay. I appreciate
3 that. And that's my only question I have right now.

4 ALJ GEORGE: Commissioner Crumpton?

5 COMMISSIONER CRUMPTON: No questions.

6 ALJ GEORGE: And Commissioner Murray?

7 COMMISSIONER MURRAY: No questions.

8 ALJ GEORGE: Okay. And we will begin with
9 the first witness in a moment.

10 We did premark the exhibits which were
11 uncontested issues. Does Counsel want to address that
12 first?

13 MR. DUFFY: I would move for the -- if it's
14 all right with the other people, for the admission of
15 what have been marked for purposes of identification
16 as Exhibits 1 through 45, since they've already been
17 stipulated to.

18 ALJ GEORGE: Exhibit 1 being the stipulation
19 and agreement, and the remainder of the testimony that
20 was prefiled that was not contested -- on contested
21 issues, rather, including -- we have Exhibit No. 26 as
22 the first amendment to the unanimous stipulation and
23 agreement.

24 Are there any objections to the admission of
25 Exhibits 1 through 45?

1 MR. DUFFY: Did I miss 46 and 47?

2 MR. MICHEEL: I don't think so.

3 MR. DUFFY: Then my motion stays the same.

4 ALJ GEORGE: Hearing no objections,
5 Exhibits 1 through 45 are entered into the record at
6 this time.

7 (EXHIBIT NOS. 1 THROUGH 45 WERE RECEIVED
8 INTO EVIDENCE.)

9 MR. DUFFY: Your Honor, Mr. Dangeau will be
10 handling the cross-examination on the first issue, on
11 the affiliated transaction issues, if you're ready for
12 that.

13 ALJ GEORGE: Well, off the record, please.

14 (A discussion off the record.)

15 (EXHIBIT NOS. 46 THROUGH 50 WAS MARKED FOR
16 IDENTIFICATION.)

17 (Witness sworn.)

18 ALJ GEORGE: Please go on the record at this
19 time and note that Mr. Green has been sworn in.

20 Go ahead, Mr. Dangeau.

21 STANLEY D. GREEN testified as follows:

22 DIRECT EXAMINATION BY MR. DANGEAU:

23 Q. Mr. Green, would you please state your name
24 and position for the record?

25 A. My name is Stanley D. Green. I'm Executive

1 Vice-president of Finance and Corporate Development
2 for Arkansas Western Gas Company.

3 Q. Mr. Green, I'll hand you a document which
4 has been marked for identification as Exhibit 49 and
5 ask you to identify that document.

6 A. Yes, sir. That's my rebuttal testimony in
7 this case.

8 Q. Mr. Green, if I were to ask you the same
9 questions contained in that rebuttal testimony today,
10 would your answers be the same?

11 A. Yes, they would.

12 MR. DANGEAU: Your Honor, I would move for
13 admission of Exhibit No. 49, Mr. Green's rebuttal
14 testimony.

15 ALJ GEORGE: Are there any objections to the
16 admission of Exhibit 49 into the record?

17 (No response.)

18 ALJ GEORGE: Hearing none, Exhibit 49 is
19 entered into the record at this time.

20 (EXHIBIT NO. 49 WAS RECEIVED INTO EVIDENCE.)

21 BY MR. DANGEAU:

22 Q. Mr. Green, I'll hand you a second document
23 marked as Exhibit No. 50 for identification and ask
24 you to identify that document, please.

25 A. That's my surrebuttal testimony in this

1 case.

2 Q. If I were to ask you the same questions
3 contained in that surrebuttal testimony today, would
4 your answers be the same?

5 A. Yes, they would.

6 MR. DANGEAU: Your Honor, I would move for
7 admission of Exhibit No. 50, Mr. Green's surrebuttal
8 testimony.

9 ALJ GEORGE: Are there any objections to
10 Exhibit No. 50 at this time?

11 (No response.)

12 ALJ GEORGE: Hearing none, Exhibit No. 50 is
13 entered into the record.

14 (EXHIBIT NO. 50 WAS RECEIVED INTO EVIDENCE.)

15 MR. DANGEAU: And we will tender Mr. Green
16 for cross-examination.

17 ALJ GEORGE: Thank you.

18 And first, Mr. Gardner, any --

19 MS. FORREST: No questions from Westar.

20 ALJ GEORGE: Thank you.

21 Mr. Fulton?

22 MR. FULTON: No questions at this time, your
23 Honor.

24 ALJ GEORGE: Mr. Micheel?

25 MR. MICHEEL: Sure.

1 CROSS-EXAMINATION BY MR. MICHEEL:

2 Q. Mr. Green, do you have a copy of your
3 rebuttal testimony which has been marked for purposes
4 of identification as Exhibit 49 in front of you, sir?

5 A. Yes, I do.

6 Q. Would you turn to Page 17 of that testimony?

7 A. I have it.

8 Q. And I'm focusing on the answer you give to
9 the question there on Lines 4 and 5, sir. Is it
10 correct that Associated Natural Gas supports a
11 rule-making for developing rules governing affiliated
12 transactions?

13 A. I think Associate's comments which were
14 filed in the generic docket opened to address that
15 matter indicated that we did not think that such rules
16 were necessary.

17 Q. So is it your testimony today, sir -- that
18 answer says you do not object to the Commission
19 adopting a reasonable set of rules governing
20 affiliated transactions. Is it your testimony today
21 that ANG supports this Commission promulgating a
22 reasonable set of rules governing affiliated
23 transactions?

24 A. My testimony would be that ANG does not feel
25 that such rules are necessary but that we don't object

1 should the Commission desire to implement such a set
2 of rules.

3 Q. So if the Commission -- let's just say, for
4 example, that the Commission decides that a
5 rule-making is appropriate and orders the opening of a
6 rule-making document, is it your testimony that on
7 behalf of ANG that your response or your reply to
8 opening the rule-making document would be that we
9 don't need any rules?

10 A. I'm not sure that I'm aware of all of the
11 legal ramifications of opening a rule-making document,
12 but my testimony would be the same thing that our
13 comments reflected that we filed in the generic
14 proceeding which was that we don't believe that such
15 rules are necessary at this time.

16 Q. Are you familiar with those comments, sir?

17 A. I'm generally familiar with them, yes, sir.

18 MR. MICHEEL: Okay. I'd like to get a
19 couple of documents marked as exhibits.

20 ALJ GEORGE: Off the record, please.

21 (EXHIBIT NOS. 51 AND 52 WERE MARKED FOR
22 IDENTIFICATION.)

23 BY MR. MICHEEL:

24 Q. Mr. Green, before we went off the record
25 we were discussing filings that your company did in

1 Case No. 0096-329. Do you recall that?

2 A. Yes, sir.

3 Q. And have you been handed what's been marked
4 for purposes of identification as Exhibit 51, Joint
5 Recommendations of Missouri Utilities?

6 A. Yes, sir.

7 Q. And does that document indicate that it's a
8 document filed on behalf the Associated Natural Gas
9 and certain other utilities?

10 A. Yes, it does.

11 MR. MICHEEL: I would move for the admission
12 of Exhibit 51, your Honor.

13 ALJ GEORGE: Are there any objections to the
14 admission of Exhibit 51?

15 MR. DANGEAU: No, sir.

16 BY MR. MICHEEL:

17 Q. Mr. Green, do you have what's been marked
18 for purposes of identification as Exhibit 52, Response
19 of Selected Utilities?

20 A. Yes, I do.

21 Q. And does that indicate that your company,
22 Associated Natural Gas, was party to that response?

23 A. Yes, it does.

24 MR. MICHEEL: I would move for the admission
25 of Exhibit 52, your Honor.

1 ALJ GEORGE: Are there any objections on
2 Exhibit 52?

3 MR. DANGEAU: No objection.

4 ALJ GEORGE: Hearing none, Exhibits 51 and
5 52 are entered into the record at this time.

6 (EXHIBIT NOS. 51 AND 52 WERE RECEIVED INTO
7 EVIDENCE.)

8 BY MR. MICHEEL:

9 Q. Mr. Green, would you please turn to Page 20
10 of your rebuttal testimony, Exhibit 49, and I'm
11 focusing there on the answer to the question that
12 starts on Line 4 and your answer there that starts on
13 Line 6.

14 Would you agree with me, sir, that as it
15 relates to the proposed standards of conduct that
16 Mr. Hubbs has proposed that Sections A through L of
17 those non-discrimination standards are included with
18 ANG's basic obligations to serve customers?

19 A. Yes, sir, I would agree with that.

20 Q. And, so, in -- in your opinion is it
21 correct, sir, that ANG is already taking the actions
22 represented by Sections A through L of those standards
23 of conduct; is that correct?

24 A. I don't recall the specific action required
25 by A through L. I think that what my testimony says

1 here is that the obligations indicated by Sections A
2 through L are already included within ANG's basic
3 obligation.

4 Q. And so ANG is already required to meet those
5 obligations; is that correct?

6 A. Yes, sir. Again, I just don't recall
7 specifically what A through L said, but as far as the
8 basic obligation indicated, I would agree with this.

9 Q. So really the -- at least the obligations
10 set in Sections A through L are merely a written
11 codification of what ANG is already doing. Isn't that
12 correct, Mr. Green?

13 A. Again, I don't recall the specific procedure
14 required by Sections A through L.

15 Q. Have you reviewed Mr. Hubbs' testimony, sir?

16 A. I have, but I don't have a copy of it in
17 front of me, so I don't recall the details of A
18 through L.

19 Q. You would agree with me that Sections A
20 through L, and perhaps I, propose -- propose
21 non-discrimination standards are clearly -- clearly
22 included within this basic obligation; is that
23 correct?

24 A. Yes, sir, that's correct.

25 Q. Turning to your surrebuttal testimony,

1 which, I guess, has been marked for purposes of
2 identification as Exhibit 50, and I'm focusing on
3 your answer to a question that starts at the bottom of
4 Page 2 and goes over to Page 3 dealing with the good
5 will obligation that Mr. Trippensee proposes. Do you
6 see that answer there, sir?

7 A. Yes, I do.

8 Q. Would you agree with me that currently as it
9 relates to residential customers that they're captive
10 of ANG, that they cannot receive service from any
11 other local distribution company?

12 A. For natural gas service, yes.

13 MR. MICHEEL: For natural gas service.

14 Okay. Thank you very much.

15 That's all I have.

16 ALJ GEORGE: Ms. McGowan?

17 MS. MCGOWAN: Staff believes that it has
18 addressed Mr. Green's testimony adequately in its
19 surrebuttal testimony and doesn't have any further
20 questions for the witness on the stand.

21 ALJ GEORGE: Thank you.

22 Questions from the Bench, Chair Lumpe?

23 CHAIR LUMPE: Yes.

24 QUESTIONS BY CHAIR LUMPE:

25 Q. Mr. Green, on the -- on the affiliated rules

1 or standards that we've been talking about in some of
2 the testimony was that we should be pro-active. In
3 listening to your response it suggested that you
4 already observe these standards or these standards are
5 already, you perceived, to be your obligation; is that
6 correct?

7 A. That's correct. Many of the standards,
8 especially the ones dealing with non-discrimination,
9 ANG already observes and abides by.

10 Q. Then if we are to talk about a way of
11 codifying that, whether it is by tariff or rule or
12 generic case or industry-specific, or none of the
13 above, how would you rank your preferences?

14 A. Well, I think our preference would continue
15 to be that we be judicious in moving forward with
16 affiliated transaction rules because of all of the
17 changes that are taking place in the industry right
18 now. Rules that are put in place today may be
19 obsolete at some future point, sooner rather than
20 later, because of the industry changes that are
21 continuing to occur to converge the gas and electric
22 industries to increase competition and so forth. So
23 our position would continue to be that such rules are
24 not necessary at this time, but that many of the
25 provisions, particularly those dealing with

1 non-discrimination, are already observed by ANG.

2 Q. So you -- would you still feel that -- given
3 what you said, that rules are not necessary -- not
4 necessary for the industry at this time; is that
5 correct?

6 A. That would continue to be our position, yes,
7 ma'am.

8 Q. And then you would also oppose having them
9 in the tariff?

10 A. We would, in particular, oppose having them
11 in the tariff. We think that they -- certain of the
12 rules in the tariff, for instance, seem to address
13 things that are not related to transportation or
14 service at all, so we would particularly oppose having
15 them in the tariff and believe that they would best be
16 documented in some other manner.

17 Q. Do you feel that other manner might be a
18 generic case dealing with all industries?

19 A. Our preference would be that they be
20 addressed on an industry-by-industry basis.

21 Q. Even though you suggested there are some
22 things that are -- might be similar between electric
23 and gas?

24 A. There are some things that could be common
25 between the two industries, but there are enough

1 differences that we believe a separate proceeding for
2 each industry would be more appropriate. The
3 differences could be reconciled in that process.

4 Q. So if I were to rank it, then, your first
5 preference would be an industry-by-industry set of
6 standards; rule-making, second, perhaps, not at all in
7 the tariff? Right?

8 A. Not at all in the tariff would be our first
9 preference, yes, ma'am.

10 Q. Okay.

11 A. And our second preference would be that if
12 such rules are to be addressed now, that they be
13 addressed in a separate generic proceeding for each
14 industry.

15 Q. For each industry?

16 A. Yes.

17 Q. Thank you, sir.

18 A. You're welcome.

19 ALJ GEORGE: Commissioner Crumpton?

20 COMMISSIONER CRUMPTON: Yes.

21 QUESTIONS BY COMMISSIONER CRUMPTON:

22 Q. Good morning.

23 A. Good morning, sir.

24 Q. How are you?

25 A. Fine.

1 Q. How can we be sure that transactions are at
2 arm's length if we don't have records pertaining to
3 those transactions between affiliates?

4 A. We believe the records that we maintain now
5 are adequate to enable the transactions to be
6 reviewed, that they are made freely available to the
7 Staff of the Commission or any other intervenor in a
8 proceeding, and that the documentation that exists
9 today should enable that objective to be accomplished.

10 Q. And how are the records maintained now?

11 A. Well, the transactions are documented by
12 contracts. The transactions are recorded in the
13 accounting record in the same manner as a transaction
14 with a non-affiliated entity would be recorded.

15 Q. On Page 19 of your rebuttal testimony,
16 beginning with Line 14, you make the statement that,
17 "The prospect of operating ANG's Missouri operations
18 through a separate corporation has very severe
19 consequences for SWN and its other subsidiaries."
20 What are these very severe consequences?

21 A. The company is an exempt holding company
22 under the Public Utility Holding Company Act of 1935,
23 and I would have to defer to the lawyers to some
24 extent to tell you all of the specific requirements
25 that lead us to be eligible for that exemption. But

1 if I'm not mistaken, our utility operations have to be
2 conducted as a separate stand-alone operation
3 incorporated in the state in which the holding company
4 is incorporated and our customers have to be primarily
5 in Arkansas.

6 There have to be -- there are a number of
7 other requirements, too, which would cause us to be
8 unable to comply with the rules as proposed in
9 Mr. Hubbs' testimony without a spinoff of a separate
10 corporation. And by spinning off part of the utility
11 into a separate corporation we would likely lose -- we
12 should lose our exemption under the Public Utility
13 Holding Company Act.

14 Q. This is what your attorneys have told you?

15 A. Yes, sir, that's correct.

16 Q. We have the telecommunications industry that
17 operates with affiliates and they are required to keep
18 detailed rules -- I mean, detailed accounts of their
19 interaffiliated transactions. What's the -- why is it
20 they can do it and the gas company can't?

21 A. With regard to the Public Utility Holding
22 Company Act, what our attorneys tell me is the
23 telephone companies are not subject to the Public
24 Utility Holding Company Act. That's one factor.

25 And the second factor is that I believe that

1 our records as they exist today are in an adequate
2 amount of detail to enable the transactions to be
3 satisfactorily reviewed.

4 Q. Let's say that -- that we continue to
5 operate with all of the advantages that you have using
6 the Public Utility Holding Company Act. Can't you
7 keep separations by accounts that would, in essence,
8 give Staff the ability to track transactions and the
9 costs related to those transactions?

10 A. Yes, sir, we can. The problem that we see
11 is that Mr. Hubbs' recommendations go far beyond
12 simply tracking things by separate accounts. He has
13 certain proposals regarding common employees which we
14 assume would probably force us to have no officers in
15 common of any of these subsidiaries. In a company of
16 our size, we think that that would ultimately increase
17 the cost to the rate payers if each operation that we
18 have had to be staffed separately with, for instance,
19 a chief financial officer for every subsidiary.

20 Q. On Page 20 you are making the statement
21 beginning with Line 9, "Any customer who believes that
22 ANG has not lived up to its obligation is free to file
23 a complaint with the Commission." How would a
24 customer know that an interaffiliate transaction has
25 occurred that's detrimental to the public interest?

1 A. With regard to Mr. Hubbs' proposals, the
2 customers who would be impacted are transportation
3 customers, all of whom are larger industrial customers
4 of ANG and all of whom currently negotiate freely with
5 ANG with regard to ANG and other affiliates of
6 Southwestern as well as unaffiliated marketers with
7 regard to the provision of transportation and gas
8 sales service.

9 I think just by the nature of the manner in
10 which they do business they will be aware if their
11 transactions are not conducted in a manner which is
12 satisfactory to them.

13 Q. And how would they be aware of this?

14 A. They are all sophisticated purchasers of
15 gas. They are all large enough to qualify for the gas
16 transportation service. Noranda, for instance, would
17 be the largest customer involved, and they are
18 represented in this proceeding today. So I think they
19 are -- we would expect that they would be generally
20 knowledgeable of the procedures available for them
21 with regard to redress of any situation that they felt
22 was not handled appropriately.

23 Q. So you're basing -- you're saying that they
24 are so knowledgeable of your business, even though
25 their main business is something else, that they can

1 tell through the services that you provide whether or
2 not they're receiving a fair -- or paying fair market
3 prices for the various services that your -- your
4 affiliates provide?

5 A. I'm not --

6 Q. -- and per-- and your performance of the
7 service you're providing them.

8 A. My belief is that these customers would
9 generally consider several different alternatives,
10 probably accept competitive bids for provision of
11 their gas supply and any services related to that.
12 And if ANG were not handling those appropriately, they
13 would have the bench mark of an unaffiliated bid to
14 compare that to.

15 Q. On the same page you further state,
16 beginning with the Line 12, ". . . ANG's attorneys
17 advise me that there are already state and federal
18 laws in place to protect and promote free and open
19 competition and that these laws deal with the same
20 types of issues included within Sections H and J of
21 the proposed non-discrimination standards."

22 You're saying that -- I mean, do you have
23 any knowledge of this, or are you just relying upon
24 your attorney?

25 A. I'm relying primarily on our attorneys.

1 Q. So this is like you're not addressing this
2 issue? Your attorneys are not going to take the
3 stand.

4 A. No, sir, but my understanding is that our
5 attorneys will be prepared to address that in the
6 brief that's filed.

7 Q. In the briefs?

8 A. Yes, sir.

9 COMMISSIONER CRUMPTON: I think that's all
10 that I have for this witness.

11 ALJ GEORGE: Commissioner Murray?

12 COMMISSIONER MURRAY: Thank you.

13 QUESTIONS BY COMMISSIONER MURRAY:

14 Q. Good morning.

15 A. Good morning.

16 Q. Do you have a copy of the proposed changes
17 to the Company's natural gas transportation service?

18 A. No, I don't have that in front of me.

19 Q. Do you have a copy -- you don't have a copy,
20 then, of the direct testimony of Wendell Hubbs?

21 A. I think I will have in just a second.

22 Q. Okay. Would you refer to Schedule 5,
23 Page 12?

24 A. I have it.

25 Q. All right. The affiliated transactions

1 standards of conduct, I'd like to ask you a few
2 questions about that. In Section A under "Financial
3 Transactions," "Associated shall be deemed to provide
4 a financial advantage to a marketing affiliate if,
5 one, it buys goods or services from an affiliate above
6 the lesser of fair market price or the cost to the
7 regulated utility to provide the goods or services for
8 itself."

9 Is it your position that that provision is
10 burdensome to the Company, and, if so, would you
11 explain how?

12 A. It is at best unclear what that provision
13 means to the Company, and that's one of the primary
14 sources of concern that we have. I'm looking at
15 Mr. Hubbs' direct testimony, which, I believe, is the
16 one that you asked me a question about. I think in
17 his rebuttal or surrebuttal testimony he may have had
18 some additional changes which excluded system supply
19 transactions from these requirements. I believe he
20 did, if I'm not mistaken. But I'm not sure what
21 system supply transactions are included, exac-- or
22 excluded, exactly what types of transactions he's
23 talking about, so it's a little difficult for me to
24 give you a specific example.

25 But the cost to the regulated utility to

1 provide goods or services for itself, for instance,
2 might argue that the utility should look at entering
3 the exploration of production of business for gas and
4 oil in that it should evaluate investments in that
5 industry as they would be evaluated in the regulated
6 utility industry, which is a rate-based rate-of-return
7 type of calculation. And, yet, natural gas in
8 particular has become a commodity subject to changes
9 in market price. Sometimes those market prices are
10 below the level which provides any return to the oil
11 and gas company. Sometimes they are above levels
12 which might provide what would be considered a
13 reasonable return to a regulated utility. I'm not
14 sure how that situation, for instance, gets reconciled
15 with Mr. Hubbs' rules when a commodity is involved.

16 Q. And how do you determine fair market price?

17 A. Again, it would depend on the specific
18 situation that we're addressing, but in the case of
19 natural gas, it's -- it has increasingly become a
20 commodity that's traded on the Mercantile Exchange.
21 There are publications available that provide evidence
22 of the daily cash prices of natural gas, for instance,
23 so I think that it's relatively easy to determine the
24 market price of gas from those publications.

25 Q. So the difficulty would be determining the

1 cost to provide the goods -- the regulated utility to
2 provide the goods for itself?

3 A. That would be a very difficult and
4 subjective determination.

5 Q. Why is it difficult to allocate just and
6 common costs?

7 A. Why is it difficult to allocate just and
8 common costs with regard to the services that are
9 provided by one subsidiary company to another? Well,
10 there are standard procedures that can be followed in
11 allocating those costs. Any type of allocation
12 involves judgment, and I suspect that's where the
13 difficulty, and that is where most disagreement
14 between different parties would come, is from the
15 judgment as to exactly which factors should be used to
16 allocate costs.

17 The nature of those costs is such that they
18 can't be specifically identified with a particular
19 entity or a particular type of service; therefore,
20 they require some judgmental basis upon which to
21 allocate.

22 Q. Subject to differing opinions then?

23 A. Yes, ma'am.

24 Q. Does the Company's proposed GMT recovery
25 mechanism increase the stipulated revenue requirement?

1 A. I think I'd probably have to suggest that
2 Mr. Gunter would be a better person to answer that
3 than me since he is intimately familiar with that.

4 COMMISSIONER MURRAY: That's all of my
5 questions.

6 QUESTIONS BY ALJ GEORGE:

7 Q. Mr. Green, how would the proposed affiliated
8 standard -- affiliated transactions standards, rather,
9 how would they bar affiliates of ANG from competing?

10 A. The provisions with which an affiliate of
11 ANG would have to comply are so burdensome, and, in
12 fact, in a company the size of ANG probably almost
13 impossible to comply with on a cost-effective basis.
14 So, effectively, by increasing the cost to operate, it
15 would probably preclude any affiliate of ANG, under
16 the Company's current organization, from complying
17 with those rules.

18 And one option that the Company would have
19 to consider, and only one option, would be no longer
20 making those types of sales, and so competition would
21 be decreased, not increased.

22 Q. And can you identify a specific federal
23 regulation that would be violated by these standards?

24 A. I'm not sure that I'm familiar with all of
25 the federal regulations that could be involved to be

1 able to answer that with any certainty.

2 ALJ GEORGE: Okay. Redirect, Mr. Dangeau?

3 CHAIR LUMPE: Could I --

4 ALJ GEORGE: Excuse me a moment. We have
5 another --

6 CHAIR LUMPE: Could I ask one more?

7 FURTHER QUESTIONS BY CHAIR LUMPE:

8 Q. Do you agree with the definition of market
9 affiliate that Mr. Hubbs has in his testimony starting
10 with the same premise of what one is? It's on Page
11 5-10 of his direct testimony.

12 A. No, ma'am, I wouldn't agree with that
13 entirely. In particular, I would not agree that
14 a 5 percent voting interest creates a rebuttable
15 presumption of control. That's such a small interest
16 that I don't see how it could be argued that a
17 5 percent interest would create a presumption of
18 control.

19 As far as the meat of Mr. Hubbs' definition,
20 it's a little unclear to me exactly how that plays
21 out. He seems to be saying that any entity which is
22 related to Associated or another subsidiary of
23 Associated which engages in a regulat-- or a certain
24 provision of the sale or service not regulated by the
25 Missouri Public Service Commission is a marketing

1 affiliate, but I'm not sure -- I'm not sure that
2 that's what he's saying.

3 Q. All right. So you do have some problems
4 with that definition?

5 A. Yes, I do. I think it needs to be
6 clarified, at least.

7 Q. If we were to use the definition and in
8 terms of your understanding, could you tell me who --
9 who the affiliates of ANG would be at this time?

10 A. The affili-- I'm not sure that these
11 affiliates have all provided services which would be
12 subject to the rules, but the affiliates which could
13 possibly provide services would be Southwestern Energy
14 Service Company, which is a gas marketing company,
15 SEECO, Inc., which is an exploration and production
16 subsidiary of Southwestern Energy Company, and the
17 NOARK Pipeline System in which a subsidiary of
18 Southwestern Energy Company owns less than a
19 controlling interest but more than a 5-percent
20 interest.

21 CHAIR LUMPE: Okay. Thank you.

22 ALJ GEORGE: Yes, Commissioner Crumpton?

23 FURTHER QUESTIONS BY COMMISSIONER CRUMPTON:

24 Q. Did you read Mr. Trippensee's testimony?

25 A. Yes, sir, I did.

1 Q. Do you agree with his definition of
2 "affiliate transactions"?

3 A. I don't recall what his definition was. If
4 I could get a copy of that to look at, I would be
5 happy to do so.

6 Could you tell me what page that's on?

7 Q. Page 3 of -- I guess it's his rebuttal
8 testimony, Line 16.

9 A. Line 16.

10 Okay. I'm sorry. Would you ask me your
11 question again?

12 Q. Yes. Do you agree with his definition of an
13 "affiliated transaction"?

14 A. On Line 16 he says, "An example of such a
15 service would be customer billing," and I think it
16 would be possible that customer billing could be an
17 affiliated transaction, depending on the exact manner
18 in which it was handled.

19 Q. Let's see. I'm looking at --

20 A. I'm on Page 3. Is that the wrong page?

21 Q. No. I'm looking at Page 3, Line 16. His
22 answer is, "An affiliate transaction is any
23 transaction between two companies or operating
24 divisions." Do you see that line?

25 A. I'm in his rebuttal testimony -- oh, he's in

1 an exhibit?

2 MR. MICHEEL: He's on Page 3. You're on
3 Exhibit Page 3, sir.

4 THE WITNESS: Okay. I've got it. Yeah.
5 Thank you.

6 I'm sorry.

7 Well, except for the -- I would generally
8 agree with his definition with a couple of caveats.
9 One would be that he says "various corporate" --
10 "other various corporate relationships," and I don't
11 know exactly what he refers to there. And then I
12 would question whether this definition would apply to
13 the specific procedures recommended by Mr. Hubbs.

14 BY COMMISSIONER CRUMPTON:

15 Q. Okay.

16 A. This definition could potentially go far
17 beyond the procedures recommended by Mr. Hubbs.

18 COMMISSIONER CRUMPTON: Thank you.

19 THE WITNESS: You're welcome.

20 ALJ GEORGE: Any other questions from the
21 Bench?

22 (No response.)

23 ALJ GEORGE: If not, redirect. Mr. Dangeau?

24 MR. DANGEAU: We have none, your Honor.

25 ALJ GEORGE: Very well. Any recross based

1 on questions from the Bench?

2 Westar?

3 MS. FORREST: No questions.

4 ALJ GEORGE: And Mr. Fulton?

5 MR. FULTON: No questions.

6 ALJ GEORGE: Mr. Micheel?

7 MR. MICHEEL: Yes, I do, your Honor.

8 RE-CROSS-EXAMINATION BY MR. MICHEEL:

9 Q. Mr. Green, Judge George asked you about
10 whether or not these proposed affiliated transaction
11 rules would bar ANG from competing if they were -- if
12 they had to comply with the rules. Do you recall that
13 answer?

14 A. Generally, I recall it, yes, sir.

15 Q. Okay. And part of the reason you said would
16 be the costs would be increased. Do you recall that?

17 A. Yes, sir.

18 Q. Could you tell me whether or not ANG has
19 conducted any studies that would indicate how much
20 compliance with these rules would cost?

21 A. ANG has not conducted a study which
22 specifically identifies those costs. That's a
23 business judgment based on the proposals that we've
24 seen, and that's all that we could do in the short
25 time that we had.

1 Q. So ANG hasn't conducted any sort of study,
2 have they?

3 A. ANG has not conducted any formal study. ANG
4 has discussed what those costs might be and the
5 general order of magnitude of those costs but have not
6 conducted a specific study.

7 Q. Are you aware of whether or not --

8 MR. MICHEEL: Well, that's enough. Thank
9 you very much.

10 I have no further questions.

11 ALJ GEORGE: Ms. McGowan?

12 RE-CROSS-EXAMINATION BY MS. MCGOWAN:

13 Q. I had a question. In response to a question
14 from Commissioner Murray you stated that allocations
15 were difficult to make because they were based upon
16 judgment and discretion.

17 A. Judgment, I believe I said, yes.

18 Q. If, for example, ANG and the Staff disagreed
19 about the appropriateness of any allocation proposed
20 by the Company, wouldn't the Commission determine
21 whether such allocation was appropriate?

22 A. In the context of a rate case?

23 Q. Or any type of a rate proceeding.

24 A. I suppose that that's the way it would be
25 resolved.

1 Q. Would there be any -- can you think of a
2 time when outside of the context of a rate proceeding
3 the Staff and the Company would disagree in the
4 allocations?

5 A. I think the gas costs are allocated between
6 jurisdictions, and the Staff -- those are not handled
7 in the course of a rate case, so the Company and the
8 Staff might disagree on those allocations?

9 Q. Would that be handled in a PGA-type docket?

10 A. I believe it would be.

11 Q. Would the Commission in the PGA docket make
12 the determination between Staff and ANG on the
13 appropriateness of an allocation?

14 A. I suppose that's the way it would work.

15 Q. Do you have a problem with the Commission
16 making the ultimate determination between
17 disagreements among parties as to the appropriateness
18 of allocations?

19 A. No, I don't have a problem with that.

20 MS. MCGOWAN: I just wanted to make sure.
21 Thank you.

22 No further questions.

23 ALJ GEORGE: Thank you.

24 We'll now go off the record.

25 (A discussion off the record.)

1 (EXHIBIT NOS. 53 THROUGH 67 WERE MARKED FOR
2 IDENTIFICATION.)

3 ALJ GEORGE: Mr. Fulton, you may call your
4 witness.

5 MR. FULTON: Steve, why don't you come on
6 up?

7 ALJ GEORGE: Please take the stand and raise
8 your right hand.

9 (Witness sworn.)

10 ALJ GEORGE: Thank you.

11 Please be seated.

12 MR. FULTON: May I proceed?

13 ALJ GEORGE: Go ahead, sir.

14 STEVEN M. LYON testified as follows:

15 DIRECT EXAMINATION BY MR. FULTON:

16 Q. Please state your name.

17 A. Steven M. Lyon.

18 Q. Mr. Lyon, what is your occupation?

19 A. I'm the industrial engineer supervisor at
20 Noranda Aluminum in New Madrid, Missouri?

21 Q. And have you in this case prepared certain
22 rebuttal testimony?

23 A. Yes, I have.

24 Q. And do you have before you what have been
25 marked as Exhibit No. 53?

1 A. Yes.

2 Q. Is that your rebuttal testimony there?

3 A. Yes, it is.

4 Q. That's what you prepared, you and your
5 counsel prepared?

6 A. Yes.

7 Q. Okay. If I were to ask you the same
8 questions asked of you in that testimony, would your
9 answers today be identical to the information set
10 forth therein?

11 A. Yes.

12 Q. And are those answers true and accurate to
13 the best of your knowledge and belief?

14 A. Yes.

15 MR. FULTON: I have no further questions,
16 your Honor.

17 I would move for introduction into evidence
18 Exhibit No. 53.

19 ALJ GEORGE: Are there any objections to the
20 entry into evidence of Exhibit 53?

21 MR. DANGEAU: No, sir.

22 ALJ GEORGE: Hearing none, Exhibit 53 is
23 entered into the record.

24 (EXHIBIT NO. 53 WAS RECEIVED INTO EVIDENCE.)

25 ALJ GEORGE: And are there any questions for

1 this witness here from Westar?

2 MS. FORREST: No questions at this time.

3 ALJ GEORGE: Thank you.

4 And then from Mr. Micheel?

5 MR. MICHEEL: No, your Honor.

6 ALJ GEORGE: Staff counsel?

7 MS. MCGOWAN: No questions.

8 ALJ GEORGE: Okay. And also from
9 Associated?

10 MR. DANGEAU: No questions, your Honor.

11 ALJ GEORGE: From the Bench, Chair Lumpe,
12 any questions for Mr. Lyon?

13 CHAIR LUMPE: I'm curious as to what
14 Mr. Lyon said that nobody wants to ask about.

15 QUESTIONS BY CHAIR LUMPE:

16 Q. Mr. Lyon, what is your -- what is your
17 position on the -- I assume we're talking about the
18 standards, the affiliated standards?

19 A. Yeah.

20 Q. And the question I asked someone earlier was
21 in order of preference, rules, tariffs, industry-
22 specific dockets, generic dockets or none at all?

23 A. Noranda doesn't have a problem with the way
24 it's set up today and has been running. We've
25 purchased gas from ANG affiliates and have had no

1 problem. We've felt like we've been dealt fairly. So
2 I'm not necessarily answering exactly what you said,
3 but I guess --

4 Q. Well, what you said is you sort of like the
5 way it is today, but would you --

6 A. We have no problems today.

7 Q. -- would you have a problem with codifying
8 the standards that you feel are in existence today in
9 affiliate transactions?

10 A. Unless they impeded how we could purchase
11 gas or who we could purchase gas from or have people
12 purchase gas for us, then probably not.

13 CHAIR LUMPE: Thank you.

14 ALJ GEORGE: Commissioner Murray, any
15 questions?

16 COMMISSIONER MURRAY: Just one second.

17 No questions.

18 ALJ GEORGE: Okay. Any redirect,
19 Mr. Fulton?

20 MR. FULTON: No.

21 ALJ GEORGE: Recross from Westar?

22 MS. FORREST: No.

23 ALJ GEORGE: Public Counsel?

24 MR. MICHEEL: No.

25 ALJ GEORGE: Staff?

1 MS. MCGOWAN: No.

2 ALJ GEORGE: Thank you, and you may step
3 down.

4 Call your next witness, please.

5 MR. FULTON: Call John Mallinckrodt.

6 If it's all right, Judge, I'm standing up
7 here as opposed to sitting down when I ask the
8 questions.

9 ALJ GEORGE: Please raise your right hand.
10 (Witness sworn.)

11 ALJ GEORGE: Thank you.

12 Be seated.

13 MR. FULTON: May I proceed?

14 ALJ GEORGE: Yes.

15 JOHN W. MALLINCKRODT testified as follows:

16 DIRECT EXAMINATION BY MR. FULTON:

17 Q. Please state your name.

18 A. John W. Mallinckrodt.

19 Q. What is your occupation, sir?

20 A. I'm a rate and regulatory consultant working
21 with Brubaker and Associates out of St. Louis,
22 Missouri.

23 Q. And you have been retained by Noranda
24 Aluminum in this case?

25 A. Yes, I have.

1 Q. And have you submitted testimony in this
2 cause?

3 A. Yes, I have.

4 Q. I want to hand to you what we've marked as
5 Exhibits 54, 55 and 56. Is that your direct, rebuttal
6 and surrebuttal testimony that's been submitted in
7 this case?

8 A. Yes, it is.

9 Q. Are there any changes and/or corrections to
10 any of that testimony?

11 A. The only thing I note is that on the
12 rebuttal testimony, on the affidavit there was a blank
13 that wasn't filled in, which should say -- on Item 2
14 it should say Pages 1 through 13 inclusive. It didn't
15 get filled in at the time of preparation.

16 Q. Any other changes or modifications?

17 A. No.

18 Q. If I were to ask you the exact questions,
19 the same questions set forth in your direct, rebuttal
20 and surrebuttal testimony, would your answers today be
21 identical to your answers set forth in those
22 testimonies?

23 A. Yes.

24 Q. And are those answers true and accurate to
25 the best of your knowledge and belief?

1 A. Yes, they are.

2 MR. FULTON: I have no further questions.

3 ALJ GEORGE: Cross-examination, Westar?

4 MS. FORREST: No.

5 ALJ GEORGE: Mr. Micheel?

6 MR. MICHEEL: Yes, I just have one question.

7 CROSS-EXAMINATION BY MR. MICHEEL:

8 Q. Mr. Mallinckrodt, on -- in your rebuttal
9 testimony, I guess that is Exhibit 55, and I'm looking
10 at Page 13 of that testimony, sir --

11 A. Okay.

12 Q. -- would you agree with me that in
13 concept the affiliate -- the concept of having
14 affiliated transactions rules is a good concept?

15 A. Yes.

16 Q. And would you agree with me, sir, that in
17 other jurisdictions in which you've testified in,
18 those jurisdictions have affiliated transaction rules?

19 A. Yes. Like at the Federal Energy Regulatory
20 Commission, other hearings, yes.

21 Q. And you would agree with me that
22 non-discrimination standards of conduct are important
23 to the promotion of fair competition and a level
24 playing field; is that correct?

25 A. That's correct.

1 MR. MICHEEL: Nothing further.

2 ALJ GEORGE: Ms. McGowan?

3 MS. MCGOWAN: No questions for this witness.

4 ALJ GEORGE: And Associated?

5 MR. DANGEAU: No questions.

6 ALJ GEORGE: Redirect, Mr. Fulton?

7 I'm sorry. Questions from the Bench first?

8 (No response.)

9 ALJ GEORGE: And redirect, Mr. Fulton?

10 MR. FULTON: No.

11 ALJ GEORGE: Recross, Westar?

12 MS. FORREST: No.

13 ALJ GEORGE: Mr. Micheel?

14 MR. MICHEEL: No.

15 ALJ GEORGE: Ms McGowan?

16 MS. MCGOWAN: No.

17 ALJ GEORGE: And thank you.

18 You may step down.

19 MR. FULTON: Noranda has nothing further on

20 that issue, Judge.

21 ALJ GEORGE: We have noted that Exhibits 56,

22 57 -- I'm sorry. Could you name those numbers off

23 again.

24 MR. FULTON: I would move for introduction

25 into evidence of Exhibits 54, 55 and 56.

1 ALJ GEORGE: And are there any objections to
2 those items?

3 (No response.)

4 ALJ GEORGE: Hearing none, we will admit
5 Exhibits 54, 55 and 56 into the record at this time.

6 (EXHIBIT NOS. 54, 55 AND 56 WERE RECEIVED
7 INTO EVIDENCE.)

8 ALJ GEORGE: Ms. McGowan?

9 MS. MCGOWAN: Staff calls Wendell R. Hubbs.
10 (Witness sworn.)

11 ALJ GEORGE: Thank you.

12 Ms. McGowan?

13 WENDELL R. HUBBS testified as follows:

14 DIRECT EXAMINATION BY MS. MCGOWAN:

15 Q. Can you please state your name and business
16 address for the record?

17 A. My name is Wendell R. Hubbs. My business
18 address is P.O. Box 360, Jefferson City, Missouri,
19 65102.

20 Q. Are you the same Wendell R. Hubbs who has
21 prepared and caused to be prefiled in this docket
22 direct, rebuttal, surrebuttal and highly confidential
23 surrebuttal testimony now marked respectively
24 Exhibits 57, 58, 59 and 59-HC?

25 A. Yes, I am.

1 Q. Do you have any corrections to make to those
2 exhibits?

3 A. I have one correction to the direct
4 testimony.

5 Schedule 2-1, in the first paragraph titled
6 "Availability," it states a threshold of 1,550 Ccf,
7 and that should be 15,500 Ccf.

8 Q. With the exception of that correction, if I
9 asked you the questions contained in those exhibits
10 today, would your responses be the same as those
11 contained in those exhibits?

12 A. Yes, they would.

13 Q. And are those answers true and accurate to
14 the best of your belief and knowledge?

15 A. Yes, they are.

16 MS. MCGOWAN: Then I now offer Exhibits 57,
17 58, 59 and 59-HC into the record and tender the
18 witness for cross-examination.

19 ALJ GEORGE: Thank you.

20 Are there any objections to Exhibits 57, 58,
21 59 and 59-HC?

22 (No response.)

23 ALJ GEORGE: Hearing none, those exhibits
24 are entered into the record at this time.

25 (EXHIBIT NOS. 57, 58, 59 AND 59-HC WERE

1 RECEIVED INTO EVIDENCE.)

2 ALJ GEORGE: Cross-examination, beginning
3 with Westar. I see that Mr. Gardner has stepped out
4 of the room.

5 MS. FORREST: Yes. My name is Dallas
6 Forrest. I am with Goller, Gardner and Feather.

7 ALJ GEORGE: Okay.

8 MS. FORREST: We don't have any questions
9 for this witness.

10 ALJ GEORGE: Thank you.

11 And from Mr. Fulton?

12 MR. FULTON: Just a few.

13 CROSS-EXAMINATION BY MR. FULTON:

14 Q. Mr. Hubbs, is -- I understand that the Staff
15 and the Commission have established a generic docket
16 for consideration of affiliated transaction rules?

17 A. The Commission Staff set that docket, yes.

18 Q. And has the Staff, and there has been
19 various parties intervene and submit comments with
20 regard to that case?

21 A. That is correct.

22 Q. Is that case still pending before the
23 Commission?

24 A. Yes, I believe it still is.

25 Q. I take it that the -- strike that.

1 Have you developed any information that
2 ANG has done anything improper with regards to
3 discrimination between its affiliates' customers,
4 et cetera, anything improper that would run afoul of
5 the present rules that are in place?

6 A. What rules?

7 Q. Well, in -- with regards to
8 non-discrimination, for example, that you've set forth
9 in your affiliated transaction -- your proposed
10 affiliated transaction rule?

11 A. No, I've presented no testimony that
12 violations of that -- of the affiliated standards that
13 I'm proposing have taken place.

14 Q. Okay. So would it be a fair -- fair to say,
15 then, that this is to take care of possible evils as
16 opposed to real current evils that currently exist?

17 A. That's true. Currently, ANG is tariffed to
18 allow it to become a marketer, and the Company is
19 providing those -- this marketing service pursuant to
20 the tariff, so if affiliated transaction rules and my
21 other recommendations are implemented, then there are
22 concerns of affiliated self-dealing.

23 Q. Would your affiliated transactions rules
24 prohibit ANG from marketing or selling gas to its
25 transporta-- or acting as an agent for the selling of

1 gas to its transportation customers?

2 A. My other recommendations.

3 Q. Okay. That are not at issue here?

4 A. That are not at issue in the affiliated
5 transaction issue.

6 Q. Okay.

7 A. The sales and backup sales issues.

8 MR. FULTON: Okay. I don't have anything
9 further.

10 ALJ GEORGE: Mr. Micheel?

11 MR. MICHEEL: I just have one question to
12 follow up on Mr. Fulton's question.

13 CROSS-EXAMINATION BY MR. MICHEEL:

14 Q. In response to one of Mr. Fulton's questions
15 you said that testimony has been filed in the -- in
16 what I like to refer to as the 00 docket, the 096
17 docket. Do you know whether or not parties have filed
18 testimony in that docket?

19 A. No, testimony is not filed, but I believe
20 only comments from parties have been filed as to
21 specific questions that the Commission asked.

22 Q. And do you know whether or not the
23 Commission has decided to -- to promulgate a
24 rule-making as a result of that docket?

25 A. No, I do not.

1 Q. Has the Commission promulgated a
2 rule-making?

3 A. It created a case, but I do not know whether
4 it has decided to promulgate a rule.

5 MR. MICHEEL: That's all I have, your Honor.

6 ALJ GEORGE: Mr. Dangeau?

7 MR. DANGEAU: Yes, sir.

8 CROSS-EXAMINATION BY MR. DANGEAU:

9 Q. Mr. Hubbs, let me ask you to refer to
10 Page 26 of your surrebuttal testimony.

11 A. Yes, sir.

12 Q. I just want to see if you will clarify a
13 couple of issues for me.

14 On Page 26 of your surrebuttal testimony on
15 Line 1 you start off with a question that refers back
16 to something Mr. Green said in his rebuttal testimony
17 to the effect that ANG's primary affiliate
18 transactions have to do with gas purchases and
19 intercompany altercations. And then on Line 5 you
20 give an answer that says you agree those are two
21 primary affiliate transactions, but what I have
22 proposed are standards which apply to the affiliated
23 transactions with marketing affiliates.

24 And the question that I need clarification
25 on is whether you intend your proposed standards to

1 apply to any of the company's intercompany cost
2 altercations?

3 A. Only those dealing with marketing
4 affiliates.

5 Q. So if, for instance, ANG provided some type
6 of support services, such as legal or accounting or
7 taxes or something of that nature, to a marketing
8 affiliate, that would come under your standards?

9 A. If they are going to provide those services,
10 yes.

11 Q. If, for instance -- I assume you have some
12 familiarity with the Company's cost allocation
13 procedures. If the holding company Southwestern
14 Energy Company provides those type of support services
15 to both ANG and also to a marketing company, would
16 those type of cost allocations come under your
17 standards?

18 A. If they provide them to the marketing
19 affiliate also?

20 Q. Yes, to both.

21 A. Yes, I would believe so.

22 Q. Let me refer you to your Surrebuttal
23 Schedule 1, Page 13.

24 A. Yes, sir.

25 Q. Let me get there myself. Okay. Do the

1 evidentiary standards described on this Page 13,
2 Schedule 1, are they intended to apply only to
3 affiliated transactions with marketing affiliates, or
4 do you intend them to apply to all affiliated
5 transactions?

6 A. Just marketing affiliates.

7 Q. Okay. So I notice that if you turn back to
8 Page 12 of Schedule 1 you exempted gas supply
9 purchases from the affiliated transaction standards
10 conduct in general, and if I understand what you're
11 saying, then, you would also exempt those same type of
12 transactions from the evidentiary standards?

13 A. Yes, I believe so. They would be -- what
14 these would address -- this modification to the
15 costing standards would allow the -- the Commission
16 pursuant to existing PGA/ACA mechanism to review and
17 make determinations on prudence under the existing
18 mechanism -- PGA/ACA mechanism without the
19 transactions that -- for supplying system supply
20 necessarily coming under the costing standards, and
21 probably evidentiary standards, too.

22 Q. Okay. Mr. Hubbs, turn to Page 25 of your
23 surrebuttal testimony. Beginning on Line 20 of
24 Page 25 you make this statement: You say, "Lack of
25 natural gas marketing competition on ANG's system is

1 very apparent when you consider that ANG affiliates
2 are supplying 94 percent of the normalized
3 transportation customer volumes."

4 And when you use the percentage 94 percent
5 of normalized transportation customer volumes, are you
6 referring just to transportation volumes on the SEMO
7 system?

8 A. That's correct.

9 Q. And that, of course, excludes the Kirksville
10 and Butler districts?

11 A. That's correct.

12 Q. And it excludes the portion of ANG's system
13 which serves northeast Arkansas?

14 A. I beg your pardon?

15 Q. It would also exclude the portion of ANG's
16 system which serves northeast Arkansas?

17 A. That is correct.

18 Q. Do you know the percentage of transportation
19 volumes in the SEMO district that are represented by
20 Noranda's volumes?

21 A. No, not offhand.

22 Q. Do you know the total transportation volumes
23 for Noranda?

24 A. Not offhand. I have those in my records.

25 Q. Do you have any general idea? For instance,

1 would you be able to say whether or not Noranda's
2 transportation volumes are in excess of 75 percent of
3 the total transportation volume on the SEMO district
4 system?

5 A. No, I would not be able to say that without
6 checking my records.

7 Q. Okay.

8 A. It is -- I believe it is over 50 percent, if
9 that helps you.

10 MR. DANGEAU: Okay. That's all of the
11 questions I have for you on that issue.

12 ALJ GEORGE: Redirect, Ms. McGowan?

13 MS. MCGOWAN: No questions.

14 ALJ GEORGE: Questions from the Bench?

15 QUESTIONS BY CHAIR LUMPE:

16 Q. Mr. Hubbs, did you hear the question I
17 asked earlier about the definition for market
18 affiliate and the response, which was it was rather
19 broad or 5 percent, but it's not high enough?

20 A. Yes, ma'am.

21 Q. How did you arrive at the definition which
22 you gave us in the testimony?

23 A. I plagiarized it from New Jersey affiliation
24 rule.

25 Q. The New Jersey model?

1 A. I did modify the New Jersey rule. I believe
2 that that rule contained a 10 percent. Some of the
3 other rules that -- other States' rules that I looked
4 at were 5 percent. And I -- I believe it's a
5 combination of just that modification of the 5 percent
6 with the -- with the New Jersey rule.

7 And I just -- I just recall, in that
8 development also I was concerned about not only
9 separate entities but also any transaction that a
10 company ANG may consider as non-jurisdictional within
11 just its corporate framework, so I believe I may have
12 modified the New Jersey rule to incorporate that, too,
13 to broaden it.

14 Q. Were you attempting in your rules to be
15 company-specific? In other words, the questioning was
16 that you've limited to marketing affiliates. Is that
17 to be specific to this company and --

18 A. No. I have -- I have filed very similar
19 standards for approval in MPS's ACA case that the
20 Commission, I think, is going to get briefed on next
21 Monday, and I have also filed for affiliate
22 transaction standards in Union Electric's general rate
23 proceeding.

24 This one is different than the others,
25 considering some items which I have not thought of but

1 Mr. Gunter and Mr. Green brought up in their rebuttal
2 testimony regarding the vertical integration of their
3 company throughout the gas industry from the producer
4 all the way to the LDC, where most of the other
5 companies do not own or are not affiliated with the
6 producers. So that's why I made some of the
7 modifications that I have in my surrebuttal testimony.

8 Q. Would this definition be broad enough to
9 include appliance repair and appliance activity,
10 selling appliances and repairing appliances? This
11 definition would not go to that?

12 A. No. No, it would not.

13 Q. In your opinion, instead of tariffing this
14 in every case, do you think it would be preferable to
15 have a generic docket, an industry-specific docket or
16 a rule?

17 A. I really do not care as long as the
18 affiliated transaction standards are broached. I
19 specifically address gas marketing because of the
20 status of the industry right now as far as promoting
21 competition and I figured that -- as a matter of fact
22 I was asked to by the Procurement Analysis Department
23 of the Commission to consider standards and put them
24 in because of concerns of getting specific affiliated
25 information, and it felt like that we were probably

1 behind on implementing affiliated transaction
2 standards.

3 CHAIR LUMPE: Thank you, Mr. Hubbs.

4 I have no further questions.

5 ALJ GEORGE: Commissioner Murray?

6 COMMISSIONER MURRAY: Thank you.

7 QUESTIONS BY COMMISSIONER MURRAY:

8 Q. Mr. Hubbs, in your testimony in your
9 surrebuttal testimony, you talk about two different --
10 the Company proposing to charge PGA sales customers
11 one rate and then -- and that including the recovery
12 of all G&T costs allocated to Missouri, and then you
13 go on to talk about ANG proposing to charge the
14 transportation rate. And I'm trying to understand --
15 trying to determine if I understand what you're
16 saying.

17 A. Could you point me to that testimony?

18 Q. Okay. I'm sorry. On Page 3 of your
19 surrebuttal testimony, Lines -- oh, beginning about
20 Line 16 of your answer there.

21 A. Okay. This is in the gathering and
22 transmission -- affiliated gathering and transmission,
23 and --

24 Q. Is this where you're saying that they're
25 getting a double -- if they did that they would get a

1 double fuel recovery?

2 A. That is correct.

3 Q. And in order for them not to get a double
4 fuel recovery, under your analysis, if the Commission
5 approved the single G&T rate -- on Page 4 you speak of
6 a single G&T rate of .19737 per hundred cubic feet.
7 That would correct the double fuel recovery in your
8 opinion?

9 A. Yes, if the Commission were going to approve
10 G&T rates.

11 COMMISSIONER MURRAY: Okay. That's all of
12 my questions.

13 QUESTIONS BY ALJ GEORGE:

14 Q. And also, Mr. Hubbs, could you explain how
15 your proposed standards on affiliated transactions
16 would apply where there is no information or very
17 little information on the market price per item?

18 A. The -- that particular -- the costing
19 standards are basically modified from the FCC costing
20 requirements, and depending on what kind of service
21 that you're provi-- that we're talking about
22 providing, about all we can do is find the best
23 competitive rate that's out there, whether it's by
24 survey, whether it's by publication, where they may
25 have indices.

1 But what -- there is all kind of tools, I
2 think, that probably can be used and are used to
3 determine an appropriate market price. It will always
4 be, I think as Mr. Green pointed out, contentious. It
5 is now when you-all have to make a determination of
6 gas costs in the ACA proceedings. It's -- there is
7 always questions about the level, especially when
8 affiliates are concerned.

9 Q. Okay. And do you agree with the changes
10 recommended by the Office of Public Counsel on the
11 affiliated standards?

12 A. I did not have problems with any that I
13 remember. Could I look at them again?

14 Q. Go ahead.

15 A. Could I get of copy of Mr. Trippensee's --
16 I'm having to think about one. Excuse me.

17 I don't believe I have any objections to the
18 ones that are outlined in his Schedule RWT-2.

19 ALJ GEORGE: Okay. And now the redirect,
20 Ms. McGowan?

21 MS. MCGOWAN: No questions.

22 ALJ GEORGE: Recross, Ms. Forrest?

23 MS. FORREST: No questions.

24 ALJ GEORGE: Recross, Mr. Fulton?

25 MR. FULTON: No.

1 ALJ GEORGE: Okay. Mr. Micheel?

2 MR. MICHEEL: None, your Honor.

3 ALJ GEORGE: Okay. You may step down.

4 MR. DANGEAU: Your Honor, I might have a
5 question relating to the issue that Commissioner
6 Murray raised.

7 ALJ GEORGE: Mr. Dangeau?

8 RE-CROSS-EXAMINATION BY MR. DANGEAU:

9 Q. Mr. Hubbs, Commissioner Murray raised the
10 double recovery issue on the fuel cost, and if I
11 understand right, it's your position that creating the
12 mechanism ANG has proposed results in a double
13 recovery fuel cost? Is that your position?

14 A. Additional recovery, yes, uh-huh.

15 Q. And are you familiar with compressure
16 stations in general?

17 A. No, only to the extent that there are
18 expenses charged for fuel for compressing.

19 Q. Okay. Are you familiar with the fact that a
20 compressure station is something that's created by a
21 set of natural gas-powered internal combustion
22 engines?

23 A. Yes, sir, I am.

24 Q. And are you aware that these engines consume
25 natural gas in order to compress other gas which is

1 flowing through AWG's pipeline system?

2 A. Yes, sir.

3 Q. And when we refer to compressure fuel in the
4 context in which we're discussing it, that compressure
5 fuel is natural gas that is consumed by these engines?

6 A. That is correct.

7 Q. And would you agree that when gas is
8 delivered through the AWG gathering system for
9 redelivery to ANG for system supply that fuel is
10 consumed by those engines?

11 A. I don't -- for redelivery for ANG?

12 Q. Yes.

13 A. You mean to the pipeline for then
14 transportation into --

15 Q. I'll back up and break it down for you.

16 You understand that AWG has a gathering
17 system in northwest Arkansas?

18 A. Yes.

19 Q. And that gathering system includes
20 compressure stations and gas flows through those
21 compressure stations and through the gathering system
22 into the NOARK Pipeline system and is redelivered to
23 ANG?

24 A. Yes.

25 Q. Okay. And when gas is delivered through

1 those compressure stations and through AWG's pipeline
2 system into NOARK, those compressure stations consume
3 natural gas as fuel?

4 A. Yes, sir.

5 Q. And that fuel is consumed when those
6 deliveries are made for ANG's system supply?

7 A. Yes, sir.

8 Q. And that fuel is also consumed when those
9 deliveries are made for redelivery to ANG
10 transportation customers?

11 A. Yes, sir.

12 MR. DANGEAU: No further questions.

13 ALJ GEORGE: You may step down.

14 And you may call the next witness.

15 MR. MICHEEL: Office of the Public Counsel
16 would call Russell W. Trippensee.

17 ALJ GEORGE: Raise your right hand.

18 (Witness sworn.)

19 ALJ GEORGE: Thank you. You may be seated.

20 You may proceed.

21 RUSSELL W. TRIPPENSEE testified as follows:

22 DIRECT EXAMINATION BY MR. MICHEEL:

23 Q. Would you state your name and business
24 address?

25 A. Russell W. Trippensee, Post Office Box 7800,

1 Jefferson City, Missouri, 65102.

2 Q. And how are you employed?

3 A. I am the chief utility accountant for the
4 Missouri Office of the Public Counsel.

5 Q. And have you caused to be filed rebuttal
6 testimony in this proceeding which for purposes of
7 identification has been marked as Exhibit 60?

8 A. Yes, I have.

9 Q. And do you have any corrections you would
10 like to make to that testimony?

11 A. Not to my knowledge.

12 Q. And if I asked you those questions today,
13 would your responses be substantially similar?

14 A. Yes, they would.

15 Q. Have you also caused to be filed the
16 surrebuttal testimony of Russell Trippensee which
17 has been marked for purposes of identification as
18 Exhibit 61?

19 A. Yes, I have.

20 Q. Do you have any corrections that you wish to
21 make to that testimony?

22 A. No, I don't.

23 Q. And if I asked you those questions today,
24 would your answers be substantially similar?

25 A. Yes, they would.

1 MR. MICHEEL: At this time I would offer
2 Exhibits 60 and 61 into evidence, and tender
3 Mr. Trippensee for cross-examination.

4 ALJ GEORGE: Are there any objections at
5 this time to the entry of Exhibits 60 and 61?

6 (No response.)

7 ALJ GEORGE: Hearing none, Exhibits 60 and
8 61 are entered into the record.

9 (EXHIBIT NOS. 60 AND 61 WERE RECEIVED INTO
10 EVIDENCE.)

11 ALJ GEORGE: Ms. Forrest, any questions for
12 this witness?

13 MS. FORREST: No questions. Thank you.

14 ALJ GEORGE: Mr. Fulton, any questions?

15 MR. FULTON: I don't believe so.

16 ALJ GEORGE: Ms. McGowan?

17 MS. MCGOWAN: No questions.

18 ALJ GEORGE: And Mr. Dangeau?

19 MR. DANGEAU: No questions.

20 ALJ GEORGE: Anything further from the
21 Public Counsel for this witness?

22 MR. MICHEEL: I don't think so, your Honor.

23 ALJ GEORGE: Okay. We'll let you step down
24 there.

25 ALJ GEORGE: Thank you.

1 MR. DUFFY: Your Honor, may Mr. Green be
2 excused from this proceeding since he is not listed as
3 a witness on any other issue?

4 ALJ GEORGE: Have we already addressed his
5 testimony?

6 MR. DUFFY: Yes, sir. He was the first or
7 second witness.

8 ALJ GEORGE: Okay. I don't see any reason
9 if there is nothing further. Is there anything
10 further that any other party would have about
11 Mr. Green's testimony?

12 MS. MCGOWAN: No.

13 ALJ GEORGE: We'll go off the record at this
14 time.

15 (A discussion off the record.)

16 ALJ GEORGE: Raise your right hand.

17 (Witness sworn.)

18 ALJ GEORGE: On the record, please.

19 We are now proceeding by the request of the
20 parties to Issue II on the order of witnesses and
21 issues, and we will later address the proposed
22 modifications to the current transportation tariff,
23 which is exhibit -- I mean, rather, Item I(b).

24 And there is the testimony of Associated
25 regarding this issue of customer deposits first, and

1 there appears to be no objections or no questions to
2 that testimony.

3 Is that correct, Mr. Duffy?

4 MR. DUFFY: Yes, sir. It's my understanding
5 the parties have waived any cross of Mr. Gunter on
6 this issue of interest on customer deposits.

7 ALJ GEORGE: Okay. And what are the numbers
8 on those exhibits?

9 MR. DUFFY: They've already been marked for
10 purposes of identification as Exhibits 46, 47 and 48.

11 ALJ GEORGE: Okay. And it's your intention
12 to offer those into the record at this time, is it?

13 MR. DUFFY: I can certainly offer them at
14 this time.

15 ALJ GEORGE: And are there any objections to
16 those Exhibits 46 --

17 MR. DUFFY: Forty-seven and 48.

18 ALJ GEORGE: -- 47 and 48? Any objections?

19 MS. MCGOWAN: The witness will be taking
20 the stand later to identify and to state that there
21 are no corrections or errors to those exhibits. I
22 don't know whether you would rather have him do it at
23 that time.

24 MR. DUFFY: Whatever anybody wants me to do.
25 It will be -- he will be taking the stand later, as

1 far as I know, unless everybody waives cross on him
2 again, and if there are corrections, we can so note
3 them in the record.

4 ALJ GEORGE: Are there any other objections
5 or questions pertaining to that? If not, we'll now
6 enter Exhibits 46, 47 and 48 into the record and
7 proceed to Staff's witness.

8 (EXHIBIT NOS 46, 47 AND 48 WERE RECEIVED
9 INTO EVIDENCE.)

10 ALJ GEORGE: I'm sorry. We do have another
11 issue before Staff's witness, and that is regarding
12 Westar's intention to enter something at this time.

13 Go ahead.

14 MS. FORREST: Yes. The only issue that
15 Westar was concerned with when we intervened was the
16 affiliated transaction rule, and since that issue is
17 finished for this hearing, we would like to be excused
18 from the remainder of the hearing. I don't believe
19 there will be anything else that we are concerned
20 with.

21 ALJ GEORGE: Okay. And if that's your
22 intention, that will be noted for the record.

23 MS. FORREST: Thank you.

24 ALJ GEORGE: And now I believe we're ready
25 for the issue on customer deposits.

1 Staff?

2 JENNIFER K. SOCHINSKI testified as follows:

3 DIRECT EXAMINATION BY MS. MCGOWAN:

4 Q. Would you please state your name and
5 occupation and business address for the record?

6 A. Yes, Jennifer K. Sochinski.

7 ALJ GEORGE: If I could interrupt just one
8 other moment. We have sworn Ms. Sochinski on the
9 record. We swore her in before we came back on the
10 record. Thank you.

11 THE WITNESS: Jennifer K. Sochinski. I'm a
12 regulatory economist in the Energy Department to the
13 Missouri Public Service Commission, Post Office
14 Box 260, Jefferson City, Missouri, 65102.

15 BY MS. MCGOWAN:

16 Q. Are you the same Jennifer Sochinski who has
17 prepared and caused to be prefiled direct, rebuttal
18 and surrebuttal testimony now respectively marked
19 Exhibits 62, 63 and 64?

20 A. Yes.

21 Q. Do you have any corrections to make to any
22 of these exhibits?

23 A. Yes, I do. In my direct testimony, starting
24 on Page 6 -- this is concerning the effective dates of
25 the current tariff's reflecting interest rate on

1 customer deposits for electric and natural gas
2 companies, and I will just go down through each line
3 and correct those.

4 Line 26, the effective date should be
5 5-28-97. Line 28, the effective date should be
6 11-16-94. Line 29, the effective date is 2-6-95.

7 Continuing on Page 7, Line 1, the effective
8 date is 1-5-95. Line 2, the effective date is
9 11-18-94.

10 Continuing on Line 8, the effective date is
11 2-16-95. Line 9, the effective date is 12-18-94.
12 Line 10, the effective date is 11-13-94. Line 11,
13 the effective date is 11-7-94.

14 Line 12, the interest rate on customer
15 deposits for Missouri Gas Energy is 6 percent per
16 annum and the date effective was 12-10-94. Line 13,
17 the effective date is 2-13-95. Line 14, the effective
18 date is 1-5-95. Line 15, the effective date is
19 4-15-95. And Line 16, the effective date is 11-30-94.

20 And I have additional corrections on Page 10
21 of my direct testimony as well. On Line 25, under the
22 residential customers for the southeast district,
23 1994, the number of customers should be 32,618.

24 Also on Line 25, 1995, the number of
25 customers should be 32,655.

1 Also on Line 25, the 1996 number of
2 customers should be 33,129. And the average
3 percentage deposit should be 10 percent on Line 25, as
4 well.

5 Q. Do you have any additional corrections to
6 make to any of these exhibits?

7 A. No, I don't.

8 Q. With the exception of the corrections you
9 have just made, are the answers contained in those
10 exhibits true and accurate to the best of your belief
11 and knowledge?

12 A. Yes.

13 Q. And if I were to ask you the same questions
14 contained in those exhibits today, would your answers
15 be the same for these exhibits?

16 A. Yes.

17 MS. MCGOWAN: Then I now offer Exhibits 62,
18 63 and 64 for the record and tender the witness for
19 cross-examination.

20 ALJ GEORGE: Are there any objections to
21 Exhibits 62, 63 and 64?

22 (No response.)

23 ALJ GEORGE: Hearing none, Exhibits 62, 63,
24 and 64 or entered into the record.

25 (EXHIBIT NOS. 62, 63 AND 64 WERE RECEIVED)

1 INTO EVIDENCE.)

2 ALJ GEORGE: I believe I'll reiterate,
3 because I don't have this written down, that
4 Exhibits 57, 58 and 59 were tendered. These were the
5 direct, rebuttal and surrebuttal of Hubbs. I believe
6 those were -- no objections and those were admitted in
7 the record. Is that correct?

8 MR. DUFFY: That's my notes, that you
9 already admitted those.

10 ALJ GEORGE: Okay. Those are admitted.

11 MR. MICHEEL: Those are my notes, too, your
12 Honor.

13 ALJ GEORGE: And for cross-examination here
14 of Ms. Sochinski, Mr. Micheel?

15 CROSS-EXAMINATION BY MR. MICHEEL:

16 Q. Ms. Sochinski, do you have a copy of your
17 direct testimony, Exhibit 62, with you?

18 A. Yes, I do.

19 Q. Would you please turn to Page 8?

20 A. (Witness complied.)

21 Q. And I'm focusing on the answer to the
22 question that begins on Line 25. And would you agree
23 with me that the interest rate used for customer
24 deposits should bear a rational relationship to market
25 rates?

1 A. Yes.

2 Q. And would you also agree with me,
3 Ms. Sochinski, that there are various market rates
4 depending on what financial instrument we're looking
5 at?

6 A. I agree that there are several financial
7 market rates, yes.

8 Q. And it's your testimony that the four -- I
9 guess the three appropriate market rate relationships
10 that you state should be used are the savings account,
11 the insured money market account and the one-year
12 certificate of deposit amount; is that correct?

13 A. I used those financial products as examples
14 of short-term or financial products that are in --
15 found in a short-term financial market.

16 Q. Are there any other examples that we should
17 be looking at other than those examples,
18 Ms. Sochinski?

19 A. There are various financial products
20 available in the short-term financial markets. I
21 believed that these were the best representative
22 products that would be available to the customers that
23 we were discussing.

24 Q. Okay. And so it's your testimony that
25 savings accounts, insured money market accounts and

1 one-year CD type of accounts are available to
2 customers who have to pay customer deposits; is that
3 correct?

4 A. It's my understanding that they are
5 available.

6 Q. Would you agree with me that this Commission
7 should set a market-based rate when determining the
8 return on equity the stockholders of a utility should
9 have an opportunity to earn?

10 A. Would you please repeat the question?

11 Q. Sure. When the Commission sets the return
12 on equity for, in this case ANG, would you agree with
13 me that they should get an opportunity to earn a
14 market-based rate?

15 A. I didn't offer any testimony on the
16 equity -- return on equity for the stockholders, and I
17 don't feel that I could comment on that.

18 Q. Okay. In your direct testimony, isn't it
19 correct that you took portions of Mr. Moore's
20 testimony and incorporated them into your testimony?
21 Is that correct?

22 A. I did refer to his testimony for historical
23 market trends and did incorporate his analysis of the
24 unsecured revolving debt for short-term debt analysis,
25 yes.

1 Q. Let me ask you this: Have you reviewed the
2 Staff accounting sketch which has been marked and
3 admitted into evidence as -- and I'm talking about the
4 total Missouri, as Exhibit 6 in this proceeding?

5 A. Not in detail.

6 MR. MICHEEL: Okay. May I approach the
7 witness, your Honor?

8 ALJ GEORGE: Yes.

9 MR. MICHEEL: I'm just handing her
10 Exhibit 6. And I've only got one copy, so I'm going
11 to have to stand close and hover a little bit.

12 BY MR. MICHEEL:

13 Q. Could you read the title of that schedule
14 for me, Ms. Sochinski?

15 A. "Associated Natural Gas Company, Total
16 Missouri, Case GR-97-272, for the year end 12-31-96
17 rate base."

18 Q. Okay. Can you explain your understanding of
19 the source of the cash working capital found on Line 4
20 of Staff Accounting Schedule 2?

21 A. Since I did not provide this testimony, I do
22 not feel like I'd be an appropriate witness to answer
23 that question.

24 Q. Okay. Would you agree with me that it's a
25 negative amount of \$528,736?

1 A. That's what the testimony says, yes.

2 Q. And would you agree with me if I looked at
3 Mr. Hyneman's direct testimony, that those funds were
4 provided by all rate payers?

5 A. It is my understanding that -- actually, my
6 understanding as far as rate base in this matter are
7 strictly confined to the customer deposit and the
8 customer deposit interest rate and not cash-working
9 capital as it applies to accounting schedules.

10 Q. Would you turn to Page 13 of your direct
11 testimony, ma'am?

12 A. I'm there.

13 Q. And I'm focusing on the question and answer
14 you have there on Line 14. Is it correct that --

15 A. I'm sorry. Which line?

16 Q. Line 14.

17 A. Thank you.

18 Q. Is it correct that the short-term debt is a
19 source of the cash-working capital; is that correct?

20 A. It's my understanding that short-term debt
21 funds can be used for cash-working capital, yes.

22 Q. Would you agree with me that customer
23 deposits is one of the rate-based components whose
24 revenue requirement effect would be computed and would
25 either increase or decrease the revenue requirement?

1 A. It's my understanding that customer
2 deposits -- those funds do decrease revenue
3 requirement.

4 Q. Let me ask you this, Ms. Sochinski: Do you
5 expect the total amount of customer deposits held by
6 the Company to significantly change from those levels
7 included by the Staff in Accounting Schedule 2 on
8 Line 19?

9 A. If what? When? I mean, in what instance
10 would they change?

11 Q. Over any term of time do you expect those to
12 change, or is that an average, or do you know?

13 A. I don't have any evidence to indicate what
14 the amount of customer deposits would be on a
15 going-forward basis.

16 Q. And you didn't sponsor an adjustment to rate
17 base related to that, did you?

18 A. Not that I'm aware of.

19 Q. Would you agree, Ms. Sochinski, that the
20 prime interest rate was one factor that Mr. Moore
21 addressed in his direct testimony in this case?

22 A. The history of the prime interest rate, yes,
23 was addressed in his testimony.

24 Q. I want to talk to you just a little bit
25 about the effect that you claim bad debts have on

1 customer deposits and our bad debt expense.

2 Would you agree with me that the effect of a
3 deposit on bad debt expense would be to reduce the
4 risk of a bad debt expense occurring?

5 A. To a -- a degree, yes.

6 Q. Are you aware, Ms. Sochinski, whether any
7 other customer group provides a similar guarantee or
8 risk avoidance procedure to eliminate bad debt
9 expense?

10 A. In my opinion, by providing an acceptable
11 credit rating, customers that are not required to pay
12 a customer security deposit do offer a certain level
13 of security against bad debt risk by providing an
14 acceptable credit rating and past history payment.

15 Q. But that doesn't guarantee that those
16 customers are going to pay, does it, Ms. Sochinski?

17 A. It offers some assurance, but it does not
18 guarantee 100 percent. That's correct.

19 Q. And with these customers who are required,
20 to obtain service, to pay a deposit, there is that --
21 at least up to that deposit amount, there is that
22 guarantee; isn't that correct?

23 A. In order to 100 percent guarantee that a
24 customer that is paying a security deposit would not
25 represent -- be representative of a bad debt would be

1 only an instance that the Company would discontinue
2 service prior to the customer incurring unpaid service
3 bills equalling or being greater than the amount of
4 the deposit.

5 Q. And the deposit, the way the tariffs allow
6 for ANG to calculate that, it's the two highest
7 months, isn't it?

8 A. That is the greatest amount that they can
9 collect, yes.

10 Q. I'm looking at your rebuttal testimony. Do
11 you have that in front of you?

12 A. Yes, I do.

13 Q. Would you turn to Page 3?

14 A. Yes.

15 Q. And on Line 22 you state, "The Company
16 cannot refuse to serve a high-risk customer"; is that
17 correct?

18 A. That is what this testimony says, yes.

19 Q. How do you define "high-risk customer"?

20 A. I believe I was referring in that statement
21 to a customer that does represent a possible bad debt.

22 Q. Have you read Ms. Bolin's surrebuttal
23 testimony in this proceeding?

24 A. Yes, I have.

25 Q. And would you agree with Ms. Bolin that the

1 Company can require a customer deposit as a condition
2 of service, and that absent that condition being met,
3 that service can be refused?

4 A. Are you referring directly to quoted
5 testimony?

6 Q. Well, I'm paraphrasing her testimony, but if
7 you want to look at it, it's on Page 6 -- beginning on
8 Page 6, Line 7.

9 A. Thank you.

10 MS. MCGOWAN: Could you restate that?

11 THE WITNESS: Page 6, Line 7.

12 BY MR. MICHEEL:

13 Q. Right.

14 A. I believe that's in the surrebuttal
15 testimony?

16 Q. Yes.

17 A. I believe that's addressing the cold weather
18 rule.

19 Q. Well, look at the answer starting on
20 Line 14. Why don't you read the whole question and
21 answer, Ms. Sochinski?

22 A. Line 6 was from the previously question and
23 answer. I'm sorry.

24 Q. Oh, I'm sorry. I had my lines incorrect.

25 A. So we're starting with the question starting

1 on Line 8?

2 Q. Yes.

3 A. You would like me to read that question?

4 Q. Yes, and then I'll --

5 A. Okay. "On Page 3, Lines 21 and 22, of
6 Ms. Sochinski's rebuttal testimony she asserts, 'I
7 believe that the purpose of collecting the customer
8 deposit is to partially offset this risk since the
9 Company cannot refuse to serve a high-risk customer.'"

10 "Can a company refuse to provide service to
11 a customer if it cannot pay the required deposit?"

12 Q. I was just meaning read it to yourself, but
13 that's okay.

14 Let me ask you this: Would you agree that
15 absent the conditions being met in the Company's
16 tariff that the Company can refuse to offer service to
17 a customer?

18 A. As a condition of service, the Company may
19 require a security deposit.

20 Q. And let's assume with me that there is
21 customer X out there and they want service from the
22 Company and they can't pay the customer deposit. Is
23 the Company required to hook that customer up?

24 A. Hypothetically, and using the knowledge that
25 I have of the customer practices, or strictly what the

1 tariff says?

2 Q. I want to know what the tariff says.

3 A. The tariff says -- or the rule says that
4 they may require a security deposit.

5 Q. And that's both the Commission rules and the
6 Company's tariff; isn't that correct?

7 A. That's correct.

8 Q. And so it is possible if a customer cannot
9 pay the customer deposit or meet one of the four
10 criteria in both the Commission's rules and the
11 Company's tariff, that whether or not they want
12 service or not, they can be denied that service; isn't
13 that correct?

14 A. I have not seen that practice done, but they
15 do have that capability, yes.

16 Q. Let me ask you this: In your rebuttal
17 testimony, and, I guess, I'm on Page 4, Lines 2 and 3,
18 you say, "The Company also must comply with the cold
19 weather rule which does not allow them to disconnect
20 the customer during the winter heating season"; is
21 that correct?

22 A. Yes.

23 Q. And what's your understanding of the heating
24 season and what months it encompasses?

25 A. From November 1 through March 31.

1 Q. Okay. And as it relates to the cold weather
2 rule, do you know whether or not there is a
3 temperature cutoff in the cold weather rule?

4 A. I believe it's addressed in the Subsection 4
5 in the cold weather rule that that's 30 degrees
6 Fahrenheit.

7 Q. And if it's above 30 degrees Fahrenheit
8 during the cold weather rule, is the Company allowed
9 to shut a customer off?

10 A. In the Subsection 5 it does state, "A
11 utility may not discontinue heat-related residential
12 utility service due to nonpayment of a delinquent bill
13 or account provided that A through E conditions are
14 met."

15 Q. Okay. And what are A through E conditions?

16 A. Would you like me to read those into the
17 record?

18 Q. Yes.

19 A. A, the customer contacts the utility and
20 states his or her inability to pay in full; B, the
21 customer applies for financial assistance in paying
22 his or her heat-related utility bill from any federal,
23 state, local or other heating payment fund program for
24 which she or he may be eligible; C, the utility
25 receives an initial payment and the customer enters

1 into a payment agreement, both of which are in
2 compliance with Section 8 of this rule; D, the
3 customer complies with the utility's request for
4 information regarding the customer's monthly or annual
5 income; and, E, there is no other lawful reason for
6 discontinuance of the utility service.

7 Q. Let's assume that the customer doesn't meet
8 A through E and it's 31 degrees out in between the
9 cold weather rule months. Is the Company allowed to
10 disconnect that customer?

11 A. That would be my understanding.

12 Q. Do you consider the interest rate on
13 customer deposits to be a component of the cost of
14 service?

15 A. My understanding of the interest rate is
16 that -- on customer deposits is that it's an expense
17 that is incurred by all rate payers.

18 Q. Okay. Let me ask you this: Are you aware,
19 Ms. Sochinski, of any other expenses that fluctuate
20 during the year for a company, for example, gasoline
21 expense or health cost expense, or something like
22 that?

23 A. Although I have not offered any testimony or
24 done any research on other costs for this company, I
25 would assume that there are other costs that fluctuate

1 throughout the year.

2 Q. And is it your testimony that this
3 Commission should change tariff rates to allow -- to
4 recognize those fluctuating expense costs?

5 A. It would depend on other circumstances
6 surrounding those expenses, which I have not looked
7 at.

8 Q. Okay. Do you know whether or not there are
9 any other expense costs absent the purchase gas
10 adjustment cost that are allowed to fluctuate
11 independently of a rate case proceeding?

12 A. Specifically, I'm not aware of any.

13 Q. Okay. Would you agree with me,
14 Ms. Sochinski, that the Staff recognizes that the
15 Company utilizes customer deposits as a source of
16 cash-working capital?

17 A. I'm not aware of anything that will prevent
18 them from using it as cash-working capital.

19 Q. And, indeed, the Staff includes interest on
20 customer deposits and customer deposits on their
21 cash-working capital schedules; isn't that correct?

22 A. Subject to check, I would agree with that.

23 Q. I want to go back to this idea,
24 Ms. Sochinski, that your proxy group for the customers
25 that we're talking about here, and it's customer who

1 are required to pay deposits. Do you know -- there
2 are four reasons or four things that a customer must
3 do or not have when they pay a deposit. Could you
4 list those for me, like if they don't own a house, if
5 they haven't had a job in 12 months?

6 A. Bear with me. I can -- so I don't forget
7 one.

8 Q. Sure.

9 A. Actually, it's my understanding for the
10 residential customers, based on the Company's tariff,
11 that there are three conditions, may require a deposit
12 or -- the Company may require a deposit or a guarantee
13 as a condition of new residential service if there are
14 three conditions not met, or met, and the third is
15 that the customer is unable to establish an acceptable
16 credit rating, and then the tariff goes on to define
17 that as being that the customer is unable to meet the
18 following criteria.

19 Actually, the customer -- if the customer
20 meets any of the following criteria they would be
21 deemed as having an acceptable credit rating, and
22 those four are, one, owns or is purchasing a home,
23 two, is and has been regularly employed on a full-time
24 basis for at least one year; three, has an adequate
25 regular source of income; four, can provide adequate

1 credit references from a commercial credit source.

2 Q. Are you aware of what the average customer
3 deposit is for each district?

4 A. No. I did receive information from the
5 Company that did give the -- a great deal of
6 information regarding the deposit amounts. I do not
7 have that number off the top of my head.

8 Q. Okay. Would you accept, subject to check,
9 and I'll show you the information and I've done some
10 calculations on what the average is. If you want to
11 calculate that, that would be fine, but I think that's
12 the information that you're referring to. And right
13 down here I've calculated the averages (indicated).

14 A. Subject to check, that looks reasonable.

15 Q. And could you just read those averages into
16 the record for '94, '95 and '96? That's a
17 Company-wide basis.

18 A. This is just for the southeast district that
19 you've calculated this, or do you want me to start --

20 Q. No. It's based on all districts.

21 A. So you've taken the average for each
22 district -- okay. For 1994, the average was \$81.85;
23 1995, \$86.71; 1996, was \$99.71. And from looking at
24 this, it's my understanding this is for residential
25 customers?

1 Q. Yes. It's only the residential customers.

2 A. Okay.

3 Q. And do those numbers at least seem
4 reasonable to you?

5 A. From the information I looked at, yes.

6 Q. Okay. Now, it's my understanding in
7 determining the methodology that you utilized to
8 arrive at the prime minus one-and-a-quarter that you
9 look at similar -- similar short-term market rates; is
10 that correct?

11 A. I used the short-term financial market as a
12 basis and then tied that to prime to establish the
13 connection of one-and-a-quarter percentage points
14 below prime, yes.

15 Q. Let me ask you this question: Do you think
16 that the -- well, let me just ask you this: Do you
17 know what the minimum balance is required for your
18 basic insured money market account?

19 A. It would depend on the bank or financial
20 institution, but anywhere from \$100 to \$500,
21 approximately.

22 Q. Okay. And do you know what the minimum
23 balance required for a certificate of deposit would
24 be?

25 A. \$250 on up depending on the maturity length

1 and the principal amount.

2 Q. Okay. What about the one-year CD?

3 A. I'm sorry. I thought that's what you had
4 asked just a moment ago. What was the one prior to
5 that? What was the financial product you just asked?

6 Q. I guess, let me ask the savings account? Do
7 you know what the minimum is for a savings account?

8 A. It would be depending on what kind of
9 service charge a financial institution would charge.
10 I'm familiar with several that have no minimum balance
11 but then have a service charge, and then others that
12 waive the service charge with an approximate \$100
13 minimum balance.

14 Q. And you used to work for Central Bank; is
15 that correct?

16 A. Yes.

17 Q. And let me just approach the witness here.
18 Let me -- I've got all of their fee information and
19 things like that, and I've gone ahead and taken out
20 for the insured money market, the certificate of
21 deposit and the monthly statement savings account and
22 the interest on checking account, and would you
23 accept, subject to check, and read into the record
24 what those interest rates are and the minimum balance
25 requirements are?

1 A. On an insured money market account, this
2 states it's \$1,000 -- did you want the interest rates
3 as well? I'm sorry.

4 Q. Yes, please.

5 A. Interest rate 3.6 percent; certificate of
6 deposit, minimum balance to open an account \$500,
7 interest rate 5.65 percent; savings account, \$100,
8 interest rate 3 percent; and an interest checking, it
9 does indicate here, it's \$100, but there are service
10 fees that apply for balances below \$500, interest rate
11 2.4 percent.

12 Q. And do those numbers based on your
13 experience in the banking industry seem reasonable?

14 A. Like I said, it's going to vary from
15 financial institution to financial institution. I'm
16 also aware at Central Bank that there are other
17 criteria that are looked at, and those balances can be
18 waived based on a customer's individual relationship
19 with the bank.

20 Q. Okay. Would you agree with me, at least as
21 we look at the averages, the highest average customer
22 deposit was for the year of 1996, and that was \$99?

23 A. I would have to look at that again, but --

24 Q. Sure.

25 A. Yes.

1 Q. And that's lower than any of the
2 requirements for a CD or an insured money market or
3 any of the proxies, at least at Central Bank; isn't
4 that correct?

5 A. That's correct.

6 Q. And you've not conducted any study, have
7 you, that indicates that the individuals who are
8 required to pay customer deposits have any excess
9 income to be investing in insured money markets or
10 one-year CDs or anything like that, have you?

11 A. Since the Company is not required to
12 determine the customer's -- or discretionary income, I
13 would not have access to that information.

14 Q. Are you aware of any banking institution
15 that allows someone to take a CD out for less than
16 \$100?

17 A. No, I am not.

18 Q. Are you aware of any banking institution
19 that allows you to open an insured money market
20 account with less than \$100?

21 A. No, I'm not.

22 Q. MR. MICHEEL: Thank you very much,
23 Ms. Sochinski.

24 ALJ GEORGE: Any further cross here,
25 Mr. Duffy?

1 MR. DUFFY: No questions.

2 QUESTIONS BY ALJ GEORGE:

3 Q. And, Ms. Sochinski, under the current rates
4 and under your proposal, what is the -- what is the
5 current amount that would be a percentage under
6 your --

7 A. It would be 7 percent, and that is
8 calculated based on what the prime interest rate was
9 as of December 31st, 1996, which was eight-and-a-
10 quarter, and then one-and-a-quarter percentage points
11 below that would bring us to the 7 percent. That
12 would be subject to change on an annual basis based on
13 the prime as reported in the Wall Street Journal on
14 the last business day of the year.

15 Q. And do you know what the more recent prime
16 rate is?

17 A. I believe it's eight-and-a-half, subject to
18 check?

19 ALJ GEORGE: Okay. Redirect, Ms. McGowan?

20 REDIRECT EXAMINATION BY MS. MCGOWAN:

21 Q. Okay. You stated that under its current
22 tariff if a deposit is appropriate and a customer
23 meets the criteria to authorize a deposit to be taken
24 that, correct me if I'm wrong, it is equal to that
25 customer's two highest months, and that would need to

1 be paid before service could be connected? Under the
2 tariff, that's the maximum?

3 A. That's my understanding, yes.

4 Q. Did you review ANG's actual practices
5 relating to collection of customer deposits?

6 A. Yes, I did.

7 Q. Is that their actual practice? If not,
8 could you state what tends to occur?

9 A. No, that's not their actual practice, and,
10 yes, I will explain that. From --

11 MR. MICHEEL: I'm going to object. This is
12 beyond the scope of my cross-examination or any
13 questions from the Bench.

14 MS. MCGOWAN: I have to disagree. He was
15 stating what ANG does and did not let Ms. Sochinski
16 state that they do not follow their tariff.

17 ALJ GEORGE: The objection will be
18 overruled.

19 MR. DUFFY: I'm concerned about the
20 allegation that ANG is not following its tariff.

21 MS. MCGOWAN: That's the maximum they are
22 authorized to retain.

23 MR. DUFFY: Okay. Perhaps they are not --
24 maybe you can rephrase that and say they are not
25 taking full advantage of everything they are permitted

1 to do under the tariff?

2 MR. MICHEEL: I never said ANG wasn't
3 following their tariff, Mr. Duffy. I never talked
4 about this.

5 MR. DUFFY: That's fine. With that
6 understanding, I withdraw my concern.

7 MS. MCGOWAN: Well, I believe this is
8 addressed in Ms. Sochinski's prefiled testimony, but
9 in the transcript I believe Mr. Micheel was implying
10 that these customers are being required to pay two
11 month's deposits. That's true. It's already
12 overruled. I'm just rambling for the record.

13 ALJ GEORGE: Can you answer the question?

14 THE WITNESS: Certainly.

15 ALJ GEORGE: Go ahead.

16 THE WITNESS: I found that the Company
17 worked very well and very diligently with the
18 customers to determine what their economic status was
19 and their ability to pay a deposit and based on the
20 customer's payment history and financial situation,
21 worked with the customer to only take deposits in
22 increments of the maximum amount that they were
23 allowed to take and also allowed the customer to pay
24 that in payments from anywhere from one payment up to
25 six payments.

1 BY MS. MCGOWAN:

2 Q. Okay. You also stated that under its tariff
3 ANG is not required to hook up someone who cannot pay
4 a required deposit. Did you also review their
5 practices regarding hooking up?

6 A. I am not aware of any -- yes, I reviewed
7 their practices as far as supplying service to new
8 customers. And in the instances that I reviewed,
9 there was not a situation that the Company was not
10 able to work out an acceptable deposit amount and an
11 acceptable payment practice which then allowed the
12 customer to go ahead and receive the service that they
13 requested.

14 MS. MCGOWAN: I'm trying to decide. Just a
15 second. Let me have a minute.

16 No further questions.

17 ALJ GEORGE: Recross based on questions from
18 the Bench, Mr. Micheel?

19 MR. MICHEEL: I have none, your Honor.

20 ALJ GEORGE: And Mr. Duffy?

21 MR. DUFFY: No, your Honor.

22 ALJ GEORGE: The witness is therefore
23 excused.

24 And we'll take a 15-minute break and come
25 back at approximately 3:00.

1 (A recess was taken.)
2 (Witness sworn.)
3 ALJ GEORGE: On the record, please, with the
4 continuation of Issue I(b) from the issue list and
5 witness list.
6 MR. DUFFY: Issue II, I believe.
7 ALJ GEORGE: I'm sorry. Issue II on
8 customer deposits.
9 Mr. Micheel?
10 MR. MICHEEL: Thank you, your Honor.
11 KIMBERLY K. BOLIN testified as follows:
12 DIRECT EXAMINATION BY MR. MICHEEL:
13 Q. Would you state your name and business
14 address for the record?
15 A. My name is Kimberly K. Bolin, Post Office
16 Box 7800, Jefferson City, Missouri, 65102.
17 Q. And how are you employed, Ms. Bolin?
18 A. I'm an accountant for the Office of the
19 Public Counsel and the State of Missouri.
20 Q. Have you caused to be filed your direct
21 testimony which has been marked for purposes of
22 identification as Exhibit 65?
23 A. Yes.
24 Q. And do you have any corrections you wish to
25 make to that testimony?

1 A. No.

2 Q. And if I asked you those questions today,
3 would your answers be substantially similar or the
4 same?

5 A. Yes.

6 Q. Have you caused to be filed your rebuttal
7 testimony which has been marked for purposes of
8 identification as Exhibit 66?

9 A. Yes.

10 Q. And do you have any corrections or additions
11 you wish to make to that testimony?

12 A. No.

13 Q. If I asked you those questions today, would
14 your answers be the same?

15 A. Yes.

16 Q. Have you also caused to be filed your
17 surrebuttal testimony which has been marked for
18 purposes of identification as Exhibit 67?

19 A. Yes.

20 Q. And if I asked you those same questions
21 today, would your answers be the same or substantially
22 similar?

23 A. Yes.

24 Q. Do you have any corrections you wish to make
25 to that testimony?

1 A. No.

2 MR. MICHEEL: At this time, your Honor, I
3 would offer Exhibits 65, 66, and 67, and tender
4 Ms. Bolin for cross-examination.

5 ALJ GEORGE: Are there any objections to the
6 three exhibits, 65, 66 and 67?

7 (No response.)

8 ALJ GEORGE: Hearing none, 65, 66 and 67 are
9 now entered into the record.

10 (EXHIBIT NOS. 65, 66 AND 67 WERE RECEIVED
11 INTO EVIDENCE.)

12 ALJ GEORGE: Miss McGowan, you may proceed.

13 MS. MCGOWAN: I would like to go ahead and
14 mark a bunch of data requests and responses that we
15 received for the record. I'm going to put them all
16 together to save time later so I can just refer to one
17 data request.

18 May I approach the witness?

19 ALJ GEORGE: Go ahead.

20 Let's go off the record here and mark these.

21 (A discussion off the record.)

22 (EXHIBIT NO. 68 WAS MARKED FOR
23 IDENTIFICATION.)

24 ALJ GEORGE: Back on the record.

25 You may proceed, Ms. McGowan.

1 CROSS-EXAMINATION BY MS. MCGOWAN:

2 Q. Ms. Bolin, are you familiar with the
3 documents I just handed to you?

4 A. Yes, I am.

5 Q. And are they Public Counsel's responses to
6 Data Request Nos. 3600 through 3609, but we've noted
7 that for some reason the response to 3609 (sic) was
8 not included?

9 A. Yes.

10 MS. MCGOWAN: Okay. I want -- the 3606 --
11 Staff would like the record to reflect that we did
12 receive that response. It's just not included in
13 here.

14 BY MS. MCGOWAN:

15 Q. Okay. And are you the party for Public
16 Counsel that prepared the responses to these data
17 requests?

18 A. Yes, I am.

19 MS. MCGOWAN: Okay. I would like to offer
20 Exhibit No. 68 for the record and then proceed to
21 cross-examine the witness based upon her responses to
22 the data requests.

23 ALJ GEORGE: Are there any objections to
24 Exhibit No. 68?

25 MR. MICHEEL: No objection, your Honor. I

1 would just state that the answer to No. 3606 was left
2 off.

3 ALJ GEORGE: That's already been noted, and
4 we'll enter Exhibit 68 into the record at this time.

5 (EXHIBIT NO. 68 WAS RECEIVED INTO EVIDENCE.)

6 ALJ GEORGE: Go ahead, Ms. McGowan.

7 BY MS. MCGOWAN:

8 Q. Can you please look at your response --
9 actually, probably first the question, in Data Request
10 No. 3601?

11 A. Okay.

12 Q. Okay. And I'll read the question. If I
13 misstate it, please correct me.

14 "In your own definition, what is a customer
15 deposit and what is the purpose for requiring a
16 customer deposit? Why would you agree that the
17 collection of customer security deposits provide funds
18 that potentially decrease the dollar amount of bad
19 debts it?"

20 A. I said "would you," not "why would you."

21 Q. You're correct. Thanks.

22 Can you please read your response to that
23 data request?

24 A. "A customer deposit is an amount collected
25 by the Company from the rate payer to establish or

1 continue service. The purpose of the customer deposit
2 is to protect the Company from the possibility that
3 the customer may not pay for services already
4 received. Yes, the collection of customer security
5 deposits provides funds that potentially decrease the
6 dollar amount of bad debts."

7 Q. Okay. Are you familiar -- and you may not
8 be. I think this case was before I came to the
9 collision -- with the Commission's decision in
10 Case ER-93-37?

11 A. I'm not aware of it right now.

12 Q. Okay. I guess it just went into effect on
13 April 15, 1997.

14 A. ER-93 -- what was it?

15 Q. I've got a copy of it for you. ER-93-37.

16 A. Yes, I know that one.

17 MR. DUFFY: I won't burden the record by
18 putting this in, but I would like the Commission to
19 take notice of its decision in that case, and I have
20 copies for counsel.

21 MR. DUFFY: Maybe the record ought to
22 reflect that this is the decision on remand and not
23 the original decision.

24 MR. MICHEEL: That's fine.

25 BY MS. MCGOWAN:

1 Q. Would you please turn to Page 47?

2 A. I didn't receive a copy.

3 MS. MCGOWAN: Oh. May I approach the
4 witness?

5 ALJ GEORGE: Yes.

6 BY MS. MCGOWAN:

7 Q. Could you please turn to Page 47 of that
8 report and order?

9 A. Okay.

10 Q. Let me find my tabbed copy.

11 Okay. Before the last paragraph, I guess it
12 would be the last two full sentences, the order reads,
13 and again correct me if I'm wrong because it seems I'm
14 misstating things today, "The purpose of customer
15 deposits is to minimize a utility's risk of late
16 payment and nonpayment. Since the utility cannot
17 protect itself by refusing to serve a high-risk
18 customer, as could a non-regulated industry, late
19 payments or non-payments may increase a utility's
20 collection lag component of cash-working capital or
21 increase its uncollectible accounts, in either case
22 burdening the rate payers as a whole."

23 Is that an accurate representation of that
24 section?

25 A. Yes, it is.

1 Q. Do you agree that the purpose of checking
2 security deposits is not to penalize low-income
3 customers, but rather to minimize burdening all rate
4 payers with an increase in the company's uncollectible
5 accounts by providing funds that decrease dollar
6 amount of bad debt?

7 A. I'm not sure the customer deposits -- to my
8 knowledge customer deposits aren't taken into
9 consideration with the bad debt expense when you're
10 looking at the rates.

11 Q. I think what I asked is do you agree that
12 the purpose of collecting security deposits is not to
13 penalize low-income customers?

14 A. Yes, I agree with that.

15 Q. But the purpose is to minimize burdening all
16 customers with an increase in the Company's
17 uncollectible accounts by providing funds that
18 decrease dollar amounts of bad debt?

19 A. No. I think it protects the Company.

20 Q. And I would like to read that last sentence
21 again of the Commission's order that I read to you
22 earlier. It says, "Late payments or non-payments may
23 increase a utility's collection lag component of
24 cash-working capital or increase its uncollectible
25 accounts, in either case burdening rate payers as a

1 whole."

2 Would you say that at least for the purposes
3 of that case that was the Commission's position?

4 A. That was the Commission's position.

5 Q. Okay. Look at, I guess, actually, the
6 second half of your answer to DR 3601 when you said,
7 "Yes, the collection of customer security deposits
8 provides funds that potentially decrease the dollar
9 amount of bad debt."

10 Okay. And Ms. Sochinski's rebuttal
11 testimony, Page 3 -- do you have a copy of
12 Ms. Sochinski's rebuttal testimony?

13 A. Yes, I do.

14 Q. Go ahead and turn to Page 3.

15 A. In her direct?

16 Q. Yes.

17 A. Okay.

18 Q. I'm sorry. Her rebuttal.

19 A. Her rebuttal?

20 Q. Yeah. Okay. I guess starting at Line 14,
21 so you can identify --

22 A. Okay.

23 Q. -- she states, "In my opinion by not meeting
24 the above-stated criteria, those customers that pay a
25 security deposit represent a risk of bad debt."

1 Is that a correct rendition of

2 Ms. Sochinski's testimony?

3 A. Yes, it is.

4 Q. Then in your surrebuttal testimony, Page 5,
5 Lines 13 and 14, you agree with Ms. Sochinski, I
6 believe, as follows -- I'll give you a moment to get
7 there.

8 A. Okay.

9 MR. DUFFY: What page of surrebuttal?

10 MS. MCGOWAN: Let's see. On Page 5,
11 Lines 13 through 14.

12 Everybody?

13 BY MS. MCGOWAN:

14 Q. All right. You agree with Ms. Sochinski as
15 follows: "Yes, absent a deposit, in fact, the
16 customers who pay the security deposit eliminate part
17 of the bad debt risk because the Company is guaranteed
18 payment for the services received by the customer."

19 Is that your testimony?

20 A. Yes, it is.

21 Q. Okay. What part of the bad debt risk do you
22 believe is eliminated?

23 A. I think in terms of this bad debt risk and
24 the risk that the Company will not get their money
25 from the customer. They will give up too many

1 service --

2 Q. Can you quantify the risk level based upon a
3 percent risk --

4 A. No, you --

5 Q. -- of non-payment?

6 A. Not to my knowledge.

7 Q. Have you performed any studies concerning
8 the correlation between bad debts and customer
9 deposits?

10 A. No, I haven't.

11 Q. Okay. Just to state for the record, looking
12 at your data response to 3600, I believe your response
13 which you've just agreed with is, "I do not have
14 copies of any studies concerning the correlation
15 between bad debts and customer debts (sic)"?

16 A. Correct.

17 Q. Excuse me. "Bad and customer deposits."
18 You've got to watch me. I'm getting tongue-tied
19 today.

20 Isn't it true that to totally eliminate the
21 risk of a customer's bad debt the Company would need
22 to collect the full deposit amount allowed by the
23 Commission rules and the Commission-approved tariffs
24 and then disconnect the customer before their unpaid
25 service bills total more than the deposit collected?

1 A. They would have to do it for every customer,
2 yes.

3 Q. Okay. Do you believe that in order to
4 reduce the risk of bad debt that the Company should
5 always collect the full deposit allowed in one payment
6 without considering the customer's ability to pay?

7 A. No.

8 Q. In your surrebuttal testimony, Page 6,
9 Lines 5 through 7, you state -- sorry. I will give
10 you a chance to get there.

11 A. Which page was it?

12 Q. I'm sorry. Page 6, Lines 5 through 7.

13 You state that, "Commission cold weather
14 rules as set out in 4 CSR" -- actually, this is a
15 correction. I believe you have "4 SCR 240-130.053,
16 Sections 3, 4 and 5." Just for clarification, is that
17 "CSR"?

18 A. Yes, I think it is.

19 Q. And 13 instead of 130? I just want to make
20 sure I'm not --

21 A. I would have to double check on that. I
22 don't have the --

23 MR. MICHEEL: We'll stipulate to the fact
24 that it's 240-13

25 MR. DUFFY: And it would be 055?

1 MS. MCGOWAN: Yeah, 055.

2 BY MS. MCGOWAN:

3 Q. Are you familiar with the provisions of that
4 section?

5 A. Yes, I am.

6 MS. MCGOWAN: It was accidentally attached.

7 May I approach the witness and provide her
8 with a copy?

9 ALJ GEORGE: Yes.

10 MS. MCGOWAN: And each of the Commissioners
11 have a copy attached to the back of the report and
12 order in GR-97-37.

13 BY MS. MCGOWAN:

14 Q. Would you correct me if I'm wrong? It says,
15 4 CSR 240-13.055, Section 5, states, "Discontinuance
16 of Service from November 1 through March 31 a utility
17 may not discontinue heat-related residential utility
18 service due to nonpayment of a delinquent bill or
19 account provided . . ." and then it says, ". . . A,
20 the customer contacts the utility and states his or
21 her inability to pay in full, the customer applies for
22 financial assistance in paying his or her heat-related
23 utility bill from any federal, state, local or other
24 heating payment fund program for which he/she may be
25 eligible; C, the utility receives an initial payment

1 and the customer enters into a payment agreement both
2 of which are in compliance with Section 8 of this
3 rule; D, the customer complies with the utility's
4 request for information regarding the customer's
5 monthly or annual income; and, E, there is no other
6 lawful reason for discontinuance of utility service."

7 Is that an accurate reading of that section?

8 A. That's correct.

9 Q. Would you agree that if a customer is
10 economically unable to pay their heat-related utility
11 service billing during the months of November 1
12 through March 1 (sic) and complies with the Commission
13 rules cooperating with the Company, that the Company
14 may not discontinue the heat-related service bill?

15 A. If they follow the rules and comply with
16 them, yes.

17 Q. Due to the cold weather rule, then, wouldn't
18 you agree that during the months of November 1 through
19 March 31 the customer would likely incur -- excuse
20 me -- could likely incur unpaid service bills totally
21 more than any collected security deposit?

22 A. I'm not sure. I did not form any study.

23 Q. What time would a natural gas customer's
24 bill normally be higher? Would it be higher during
25 the summer or during the winter heating season?

1 A. Based on my personal knowledge, the winter
2 season, heating season.

3 Q. Which would be the November and March?

4 A. Yeah.

5 Q. I won't go there with you. I won't make
6 Doug object.

7 In your surrebuttal testimony, Page 5,
8 Lines 14 through 19, you state that, "Ms. Sochinski
9 agrees with this in her response to OPC Data Request
10 No. 1032. 'In my opinion' -- I believe this is
11 Ms. Sochinski's statement -- 'a customer security
12 deposit can logically be compared to an insurance
13 policy premium. This insurance offers some protection
14 for all rate payers from an increase in rates as a
15 result of an increase in bad debt.'"

16 Then you go on to state, "While this
17 statement is true, she," referring to Ms. Sochinski,
18 "has failed to recognize that the customers who do not
19 pay a security deposit, do not provide any insurance
20 for their nonpayment service or bad debt risk."

21 Is that a correct quoting of your testimony?

22 A. Yes, it is.

23 Q. Okay. By providing a satisfactory credit
24 history or previous utility payment history, would you
25 agree that these customers' satisfactory payment

1 history does offer some level of insurance of their
2 nonpayment of service?

3 A. It does not provide a monetary type of
4 insurance, cash.

5 Q. But it does provide some insurance for the
6 Company?

7 A. If -- yes, it does, I guess. Yeah.

8 Q. Do you believe all drivers of automobiles
9 pay the same insurance levels?

10 A. No, I don't.

11 MR. DUFFY: I'm sorry. Was the question
12 should they or --

13 MS. MCGOWAN: Do they?

14 MR. DUFFY: -- and the answer is they don't,
15 or --

16 MS. MCGOWAN: It was do they.

17 THE WITNESS: Do they, no.

18 BY MS. MCGOWAN:

19 Q. Just a second. Okay. I would like to talk
20 to you about evidence of economic status of customers
21 paying customer deposits.

22 I guess in your surrebuttal testimony on
23 Page 3, Lines 2 through 3, you state that in your
24 opinion, "Many of the customers who are required to
25 pay a security deposit will probably have less than

1 1,500" -- excuse me -- "\$15,000 income a year and may
2 even be receiving LIHEAP"; is that correct?

3 A. That's correct.

4 Q. Could you now turn to Data Request Response
5 3602, and can you read your -- read the question and
6 your responses? I don't believe -- let me make sure.
7 I don't believe you need to read the whole data
8 request.

9 I'm even losing my own data requests. Here
10 we go.

11 I won't make you read the whole response.

12 ALJ GEORGE: Just one moment, please. We
13 will go off the record for a change of our paper with
14 the reporter.

15 (A recess was taken.)

16 ALJ GEORGE: Okay. Back on the record.

17 Go ahead.

18 BY MS. MCGOWAN:

19 Q. Okay. The first sentence of your response
20 to Data Request 3602 you stated that you had not
21 performed any studies which showed the amount of
22 discretionary funds that the customer would have to
23 invest had the customer not been required to pay a
24 deposit. Is that correct?

25 A. That's correct.

1 Q. And so you do not have any information or
2 studies to that effect?

3 A. I do not at this time.

4 Q. Okay. And this response was answered as of
5 September 3rd?

6 A. Yes.

7 Q. It's also in your response to Staff Data
8 Request 3602. You stated that "if the customer is
9 unavailable to establish an acceptable credit rating
10 under the standard contained in its tariffs filed and
11 approved by the Commission, that it is unlikely that
12 the customer will have any money after paying bills
13 and that a customer would only meet the criteria
14 necessary for ANG to require a deposit if they did not
15 have any financial resources. I'm kind of
16 paraphrasing because the language of the response was
17 kind of confusing.

18 MR. MICHEEL: Could you tell me where you're
19 at on that, counsel?

20 MS. MCGOWAN: It's the second section of
21 Data Request 3602. The actual language states,
22 ". . . and that a customer could not establish an
23 acceptable credit -- could not establish an acceptable
24 credit rating only if a person does not have financial
25 resources, so that was kind of confusing.

1 THE WITNESS: Which data request was this?

2 BY MS. MCGOWAN:

3 Q. 3602. It might be easier to have you read
4 it.

5 Let's make it simpler. Could you read me
6 the last paragraph of your response to that data
7 request?

8 A. The one that starts out, "in my opinion"?

9 Q. Uh-huh.

10 A. "In my opinion if a customer falls within
11 one of these last four categories above, it is
12 unlikely the customer will have any money after paying
13 bills, let alone extra money, to set aside for
14 investment purposes. The last four deposit
15 requirements would be met only if a person does not
16 have financial resources.

17 Q. Okay. What evidence do you have to support
18 these assertions?

19 A. It's my opinion.

20 Q. That's fine. I just -- have you performed
21 any studies on the financial demographics of customers
22 who would be required to make a deposit under the
23 existing tariff rules?

24 A. ANG specifically?

25 Q. Uh-huh.

1 A. Not ANG specifically.

2 Q. Okay. Let me skip a few questions. Just a
3 moment.

4 That question corresponds to your response
5 to Data Request 3604 in which you state, "No, I do not
6 have any studies on the financial demographics of
7 customers who would be required to make a deposit
8 under existing tariffs."

9 In your rebuttal testimony -- actually, is
10 that a correct --

11 A. That is a correct reading.

12 Q. Okay. I didn't want to jump ahead there.

13 In your rebuttal testimony on Page 10,
14 Lines 3 through 6, I believe you state, "Security
15 deposits are required from new customers who do not
16 meet a criteria -- excuse me -- a credit criteria for
17 existing customers that have had delinquent accounts
18 or have had five late payments in the past 12 months.
19 It is more likely that these customers will have to
20 borrow money at higher customer loan rates to pay the
21 security deposit." Is that your testimony?

22 A. Yes, it is.

23 Q. Have you performed any studies or have any
24 documentation that led you to this conclusion?

25 A. I have no documentation.

1 Q. Are you familiar with the Company's criteria
2 for collecting a customer deposit?

3 A. Yes, I am.

4 Q. Subject to check, would you agree that the
5 criteria as stated in the Company's tariff is as
6 follows: "The customer has outstanding with a utility
7 providing the same type of service an unpaid bill
8 which accrued within the last five years and at the
9 time of the request for service remains unpaid and not
10 in dispute; the customer has in an unauthorized manner
11 interfered with or diverted the service of a utility
12 providing the same service situated on or about or
13 delivered to the customer's premises within the last
14 five years; or the customer is unable to establish an
15 acceptable credit rating."

16 A. I would agree with that subject to check.

17 Q. Okay. I would like to ask you a question
18 about the value of customer deposit dollars. On
19 Page 8 of your rebuttal testimony, Lines 6 through 9,
20 when asked if you agree with Staff Witness
21 Ms. Sochinski that the customer deposit interest rate
22 should bear a rational relationship to the appropriate
23 market rate, you answered, "Yes, I do"; is that
24 correct?

25 A. Yes, that's correct.

1 Q. Which financial market rates do you believe
2 are appropriate?

3 A. I based my -- the rate of return the Company
4 receives.

5 Q. You consider a company's rate of return to
6 be a financial market rate?

7 A. Yes, I do.

8 Q. Are you familiar with the Commission's order
9 in St. Louis County Water rate case WR-94-166?

10 A. Yes, I am.

11 MS. MCGOWAN: Again, I won't burden the
12 already voluminous exhibits, but just -- may I
13 approach the witness?

14 ALJ GEORGE: Yes.

15 MS. MCGOWAN: I would ask the Commission to
16 take notice of this. I don't think I've attached
17 anything extra to this one.

18 BY MS. MCGOWAN:

19 Q. Okay. Can you turn to Page 6 of that order
20 for me?

21 A. (Witness complied.)

22 Q. The last sentence of the first paragraph
23 says, "This rate shall not" -- let me make sure I'm
24 pointing to the right section. I don't have my lines
25 here. Here we go.

1 Up -- let's say, one, two, three, four lines
2 down, the sentence starts, "The Commission is of the
3 opinion."

4 A. Okay.

5 Q. It says, "The Commission is of the opinion,
6 therefore, that St. Louis County Water should pay an
7 interest rate on security deposits which bear some
8 relationships to current interest rates on an ongoing
9 basis."

10 Okay. Is that a correct statement of that
11 testimony?

12 A. That's what the Commission order says.

13 Q. Okay. And then going back to ER-93-37 at
14 Page 48, it's the first sentence of that first full
15 paragraph.

16 A. Which page?

17 Q. On Page 48. It states, "Given the
18 Commission's concern that the interest rate used for
19 customer deposits bear a rational relationship to
20 market rates." Do you see that?

21 A. Yes.

22 Q. So you believe the Commission believes that
23 at least as far as this case is concerned that
24 customer deposit interest rates should bear a rational
25 relationship to market rates?

1 A. Yes.

2 Q. Okay. Do you believe that when referencing
3 a market rate the Commission was referring to the
4 Company's pretax rate of return at an actual financial
5 market?

6 A. No. They state in here that they are basing
7 it on a prime lending rate plus 1 percent.

8 Q. Well, that -- that's the actual rate they
9 adopted, but do you believe that that rate equals the
10 financial market?

11 A. It bears relationship to it.

12 Q. Okay. What factors, financial factors, did
13 you consider relevant when determining an appropriate
14 financial market?

15 A. Could you repeat that question again?

16 Q. What financial factors did you consider
17 relevant when determining an appropriate financial
18 market?

19 A. I looked at the Company's pretax rate of
20 return -- pretax rate of return. I also considered
21 what the Commission had wrote previously.

22 Q. Okay. In Ms. Sochinski's surrebuttal
23 testimony, Page 4, Lines 15 through 21, Ms. Sochinski
24 states, "Although ANG customers who pay a security
25 deposit may or may not invest in short-term investment

1 options listed above, for financial analysis purposes
2 I believe it is reasonable to compare these
3 investments -- these investment options to the
4 customer deposit interest rate because the following
5 financial factors are similar," and she lists under
6 that, "Risk of investment/deposit, length of
7 investment/deposit, and financial (sic) amount of
8 investment/deposit." Is that the way you read that
9 section --

10 A. Yes, it is.

11 Q. -- her testimony?

12 Okay. In response to Staff's Data Request
13 3605 you state -- I'll give you a chance to get there
14 since I'm jumping. It's totally unfair because I went
15 through this before.

16 Okay. You state, "I believe a complete
17 analysis of customer deposit interest rates should
18 compare the value of the customer deposit funds to
19 other customers, i.e. the pretax rate of return." Is
20 that your statement?

21 A. That is my statement.

22 Q. Would you agree that other factors,
23 including but not limited to the tariff customer
24 deposit requirements, the Company's actual practices,
25 and actual customer practices, should be included in a

1 complete analysis of customer deposit interest rates?

2 A. I believe that a complete analysis would
3 include the pretax rate of return.

4 Q. But would it not also include such things as
5 tariff customer deposit requirements, Company's actual
6 practices, and actual customer practices when talking
7 about a complete analysis of deposit interest rates?
8 If you disagree, that's fine, if you can state why you
9 disagree.

10 A. Yes, I agree, you would look at --

11 Q. I want to make sure if there is something --

12 A. You would look at those components, and I
13 don't know how much weight you would apply to each of
14 them, but --

15 Q. In your surrebuttal testimony, Page 1,
16 Lines 13 through 16, you state -- I'll give you a
17 second.

18 A. Which testimony?

19 Q. Surrebuttal.

20 A. Surrebuttal.

21 Q. You state that, "Ms. Sochinski's opinion is
22 that if the customer had not paid a security deposit,
23 the customer would have invested the security deposit
24 money in a savings account, insured money market
25 account or one-year certificate of deposit and other

1 similar short-term investments." Is that your
2 statement as to what you believe Ms. Sochinski's
3 position is?

4 A. What page is that again?

5 Q. I'm sorry. Page 1, Lines 13 through 16 of
6 the surrebuttal testimony.

7 A. That's what -- yes.

8 Q. Can you turn to Ms. Sochinski's direct
9 testimony, starting on Page 8?

10 A. Direct, Page 8?

11 Q. Yeah. It would be Line 25 through Line 1 on
12 Page 9. Could you read that for me?

13 A. "I" -- 25 through 29?

14 Q. Uh-huh.

15 A. "I agree that the interest rate used for
16 customer deposits should bear a rational relationship
17 to market rates. However, in my opinion, the security
18 deposit interest rate should bear a rational
19 relationship to the appropriate market rates. I
20 believe that had the customer not paid ANG a security
21 deposit, investment options such as savings account,
22 insured money markets, one-year certificates and other
23 short-term investments would have been logical
24 financial products available to customers."

25 Q. So Ms. Sochinski stated that they would be

1 available?

2 A. That's correct.

3 Q. So would you agree that Ms. Sochinski did
4 not state that the customer deposit would have
5 invested the security deposit in these type of
6 short-term investments, but, rather, that these
7 investments would have logically been available to
8 such customers?

9 A. She -- would you repeat that question again?

10 Q. Basically, you had stated that your
11 position, and correct me if I'm wrong, was that
12 Ms. Sochinski's opinion was that if a customer had not
13 paid a customer deposit, that they would have put
14 money in some other type of short-term investments?
15 But, actually, I'm stating that she didn't state that
16 they would, but merely that such options would have
17 been available had they chosen to put their money
18 there.

19 A. Yes, she said they were available, but --
20 yeah.

21 Q. Well, can you point me to anywhere in her
22 testimony where she said that they would or that she
23 even believed that they would put their money in that
24 type of an investment if they hadn't paid a deposit?
25 You can take your time.

1 A. By comparing it, you imply that.

2 Q. I'm sorry. I didn't hear you.

3 A. By -- her comparison implies that by
4 comparing those two, those -- the interest rate to the
5 short-term markets.

6 Q. I'm not sure I understand how the comparison
7 would imply such a strong statement.

8 MR. MICHEEL: The question has been asked
9 and answered, your Honor. She said she thinks it
10 implies. You know, I mean, that's Ms. Bolin's
11 interpretation.

12 ALJ GEORGE: I'll sustain the objection.

13 Do you have any other questions, then?

14 MS. MCGOWAN: I didn't have a chance to
15 address the objection, but -- she's stating her
16 interpretation of Ms. Sochinski's opinion and --

17 ALJ GEORGE: I think she's answered
18 sufficiently.

19 BY MS. MCGOWAN:

20 Q. Okay. On Page 2, Lines 1 and 2 of your
21 surrebuttal testimony, you state, "The underlying
22 assumption in Ms. Sochinski's position is that all
23 customers have sufficient discretionary funds to
24 invest." Is that a correct statement?

25 A. That is correct.

1 Q. Can you tell me where in any of the pieces
2 of testimony filed by Ms. Sochinski that she stated
3 that she has made this assumption or that it is the
4 underlying basis for her position?

5 A. The question -- the -- what I just read to
6 you awhile ago, what page was that?

7 Q. Page 8, Line 25.

8 A. It's the assumption that that's why she
9 compared the interest rate for customer deposits to
10 the short-term investments.

11 Q. So based on your inference from that
12 section, you're stating that Ms. Sochinski's position
13 is based upon assuming that they have this amount of
14 discretionary funding available? I just want to
15 clarify that your whole -- that your position in those
16 statements --

17 A. It's my opinion, yeah.

18 Q. On Page 3, Lines 9 and 10, let's see, of the
19 same piece of testimony you state, "Since investments
20 produce an income stream, in all likelihood, if a
21 customer who does not have a regular source of income,
22 that customer will not have investments."

23 A. That's correct.

24 Q. Would you consider interest income based
25 upon a 3 percent interest rate on a \$15 per month

1 monthly savings account deposit sufficient to be
2 consider a regular source of income?

3 A. I don't know if I would classify it as
4 regular.

5 Q. Okay. That's fine.

6 We're getting there, just so you know.

7 Okay. I would like to do a short-term debt
8 comparison. In response to Staff Data Request 3609 --

9 A. Yes.

10 Q. -- you stated, "I do not believe that by
11 paying interest on collected customer security
12 deposits the Company is discouraged from utilizing
13 these funds as a source of cash-working capital." Is
14 that correct?

15 A. Correct.

16 Q. Subject to check, would you agree that ANG's
17 Tariff Sheet No. 31 and 32 states that, "Upon
18 satisfactory payment of all undisputed utility charges
19 during the last 12-month -- the last 12 billing
20 months, it shall be promptly refunded or credited with
21 accrued interest against charges stated on subsequent
22 bills"?

23 A. Subject to check, yes.

24 Q. Do you agree that provided the customer
25 satisfies the tariff provisions, the customer deposit

1 will be returned to the customer in 12 months?

2 A. Yes.

3 Q. What if the Company needed additional --
4 excuse me. If the Company needed additional
5 cash-working capital for a 12-month period, do you
6 believe that the Company would request a customer
7 deposit for the sole or even the primary purpose of
8 funding cash-working capital?

9 A. No.

10 Q. Just checking.

11 Do you have any evidence to support any
12 statement that ANG is doing this? I assume if you
13 don't believe they do it, you wouldn't?

14 A. Right.

15 Q. Okay. If the Company's short-term debt cost
16 is lower than interest rate cost of customer deposits,
17 in your opinion, would the Company choose short-term
18 debt or customer deposits to fund cash-working
19 capital? Did that come out right? Do you want me to
20 reread that question?

21 A. Yes.

22 Q. Okay. Sorry. I saw confusion.

23 If the Company's short-term debt cost is
24 lower than the interest rate cost of customer
25 deposits, do you believe the Company would choose

1 short-term debt or customer deposits to fund
2 cash-working capital?

3 A. I'm not -- I didn't analyze that part of
4 this data, so I don't feel like I can comment on that.

5 Q. Okay. Let's see. I would like to ask just
6 a question about variable rates. In your direct
7 testimony, Page 10, Lines 22 through 30 you stated
8 that you do not agree with the Commission's decision
9 to revise the customer deposit interest rate on an
10 annual basis because revising the interest rate on an
11 annual basis will either benefit or hurt the Company
12 each year because the amount of interest paid is
13 included in the Company's cost of service as an
14 expense.

15 Revenue received from customers to pay a
16 certain level of expense will either over or
17 undercollect at the level of expenses changed. Stated
18 another way, the revenue rate base expense
19 relationship established in this case will be violated
20 based on a change in a single component of the
21 equation."

22 Is that your testimony in that section?

23 A. That is my testimony.

24 Q. Okay. When developing service rates in a
25 rate case, do you agree that all expenses analyzed are

1 based upon a fixed test year?

2 A. They should be, yes.

3 Q. Okay. Would it be true, then, that by the
4 time the service rates are approved and become
5 effective, it is reasonable to assume that the
6 customer deposit interest expense is not the only
7 expense item that will have changed?

8 A. Assuming -- yes.

9 Q. Okay. Just two more.

10 Isn't it true that if the year-end prime
11 lending rate changes, it is also likely that other
12 Company's expense will change?

13 A. I don't know that I can make that
14 assumption, but -- because I don't --

15 Q. That's fine.

16 A. The prime rate doesn't affect every
17 expense.

18 Q. Wouldn't you agree that if the Company's
19 total change in expenses warrant, the Company can file
20 tariffs to change the service rates?

21 A. Yes, they can file tariffs.

22 MS. MCGOWAN: Okay. I don't have any
23 further questions.

24 ALJ GEORGE: Mr. Duffy?

25 MR. DUFFY: No questions, your Honor.

1 QUESTIONS BY ALJ GEORGE:

2 Q. Ms. Bolin, do you have any undated numbers
3 as far as what the actual interest rates come out to
4 under your proposals?

5 A. Yes, I do. I think they were provided in
6 the hearing -- I based it on the customer deposit
7 amount levels at the test year, but then I used
8 the current prime lending rate, which is 8.5 plus
9 1 percent.

10 Q. Okay.

11 A. I believe that's the rate interest rate.
12 That's the correct rate, isn't it, right now? Okay.

13 Q. And do you have any update as far as the
14 pretax effective rate of return?

15 A. We're using the pretax effective rate of
16 return that will be decided in this case.

17 MR. DUFFY: No. No. I don't -- we
18 stipulated.

19 THE WITNESS: Or that is stipulated in this
20 case, and we used the Staff's midpoint.

21 MR. MICHEEL: And that's 12.73 percent, sir,
22 and it will be found in the unanimous stipulation and
23 agreement that has been marked and entered into
24 evidence as Exhibit 1.

25 ALJ GEORGE: Okay. And redirect,

1 Mr. Micheel?

2 REDIRECT EXAMINATION BY MR. MICHEEL:

3 Q. Ms. Bolin, Ms. McGowan asked you if -- asked
4 you about your response to Data Request 3602. Do you
5 recall those questions?

6 A. Yes, I do, some.

7 Q. Do you have a copy of 3602 in front of you?

8 A. Yes.

9 Q. Given that, at least pursuant to the
10 Company's tariff, there are four conditions before a
11 customer is required to pay a deposit, did you think
12 it was necessary to do a study to come to your
13 conclusions?

14 A. No, I didn't.

15 Q. And why is that?

16 A. I based it on my own opinion, common sense.
17 If a person does not -- if a person falls within these
18 categories to have to have a deposit, they don't have
19 money.

20 Q. And could you tell me what those categories
21 are again?

22 A. Customer does not only -- does not own or is
23 purchasing or is -- bla -- does not own or is not
24 purchasing a home, the customer has not been regularly
25 employed on a full-time basis for at least one year,

1 the customer does not have adequate regular source of
2 income, the customer cannot provide adequate credit
3 references from a commercial source, and the customer
4 has an outstanding -- has outstanding with a utility
5 providing the same type of service an unpaid bill
6 which accrued within the last five years, and at the
7 time for the request for service remains unpaid and
8 not -- and not in dispute.

9 Q. Do you recall the questions that Ms. McGowan
10 asked you about market rates that Ms. Sochinski
11 utilized, those being savings accounts, insured money
12 markets or CDs?

13 A. Yes, I do.

14 Q. And did you do any research regarding the
15 minimum balance requirements to invest in any of those
16 type of items?

17 A. Yes, I did.

18 Q. And what were the results of your research?

19 MS. MCGOWAN: I have to object. I don't
20 recall asking questions along this line.

21 MR. MICHEEL: Well, she asked specifically
22 about Page 8 of Ms. Sochinski's -- I believe it is her
23 rebuttal testimony where she listed these specific
24 four items. She asked a whole line of questions, your
25 Honor, about them and the relationship between --

1 MS. MCGOWAN: No -- I'm sorry.

2 MR. MICHEEL: -- the relationship and how
3 Ms. Bolin assumed that -- that Ms. Sochinski utilized
4 the savings account rate, the CD rate and the insured
5 money market rate to come to her conclusion on what
6 the proper rate was, and that's all these questions
7 are directed to.

8 MS. MCGOWAN: All I asked was whether --
9 what the basis for her assumption -- or her statement
10 that Ms. Sochinski assumed something.

11 MR. MICHEEL: Okay.

12 MS. MCGOWAN: I'm not sure what the
13 purpose --

14 MR. MICHEEL: I will withdraw the question
15 to avoid that, and let me re-ask the question.

16 ALJ GEORGE: Go ahead.

17 BY MR. MICHEEL:

18 Q. Ms. Bolin, other than savings accounts,
19 certificate of deposits or insured money market rates,
20 did Ms. Sochinski list any other short-term debt-type
21 proxies in her testimony that you're aware of?

22 A. Not to my knowledge.

23 Q. And did you have any occasion to review
24 those short-term debt proxies set out in
25 Ms. Sochinski's direct testimony?

1 A. Yes, I did.

2 Q. And do you have an opinion on whether or
3 not --

4 MS. MCGOWAN: I'm going to have to object.
5 I don't see how this addresses me asking her questions
6 about where she got an assumption. I mean, her
7 testimony said that Ms. Sochinski's position was based
8 on Ms. Sochinski's assumption, and I really don't
9 understand how her review of factors that she reviewed
10 based on Ms. Sochinski's direct testimony and if she
11 had anything to apply could have been put in rebuttal
12 and surrebuttal testimony has to bear on her opinion
13 of her assumption upon Ms. Bolin's opinion of
14 Ms. Sochinski's assumption.

15 MR. MICHEEL: Well, your Honor, if I may,
16 what I'm trying to draw out is, we have a proposal
17 here by the Staff, and it's my understanding, and,
18 apparently, as a response, my witness's understanding
19 that it was based on the assumptions with the savings,
20 the CD and the insured money market, and I'm just
21 trying to expand on that.

22 ALJ GEORGE: I think at this point we will
23 overrule this objection, and go ahead and listen to
24 this testimony.

25 BY MR. MICHEEL:

1 Q. Do you recall the question?

2 A. No, I don't. Sorry.

3 Q. The question was, have you had any
4 opportunity to do any research regarding the savings
5 account, insured money market or CD accounts?

6 A. Yes, I have.

7 Q. And what were the results of that research?

8 A. I have -- what do you mean, like what the
9 insured money market would be, the balance?

10 Q. Let me simplify it: Based on your research,
11 would the average customer deposit be able to invest
12 in any of these proxy items?

13 A. No.

14 Q. Are you aware, Ms. Bolin, of whether or not
15 the Commission allows tariff changes as it relates to
16 change in any other expense item absent the purchase
17 gas adjustment?

18 A. I'm not aware of any.

19 MR. MICHEEL: I have nothing else. Thank
20 you very much.

21 ALJ GEORGE: Mr. Duffy?

22 MR. DUFFY: Nothing.

23 ALJ GEORGE: The witness is excused, and we
24 will go off the record.

25 (A discussion off the record.)

1 (EXHIBIT NOS. 69 AND 70 WERE MARKED FOR
2 IDENTIFICATION.)

3 (Witness sworn.)

4 ALJ GEORGE: Go on the record, please.

5 We are proceeding with Issue I(b) on the
6 order of witnesses and issues. This is other proposed
7 modifications to the current transportation tariff.

8 Mr. Dangeau?

9 CHARLES V. STEVENS testified as follows:

10 DIRECT EXAMINATION BY MR. DANGEAU:

11 Q. Mr. Stevens, would you state your name and
12 position, for the record?

13 A. My name is Charles V. Stevens. My position
14 with the company is that of Vice-president and
15 Assistant to the President for Arkansas Western Gas
16 and for Associated Natural Gas.

17 Q. I'm handing you a document which has been
18 marked as Exhibit No. 69. Could you identify that
19 document, please?

20 A. This is my rebuttal testimony.

21 Q. And, Mr. Stevens, do you have any
22 corrections or additions to that testimony?

23 A. Yes, I have one correction. On Page 7,
24 Line 9, the statements go, "Should the transport
25 customers be forced to acquire their own firm

1 transportation on the inter/intrastate pipelines."

2 The word "firm" should be struck from that.

3 Q. Mr. Stevens, with that correction, if I were
4 to ask you the same questions today, would your
5 answers be the same?

6 A. Yes, they would.

7 MR. DANGEAU: Your Honor, I would move for
8 the admission of Mr. Stevens' rebuttal testimony as
9 Exhibit 69.

10 ALJ GEORGE: Are there any objections to
11 Exhibit 69?

12 (No response.)

13 ALJ GEORGE: Hearing none, Exhibit 69 is
14 entered into the record.

15 (EXHIBIT NO. 69 WAS RECEIVED INTO EVIDENCE.)

16 BY MR. DANGEAU:

17 Q. Mr. Stevens, I'm now handing you a document
18 marked as Exhibit No. 70, and ask you to identify that
19 document, please.

20 A. This is a copy of my surrebuttal testimony.

21 Q. And if I were to ask you the same questions
22 today, would your answers be the same?

23 A. Yes.

24 MR. DANGEAU: Your Honor, I move for the
25 admission of Mr. Stevens' surrebuttal testimony as

1 Exhibit 70.

2 ALJ GEORGE: Are there any objections on
3 Exhibit No. 70?

4 (No response.)

5 ALJ GEORGE: Exhibit No. 70 is entered into
6 the record.

7 MR. DANGEAU: And we pass Mr. Stevens for
8 cross-examination.

9 ALJ GEORGE: Mr. Micheel?

10 MR. MICHEEL: None.

11 ALJ GEORGE: Ms. McGowan?

12 MS. MCGOWAN: Just a couple.

13 CROSS-EXAMINATION BY MS. MCGOWAN:

14 Q. On Page 11, Line 6 of your rebuttal
15 testimony you state that, "The balancing proposed by
16 Staff is more stringent than required by any of the
17 interstate or intrastate pipelines currently providing
18 transportation service to ANG and its customers." Is
19 that a correct statement?

20 A. Yes, it is.

21 Q. Are you aware that the Commission has
22 approved similar balancing provisions with similar
23 unauthorized use charges as is being proposed by
24 Mr. Hubbs' in this proceeding in Commission Case
25 GR-96-285?

1 A. Until just very recently, as in yesterday
2 afternoon, I was not aware of that.

3 Q. Okay. But do you agree that similar
4 provisions have been proposed by Staff on behalf of
5 the Commission?

6 A. Our attorney, Mr. Duffy, told me about those
7 provisions. I haven't read them. I don't know how
8 they operate.

9 Q. Okay. That's fine.

10 On Pages 11 and 12 of your rebuttal
11 testimony you had some questions that raised some
12 questions for me. Are you aware that some interstate
13 pipelines have penalty provisions which have
14 volumetric over -- and penalty rates of over \$50 per
15 Mcf?

16 A. Yes.

17 Q. Okay. Are you aware that unauthorized use
18 charges similar to the provisions being proposed by
19 Mr. Hubbs -- whoops. I think I was restating my
20 question. Sorry. I was restating the question.

21 MS. MCGOWAN: I think -- I think that's all
22 I really have. Everything else Staff had was
23 addressed in our surrebuttal testimony.

24 No further questions.

25 ALJ GEORGE: Mr. Fulton, any questions?

1 CROSS-EXAMINATION BY MR. FULTON:

2 Q. What is the current methodology as far as
3 balancing under the transportation tariffs?

4 A. You're referring to ANG's current
5 methodology?

6 Q. Yes.

7 A. Currently ANG has a plus or minus 6 percent,
8 what I would term, a grace or tolerance area in which
9 no penalties are levied either for overdelivery or
10 underdelivery. From 6 to 10 percent we have a penalty
11 for gas that's overdelivered to the system of -- I
12 believe it's -- I believe it's 50 cents per Mcf, and
13 over 10 percent it goes to \$5 per Mcf, I believe.

14 For gas that's underdelivered to the system
15 we have what we call a backup sales service where we
16 can make up that gas from system supply if it is
17 available.

18 Q. As I understand Mr. Hubbs' proposal,
19 Mr. Hubbs is suggesting a zero percent variance. Is
20 that your understanding?

21 A. That's my understanding also.

22 Q. How is it determined -- how do you determine
23 this balancing as far as what's coming in, what the
24 customer is telling you. Is there a method of
25 measuring those?

1 A. Well, of course there is a method of
2 measuring, but, in general, you would -- as I
3 understand Mr. Hubbs' testimony, and the way ANG would
4 operate under -- under its current system, we would
5 compare the gas that passes through the customer's
6 meter to the gas that was nominated to the system to
7 flow to the system from third-party pipelines.

8 Q. Do these meters that you would be measuring
9 this with have any error in them?

10 A. Well, we would prefer to say they have a
11 tolerance.

12 Q. Okay. I'm sorry. Well, do they did --
13 what's the tolerance of error to those meters?

14 A. We try to take -- keep those meters within
15 plus or minus a half percent. I think the -- the --
16 no, I don't want to say that.

17 The Missouri rules for gas operations have a
18 tolerance for the meters in them stated, and I am
19 sorry, I don't remember exactly what that number is.

20 Q. Well, would plus or minus 1 percent be
21 reasonable with regards to a meter?

22 A. I think so, but I'm not sure.

23 Q. And you're using two meters, basically, to
24 determine the balancing provision?

25 A. That's correct.

1 Q. So, in effect, you've got a built in plus or
2 minus 2 percent that a customer can be paying a
3 penalty on under Mr. Hubbs' proposal?

4 A. That's our interpretation of his proposal.

5 Q. Has there been any difficulties with
6 providing service to your gas customers or your
7 transportation customers under this 6 percent variance
8 that the Company has worked under in the past?

9 A. No, sir. In the time that I've been with
10 ANG, we haven't experienced any difficulties using the
11 6 percent tolerance level.

12 Q. Now, Mr. Hubbs has also suggested some
13 unauthorized usage charges that are punitive in
14 nature. Do you-all have any current -- any tariffs in
15 place at this time as punitive as those costs?

16 A. ANG's current tariffs go up to \$5 per Mcf,
17 if I recall, for gas that's overdelivered to the
18 system. And as I stated earlier, assuming gas is
19 available for delivery, we have a backup sales
20 service, rather than penalizing for underdelivered to
21 the system.

22 Q. Now, Mr. Hubbs is also proposing to
23 eliminate the backup sales service. You're aware of
24 that?

25 A. Yes, sir.

1 Q. Would that have any impact upon any of your
2 customers?

3 A. It would certainly have an impact on our --
4 our -- on the ANG industrial transport customers. ANG
5 feels that for the reasons that we've been talking
6 about here that we just don't think that we can do the
7 zero tolerance. It looks, at least from our opinion,
8 our standpoint, it looks like we're creating a
9 situation where the industrial customers not only
10 can't win, they can't break even. They will eternally
11 be in some type of a penalty situation.

12 Q. And all of the penalty situations are not
13 based on any particular real cost; is that true?

14 A. Well, it would just be based on the proposed
15 tariff.

16 Q. Okay. Which is the punitive type of
17 charges, not based on any real cost, but just
18 basically designed to deter the type of conduct that
19 is -- that you are concerned about?

20 A. Yes, sir.

21 Q. Which may, in fact, be implemented and not
22 actually be occurring due to the built in errors of
23 the system. True?

24 MS. MCGOWAN: Staff has been kind of lenient
25 because Mr. Fulton doesn't come here a lot, but it's

1 Staff's understanding that friendly cross is not
2 appropriate, and I think that this has gotten way into
3 friendly cross.

4 MR. FULTON: Well, I beg to differ with
5 counsel. Quite candidly, this is an issue that we
6 have submitted testimony on. This is not friendly
7 cross-examination. We are -- I am not going to
8 disagree that the Company and I are not on the same
9 wavelength, but we have not in any way, shape or form
10 attempted to discuss this matter with this witness
11 beforehand or set this up.

12 We are attempting to elicit information that
13 has not been brought forward and that we think is
14 appropriate from a person who knows what this issue is
15 about. I'm not doing any friendly cross-examination.
16 This is something that's directed to an issue that we
17 feel very important about.

18 ALJ GEORGE: I'll overrule the objection.

19 Go ahead, Ms. McGowan:

20 MS. MCGOWAN: Those proposals were set out
21 in Staff's direct testimony, the ones that he's asking
22 the witness about. If he had any interest in
23 divulging (sic) into those issues, it should have been
24 in prefiled testimony, which they did take advantage
25 of.

1 And I'm not sure of the true harm of the
2 line of questioning. Staff is just becoming a concern
3 that it is becoming friendly cross because I believe
4 it's apparent that Noranda supports ANG's position.

5 ALJ GEORGE: How much further -- are
6 there --

7 MR. FULTON: Well, I don't have much more,
8 for one thing, Judge. You know, I think I've covered
9 the basic gist of it. I just want to make sure that I
10 get the rest of it done.

11 ALJ FULTON: Okay. Proceed then.

12 MR. FULTON: I intend to ask Mr. Hubbs the
13 same questions. I don't know if that will be
14 contended to be friendly cross at that point in time
15 or not.

16 ALJ GEORGE: Okay. Proceed.

17 MR. FULTON: Thank you.

18 BY MR. FULTON:

19 Q. Did you submit testimony with regards to
20 Mr. Hubbs' proposal and EGM?

21 A. Yes, sir.

22 Q. Mr. Hubbs' proposal -- let's see. Do all
23 your transportation customers have EGM capability at
24 this time?

25 A. Can we get a definition of EGM?

1 Q. Well, whatever Mr. Hubbs' defined it as.

2 I'm not sure I can define it.

3 As I understand it, basically having some
4 sort of metering system whereas the Company can access
5 that by electronic means as opposed to going to the
6 plant and actually reading the meter.

7 A. From that standpoint, using that definition,
8 no, we do not have EGM at all of the industry
9 locations.

10 Q. You do at Noranda, I believe?

11 A. Yes, sir, from the standpoint that we can
12 access it electronically, remotely.

13 Q. Do you know on whose telephone that -- whose
14 telephone lines are utilized to access that system?

15 A. It's my understanding that the phone line is
16 provided by Noranda.

17 Q. Now, Noranda -- do you know how long ago ANG
18 installed that electronic meter on Noranda's premises?

19 A. No, sir, I don't.

20 Q. Okay. Do you know if that meter that is on
21 Noranda's premises has been -- is included within the
22 cost-of-service studies that have been performed?

23 A. No, sir, I'm not really familiar with that.

24 Q. Okay. Donna Campbell would be the right
25 person to ask maybe?

1 A. Yes, sir.

2 Q. Okay. I broke my glasses and I can't see.

3 Oh, one other question: Under the
4 unauthorized usage charge, the -- does the
5 unauthorized usage charge only apply when there is a
6 reported curtailment of services?

7 A. That's not my understanding of the proposal.

8 MR. FULTON: I don't have anything else.

9 QUESTIONS BY ALJ GEORGE:

10 Q. Mr. Stevens, is there an agreement as to the
11 proposed contract to have included in the tariff -- in
12 other words, have you agreed with what changes
13 Mr. Hubbs has made to that? I understand he
14 incorporated some changes with his surrebuttal
15 testimony.

16 A. In the proposed contract?

17 Q. Right.

18 A. Yes, he did include some of the changes we
19 proposed. We still have some problems with the
20 contract, though.

21 Q. Okay. What are the problems that are left?

22 A. Well, the first one is obviously the
23 unauthorized usage charge is still in there. Excuse
24 me just a second here. Let me find it. I don't have
25 Mr. Hubbs' surrebuttal testimony.

1 Okay. We're referring now to the
2 transportation contract?

3 Q. Right.

4 A. Okay. Okay. Mr. Hubbs did make the changes
5 we suggested on the lost and unaccounted for factor
6 which was to use the applicable lost and unaccounted
7 for factor for each district, rather than an arbitrary
8 2 percent. And he changed whatever was in the tariff.

9 Some of the liability issues need to be
10 fleshed out a little more. Article 11 on Schedule 2-4
11 of Mr. Hubbs' surrebuttal, it's pretty skimpy on
12 liabilities.

13 It -- I guess, if I can offer my opinion, I
14 would rather Associated be allowed to put together a
15 transportation contract that meets the conditions and
16 the requirements that we know to be out in the
17 marketplace today and submit that to be -- instead of
18 taking -- taking one that has a number of not really
19 serious issues but shortfalls.

20 And then, of course, then the tariff issue
21 itself with -- I was mistaken. The unauthorized
22 deliver charge is not in the contract; it's in the
23 tariff. We would need to deal with those things, too.

24 But I would like to suggest that possibly
25 ANG's contract people put together a contract and see

1 how that looks.

2 Q. Is there one included with your testimony
3 or --

4 A. No, sir, there is not.

5 Q. Okay. Did you want to submit one of those,
6 or --

7 A. No, sir, I did not bring one with me. This
8 was a suggestion only.

9 ALJ GEORGE: Okay.

10 MR. DANGEAU: Your Honor, I might offer some
11 clarification. The content of any contract like that
12 would depend a whole lot on how the Commission rules
13 on several of the issues raised by Mr. Hubbs; for
14 instance, on unauthorized usage, balancing, whether or
15 not ANG can sell gas to transportation customers and
16 that type of thing.

17 ALJ GEORGE: Okay.

18 MR. DANGEAU: So it really is intertwined
19 with those -- how the Commission rules on those
20 issues.

21 BY ALJ GEORGE:

22 Q. But it is your position to include a form of
23 the contract, or is it not?

24 A. This addition to the tariff?

25 Q. Right.

1 MR. DANGEAU: We'd say we are indifferent
2 about it.

3 ALJ GEORGE: Okay.

4 MS. DANGEAU: As long as it says -- as long
5 as it matches up to what the tariff actually requires.
6 BY ALJ GEORGE:

7 Q. Okay. And, Mr. Stevens, can you describe
8 the main problems with the unauthorized use charge?

9 A. From my standpoint it is -- well, for one
10 reason, it is too high. And as I stated before, in
11 that there is no tolerance, no balancing provision in
12 the tariff, then the industrial customers have no way
13 to win. They can't be perfect in their nominations of
14 their takes. We have got metering inaccuracies.

15 They've got to nominate gas 26 hours ahead
16 of time and they don't -- their guess on what the
17 weather is going to be the next day is not any better
18 than what the National Weather Services is. And in a
19 situation like that, they could just -- for no other
20 reason than it got colder than it was supposed to be,
21 they could need more gas than what they had nominated.
22 They are in a lose-lose situation. At least that's
23 ANG's position.

24 ALJ GEORGE: Mr. Dangeau, redirect?

25 MR. DANGEAU: Yes, sir.

1 REDIRECT EXAMINATION BY MR. DANGEAU:

2 Q. Mr. Stevens, on the issue of balancing, is
3 there a way for the Company to -- to tightly control
4 the amount of gas that's delivered into its system?

5 A. Tightly control in what way?

6 Q. Well, let me rephrase it.

7 Is it possible for ANG to control the gas
8 coming into its system on any given day to the extent
9 that it can prevent a customer, transportation
10 customer, from overdelivering gas into the system on
11 any given day?

12 A. We only have limited control over the gas
13 delivery to our systems. For instance, the Butler and
14 Kirksville systems are sitting there floating on a
15 regulator. They do not have a control valve
16 controlling the amount of gas that comes into the
17 system. It's controlled by pressure rather than
18 actual flow data.

19 And then on the integrated system, which is
20 the Southeast Missouri/Northeast Arkansas system, we
21 have five, six, seven -- seven pipelines supplying gas
22 at various points on that system, and some of those
23 supply points are controlled by ANG; some of them are
24 controlled by a pipeline. We don't have controls of
25 those input points.

1 Q. Okay. If you were to adopt the proposal to
2 implement electronic gas measurement, would that allow
3 ANG to prevent customers from overdelivering gas into
4 the ANG system?

5 A. No, I don't believe it would.

6 Q. And why not?

7 A. There again, all we have control over -- we
8 know what the nomination is. We really don't have
9 total control of the gas that actually flows into the
10 system.

11 Q. When are the customers required to make
12 nominations?

13 A. In order to confirm the nomination for the
14 various pipelines, the nominations have to be made
15 26 hours in advance of delivery.

16 Q. So if a customer wants to change his
17 nomination in the middle of a month, that nomination
18 would have to be submitted 26 hours in advance of when
19 the nomination change would become effective?

20 A. Yes, sir.

21 Q. Okay. Mr. Stevens, you were asked about
22 Mr. Hubbs' balancing proposals being adopted in other
23 cases. I believe maybe the MGE case. And do you
24 believe that the relationship between MGE and Williams
25 Natural Gas is identical to the relationship between

1 ANG and its pipelines and buyers?

2 A. I really don't have any knowledge of
3 relationship between MGE and Williams, but they are a
4 primary customer on a single pipeline supply; whereas,
5 we are a relatively minor customer on our multiple
6 pipeline supplies.

7 Q. For instance, do all of the pipelines that
8 supply ANG have electronic bulletin boards?

9 A. No, sir, they do not.

10 Q. Do any of the pipelines which supply ANG
11 utilize burn-tip balancing?

12 A. Not that I'm aware of.

13 Q. Do all of the pipelines which supply ANG
14 allow capacity assignment or capacity brokering?

15 A. No, sir, they do not.

16 Q. Which pipelines do not allow capacity
17 assignment?

18 A. Well, the first one that comes to mind is
19 NOARK Pipeline.

20 Q. What percentage of ANG's supplies is
21 received from NOARK Pipeline?

22 A. The system supply on the integrated system
23 would be approximately 70 percent of the system
24 supply.

25 Q. Is NOARK Pipeline the pipeline that's

1 heavily utilized by ANG's transportation customers?

2 A. Yes, sir.

3 Q. Is it possible for ANG to assign capacity on
4 NOARK Pipeline to a transportation customer?

5 A. You're talking about during-capacity-
6 release-type assignment?

7 Q. Yes, sir.

8 A. No, sir.

9 Q. Why is that?

10 A. NOARK has a tariff condition that requires
11 the transporter of the gas to own the gas.

12 Q. Up to what point?

13 A. Up to the delivery point.

14 Q. Okay. Are you telling me that ANG -- if ANG
15 is the party that contracted with NOARK, NOARK's
16 tariff requires ANG to own the gas at all times while
17 that gas is on NOARK's system?

18 A. Yes, that's correct.

19 Q. Okay. Mr. Stevens, with regard to backup
20 sales, can you tell me the -- the price for the gas
21 cost that ANG charges to transportation customers for
22 backup sales?

23 A. Currently?

24 Q. Yes, sir, currently.

25 A. Currently, I believe that it's system supply

1 of cost.

2 Q. Okay. In your opinion --

3 MS. MCGOWAN: Can I object, because,
4 basically, this is way beyond the scope of any
5 question anyone asked, and the only person that even
6 touched on this issue was friendly cross-examination
7 to begin with, and I'm having a lot of trouble with
8 the supplemental direct testimony that's going into
9 the record.

10 ALJ GEORGE: Mr. Dangeau, do you have any
11 response to that?

12 MR. DANGEAU: Yes. I have in my notes that
13 that was asked about backup sales, service, and the
14 impact of that service on ANG's customers, and that's
15 where I'm heading with this line of questioning. It
16 was Mr. Fulton that asked that question.

17 ALJ GEORGE: Do you have very much further
18 to go on that?

19 MR. DANGEAU: I think about three questions,
20 probably.

21 ALJ GEORGE: Go ahead then.

22 MR. DANGEAU: Okay.

23 BY MR. DANGEAU:

24 Q. In your opinion, does the -- do the backup
25 sales to transportation customers have any adverse

1 impact on ANG system supply customers?

2 A. No, sir, not in my opinion, it doesn't.

3 Q. If in order to provide backup service to a
4 transportation customer ANG had to purchase gas at
5 prices greater than its weight average cost of gas, is
6 it possible that that would have an adverse impact on
7 system supply customers?

8 A. Under the current situation, yes, it could,
9 because it would increase the cost of the gas for
10 system supply.

11 Q. Are you aware of any way to eliminate that
12 possibility?

13 A. I suggested in my rebuttal testimony, I
14 believe it was, that we could work out a methodology
15 to sell the backup gas as the highest price gas on the
16 system at that price.

17 Q. And that would eliminate all risk?

18 A. Yes.

19 MR. DANGEAU: Okay. No further questions,
20 your Honor.

21 ALJ GEORGE: Recross, Mr. Fulton?

22 MR. FULTON: I'm almost afraid to.

23 RECROSS-EXAMINATION BY MR. FULTON:

24 Q. Do you -- talk to me for just a moment about
25 this electronic bulletin board. Is there some

1 provision in what Mr. Hubbs is proposing about
2 electronic bulletin boards?

3 A. Mr. Hubbs' direct or rebuttal testimony, I'm
4 not sure which, suggested that all capacity release be
5 listed on the -- the Associated pipeline's electronic
6 bulletin boards prior to making the assignment of
7 release capacity in order to assure that ANG received
8 the best price for that released capacity.

9 Q. And if I understand correctly, the system
10 does not have electronic -- NOARK's system does not
11 have an electronic bulletin board?

12 A. No, it doesn't.

13 Q. Would that -- would his proposal have any
14 adverse impact upon his transportation customers,
15 about the bulletin board thing?

16 A. If we were required to list the capacity
17 release, and -- and we couldn't make the release
18 without listing it on the EBB, electronic bulletin
19 board, then that would rule NOARK out.

20 Q. So you couldn't utilize that system?

21 A. Yes, sir.

22 Q. Okay. I understand. Okay?

23 Is the -- now, you said something about
24 nomination has got to be made 26 hours in advance?

25 A. Yes, sir.

1 Q. Do initial nominations have to be made
2 earlier than that?

3 A. Yes, sir.

4 Q. When is the initial nomination first made?

5 A. It's either four or five days prior to flow
6 of gas.

7 Q. Okay. Is nominations on your system on
8 transportation customers made on a monthly or a daily
9 or weekly --

10 A. Currently, they are made on a monthly
11 basis.

12 Q. So four or five days before the end of the
13 month, a transportation customer has to guesstimate
14 the amount of gas they will use for the entire month.
15 True?

16 A. Yes, sir.

17 Q. And you are proposing in your tariff to
18 change that -- it's currently 48 hours for any
19 changes, and you are suggesting 26 hours. And if I
20 understand correctly, that's based on FERC
21 requirement?

22 A. Well, it's based on the gas industry
23 standards board.

24 MR. FULTON: I have no further questions.

25 ALJ GEORGE: Mr. Micheel?

1 RE-CROSS-EXAMINATION BY MR. MICHEEL:

2 Q. Is NOARK Pipeline a subsidiary of
3 Southwestern Energy?

4 A. If I might defer a moment to Mr. Dangeau.

5 MR. DANGEAU: I could explain it. It's --
6 NOARK Pipeline is a general partnership -- a limited
7 partnership. A subsidiary of Southwestern Energy
8 Company is a 48 percent general partner in that
9 pipeline. The other remainder of the interests are
10 owned by non-affiliated entities.

11 BY MR. MICHEEL:

12 Q. Is NOARK Pipeline, if you know, an
13 interstate pipeline?

14 A. NOARK is an intrastate pipeline.

15 Q. And in what state?

16 A. Arkansas.

17 Q. And only serves Arkansas; is that correct?

18 A. It makes deliveries to pipelines that serve
19 other areas.

20 Q. And what pipelines would NOARK make
21 deliveries to that serve your service territory in
22 Missouri?

23 A. MRT, Mississippi River Transmission Natural
24 Gas Pipeline, Arkansas Western Pipeline, and Texas
25 Eastern.

1 Q. Okay. Which interstate pipelines serve the
2 SEMO district, if you know?

3 A. We have Natural Gas Pipeline, Texas Eastern,
4 MRT, and AWP.

5 Q. Okay. Which interstate pipelines serve your
6 Kirksville district?

7 A. ANR.

8 Q. And which interstate pipelines serve your
9 Butler district?

10 A. Panhandle Eastern.

11 Q. Okay. You spoke about the decision in the
12 MGE case and discussed Williams Natural Gas Pipeline.
13 Do you remember those questions?

14 A. Yes, sir.

15 Q. Are you aware that Missouri Gas Energy also
16 receives system supply from Panhandle Eastern
17 Pipeline, the Kansas Partnership Pipeline, and will be
18 receiving it from the KN Energy Pony Express Pipeline?

19 A. No, sir.

20 Q. So you don't know which interstate pipelines
21 serve the Missouri Gas Energy service territories, do
22 you?

23 A. I know which pipelines are generally in
24 those areas, but I do not know which ones serve MGE.

25 Q. Are those four that I just listed off four

1 pipelines that are generally within the MGE service
2 territory?

3 A. Yes, sir.

4 Q. Let me ask you -- you had a bunch of
5 questions about nomination and the transportation
6 customers. How many transportation customers, if you
7 know, do you have in your SEMO district?

8 A. We have 14 on the integrated system, and of
9 that I'm not sure. I think ten are in the SEMO
10 district, but I'm not sure about those numbers.

11 Q. I should probably discuss that with
12 Ms. Campbell?

13 A. I'm not sure she would know for sure either.
14 I've got the information, but I don't think it is up
15 here with me.

16 MR. MICHEEL: Thank you very much, sir.

17 ALJ GEORGE: Ms. McGowan?

18 MS. MCGOWAN: The questions Staff had
19 intended to ask were adequately addressed by Public
20 Counsel, so I have no further questions.

21 ALJ GEORGE: Off the record.

22 WHEREUPON, the hearing of this case was
23 continued to 9:00 a.m., Tuesday, September 16, 1997.

24

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