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1 (EXHIBIT NOS. 182, 183 AND 184 WERE MARKED FOR  
2 IDENTIFICATION.)

3 JUDGE REGISTER: This morning we are here for  
4 the hearing in Case No. GR-96-285 in the matter of Missouri  
5 Gas Energy's tariff sheets designed to increase rates for  
6 gas service in the company's service area.

7 This hearing is on remand from the Cole County  
8 Circuit Court. And we are remanded for the purposes of  
9 hearing issues involving rate design allocation of cost for  
10 services meters, allocation of cost remains, class cost of  
11 service results and class rate increases.

12 It is 8:45 this morning. We began off the  
13 record here at 8:30 discussing evidentiary issues and  
14 marking our evidence. We are at the Harry S. Truman office  
15 building in Room 520-B, the Commission's hearing room. And  
16 I am Shelly Register, Regulatory Law Judge for the  
17 Commission.

18 And I'll ask the parties to enter their  
19 appearances at this time. There's no need for you to enter  
20 your address in this transcript unless you just want to.

21 Mr. Duffy, I'll ask you to proceed.

22 MR. DUFFY: Gary Duffy, attorney at law,  
23 appearing for Missouri Gas Energy.

24 JUDGE REGISTER: Mr. Micheel?

25 MR. MICHEEL: Douglas E. Micheel, appearing on

1       behalf of the Office of Public Counsel and the public.

2                   JUDGE REGISTER:   Mr. Franson?

3                   MR. FRANSON:   Robert Franson and Thomas  
4       Schwarz, Jr. appearing for the Staff of the Public Service  
5       Commission.

6                   MR. CONRAD:   Stuart W. Conrad and Jeremiah D.  
7       Finnegan for Midwest Gas Users' Association.

8                   JUDGE REGISTER:   Are there any other entries  
9       of appearance at this time?

10                  Okay.   The other parties that are listed in  
11       this action that have not been fully participating in the  
12       rate design remand include Williams Natural Gas Company;  
13       KCP&L -- Kansas City Power and Light, excuse me -- Riverside  
14       Pipeline and Mid-Kansas Partnership; City of Kansas City;  
15       Mountain Iron and Supply Company; Gas Service Retirees  
16       Association of Missouri; County of Jackson, Missouri; Home  
17       Builders Association of Kansas City; Local 53 IBEW,  
18       International Brotherhood of Electrical Workers AFL-CIO;  
19       St. Joseph Light & Power Company; UtiliCorp; and the City of  
20       St. Joseph.   Okay.   And their respective counsel are not  
21       present today.

22                  We have two pending motions that we'll address  
23       later on and I will address in the Report and Order.   I will  
24       not rule on -- Public Counsel's Motion to Strike was the  
25       most recent filed and there was a response to that motion.

1 And I will take that under advisement, and I would like for  
2 the parties to brief that, specifically with case law on  
3 authority. I did in the reply get one citation, but on the  
4 movants, I need to hear case law on that also.

5 MR. MICHEEL: Yes, your Honor.

6 JUDGE REGISTER: And we would --

7 MR. CONRAD: For your Honor's information,  
8 we've also filed a motion -- an application -- Motion to  
9 Strike, I guess it is, slightly broader, not identical. I  
10 think there's a few lines that I caught. And that was faxed  
11 down here yesterday afternoon. I don't know what the  
12 procedure was to get it to you from them, but copies were  
13 filed this morning.

14 JUDGE REGISTER: Today? Then that will be in  
15 our official file and I'll get my copy probably today. And  
16 I will take that into -- under advisement as well and rule  
17 on that in the Report and Order and --

18 MR. DUFFY: Your Honor --

19 JUDGE REGISTER: Yes, Mr. Duffy?

20 MR. DUFFY: I was handed this copy of the  
21 Motion to Strike a few minutes ago. Am I supposed to file a  
22 written response to that within 10 days, or am I supposed to  
23 address that in the brief or both?

24 JUDGE REGISTER: Do you have a preference?

25 MR. SCHWARZ: Just once.

1                   MR. DUFFY: Yeah. I'd rather do it once than  
2 twice.

3                   JUDGE REGISTER: Let's just do it in briefs  
4 then. That seems to be the consensus that will work the  
5 best.

6                   MR. CONRAD: Well, it makes a difference in  
7 cross-examination if you're going to hold ruling on it,  
8 but --

9                   JUDGE REGISTER: Well, we will take those --  
10 in fact, what we'll do is in cross-examination, as we get to  
11 it and get to those issues, then we'll -- let's make a  
12 notation that these are the issues that are subject to the  
13 cross-examination -- to the Motion to Strike.

14                   And if we need to strike that testimony -- or  
15 you'll make your objection at that time and we'll go as an  
16 offer -- go with the testimony as an offer of proof and have  
17 the testimony in the record anyway. According to the rules,  
18 that's the way we would do it anyway. And it will be  
19 subject to strike based upon your objection.

20                   MR. CONRAD: I guess I'm following that. An  
21 offer of proof, as I understand it, is not put in the  
22 record, it's preserved.

23                   MR. SCHWARZ: If I might, I think that under  
24 the administrative practice, that the testimony is preserved  
25 for the record for appellate review. An offer of proof, I

1 think, is basically restoration of an attorney of what the  
2 question would be and what the witness's expected answer  
3 would be. And I don't think that that's --

4 JUDGE REGISTER: That's not exactly what --  
5 yeah. We will go ahead with the testimony and I will  
6 reserve ruling on your Motion to Strike or your objection on  
7 that testimony. And we'll try to make that clear in the  
8 record where we're at on that.

9 MR. FRANSON: Your Honor, if I may, will it be  
10 clear once an objection's made that that is a continuing  
11 objection of that particular party and each of the other  
12 parties so we don't have constant objections?

13 JUDGE REGISTER: I think that we can have a  
14 continuing objection for the period of that testimony, but  
15 you know, when that testimony stops, you know, and we go  
16 on to something else, if that stops again, I would want any  
17 objections to be raised again so that we know that -- you  
18 know, particularly where the objectionable testimony is  
19 coming in. So for the period of the testimony we'd not have  
20 to have every question objected to, but the testimony on  
21 that issue.

22 MR. CONRAD: By "period of the testimony," do  
23 you mean when the witness is on the stand?

24 JUDGE REGISTER: Yes. I would say if you go  
25 off to testimony on another subject and then come back to

1       that, then you may want to raise your objection again, but I  
2       think that it's -- I think that it will depend on your  
3       objection and the testimony. So we have to play that one by  
4       ear.

5                   MR. FRANSON: Well, I was just going to  
6       suggest that perhaps once there's an objection, it could be  
7       continued for that witness. That way we won't have the  
8       parties jumping up and down. That was my suggestion, it be  
9       understood it was for that witness, but if you prefer not to  
10      do it that way --

11                  JUDGE REGISTER: We can try that, but let's  
12      see -- we'll have to see how the testimony goes.

13                  MR. CONRAD: I am confused now, because I  
14      thought what he said was what you had ruled. I'm sorry.

15                  JUDGE REGISTER: I think that's fine. We'll  
16      say at this point that if the objection is raised for a  
17      witness, it will be in effect for that witness for the  
18      entire period that witness is on the stand. And if it gets  
19      more complicated than that, we'll address it at the time.

20                  Anything else at this point?

21                  MS. MARTIN: Judge Register, as a preliminary  
22      matter, may I enter an appearance on behalf of one of the  
23      parties in this case?

24                  JUDGE REGISTER: Certainly.

25                  MS. MARTIN: My name is Cathy Martin. I'm



1 appearing on behalf of Mark Comley, Newman, Comley and Ruth  
2 appearing on behalf of the City of Kansas City. Our address  
3 is 601 Monroe Street, Jefferson City, 65102, Post Office Box  
4 537.

5 The City of Kansas City does not intend to  
6 offer any evidence in this case or to cross-examine any  
7 witnesses. The City of Kansas City is an interested party  
8 and would ask to be allowed to brief any issues that might  
9 arise and would ask to be excused from this matter.

10 JUDGE REGISTER: That's fine. I'm sorry --  
11 did you have --

12 MR. STEWART: Judge, I might as well do the  
13 same thing. I'd like to enter an appearance on behalf of  
14 Riverside Pipeline and Mid-Kansas Partnership. My name is  
15 Charles Brent Stewart, 1001 Cherry Street, Suite 302,  
16 Columbia, Missouri 65201. And we do not intend to  
17 participate in cross or file a brief.

18 JUDGE REGISTER: Thank you. I don't generally  
19 excuse parties, but you know the risk that you run by not  
20 being present and that's acceptable to this presiding  
21 officer.

22 MR. DUFFY: Your Honor?

23 JUDGE REGISTER: Yes, Mr. Duffy.

24 MR. DUFFY: Unless there's somebody else  
25 that's going to make an appearance, I would move to dismiss

1 all of the parties other than City of Kansas City, Riverside  
2 Pipeline and those that are present today from this  
3 proceeding for failure to attend the proceeding -- failure  
4 to attend the hearing.

5 JUDGE REGISTER: Does anyone else want to  
6 offer a statement regarding that motion?

7 There's a rule that supports that, isn't  
8 there, Mr. Duffy?

9 MR. DUFFY: I believe so, your Honor.

10 MR. CONRAD: I used to know what it was, but  
11 now that we've changed everything --

12 JUDGE REGISTER: I think it's 240 -- 4 CSR  
13 240-2.116, subsection 3, a party may be dismissed from a  
14 case for failure to comply with any order issued by the  
15 Commission including failure to appear at any scheduled  
16 proceeding such as a public hearing, prehearing conference  
17 or mediation session.

18 My only concern would be that the parties  
19 would not have notice of your motion at this point. But let  
20 me take that under advisement and I'll rule on that at a  
21 later time.

22 MR. DUFFY: I'm just trying to save some trees  
23 as opposed to having to send copies of the briefs in this  
24 case to people that did not participate in the prehearing  
25 conference, did not respond to the statement of issues and

1       apparently have no interest whatsoever in the continued  
2       operation of this proceeding.

3               JUDGE REGISTER:   Okay.   Thank you, Mr. Duffy.  
4       I'll consider your motion and rule on it later.

5               Are we ready to go to opening statements?   Do  
6       we have opening statements?

7               MR. DUFFY:   I'm going to waive mine since I  
8       would just be repeating what I said in our statement of  
9       position on the issues.   Pretty simple.

10              JUDGE REGISTER:   Anybody else have an opening  
11       statement?

12              MR. SCHWARZ:   For the Staff I would just state  
13       that the Staff continues to assert that its class cost of  
14       service studies are the best evidence in this case --

15              JUDGE REGISTER:   Wait a minute.   I don't  
16       want -- I don't want you to give your opening statement.  
17       You do have one?

18              MR. SCHWARZ:   Yes.

19              JUDGE REGISTER:   Okay.   I've got to get the  
20       Commissioners.

21              MR. SCHWARZ:   Let me reconsider.   I think I  
22       may waive then.   Let's --

23              JUDGE REGISTER:   They like to come in and --  
24       okay.   Is anybody else going to have an opening statement if  
25       the Commissioners come in and --

1                   MR. MICHEEL: I have a brief opening  
2 statement. It's very brief, but --

3                   JUDGE REGISTER: Okay. We'll go off the  
4 record and I'll get the Commissioners and we'll come in and  
5 do opening statements.

6                   (A RECESS WAS TAKEN.)

7                   JUDGE REGISTER: We're ready for opening  
8 statements. Mr. Duffy, did you want to make any opening  
9 statement this morning?

10                  MR. DUFFY: I was just going to indicate that  
11 our statement of position is pretty succinct and clear and  
12 if I got up and said anything, it would just simply be  
13 repeating what we said in our statement of position.

14                  JUDGE REGISTER: Thank you, Mr. Duffy.  
15 Mr. Schwarz?

16                  MR. SCHWARZ: Staff too will rely on its  
17 statement of positions in this case to inform the Commission  
18 of its positions.

19                  JUDGE REGISTER: Mr. Micheel?

20                  MR. MICHEEL: Yes. May it please the  
21 Commission. Good morning.

22                  The Office of the Public Counsel has filed  
23 direct testimony in the underlying case and also the  
24 rebuttal testimony of Ryan Kind in this case. The Office of  
25 the Public Counsel has not changed its position as relates

1 to the rate design. Public Counsel still is recommending  
2 that any increase resulting from this case should be  
3 shouldered equally by all classes in accordance with each  
4 class's current proportions of MGE's revenues.

5 And when I talk about those current  
6 proportions of MGE's revenues, I'm talking about the portion  
7 that relates to the current test year or the test year that  
8 was utilized in the underlying case, GR-96-285.

9 I think it's also important to bring up one  
10 other issue that has not been mentioned in this case by any  
11 of the parties. And that's the issue of why are we here?  
12 Is this case moot? As this Commission is aware, in  
13 GR-98-140, MGE's subsequent rate case, the Commission  
14 approved new rates to go into effect on September 2nd, 1998  
15 superseding the rates that were approved in GR-96-285.

16 Therefore, we need to ask ourselves, what's  
17 the result that we're getting here spending two days in  
18 Jefferson City trying this case? I note that this  
19 Commission in its order overruling the rehearings in part  
20 issued on December 8th, 1998 in GR-98-140 at page 19 said,  
21 and I quote, Therefore, as all the parties have had full  
22 notice and an opportunity to be heard on the issues of class  
23 cost of service and rate design for Missouri Gas Energy's  
24 rate case, the need for a hearing on remand is now moot. And  
25 in that order you're talking about GR-96-285.

1                   Permitting another hearing on the issue of  
2                   class cost of service and rate design based upon a remand  
3                   order separately from the case that was just heard would be  
4                   inappropriate, unnecessary, not in the interest of efficient  
5                   administration of justice. An additional hearing would only  
6                   be giving parties yet another bite of the apple.

7                   Also, in the Circuit Court case that the  
8                   Commission is a party, not a decision maker, but a party to  
9                   the proceeding, that is CV-197-504, the Commission filed its  
10                  Motion to Modify order granting stay and suggestions in  
11                  support thereof on December 17th of 1998, I believe. Yes.  
12                  It was 1998.

13                  And at paragraph 7 this Commission as a party  
14                  to the case said, The LVS transportation rates fixed by the  
15                  Commission in Case No. GR-96-285 are no longer in effect.  
16                  The Commission fixed new LVS transportation rates on August  
17                  21st, 1998 by its order in Case No. GR-98-140, et al., after  
18                  full hearing on many issues including class revenue  
19                  responsibility --

20                  MR. SCHWARZ: I'm going to object at this  
21                  time. This sounds more like the argument of a motion than  
22                  an opening statement, a motion which has, to my knowledge  
23                  not yet been filed. And I think it's improper to raise this  
24                  material, which I frankly haven't had an opportunity to  
25                  review recently at this time.

1                   MR. DUFFY: I would join in the Staff's  
2                   objection. And I would ask permission to make a brief  
3                   response to what I hear is a Motion to Dismiss on the basis  
4                   of mootness in the guise of an opening statement.

5                   MR. MICHEEL: If I may respond, I just think  
6                   that this is an issue that the Commission should be aware of  
7                   as it deliberates the case. I haven't made a motion to  
8                   dismiss this case as moot. I'm just apprising this  
9                   Commission of facts. It's a fact what the Commission said  
10                  in its rehearing order. It's a fact what the Commission  
11                  said in its pleadings before the Circuit Court. And that's  
12                  all I'm doing, your Honor.

13                  JUDGE REGISTER: Any other?

14                  Mr. Micheel, I would say that what you're  
15                  presenting to us as you started out was not information that  
16                  has been presented in this case to date. It does resound to  
17                  me as a Motion to Dismiss. And, of course, if this case --  
18                  if Public Counsel did think this case were moot, we would  
19                  want a motion to that effect and we would want to have  
20                  considered whether that is the case.

21                  And, in fact, I'm not sure that we're the body  
22                  that should have considered that or if the Circuit Court  
23                  should have made that decision since they're the one that  
24                  ordered this case remanded for hearing on the rate design  
25                  issues.

1                   So while I think we appreciate the information  
2                   and the position, we're here on the remand order from the  
3                   Circuit Court to hold this hearing. And unless we get  
4                   something from the Circuit Court that -- or a motion to  
5                   actually rule on, it may not be helpful for us to have that  
6                   information because there's nothing we can do with it.

7                   MR. MICHEEL: All right, your Honor. Well  
8                   with that, I would just indicate that I'm not certain why  
9                   we're going to be here spending two days. Apparently it's  
10                  because the Circuit Court has ordered us to do that.

11                  In any event, we have presented testimony and  
12                  we are requesting that on remand the Commission allow an  
13                  equal percentage increase which is consistent with the rate  
14                  design recommendation contained in Mr. Kind's supplemental  
15                  direct testimony filed lo those many years ago.

16                  JUDGE REGISTER: Now, Mr. Micheel, before you  
17                  finish, let me clarify -- I want to ask you one question on  
18                  that. Is there a motion before the Circuit Court in Cole  
19                  County to declare this hearing moot?

20                  MR. MICHEEL: Not to the best of my knowledge,  
21                  your Honor.

22                  JUDGE REGISTER: And there's no motion filed  
23                  before this Commission to determine that this hearing is now  
24                  moot because of the later case?

25                  MR. MICHEEL: I have not filed such a motion.



1 I'm not aware of any other party that has filed such a  
2 motion, your Honor.

3 MR. DUFFY: Your Honor, may I make just a very  
4 brief response to this topic?

5 JUDGE REGISTER: Okay. Let me give Mr. Conrad  
6 an opportunity here and --

7 MR. CONRAD: I've been called lots of  
8 things --

9 JUDGE REGISTER: -- as an opening and then  
10 we'll come back.

11 MR. CONRAD: Thank you, Judge Register. And  
12 may it please the members of the Commission.

13 I'll see if I can shed a little bit of light  
14 on this, because I guess I feel like you're all here because  
15 we brought you here. But that's not really true either.  
16 Why you're here is the Missouri Constitution.

17 This Commission back, as Mr. Micheel  
18 eloquently states, lo many years ago was presented with  
19 GR-96-285. And the parties, through the course of several  
20 days, wrestled with a way to resolve that. That way was  
21 resolved and was presented to the Commission.

22 The Commission, for reasons which we frankly  
23 have no difficulty with, felt that that settlement that was  
24 proffered was not something they wanted to accept. The  
25 error was that after rejecting it, no opportunity for a

1 hearing was granted.

2 We are here this morning because the Circuit  
3 Court has ordered us to be here and to have that hearing.  
4 And at least in my view while there -- you know, there are  
5 some aspects of Mr. Micheel's point that I, you know, don't  
6 take strong issue with. We are nonetheless here because the  
7 court has ordered us to be here. And it has ordered us to  
8 have a hearing. And it has ordered this Commission  
9 basically to hold that hearing.

10 The hearing -- and this takes me to my point.  
11 The hearing that this Commission has ordered -- or excuse  
12 me, the Circuit Court has ordered the Commission to hold is  
13 the hearing that should have been held back in 1995 or 1996.  
14 I can't recall precisely the date now when this case was  
15 originally tried.

16 When we discussed this prehearing, I suggested  
17 to her Honor, Regulatory Law Judge Register, that in effect  
18 what we were doing was taking the hands -- as they sometimes  
19 do over at the legislature at the end of the session and  
20 somebody says, I move that we stop the clock so we can get  
21 it all in. Here we're doing a little bit more than that, as  
22 we're rolling the clock back.

23 And the issues that are before us in this  
24 hearing are the same issues, no others. They are the issues  
25 that would have been presented in lay before this

1 Commission, but for the settlement that was ultimately not  
2 accepted by the Commission. That means that things that go  
3 on beyond the test year in 96-285 simply have no  
4 relevance --

5 MR. DUFFY: Your Honor, I'm going to object.  
6 This is oral argument. This isn't opening statement.

7 MR. CONRAD: It's been a long time, your  
8 Honor, since I've had opening statements objected to. Our  
9 evidence is here. And my position statement which has been  
10 filed says what it says. I'm going to tie this together,  
11 but apparently that's not enough for Mr. Duffy. He waived  
12 an opening statement. I didn't. I'd like to be permitted  
13 to make mine.

14 JUDGE REGISTER: I'm going to overrule your  
15 objection, Mr. Duffy.

16 Proceed.

17 MR. CONRAD: Thank you. The issues that are  
18 before us are the same issues that would have been heard  
19 back then. They include how the Commission should allocate  
20 MGE's costs that are attributable to meters. I won't read  
21 our statement of position to you. I think you all are quite  
22 capable of reading it.

23 But I would just stress that when we come  
24 to -- when we come to a rate case, that's why we're here,  
25 because that's what we're talking about, is to have that

1 hearing that was not held. And the facts and the  
2 circumstances and the billing determinants and the revenues  
3 and everything that was in 96-285, at least with respect to  
4 the issues that are blue penciled by the court in its remand  
5 order, are what is before you now. And that is why -- in  
6 response to Mr. Micheel's question, that is why we are here.  
7 Thank you.

8 JUDGE REGISTER: Mr. Duffy?

9 MR. DUFFY: Thank you. I'm only arising  
10 because of the issue of mootness injected by the Office of  
11 Public Counsel. And I find that I do agree with some of  
12 what Mr. Conrad said. I agree we are here to try those  
13 issues that were not tried in GR-96-285 because the  
14 Commission rejected the stipulation and did not afford the  
15 parties a hearing.

16 And Mr. Conrad and perhaps Mr. Micheel  
17 complained about that in their applications of rehearing and  
18 re-review and on to the Court of Appeals. And the Court of  
19 Appeals ultimately affirmed the Circuit Court's ruling and  
20 sent it back here.

21 And the Court of Appeals -- I'll read one  
22 sentence. It says, Upon remand, the Commission will  
23 determine how much of that aggregate revenue due MGE would  
24 be paid by Midwest. So we are here because the court said  
25 we need to have a hearing and we need to determine these

1 issues that were not subjected to cross-examination  
2 originally.

3 I would disagree with Mr. Conrad on the basis  
4 of what -- you know, the issue of whether you can consider  
5 other facts that have occurred as a direct result of what  
6 happened here or what didn't happen here. And we can  
7 certainly brief those arguments later on.

8 So I think it would be a mistake if the  
9 Commission simply said, well, we're just going to say that  
10 this hearing is moot because there was a subsequent rate  
11 case. That's not the issue. You do have to have the  
12 hearing, you do have to reach a decision on the issues that  
13 are presented to you.

14 And as we have indicated and I think as the  
15 Public Counsel and the Staff have indicated, we think your  
16 result should be the same as and consistent with the result  
17 you reached in GR-98-140, but it's important that you go  
18 ahead and make that decision, not simply say, Well, we don't  
19 have to make a decision because it's moot.

20 Because my guess is that there would be  
21 another set of appeals from this case and there's going to  
22 be a lot of argument and thrashing around before we finally  
23 get these issues settled in the courts, unfortunately.

24 And MGE has a lot of dollars at stake here and  
25 we're concerned about that. And so we hope that you perform

1 your role in a proper procedural manner so that we don't  
2 have to argue about procedural aspects and we can get to the  
3 issue of what's the substance of the issues later on. Thank  
4 you.

5 JUDGE REGISTER: Thank you, Mr. Duffy.

6 If there are no other opening statements,  
7 we'll proceed with the witnesses then. And the first  
8 witness we have is Mr. Lewis. Mr. Duffy?

9 MR. DUFFY: Call Mr. Lewis to the stand.

10 (Witness sworn.)

11 JUDGE REGISTER: Thank you, Mr. Lewis. Please  
12 be seated.

13 Proceed, Mr. Duffy.

14 BRADLEY R. LEWIS testified as follows:

15 DIRECT EXAMINATION BY MR. DUFFY:

16 Q. Would you state your name for the record,  
17 please.

18 A. My name is Bradley R. Lewis.

19 Q. Are you the same Brad Lewis that caused to be  
20 filed on April 20th, 2000 what's been marked for purposes of  
21 identification as Exhibit No. 182 in this proceeding and  
22 identified as the direct testimony on remand of Brad Lewis?

23 A. Yes, I am.

24 Q. If I ask you the same questions that appear in  
25 that document this morning, would your answers be the same?

1           A.       Yes.

2           Q.       Are those answers true and correct, to the  
3 best of your knowledge, information and belief?

4           A.       Yes.

5                   MR. DUFFY: Your Honor, at this time I would  
6 offer into evidence Exhibit No. 182. I understand that it  
7 is -- that that offer is subject to two outstanding motions  
8 to strike, one being Public Counsel's and one from Midwest  
9 Gas Users' Association. And I understand we'll be briefing  
10 that issue later on pursuant to your ruling. So I would  
11 offer that into evidence with those understandings and  
12 tender the witness for cross-examination.

13                   JUDGE REGISTER: Do the Motions to Strike  
14 specify the specific pages and lines that are subject to  
15 that motion -- or those two motions?

16                   MR. CONRAD: They do, your Honor.

17                   JUDGE REGISTER: Excuse me?

18                   MR. CONRAD: They do. But since the motion  
19 hasn't been answered, under the rules I'm free to amend it.  
20 And I did note that we should have also made reference to  
21 the conclusion, I believe, on page 14. I'm not sure if I  
22 caught that in the list of -- no, I did not. So I need to  
23 amend that orally.

24                   JUDGE REGISTER: Page 14?

25                   MR. CONRAD: Yes, ma'am. Lines 5 through 14.

1                   And, also, since the material has now been  
2                   offered, I think in going somewhat beyond the Motion to  
3                   Strike, we would object to the exhibit on basically two  
4                   entire grounds. One is complete irrelevancy to the issues;  
5                   and, number two, I need to object because for now I think  
6                   78 days I've had an application for rehearing pending with  
7                   respect to this whole issue.

8                   So lest I be thought to have waived something  
9                   in that application for rehearing -- and I made clear in my  
10                  Motion to Strike that it was without prejudice to that. I  
11                  don't believe the Commission -- in fact, I believe the  
12                  Commission was incorrect, in violation of the remand order  
13                  in even permitting this testimony to be filed in the first  
14                  place. So on that basis -- those two bases I would object  
15                  to it on a broader basis than a more specifically targeted  
16                  Motion to Strike.

17                 JUDGE REGISTER: I do have your pending  
18                 application for rehearing or reconsideration for -- of  
19                 Midwest Gas Users' Association to the order of May 11, 2000  
20                 permitting filing of supplemental testimony. And that will  
21                 remain pending and will be part of the Report and Order or  
22                 ruled on at a later time along with the Motions to Strike.  
23                 Your other objection -- are there any other responses to  
24                 Mr. Conrad's objection?

25                 MR. DUFFY: Yes. I believe so. First of all,



1 let me understand. On his oral motion to amend the Motion  
2 to Strike, am I permitted to address that in the brief also  
3 or do I need to address that now?

4 JUDGE REGISTER: No. You can address that in  
5 the brief. As I understand it, he's amending by  
6 interlineation his Motion to Strike to include another area  
7 which is --

8 MR. DUFFY: That's my --

9 JUDGE REGISTER: -- in part already included  
10 in Mr. Micheel's motion as well. And that can be responded  
11 to in your brief.

12 MR. DUFFY: Okay. I wrote down when  
13 Mr. Conrad was making his objection that he objects to the  
14 exhibit on grounds of complete irrelevance. And there were,  
15 I guess, three documents attached to schedules. Are you  
16 objecting to all of them or one of the three? I'm unclear.

17 JUDGE REGISTER: I'm sorry. Just this exhibit  
18 and its --

19 MR. DUFFY: Are you objecting to the entire  
20 document?

21 JUDGE REGISTER: -- attachments as well?  
22 Mr. Conrad?

23 MR. CONRAD: Again, I'm trying to be clear,  
24 but I'm obviously not doing it and my purpose was not to  
25 confuse. The reason that I don't believe the material

1       should be admitted is because it is, in its entirety,  
2       irrelevant to the proceeding that was remanded to this  
3       Commission by the Circuit Court.

4                       That would encompass -- since that is, in my  
5       view, part and parcel and in support of the application for  
6       rehearing which says that the Commission erred when it  
7       allowed the filing in the first place, the filing having  
8       been permitted at this point in time I believe is irrelevant  
9       pursuant to that same argument. That would encompass  
10      everything that's attached to it.

11                     JUDGE REGISTER: Okay. The answer is  
12      everything that's attached to it, Mr. Duffy.

13                     MR. DUFFY: I hate to belabor this, but are  
14      you saying you're objecting on the basis of irrelevance to  
15      the 14 pages of testimony -- 13 or 14 pages of testimony and  
16      what is attached to it, the whole document?

17                     JUDGE REGISTER: That was my understanding,  
18      yes.

19                     MR. DUFFY: Then I guess if you want a  
20      response at this point, my response would be that document  
21      purports to explain why Missouri Gas Energy has changed its  
22      position from its original position in GR-96-285.

23                     I'm aware of no rule of law that says a party  
24      is prohibited from changing its position and, therefore,  
25      explaining why it has changed its position even if it is

1 subject to a remand.

2 And I would say that I have constitutional  
3 rights to change my position, and that they would be  
4 impaired significantly if this material is stricken and I am  
5 forced to accept a position that my client does not take at  
6 this point.

7 So on that -- the document also explains why  
8 we are taking the position -- or excuse me, explains the  
9 position we're taking and why we're taking the position. On  
10 that basis, it is relevant because it tends to prove or  
11 disprove one of the issues that have been identified in this  
12 proceeding, which is how should the Commission rule on some  
13 of these issues. So I believe that the Exhibit No. 182 does  
14 contain relevant material and would ask you to dismiss  
15 Mr. Conrad's objection or overrule it.

16 MR. CONRAD: And before you do whatever you're  
17 going to do, my objection would be the preceding discussion,  
18 one of these continued things. And I'm saying that largely  
19 for the benefit of your Honor and the other parties because  
20 of the nature of the objection so we don't have to go  
21 through this every time.

22 JUDGE REGISTER: That's fine. And we are  
23 going to proceed with the testimony and the objection will  
24 be noted. The motions and the application are pending and  
25 will be held in abeyance and ruled at a later time, so we

1 will continue with this testimony. And we will rule on the  
2 admittance of Exhibit 182 in the Report and Order. And so  
3 we'll proceed with the testimony.

4 Do you have anything else, Mr. Duffy?

5 MR. DUFFY: No, ma'am.

6 JUDGE REGISTER: Okay. And you tendered this  
7 witness for cross-examination then?

8 MR. DUFFY: Yes, ma'am.

9 JUDGE REGISTER: And we have our order of  
10 cross. It's my understanding we start with Public Counsel  
11 then.

12 MR. MICHEEL: I'm prepared, your Honor.

13 JUDGE REGISTER: Thank you very much,  
14 Mr. Micheel. Please proceed.

15 CROSS-EXAMINATION BY MR. MICHEEL:

16 Q. Mr. Lewis, would you agree with me that cost  
17 of service studies are just one factor for determining  
18 proper rate design?

19 A. Yes. Proper rate design and more specifically  
20 in this case the allocation of total company revenues to  
21 individual customer classes.

22 Q. Would you agree with me that there are many  
23 subjective decisions that go into a cost of service study?

24 A. Yes.

25 Q. Would you agree with me that other factors

1       should be considered when determining rate design or revenue  
2       allocation?

3           A.       Yes.

4           Q.       Such as the current rate structure?

5           A.       Yes.

6           Q.       Magnitude of the requested increase?

7           A.       Yes.

8           Q.       Value of service?

9           A.       Value of service has many meanings, but I  
10       would say generally, yes.

11          Q.       Historical rate design for the company?

12          A.       Yes.

13          Q.       Economic factors?

14          A.       Yes.

15          Q.       Customer impacts and perhaps rate shock?

16          A.       Yes.

17          Q.       Customer service?

18          A.       Yes.

19          Q.       Is it correct that historically the  
20       residential and small general service customers of Missouri  
21       Gas Energy have been bearing the brunt of rate increases?

22               MR. CONRAD: Objection, argumentative. Also  
23       assumes facts not in evidence.

24       BY MR. MICHEEL:

25          Q.       Mr. Lewis, could you turn to page 7 of your

1 direct testimony?

2 JUDGE REGISTER: Are you withdrawing your  
3 question?

4 MR. MICHEEL: I'll withdraw my question and  
5 we'll deal with all those objections.

6 JUDGE REGISTER: Thank you, Mr. Micheel.  
7 We'll rephrase.

8 BY MR. MICHEEL:

9 Q. Could you turn with me, sir, to page 7 of your  
10 direct testimony on remand, Exhibit 182?

11 A. Yes, I have that.

12 Q. And I'm focusing, sir, on lines I guess 7 --  
13 or 11 through 17. Is it correct you state there that  
14 residential and small general -- or small commercial rates  
15 for MGE customers have been increasing historically?

16 A. Yes. On that page I indicate that for the  
17 three-year period of '93 through '96 residential and small  
18 general service rates have increased about 20 percent while  
19 the other customer classes, large general service and large  
20 volume service, have increased at a much smaller percentage.  
21 In fact, large volume it shows in this page has actually  
22 decreased.

23 Q. So in terms of the rate increases, is it your  
24 testimony, sir, that on a percentage basis, residential and  
25 the small commercial rates have born the brunt of the

1 increases historically?

2 A. Yes.

3 MR. CONRAD: I'll object. Excuse me. I'll  
4 object again because both cases cited now by counsel in his  
5 question are settled cases. They were settled cases at the  
6 Commission in settlements that were approved and accepted by  
7 Public Counsel and provisions in the settlements indicate  
8 that no precedent is made in that case or any other case and  
9 that the provisions are not to be referenced elsewhere.

10 So those two cases are settled cases. So I  
11 dispute the characterization about -- I'm sorry. I can't  
12 even remember what my esteemed colleague of the Bar  
13 characterized it. I think he used the term "brunt," but if  
14 it was -- whatever it was, it was by his agreement. And  
15 that to me is the end of the matter. They're settled cases  
16 and the results of them were settled and agreed upon by the  
17 parties.

18 MR. MICHEEL: Your Honor, I'm not specifically  
19 asking about those settlements. I'm asking Mr. Lewis about  
20 specific testimony that he has in his testimony, page 7.  
21 I'm not referencing those or anything like that. I think  
22 it's appropriate.

23 JUDGE REGISTER: Objection's overruled.  
24 Proceed.

25 THE WITNESS: I began my answer, and if I'd

1 completed it, I would have said, yes, as long as you define  
2 the historical period of '93 to '96 because that's really  
3 the period I looked at. I don't want to make comments prior  
4 to '93 at this point, because I'm not that familiar with  
5 that information.  
6 by MR. MICHEEL:

7 Q. And that was the context, Mr. Lewis, that my  
8 question was in regarding the information that you've  
9 prepared in your direct testimony.

10 Are you aware, Mr. Lewis, that during the test  
11 year in this proceeding MGE had a significant number of  
12 incorrect bills and other what we'll call customer service  
13 problems?

14 A. I'm not really familiar with those issues  
15 because the scope of my examination was class cost of  
16 service studies and revenue increases as they apply to  
17 customer classes. And I scanned a lot of issues in the  
18 96-285. I vaguely remember those issues, but to be honest,  
19 when I recognized them, I skipped them and I looked at the  
20 pertinent sections.

21 MR. MICHEEL: Okay. Your Honor, I'm going to  
22 ask Mr. Lewis now some questions regarding areas where I've  
23 got on file a Motion to Strike. I just want to signpost  
24 this for the record so everyone will know.

25 JUDGE REGISTER: This area will be subject to



1 the Motion to Strike and Mr. Conrad's Motion to Strike also,  
2 and we will proceed with those questions.

3 Go ahead, Mr. Micheel.

4 BY MR. MICHEEL:

5 Q. Mr. Lewis, I just want to discuss with you a  
6 little bit the stay order that you reference on page 8 of  
7 your testimony. And specifically, do you know if MGE  
8 requested that any other customer classes, for example, the  
9 residential class -- did they seek a stay or a stay increase  
10 order?

11 MR. FRANSON: Your Honor, I wasn't sure. Was  
12 that actions of MGE or the actions of other individuals? I  
13 wasn't sure about the question because --

14 JUDGE REGISTER: Mr. Micheel, can you --

15 BY MR. MICHEEL:

16 Q. Did MGE request it?

17 MR. FRANSON: No objection to that question,  
18 your Honor.

19 JUDGE REGISTER: Thank you, Mr. Franson.

20 BY MR. MICHEEL:

21 Q. If you know, sir.

22 A. My knowledge is primarily confined to the  
23 information in 96-285 and the specific exhibits that I have  
24 in my testimony. Actions outside of those boundaries I'm  
25 not familiar with. So my answer is, I do not know.

1           Q.       You also state on page 9 of your testimony at  
2       lines 16 through 19 that no party, including MGE, had any  
3       right in the appeals of GR-96-285 to request the Circuit  
4       Court to impound additional funds from other customer  
5       classes to offset potential refunds to the LVS customer  
6       classes?

7           A.       I lost you.  Would you repeat the lines?

8           Q.       I'm focusing on your answer at page 9, lines  
9       16 through 19.

10           JUDGE REGISTER:  And let Mr. Lewis just take a  
11       look at those lines.

12           MR. MICHEEL:  I will, your Honor.

13           THE WITNESS:  I'm not quite sure that you read  
14       16 through 19 in its entirety, but if you're referring to  
15       that, I thought I heard a couple other words in there,  
16       but --

17           JUDGE REGISTER:  Wait a minute.  Mr. Lewis,  
18       let me make sure -- you've referred to that and you're  
19       refreshed on that.

20                    Did you have a question with that,  
21       Mr. Micheel?

22           MR. MICHEEL:  Yes.

23           JUDGE REGISTER:  Let's go to your question.

24       BY MR. MICHEEL:

25           Q.       How did you arrive at that understanding?

1           A.       It's my general knowledge of regulations in  
2       the state of Missouri plus advice from counsel that led to  
3       that understanding.

4           Q.       Okay.  Would you agree with me that MGE cannot  
5       retroactively charge customers to make up the difference for  
6       the impounded funds?

7                   MR. FRANSON:  Your Honor, I'm going to object.  
8       That calls for a legal conclusion on behalf of this witness,  
9       and I don't believe there's any indication that he's  
10      qualified to make that.

11                  JUDGE REGISTER:  Responses to that objection?

12                  MR. MICHEEL:  Certainly.

13       BY MR. MICHEEL:

14           Q.       I'll just base it on your regulatory  
15      experience, Mr. Lewis.  I recognize you're not an attorney.

16                  JUDGE REGISTER:  Mr. Franson?

17                  MR. FRANSON:  With that qualification, your  
18      Honor, I have no further objection.

19                  JUDGE REGISTER:  Thank you.

20                  Mr. Lewis, go ahead.

21                  THE WITNESS:  Yes, that is my understanding.  
22      That's what 16 through 19 says.

23       BY MR. MICHEEL:

24           Q.       Would you agree with me, Mr. Lewis, that the  
25      Commission approved new rates for Missouri Gas Energy

1 effective September 2nd, 1998?

2 A. Yes. I believe that's when the 98-140 rates  
3 went into effect.

4 Q. And you so state at page 11 of your direct  
5 testimony; is that correct?

6 A. Yes.

7 Q. Would you agree with me, Mr. Lewis, from a  
8 regulatory standpoint, that those rates superseded the rates  
9 approved in GR-96-285?

10 A. Yes. I believe they did.

11 Q. Is it correct that MGE is no longer advocating  
12 the results of Mr. Gillmore's class cost of service study?

13 A. No.

14 JUDGE REGISTER: That's not correct?

15 THE WITNESS: No. That's not correct.

16 MR. CONRAD: No, it's not correct or yes, it  
17 is correct?

18 JUDGE REGISTER: No, it is not correct to say  
19 they are no longer advocating Mr. Gillmore's -- is that what  
20 I understand?

21 THE WITNESS: We are little -- I'm still  
22 supporting his cost of service study, so -- I thought you  
23 said I'm not supporting it, but --

24 JUDGE REGISTER: That's what he said.

25 THE WITNESS: Okay.

1 BY MR. MICHEEL:

2 Q. But you're no longer advocating that those  
3 results be adopted by this Commission; is that correct?

4 A. Yes. I'm no longer recommending that we go to  
5 strictly cost-based rates in this proceeding as was  
6 recommended by the original company witness Gillmore.

7 Q. And the company's recommendation has changed  
8 and now the company is recommending equal percentages; is  
9 that correct?

10 A. Yes, that is.

11 Q. And that's based on the factors that you set  
12 out in your direct testimony here on remand; is that  
13 correct?

14 A. Yes, it is.

15 Q. Let me ask you this. Setting aside the  
16 factors that happened outside of the test year, the Circuit  
17 Court proceedings and items like that, is it your  
18 understanding that the evidence in the record of GR-96-285  
19 during the test year would support the result that MGE is  
20 advocating in this case?

21 MR. CONRAD: Objection. Calls for a legal  
22 conclusion and also invades the province of the decision  
23 maker.

24 JUDGE REGISTER: Any response?

25 MR. MICHEEL: Sure. I'm asking him about

1 evidence and other factors, rate impacts and the things that  
2 I started out asking him if we should just go to strict cost  
3 of service study or if there were other factors to be  
4 considered. And I'm asking Mr. Lewis, based on his review  
5 of the record, if there are other factors in this record,  
6 just this record that support his conclusions.

7 JUDGE REGISTER: We're talking about the  
8 record in GR-96-285. I'm going to overrule the objection  
9 and ask Mr. Lewis to respond.

10 THE WITNESS: Yes. My recommendation is based  
11 on examination of facts in 96-285 as well as supported by  
12 subsequent facts. So, therefore, all of that information  
13 supports my recommendation. So the answer's yes, there's  
14 plenty in 96-285 to support the recommendation as well as  
15 the subsequent facts.

16 BY MR. MICHEEL:

17 Q. Would you make the same recommendation if you  
18 did not review the subsequent facts?

19 MR. DUFFY: Object to the form of the  
20 question. I can't follow what he means by "if you did not  
21 review." Are you saying that if there were no -- if there  
22 was no record of GR-96-285 but there was just subsequent  
23 facts, would you reach the same result?

24 MR. MICHEEL: Let me rephrase the question.

25 BY MR. MICHEEL:

1           Q.       Setting aside the factors that occurred after  
2       the test year, the stay order and those items, are there  
3       enough facts in this record to support your conclusion with  
4       respect to an equal percentage increase --

5                   MR. CONRAD:  I object --

6                   THE COURT REPORTER:  I'm sorry?

7                   MR. MICHEEL:  -- equal percentage increase for  
8       each class?

9                   JUDGE REGISTER:  Mr. Conrad?

10                  MR. CONRAD:  I apologize, Doug.  I thought you  
11       were done.  I didn't mean to step on you.

12                  My objection is as before and that is that is  
13       the province of the Commission to make.  It is certainly the  
14       witness's prerogative to testify to facts, but I don't think  
15       his testimony as to what the ultimate conclusion to be drawn  
16       from those facts is relevant within his scope of expertise  
17       or anything.

18                  JUDGE REGISTER:  I understood that he was  
19       asking for his recommendation -- if his recommendation  
20       remains the same.

21                  MR. MICHEEL:  I'm asking for his opinion, your  
22       Honor.  Not what the Commission should do, his opinion.

23                  MR. CONRAD:  But his opinion is irrelevant on  
24       that issue.  That's not what he's here to testify to.

25                  JUDGE REGISTER:  I'm going to overrule your

1 objection and ask Mr. Lewis to proceed if he can recall the  
2 question, or do you need that restated?

3 THE WITNESS: The answer is, yes. And I would  
4 point you to lines 11 through 13 of my testimony where I  
5 indicate that the equal percentage increase method is  
6 adequately supported by the evidence in existing records.

7 MR. FRANSON: Can we get a page reference on  
8 that?

9 THE WITNESS: Yes. The page reference is  
10 page 4, lines 11 through 13.

11 JUDGE REGISTER: Page 4. Lines -- page 4,  
12 lines 11 through --

13 THE WITNESS: 13.

14 JUDGE REGISTER: -- 13.

15 BY MR. MICHEEL:

16 Q. So these subsequent factors that you discuss  
17 in your direct testimony, the Circuit Court proceeding,  
18 those further buttress your view; is that correct?

19 A. They are additional reasons to support my  
20 recommendation.

21 MR. MICHEEL: Thank you for your time,  
22 Mr. Lewis. I appreciate it.

23 JUDGE REGISTER: And Staff is the next for  
24 cross-examination.

25 MR. FRANSON: Thank you, your Honor.



1 CROSS-EXAMINATION BY MR. FRANSON:

2 Q. Mr. Lewis, my name's Robert Franson. I'm the  
3 attorney for the Staff of the Public Service Commission.  
4 Good morning.

5 A. Good morning.

6 Q. Turning your attention to your direct  
7 testimony on remand, page 4, lines 11 through 13, I believe  
8 you just reviewed that, but if you need a moment, could you  
9 review that again, please?

10 A. Yes. I'm ready.

11 Q. Is it your understanding that the equal  
12 percentage increase is also the position advocated by the  
13 Office of Public Counsel in this hearing?

14 MR. CONRAD: Now, I --

15 JUDGE REGISTER: Mr. Conrad, do you have an  
16 objection, first of all?

17 MR. CONRAD: Right. And I don't want to again  
18 go through this whole thing, but I think this is part of  
19 this continuing thing, but I feel like because we have a  
20 different party now doing the cross that I probably need to  
21 be sure that I object.

22 That area that Mr. Franson has inquired about  
23 is within -- I think is comprehended by both Motions to  
24 Strike. And I have no problem with him going forward, but  
25 as long as it's -- my silence otherwise isn't somehow deemed

1 to waive that.

2 JUDGE REGISTER: Okay. Page 4, lines 11  
3 through 13, the area he's going into now?

4 MR. CONRAD: Right. I believe so.

5 JUDGE REGISTER: That is not covered by  
6 Mr. Micheel's Motion to Strike, so is it covered by your  
7 Motion to Strike?

8 MR. CONRAD: I may be -- let me -- I  
9 apologize. I had it marked on this -- yeah. It is covered  
10 by ours. So I misspoke when I said it was covered by both.

11 JUDGE REGISTER: We'll make that continuing  
12 objection running through the entire witness regardless of  
13 who's doing cross-examination.

14 MR. MICHEEL: Your Honor, I'm going to object  
15 to the extent Mr. Franson is asking Mr. Lewis to proffer the  
16 position of the Office of Public Counsel. He certainly can  
17 ask him what his understanding is of my client's position,  
18 but only Mr. Kind or Ms. Hu -- they're representing the  
19 Public Counsel.

20 JUDGE REGISTER: Is that your intention,  
21 Mr. Franson?

22 MR. FRANSON: I will rephrase the question,  
23 your Honor.

24 JUDGE REGISTER: Consider that question  
25 withdrawn. Mr. Franson will rephrase.

1 BY MR. FRANSON:

2 Q. Is it your understanding, based on your review  
3 of this case, that the Office of Public Counsel and MGE are  
4 both advocating the equal percentage increase?

5 A. Would you reread the question to me?

6 Q. Okay. On page 4, lines 11 through 13, you  
7 state that there's enough evidence to support an equal  
8 percentage increase, and you state that's supported by the  
9 adequate evidence existing in the record. Do you remember  
10 that?

11 A. Yes.

12 Q. And does MGE, in fact, at this point advocate  
13 an equal percentage increase?

14 A. Yes.

15 Q. Is it your understanding, based on your review  
16 of this case, that the Office of Public Counsel's advocating  
17 that same position?

18 A. Yes. That's my understanding. You used the  
19 word "both" a second ago and that confused me. But it's my  
20 understanding the OPC, Staff and MGE are all advocating the  
21 equal percentage increase method for allocating revenues to  
22 customer classes in this proceeding.

23 Q. Now, turning your attention to -- have you, in  
24 fact, reviewed the Commission's Report and Order dated  
25 effective February 1, 1997 in this case? I believe it was

1 issued January 22nd, 1997.

2 A. I have briefly reviewed orders subsequent to  
3 the primary order in January of '97.

4 Q. Okay. My question, first of all is --

5 A. So the answer is yes.

6 Q. Okay. Have you, in fact, reviewed an order  
7 that came out February 28th, also in this case --  
8 February 28th, 1997 entitled Order Granting in Part and  
9 Denying in Part Applications for Rehearing?

10 A. Is that the one that Beck has quoted in his  
11 testimony?

12 Q. I believe it is, along with another one.

13 A. Yes. I've reviewed Beck's testimony and  
14 briefly read those orders.

15 Q. Okay. And would that also apply -- same  
16 question to an issue ordered March 18, 1997 entitled Order  
17 Granting Motion for Clarification?

18 A. Yes.

19 Q. And the final one would be March -- would be  
20 the Order of Approving Tariff Sheets -- Order Approving  
21 Tariff Sheets in Compliance with Order Granting in Part and  
22 Denying in Part Applications for Rehearing also in Case  
23 No. 96-285.

24 A. I believe I reviewed all those orders briefly.

25 Q. And did you, in fact, take all of those orders

1       into consideration in reaching your recommendation for this  
2       case of an equal percentage increase?

3               A.       No. My recommendation is really founded  
4       primarily on the original order in January of '97, although  
5       I think the subsequent orders continue to support the equal  
6       percentage increase recommendation in my testimony. I had  
7       only briefly reviewed them at the time I wrote my testimony  
8       and they were really not a key factor supporting my  
9       testimony.

10              Q.       Okay. Sir, would you, by any chance, have the  
11       surrebuttal testimony of Daniel Beck, which was Exhibit 134  
12       at the initial hearing? Would you have that in front of  
13       you, by chance?

14              A.       No.

15                      MR. FRANSON: May I approach the witness, your  
16       Honor?

17                      JUDGE REGISTER: You may.

18                      MR. FRANSON: I'm directing the parties'  
19       attention to Exhibit 134, which is the surrebuttal testimony  
20       of Daniel Beck, specifically page 15, lines 7 through 20.

21                      JUDGE REGISTER: And you're providing the  
22       witness with a copy of that too?

23                      MR. FRANSON: I am, your Honor.

24       BY MR. FRANSON:

25              Q.       If you could take the opportunity to review

1       that, lines 7 through 20.

2                   THE WITNESS:  7 through what?

3                   MR. FRANSON:  20, to the end of the page.

4                   JUDGE REGISTER:  This is page 15, lines 7  
5       through 20?

6                   MR. FRANSON:  Yes, your Honor.  I believe it's  
7       the -- the very last question, very last page of Mr. Beck's  
8       testimony.

9                   JUDGE REGISTER:  We'll give Mr. Lewis an  
10       opportunity to review that.  Just let us know when you're  
11       ready, Mr. Lewis.

12                  THE WITNESS:  I've read lines 7 through 20 on  
13       page 15 of the surrebuttal testimony of Dan Beck in 96-285.

14       BY MR. FRANSON:

15               Q.       Sir, you're, in fact, familiar with  
16       Mr. Gillmore's class cost of service study?

17               A.       Yes.

18               Q.       And the methodology he used therein?

19               A.       Yes.

20               Q.       And did he, in fact -- did Mr. Gillmore, in  
21       fact, use replacement costs as part of his class cost of  
22       service study as Mr. Beck comments?  What I'm asking is, is  
23       that an accurate statement by Mr. Beck at page 15, lines 7  
24       through 20 of his surrebuttal testimony?

25                  JUDGE REGISTER:  Your question asks is the --

1 actually from line 12 through 15, in fact, the company's COS  
2 study showed that 117 million 147 in parens -- I'm skipping  
3 the parens -- in revenues were allocated based on a  
4 weighting factor that used replacement costs; is that  
5 correct?

6 MR. FRANSON: I will take that correction,  
7 your Honor. Thank you.

8 JUDGE REGISTER: Is that a correct statement?

9 THE WITNESS: I need all that read back to me.  
10 It changed three or four times in the interpretation.

11 BY MR. FRANSON:

12 Q. Okay. If I may --

13 A. I think I can answer the question, but --

14 Q. Okay. My question specifically, I believe as  
15 Judge Register pointed out, it is at lines 12 through 15.  
16 Did the company's cost of service study, as done by  
17 Mr. Gillmore, actually use a weighting factor that allocated  
18 based on a weighting factor that used replacement cost? Is  
19 that correct?

20 A. Yes.

21 MR. FRANSON: No further questions, your  
22 Honor. If I may approach and retrieve my exhibit.

23 JUDGE REGISTER: Certainly. No further  
24 questions, Mr. Franson, for this witness?

25 MR. FRANSON: No further questions for this

1 witness.

2 JUDGE REGISTER: Thank you very much.

3 And, Mr. Conrad?

4 MR. CONRAD: Just a few, your Honor.

5 CROSS-EXAMINATION BY MR. CONRAD:

6 Q. Mr. Lewis, let me first refer you to page 6,  
7 this being your testimony.

8 JUDGE REGISTER: Exhibit 182, is that correct,  
9 Mr. Conrad?

10 MR. CONRAD: Yes, ma'am.

11 JUDGE REGISTER: Okay. Page 6?

12 BY MR. CONRAD:

13 Q. Line 21, 22. Do you see that reference, sir?

14 A. Yes, I do.

15 Q. I believe you testified earlier that you had  
16 reviewed Mr. Gillmore's study. Correct?

17 A. Yes. That's true.

18 Q. And you had reviewed the studies done by the  
19 other parties. Correct?

20 A. Yes.

21 Q. And you believe his study to be superior; is  
22 that correct?

23 A. Yes.

24 Q. And if I understand your testimony, that  
25 conclusion is reached because of the methods that



1 Mr. Gillmore used to allocate MGE's investment and  
2 distribution plan; is that correct?

3 A. It's primarily due do those allocation  
4 factors, because I think those allocation factors have an  
5 overwhelming impact on the final results. And usually how  
6 those factors go are the major issues discussed in a class  
7 cost of service study.

8 And because Mr. Gillmore has used approaches  
9 that I have used in other studies that I've filed before the  
10 Commission in previous years, that's why I thought his study  
11 was consistent with the work I've done previously and the  
12 most accurate study.

13 Q. What method is used in the Staff's study to  
14 allocate MGE's investment and distribution plan?

15 A. I -- I reviewed the methods for both Staff and  
16 the OPC.

17 Q. Let me focus you on Staff right now.

18 A. And the Staff did not use the minimum system  
19 approach. They all -- they both used different approaches  
20 to determine the customer component, demand component of  
21 mains. Those methodologies produced allocation factors  
22 substantially different than MGE that impacted the final  
23 results of the study.

24 That was my conclusion. As far as citing just  
25 exactly what's in those scores of pages for both the Staff

1 and the OPC, I'm not prepared to do at this time.

2 Q. In general, would you be able to state,  
3 Mr. Lewis, why the method used in MGE's study is superior to  
4 that, in your view, by that used by -- or as compared to  
5 that used by Staff?

6 A. Yes. As compared --

7 Q. Please do so.

8 A. Yes, I will. The method used by both the  
9 Staff and the OPC identify a much smaller customer component  
10 of mains. I believe there is a significant customer  
11 component. When you look at Gillmore's study, I think he  
12 identified a customer component of over 50 percent of total  
13 mains. That's something I went to very early on.

14 I believe normally in my past experience that  
15 the customer component is significant. Most of my studies  
16 have shown a customer component in the 50 percent range.  
17 Because of that determination, that has a great impact on  
18 the overall allocation factors.

19 And while the OPC's allocation factor  
20 allocates -- has a 50 percent -- mid-50 percent allocation  
21 factor to residential customers for mains, the company's  
22 allocation factor was almost 70 percent to the residential  
23 class for mains. And that's primarily due to the  
24 determination that there's a larger customer component for  
25 mains.

1           Q.       Mr. Lewis, I promised you I would let you  
2       discuss or at least deal with the Public Counsel's study.  
3       What method was used by Public Counsel in their study that  
4       you reviewed?

5           A.       My answer would be the same as I referred to  
6       the Staff's method. It was not the minimum system method.  
7       It was another method. It was very complex and detailed.  
8       I'm not prepared to cite it at this point.

9           Q.       Would you have an opinion, sir, based on your  
10      experience as to why MGE or Mr. Gillmore's study is superior  
11      to that introduced by the Public Counsel in this case?

12                 MR. MICHEEL: I'm going to object. This  
13      witness just answered that he hasn't in depth studied Public  
14      Counsel's study at all. So I don't think this witness is  
15      competent to opine about why or why not Public Counsel's  
16      study is good or bad. He didn't study it.

17                 JUDGE REGISTER: Any response to that  
18      objection?

19                 MR. CONRAD: Yeah. If he has an opinion, he  
20      can answer yes to the question. If he has no opinion, he  
21      can answer no.

22                 JUDGE REGISTER: I'm going to overrule the  
23      objection. I'd like to know what Mr. Lewis used to  
24      determine one was superior over the other.

25                 Do you need the question again, Mr. Lewis?

1 THE WITNESS: No. As I stated before, it's  
2 primarily due to the treatment of mains more than any one  
3 factor. The allocation of cost of service study, as  
4 mentioned earlier today, is very judgmental. There's lots  
5 of different approaches to creating a cost of service study.

6 I believe that the company's cost of service  
7 study was superior because I believe in the method and it  
8 was consistent with what I have used in the past. That's  
9 not to say that the other cost of service studies are not  
10 relevant and well put together by experienced folks, but I  
11 believe that the company's cost of service study is most  
12 accurate.

13 JUDGE REGISTER: Mr. Conrad, you'll excuse me  
14 if I interject a few questions here. I want to make sure  
15 I'm clear on this point.

16 MR. CONRAD: I'll take all the help I can get.

17 JUDGE REGISTER: I want to make sure. You  
18 haven't done a detailed study of Staff's or Public Counsel's  
19 method used here, but you have looked at how the mains are  
20 allocated?

21 THE WITNESS: I looked at the studies in  
22 entirety, I briefly reviewed them. And I read through the  
23 testimonies. They're very complex and lengthy. I'm  
24 familiar with the approaches. I've seen them before.  
25 Different approaches were used by Staff and OPC. It has

1 volumes and scores of pages of testimony describing those.  
2 I'm not prepared today to describe all the methods in  
3 detail.

4 JUDGE REGISTER: They're just too detailed at  
5 this point for you to describe them based on what you've  
6 reviewed already?

7 THE WITNESS: Based on my knowledge, yes.

8 JUDGE REGISTER: I think that clarified my  
9 question, Mr. Conrad.

10 BY MR. CONRAD:

11 Q. Would it be a fair statement then, Mr. Lewis,  
12 that based on your experience, you reviewed those studies  
13 enough to reach a conclusion with respect to their validity?

14 A. The word "validity" -- they're all valid  
15 studies. I believe the most accurate study that portrays  
16 true cost of service is the company's study, although  
17 they're all valid studies.

18 Q. Now, you indicated that MGE is no longer  
19 supporting Mr. Gillmore's proposal; is that correct?

20 A. MGE is supporting the accuracy of Gillmore's  
21 class cost of service study, but as we've discussed early  
22 this morning, there's other factors to be considered. And  
23 when considering the issue in total, I've come to a  
24 different final conclusion.

25 Q. But it is true, is it not, that at the time

1       this case was submitted to the Commission, MGE not only  
2       supported the accuracy of Mr. Gillmore's approach, but also  
3       its conclusion?

4             A.       That's true.

5             Q.       And that would be true, I take it, Mr. Lewis,  
6       at the time the record in the proceeding was closed before  
7       the Commission?

8             A.       Yes.   The record -- the record being closed in  
9       the original proceeding, yes.

10            MR. CONRAD:   A moment, please.

11            JUDGE REGISTER:   Certainly.

12       BY MR. CONRAD:

13            Q.       Now, am I correct then looking again at page 6  
14       of your testimony, Mr. Lewis, in the table that's in the  
15       middle of the page, specifically line 13 of that table, do  
16       you see that reference?

17            A.       Yes.

18            JUDGE REGISTER:   This is page 6 of his  
19       testimony?

20            MR. CONRAD:   Yes, ma'am.   182.

21            JUDGE REGISTER:   Thank you.

22       BY MR. CONRAD:

23            Q.       And that indicates that the LV or large volume  
24       customers should have a rate reduction of 36.14 percent.   Is  
25       that what that table indicates?

1           A.       That's what it says.

2           MR. CONRAD: Now, your Honor, I'm going to, as  
3 Mr. Micheel did before me, although he covered some of the  
4 areas, white flag, if you will.

5           JUDGE REGISTER: These questions will be those  
6 that relate to the Motions to Strike in --

7           MR. CONRAD: As best I can structure them.

8           JUDGE REGISTER: Thank you, Mr. Conrad.  
9 Proceed.

10 BY MR. CONRAD:

11          Q.       Mr. Lewis, you're not an attorney, are you?

12          A.       No.

13          Q.       Have no formal legal training?

14          A.       That is correct.

15          Q.       Look at page 9, please, of your testimony.

16 And you'll recall that Mr. Micheel had directed your  
17 attention to a sentence that began at line 16. Let me move  
18 you up just a little bit to the -- it's really not a  
19 complete sentence, I guess, but it begins, I am aware,  
20 on line 14 -- or I'm unaware, pardon me. Do you see that  
21 reference?

22          A.       Yes.

23          Q.       Okay.

24          JUDGE REGISTER: Okay. Give me the page  
25 number again.

1 MR. CONRAD: Page 9, your Honor.

2 JUDGE REGISTER: Line 14, I am unaware. Okay.

3 I'm with you.

4 BY MR. CONRAD:

5 Q. And you've referenced a Missouri statute just  
6 before that on line 14?

7 A. Yes.

8 Q. You're not intending, I take it, to give some  
9 kind of a legal opinion as to the scope of that statute, are  
10 you?

11 A. No. It's no legal opinion. It's just a  
12 statement of my understanding.

13 MR. CONRAD: Your Honor, please just one  
14 moment and we may be very close to being done with the  
15 witness.

16 JUDGE REGISTER: Okay.

17 MR. CONRAD: Oh, yes. Now, if my markings are  
18 correct, your Honor, I think this question would be back to  
19 the regular stuff.

20 JUDGE REGISTER: Okay. We're back out from  
21 underneath the Motion to Strike preservation.

22 BY MR. CONRAD:

23 Q. Mr. Lewis, let me direct you to page 7 of  
24 Exhibit 182. And toward the top of that page there is again  
25 a little table. And you reference two cases there. Do you



1 see that?

2 A. Yes, I do.

3 Q. Lines 5 and 6 of the correspondence. Right?

4 A. Yes, I do.

5 Q. Were you engaged in any manner by the company,  
6 by MGE, in connection with those two -- either of those  
7 cases? I'm sorry. Pardon me. The 93-240 case, let me  
8 limit my question to that.

9 A. I didn't participate in the original 1993  
10 case. I reviewed that case for this proceeding.

11 Q. Did you review how that case was resolved and  
12 disposed of?

13 A. I just read the final orders.

14 Q. Do you recall that final order making  
15 reference to a settlement?

16 A. Yes. The document that I used to help prepare  
17 that table referenced attachment 2 to a document called  
18 Unanimous Stipulation Agreement in 93-240. So it looks like  
19 a settled case to me.

20 MR. CONRAD: Permission to approach.

21 JUDGE REGISTER: Yes, go ahead.

22 BY MR. CONRAD:

23 Q. Mr. Lewis, I'm going to show you a copy of an  
24 order in GR-93-240, ask you if that is the order that you  
25 reviewed?

1           A.       I believe so.

2           Q.       Toward the back of that order do you find a  
3       separate document that's attached to it identified as an  
4       appendix? I think it's referenced as -- excuse me -- it's  
5       referenced as an attachment.

6           A.       Yes, I do.

7           Q.       Okay. And is that attachment titled Unanimous  
8       Stipulation and Agreement?

9           A.       Just as I just read -- I read the same  
10       document a second ago. And this is the same one I just was  
11       referring to.

12          Q.       Okay. Now, let me, while I stand here beside  
13       you, ask you to look at page 11 carrying over to 12. Do you  
14       see here language that says, This Stipulation Agreement has  
15       resulted from extensive negotiations and the terms are  
16       interdependent?

17                   Do you see that reference?

18          A.       Yes, I do.

19          Q.       Okay. Now, look up above that, if you'd  
20       follow on your copy, paragraph No. 7. Does that say, None  
21       of the signatories shall be deemed to have approved or  
22       acquiesced in any rate-making principle or any method of  
23       cost determination allegedly underlying this agreement?

24          A.       Yes, it says that.

25          Q.       Now, right above that in paragraph 6 you see

1 the language that says that this Stipulation and Agreement  
2 shall be inadmissible in and shall not be cited or referred  
3 to as precedent in any other proceeding except as otherwise  
4 specified?

5 MR. FRANSON: Your Honor, I'm going to object  
6 to the relevance of all of this.

7 MR. CONRAD: I have one more question, your  
8 Honor.

9 JUDGE REGISTER: Are you withdrawing that one  
10 then, Mr. Conrad?

11 MR. CONRAD: Yeah. I guess. The document  
12 speaks for itself -- for what it says.

13 JUDGE REGISTER: Thank you.

14 BY MR. CONRAD:

15 Q. Since that one's off the table, Mr. Lewis, let  
16 me ask you to turn to page 13, very quickly. You see there  
17 signature by Public Counsel?

18 A. Yes.

19 Q. Do you see there a signature by Staff of the  
20 Public Service Commission? Might be the page before.

21 JUDGE REGISTER: Do you want to stipulate that  
22 the parties agreed to the Stipulation in 93-240?

23 MR. CONRAD: That would be fine.

24 MR. MICHEEL: Hence the name unanimous, your  
25 Honor.

1 MR. SCHWARZ: Staff would so stipulate.

2 JUDGE REGISTER: I don't think there's any  
3 impact on the impact of that decision. Is there any  
4 objection to that?

5 Parties stipulate that everybody agreed to the  
6 unanimous Stipulation and Agreement in 93-240. Although I  
7 did hear reference earlier that MGE was not the proper  
8 party, but their predecessor was.

9 MR. DUFFY: Can I --

10 JUDGE REGISTER: Please proceed, Mr. Duffy.

11 MR. DUFFY: Can I see the document we're  
12 talking about?

13 JUDGE REGISTER: I think we're talking about  
14 the order in GR-93-240 and its attached Stipulation and  
15 Agreement.

16 MR. DUFFY: Why don't we just indicate that  
17 it's signed by Western Resources, Inc.; the Staff of the  
18 Missouri Public Service Commission; Midwest Gas Users'  
19 Association; and the Office of Public Counsel; U.S.  
20 Department of Energy; Williams Natural Gas Company; and  
21 Mountain Iron and Supply Company?

22 JUDGE REGISTER: Those being the parties that  
23 were subject to that unanimous Stipulation and Agreement.  
24 Is that acceptable to all the parties here?

25 MR. FRANSON: It is, your Honor.

1 JUDGE REGISTER: So stipulated.

2 Any further questions, Mr. Conrad?

3 MR. CONRAD: I apologize, your Honor. Just  
4 see how this goes.

5 I believe that's all, your Honor. Thank you.

6 JUDGE REGISTER: Thank you. I believe that  
7 that makes it the Bench's turn for questions, and I'm going  
8 to pick up right where we're at, Mr. Lewis.

9 QUESTIONS BY JUDGE REGISTER:

10 Q. Just to clarify, your testimony on page 7 here  
11 at the top, 1 through 10, let's include the table, does not  
12 refer to the Stipulation and Agreement in GR-93-240, does  
13 it?

14 A. It does not.

15 Q. Okay. It refers to the -- if I understand it  
16 correctly, it refers to the impact of the decision in that  
17 case?

18 A. Yes. That's true. It's the final impact of  
19 that case, the net result to customers because that's what's  
20 important in this proceeding.

21 Q. You're not referring to any agreement that the  
22 parties made or any acquiescence that they may have reached  
23 in GR-93-240; is that correct?

24 A. That's true. I'm not trying to refer to any  
25 precedent or issues involved, just merely what customers

1       were charged out of that proceeding and the magnitude of  
2       that increase. And that's the key part of my testimony.

3               Q.       Thank you, Mr. Lewis. That's what I thought I  
4       was reading there.

5                       Let me ask you to go back to page 6, to the  
6       table in your testimony, Exhibit 182, that is on that page,  
7       the table that is between 11 and 17 -- lines 11 and 17. And  
8       Mr. Conrad was talking about what was indicated there as  
9       MGE's class return on rate base -- let's see. Well, let me  
10      ask you. First of all, what does this table show us?

11              A.       What this table shows is a revenue neutral  
12      summary of the class cost of service studies performed by  
13      MGE, Staff and the OPC. All three primary cost of service  
14      studies in this proceeding. And it shows what the final  
15      results are.

16                     And if you accepted a strict recommendation of  
17      going to cost-based rates, this is the net impact. And, for  
18      example, as Mr. Conrad pointed out just a second ago, the  
19      original MGE study suggested going to cost-based rates. And  
20      applying that study would -- as Mr. Conrad pointed out,  
21      would decrease large volume service rates 36 percent.

22                     And that's -- that's very much in contrast to  
23      the 5 percent decrease for large volume service customers  
24      that was included in the original stipulation. And in  
25      contrast to the equal percentage increase method approved by

1 the Commission in 96-285 and recommended in my testimony,  
2 which essentially shifts no revenues in this proceeding to  
3 any customers because of the magnitude of the three-year  
4 increase for residential and small general service  
5 customers. They've already had an increase of such a level  
6 that I didn't think any further shift toward cost-based  
7 rates was appropriate in 96-285.

8 Q. And in the class cost of study -- class cost  
9 of service study done by Staff, just for comparison then  
10 here, Staff under large volume if we were strictly going on  
11 cost-based rates, would recommend a reduction for large  
12 volume of 2.34 percent; is that correct? Am I reading that  
13 correctly?

14 A. Yes. That's right.

15 Q. And then Public Counsel's large volume would  
16 increase by 43.8 percent?

17 A. Right. And as I cite in my testimony, there's  
18 an agreement that generally the residential customers are  
19 paying rates that are a little bit less than the results of  
20 the studies, but there's quite a bit of disagreement on the  
21 other classes. And you've just showed an example of that  
22 reading down the large volume column.

23 Q. Okay. And if I understood correctly, both  
24 your testimony and Mr. Gillmore's testimony indicate that  
25 the class cost of study -- class cost of service studies

1 results are usually a starting point in designing rates; is  
2 that correct?

3 A. Yes. And it's a starting point and you have  
4 to look at other factors. And the OPC was having a fine  
5 list of other factors earlier this morning, longer than my  
6 list.

7 Q. And when we talk about test year, in 96-285,  
8 can you tell me what the test year was in this case?

9 A. You know, the test year alludes me right now.

10 Q. Okay. That's something that is -- the set  
11 period of time to define --

12 A. I understand the term. I just --

13 Q. Just for my clarification, that's just the  
14 time that we measure what the costs were; is that right?

15 A. Yes.

16 Q. Okay.

17 A. A lot of the testimony was filed in April,  
18 May of '96. The actual hearing seemed to be in September,  
19 October. So we're probably looking at a test period of  
20 somewhere in the '95 range. But of all the information that  
21 I've looked at right now, that date's alluding me.

22 Q. I know I've probably read it before myself,  
23 but you're right. I'm in the same situation.

24 But let me understand, in the test year it's  
25 relevant to the class cost of service studies, isn't it?



1           A.       Yes. You want the relevant data to allocate  
2 revenues -- total company revenue responsibility to  
3 individual classes. So you want to have as much -- as  
4 accurate and timely data as you can receive.

5           Q.       So if we're talking about the test year and  
6 the information that's within that test year, then we're  
7 also talking about that's part of the starting point that we  
8 use in determining the class cost of service studies and,  
9 therefore, it's only a starting point as well; is that  
10 correct?

11          A.       Yes. It's -- it's -- it is a starting point.  
12 And since you've given me a little time to look, the test  
13 year on Gillmore's study is September 30th, 1995. And  
14 that's the date that I could not remember.

15          Q.       September 30th of 1995 is the ending --

16          A.       Is the test year of Gillmore's study, yes.

17          Q.       That's the end date?

18          A.       Yes.

19          Q.       So that's where I was trying to get. My  
20 understanding is the test year is part of that determination  
21 in the overall calculations of getting to the class cost of  
22 service study?

23          A.       Yes. And it makes sense if that's the most  
24 recent information that you could file a test year on if you  
25 would be filing testimony in the spring of '96 and having a

1       hearing later on. So that makes sense.

2               Q.       I think you were asked earlier that the  
3       decision in GR-96-285 was superseded by the decision the  
4       Commission rendered in GR-98-140. And I believe you said  
5       that that was correct, that --

6               A.       Yes. The tariffs were superseded.

7               Q.       The tariffs were superseded. So what  
8       period -- is there a period that will still be affected by  
9       the decision in GR-96-285 prior to being superseded by  
10       98-140?

11               MR. DUFFY: Your Honor, I think I'm going  
12       to -- I hate to object to one of your questions --

13               JUDGE REGISTER: Ask me to clarify?

14               MR. DUFFY: Maybe to clarify, it seems to me  
15       that you're maybe asking this witness to speculate on some  
16       legal implications.

17       BY JUDGE REGISTER:

18               Q.       Let me just ask. Is there a period where the  
19       rates were affected under the tariff that would have been  
20       approved under 96-285 before it was superseded by 98-140?

21               JUDGE REGISTER: And I'm getting all sorts of  
22       objections to that.

23               MR. CONRAD: I'm going to tell you why too.  
24       Because the Circuit Court issued an order, a judgment, a  
25       findings of fact, conclusions of law and judgment that held

1       that this Commission's rate decision was unlawful,  
2       unconstitutional.

3               Mr. Duffy wants to contend at various times  
4       that he appealed that. Whether he did or not makes no  
5       matter. If he appealed it, it was affirmed. If he didn't  
6       appeal it, then the Circuit Court decision stands.

7               Either way, the rates in 96-285 approved by  
8       this Commission have been judicially held finally unlawful,  
9       unconstitutional, period, end of argument. That's what the  
10      case over there was about. And despite --

11              JUDGE REGISTER: That's what we'll be deciding  
12      here.

13              MR. CONRAD: No, ma'am. That's what you will  
14      not be deciding. This Commission will not decide whether it  
15      will review -- this Commission is not a board of review over  
16      the Missouri Court of Appeals or the Circuit Court.

17              JUDGE REGISTER: Okay.

18              MR. CONRAD: That's the decision that's made,  
19      ma'am.

20              JUDGE REGISTER: I think I'm confused about  
21      what you think I'm asking.

22              MR. CONRAD: I apologize.

23              JUDGE REGISTER: Maybe I asked the wrong  
24      question. Tell me what it is that you think I'm asking so  
25      that -- can someone --

1                   MR. DUFFY: I think you withdrew the question,  
2                   your Honor.

3                   MR. FRANSON: Your Honor, Staff's -- nothing.

4                   MR. CONRAD: Well, if the question's off the  
5                   table, that's fine, but I would agree with Mr. Duffy -- he  
6                   may want to make that note in his log -- that what I  
7                   understood your question to be asking was whether this  
8                   witness had some kind of legal conclusion about the period  
9                   of time that some rates could be affected.

10                  Ma'am, the rates of 96-285 were judicially and  
11                  finally determined to be unlawful by the courts of this  
12                  state.

13                  MR. DUFFY: Well, just so my silence is not  
14                  construed as acquiescence, I would seriously dispute some of  
15                  the allegations Mr. Conrad's made. And I don't want to get  
16                  into a bunch of argument about the legal implications.

17                  You know, my reason for interjecting to begin  
18                  with was my concern that we were getting off into an area  
19                  that, you know -- you were asking this witness perhaps what  
20                  the legal implications -- whether knowingly or not, what the  
21                  legal implications were.

22                  You know, it seems to me that we can all agree  
23                  that the tariffs that were approved by the Commission in  
24                  GR-96-285 are not in effect anymore because they were  
25                  superseded by the tariffs approved by the Commission in

1 GR-98-140. We can also agree --

2 JUDGE REGISTER: That was the question that  
3 Mr. Conrad asked that I was trying to follow-up.

4 MR. DUFFY: Maybe if you can, you know,  
5 rephrase your question, we can --

6 JUDGE REGISTER: Let me give Mr. Franson an  
7 opportunity --

8 MR. FRANSON: No comment.

9 JUDGE REGISTER: Okay. Let me withdraw that  
10 question and try again. You guys let me know if I --

11 BY JUDGE REGISTER:

12 Q. What you answered before, Mr. Lewis, was that  
13 yes, 98-140 -- the tariffs that came out of the GR-98-140  
14 did supersede GR-96-245?

15 A. Yes, that's right.

16 Q. And the question that came into my mind was  
17 when?

18 MR. DUFFY: Yeah. It --

19 MR. CONRAD: Oh, is your question what the  
20 date of -- the effective date of the 98-140 tariffs is?

21 MR. DUFFY: That's September -- that's  
22 September 2nd, 1998. That's reflected in the Commission's  
23 records.

24 BY JUDGE REGISTER:

25 Q. Does that sound accurate to you, Mr. Lewis?

1           A.       Yes, ma'am.

2           Q.       You're the witness here.

3                   MR. MICHEEL:  He also has that in his  
4 testimony, your Honor.

5 BY JUDGE REGISTER:

6           Q.       What happens before September 2nd, 1998?  Is  
7 that what we're -- I mean, is that what we're talking about  
8 here today?

9                   MR. DUFFY:  Well, we are not trying to  
10 re-establish tariff rates in this case.  The Commission, as  
11 I understand it, from the mandate from the courts is  
12 supposed to have a hearing and supposed to determine, as I  
13 read earlier, the amount of -- let me get the quote right so  
14 nobody -- we're supposed to determine -- upon remand the  
15 Commission will determine how much of that aggregate revenue  
16 due MGE would be paid by Midwest.  My understanding is --

17                  MR. CONRAD:  Well --

18                  MR. DUFFY:  Please let me finish.  My  
19 understanding is we are here to have a hearing that wasn't  
20 held before.  And so the Commission can reach a decision  
21 based on the evidence as to what they want to do in class  
22 revenue responsibility and the issues that we did not have  
23 hearing on before.

24                   I don't think any party is advocating that the  
25 Commission is going to approve a set of tariffs that come

1 out of this hearing. But the Commission does have to reach  
2 a decision on some issues when they, according to a court,  
3 improperly reached a conclusion on those issues back in  
4 1996. I hope that clarifies.

5 JUDGE REGISTER: So the rate design that would  
6 have been in effect before September 2nd, 1998 will decide  
7 how that money -- the revenue that MGE has was paid in?

8 MR. CONRAD: No, ma'am. This Commission  
9 cannot make rates retroactively. That period of time is a  
10 locked in period. This is what Mr. Micheel was, I think,  
11 talking about that caused Mr. Duffy such concern in the  
12 opening statement. There really is no order that this  
13 Commission can issue that affects that period. That period  
14 is over and done with.

15 MR. DUFFY: Well, I respectfully disagree with  
16 Mr. Conrad.

17 MR. CONRAD: I understand --

18 MR. DUFFY: We're getting into --

19 MR. CONRAD: Excuse me. I'll finish now,  
20 Gary. Thank you. Now --

21 MR. DUFFY: Well, we're getting into a matter  
22 that --

23 MR. CONRAD: No. Excuse me --

24 MR. DUFFY: -- that the courts will ultimately  
25 determine.

1 MR. CONRAD: Excuse me. Excuse me, please.

2 JUDGE REGISTER: Mr. Conrad, let me do the  
3 directions, please.

4 MR. CONRAD: Well, I let counsel finish, and I  
5 would appreciate it if he would let me finish.

6 JUDGE REGISTER: Okay. Make your comments to  
7 me, and I will make the directions.

8 MR. CONRAD: The point, your Honor, of this  
9 case is that in the subsequent case the Commission made  
10 decisions based on a decision that it had made here  
11 wrongfully and unlawfully.

12 It cannot turn the clock back insofar as the  
13 rate effect. The hearing that we're having is the one that  
14 I mentioned in my opening statement that we turn the clock  
15 back and we look at the billing determinants and the facts  
16 and the revenues and all of the things that were in place  
17 and ready to be heard in 96-285.

18 JUDGE REGISTER: What decision are you asking  
19 this Commission to make though, Mr. Conrad? I mean, what  
20 order are you asking this Commission to issue?

21 MR. CONRAD: An order that is based on  
22 competent and substantial evidence coming out of this  
23 proceeding, but it cannot --

24 JUDGE REGISTER: All --

25 MR. CONRAD: -- it can't order a tariff. You



1       can't effect the past. You cannot rule backward and say,  
2       The rates that you should have paid back here --

3               JUDGE REGISTER: Okay. Just a minute,  
4       Mr. Schwarz. Let me ask Mr. Duffy. He was wanting to  
5       comment earlier.

6               MR. DUFFY: I just want to make the point that  
7       what we're doing here is we're briefing this case for you.  
8       We're arguing these ultimate legal arguments. And I  
9       appreciate that you need to have an understanding of why  
10      we're here, but I believe that the most appropriate place  
11      for that discussion to take place is in briefs.

12              JUDGE REGISTER: And I will look to those. I  
13      appreciate that.

14              Mr. Schwarz?

15              MR. SCHWARZ: I was going to suggest along  
16      similar lines, that it appears to me that what we're doing  
17      is arguing a Motion to Dismiss, which has not yet been filed  
18      which is -- or a suggestion of mootness, which has not yet  
19      been filed.

20              But that certainly Mr. Lewis is not the person  
21      to expostulate on those items. It may be that this is  
22      handled either in the briefs or if the Commission would  
23      choose to have argument or closing statements, perhaps  
24      arguments of a Motion to Dismiss or suggestions of mootness,  
25      that that would be an appropriate place for --

1 JUDGE REGISTER: Okay. Mr. Micheel?

2 MR. MICHEEL: That's why I raised it in my  
3 opening, your Honor, just to let the Commission know.

4 JUDGE REGISTER: Okay. I appreciate that.

5 Well, and innocently, I suppose, my questions  
6 raised this issue again. And so I felt it was an  
7 appropriate time before we continue and before I get into  
8 areas that obviously cause grave concern that we just get  
9 right down to it, and what are we here for.

10 We know we're here because the Circuit Court  
11 says we were coming back to have this due process hearing,  
12 but we still have to have a decision other than one that's  
13 just lawful. I still need to know what it is that -- I  
14 will, of course, issue lawful decisions all the time, but  
15 what it is --

16 MR. CONRAD: Never missed one yet.

17 JUDGE REGISTER: -- I am deciding in a lawful  
18 manner. And that I will -- I do want closing statements  
19 this time. I don't necessarily ask for that, but that's  
20 what I want you to tell me, what am I deciding in this  
21 evidence.

22 And if you want to cover it in your briefs,  
23 that's fine, but that's -- you know, I really want to come  
24 out of this hearing with a feeling that we know what we're  
25 going to be deciding here. And if it's we just have to

1       decide these issues and we don't issue tariffs and we don't  
2       do anything else and then you all take it from there, that's  
3       fine, but, you know, I need to be clarified on that.

4                 MR. DUFFY: Your Honor, let me suggest that an  
5       orderly way to perhaps deal with this is at the close of  
6       this record -- or sometime after the close of this record  
7       you undoubtedly will have some questions along the lines  
8       that we just discussed.

9                 And I would suggest that you issue an order in  
10       which you pose those questions to the parties and you direct  
11       those parties to address those questions in their briefs.  
12       There are -- you know, these are somewhat complex and unique  
13       legal arguments involved here. It's not something that I  
14       particularly feel comfortable about discussing on the cuff  
15       like we're trying to do here. We need case citations and  
16       things like that. And so I think that's the most orderly  
17       and efficient way to deal with the legitimate questions  
18       you're posing.

19                JUDGE REGISTER: That's fine. And if they're  
20       better dealt with in the briefs where we can have the legal  
21       citations, then let me know that and we'll -- Mr. Conrad?

22                MR. CONRAD: Well, surprisingly almost twice  
23       in a row I agree with Mr. Duffy on that point. Perhaps yet  
24       another way would be in addition to what he was suggesting  
25       and your identification of the questions that you want to

1 have answered or resolved, although it's somewhat of an  
2 unusual procedure, there's nothing, I think, that prevents  
3 the Commission from after the briefs have been filed, if  
4 they wanted to have the parties make brief oral  
5 presentations of that and respond to questions from the  
6 Bench, perhaps that's something that -- while that might be  
7 off the cuff, I don't know whether --

8 JUDGE REGISTER: Well, that's something we'll  
9 deal with -- I know that is a possibility, because the  
10 Commissioners may well have questions on those issues and  
11 they may want to inquire of that further. So we'll kind  
12 of -- we'll deal with that as we go down the line.

13 But I will retract -- I won't require closing  
14 arguments tomorrow, but if you choose to give a closing  
15 argument, that would be the area that I would like the most  
16 enlightenment in.

17 All right. Let me go back to questions to  
18 Mr. Lewis then.

19 MR. DUFFY: Well, let me make sure. Are you  
20 saying that you are going to have closing arguments tomorrow  
21 and that some people can talk if they want to?

22 JUDGE REGISTER: Yes. I am giving you the  
23 opportunity for closing arguments. And anybody that wants  
24 to make a closing argument tomorrow is given that  
25 opportunity.

1 MR. CONRAD: I won't if you won't.

2 JUDGE REGISTER: Okay. Any other questions or  
3 any concerns we need to discuss before I go back to  
4 questions from the Bench for Mr. Lewis?

5 MR. MICHEEL: I have questions regarding your  
6 questions, your Honor.

7 JUDGE REGISTER: Oh, for Mr. Lewis?

8 MR. MICHEEL: Yes.

9 JUDGE REGISTER: I'm not done yet.

10 MR. MICHEEL: Okay.

11 BY JUDGE REGISTER:

12 Q. In Mr. Gillmore's testimony, Exhibit No. 32,  
13 it's his surrebuttal testimony, he refers to the final test  
14 of rate design being just and reasonable. Is that an  
15 accurate statement with your understanding, Mr. Lewis?

16 A. Yes.

17 Q. And we were talking earlier about test years  
18 and the class cost of service studies. If I understand  
19 correctly, we were talking about the many factors that  
20 should be considered; is that correct?

21 A. Yes.

22 Q. And in making your recommendation in this  
23 case, you've considered all of the factors that you believe  
24 are relevant?

25 A. Yes. And your cite as to rate design, this is

1 a more narrow issue of allocation of revenues of customer  
2 classes.

3 Q. Okay. Thank you very much. Commissioner  
4 Drainer left me a question that she had, and I'll refer you  
5 to Exhibit No. 142, rebuttal testimony of Anne Ross,  
6 Schedule 1.

7 MR. SCHWARZ: Excuse me, Judge. Which  
8 testimony?

9 JUDGE REGISTER: Exhibit 142, Schedule 1, Anne  
10 Ross's rebuttal testimony.

11 MR. DUFFY: Is this one that was superseded by  
12 something she did?

13 MR. FRANSON: Not this one, I don't believe.

14 BY JUDGE REGISTER:

15 Q. Now, the question relates to customer charges  
16 that are recommended here. Is that something that --

17 MR. DUFFY: That's outside the scope of this  
18 proceeding as far as I'm concerned, your Honor. Customer  
19 charges were fully litigated and decided by the Commission  
20 and were not a subject of the stipulation that the  
21 Commission rejected.

22 MR. MICHEEL: That's correct, your Honor.

23 JUDGE REGISTER: I'm going to withdraw the  
24 question then, and I will let Commissioner Drainer know  
25 that.

1                   MR. DUFFY:  If she's got some kind of general  
2                   question about it, you know --

3                   JUDGE REGISTER:  I think that the information  
4                   was, is that we were just reviewing through all of the  
5                   evidence that was in the testimony that we were directed to  
6                   examine and she may just have had some questions about that,  
7                   you know, not necessarily realizing that that was outside of  
8                   the scope of the rate design issue.  So I will let her know  
9                   that that's part of the already litigated issue.  And that  
10                  will save us questions.

11                  Okay.  And I believe that I have no further  
12                  questions for Mr. Lewis and so we're back to  
13                  cross-examination from the Bench -- or recross rather.

14                  Mr. Micheel?

15                  MR. MICHEEL:  Yes, your Honor.

16                  RECROSS-EXAMINATION BY MR. MICHEEL:

17                  Q.       Mr. Lewis, do you recall the questions from  
18                  Judge Register regarding the table found on page 6 of your  
19                  remand -- or remand direct testimony?

20                  A.       Yes, I do.

21                  Q.       How come there's no line for Midwest Gas  
22                  Users' in that table?

23                  A.       I believe they're in the large volume section.

24                  Q.       But you have a line for MGE, Staff and OPC.  
25                  You don't --

1           A.     Oh, I see. I'm sorry. Excuse me. I was  
2 going the wrong direction here. The only three studies that  
3 I'm aware of are MGE's, Staff and OPC. As I read the MGUA  
4 testimony, they seem to adopt a lot of the conclusions of  
5 the MGE cost of service study. And I don't think they  
6 independently performed one.

7           Q.     So it's your recollection that MGUA did not do  
8 their own independent cost of service study; is that  
9 correct?

10          A.     That's my understanding.

11          Q.     Judge Register also asked you some questions  
12 about the test year for use in this case. Do you recall  
13 those questions?

14          A.     Yes, I do.

15          Q.     And you indicated you thought it was  
16 September '95; is that correct?

17          A.     September '95 is the test year used for  
18 Gillmore's cost of service study.

19          Q.     And that's for -- Mr. Gillmore has filed a  
20 cost of service study; is that correct?

21          A.     Yes.

22          Q.     Have you reviewed Mr. Kind's rebuttal  
23 testimony?

24          A.     Yes, I have.

25          Q.     Would you accept on page 3 he says that the



1 Commission entered its test year order establishing a test  
2 year for the 12-month period ending March 31st, 1996 as  
3 updated through May 31, 1996 for use --

4 A. What lines was that?

5 Q. Ten --

6 JUDGE REGISTER: Exhibit number?

7 BY MR. MICHEEL:

8 Q. -- through eleven of Mr. Kind's testimony,  
9 Exhibit 184.

10 A. And that was his rebuttal testimony?

11 Q. Yes.

12 MR. DUFFY: Page 3.

13 BY MR. MICHEEL:

14 Q. Page 3. His rebuttal testimony on remand.

15 A. I'll accept that subject to check.

16 JUDGE REGISTER: Wait a minute. We're going  
17 to check that.

18 MR. FRANSON: Your Honor, I can save you the  
19 trouble. May I approach?

20 MR. CONRAD: There's a Commission order on it.

21 MR. FRANSON: This is the Commission order.

22 JUDGE REGISTER: Okay. And --

23 MR. CONRAD: If your Honor please, what's the  
24 date on the order so --

25 MR. FRANSON: It's May 24th, 1996.

1 MR. CONRAD: That's when the order was issued?

2 MR. FRANSON: Yes. If you want to look at it,  
3 Stu.

4 JUDGE REGISTER: Let all the attorneys look at  
5 it and then we'll let Mr. Lewis look at it so he can confirm  
6 he now knows that.

7 MR. MICHEEL: I don't have any further  
8 questions. I just thought it would clear up the record.

9 JUDGE REGISTER: Mr. Lewis --

10 MR. FRANSON: Mr. Lewis, if you could take a  
11 look at that.

12 BY MR. MICHEEL:

13 Q. Is that the test year order, Mr. Lewis?

14 A. It sure is.

15 Q. And is that recitation of the test year  
16 consistent with the recitation contained in Mr. Kind's  
17 testimony?

18 A. Yes. Subject to check.

19 MR. CONRAD: Your Honor, we'll offer to  
20 stipulate --

21 JUDGE REGISTER: Everybody stipulates to that?

22 MR. CONRAD: -- that the test year in  
23 GR-96-285 is as ordered by the Commission May 31, 19--  
24 excuse me -- March 31, 1996 as updated through May 31, 1997.

25 JUDGE REGISTER: Okay. Let me just for the

1 record explain to you, Mr. Lewis, we're not allowing subject  
2 to check any longer, because you either have to know the  
3 information you're testifying to or somebody has to refresh  
4 your memory. And if we need to check it, then we let you  
5 check it now.

6 THE WITNESS: I apologize. My methods are  
7 outdated.

8 JUDGE REGISTER: That's all right. I just --

9 THE WITNESS: I believe the test year was  
10 September 30th, '95 updated through May 31st, '96. And I  
11 apologize for the confusion prior.

12 JUDGE REGISTER: No problem. That's something  
13 we're working on changing, so I figured we probably hadn't  
14 gotten to that before.

15 Okay. Anything else, Mr. Micheel?

16 MR. MICHEEL: I have nothing more.

17 JUDGE REGISTER: Staff?

18 MR. FRANSON: No further -- no questions, your  
19 Honor. I would like to withdraw my copy of the order  
20 though.

21 JUDGE REGISTER: Go right ahead.

22 Mr. Conrad?

23 RECROSS-EXAMINATION BY MR. CONRAD:

24 Q. The Regulatory Judge Law, Mr. Lewis, asked you  
25 about our seemingly favorite table on page 6 of Exhibit 182.

1 Would you notice the -- or let me direct your attention to  
2 line 14 and the column for residential. That's the Staff's  
3 study. Right?

4 A. Yes.

5 Q. And you'd agree with me that 7.29 percent is  
6 greater than 3.96 percent?

7 A. Yes.

8 Q. Would you conclude from that that the Staff's  
9 recommendation was to increase residential rates more than  
10 what MGE's original recommendation was?

11 A. No. The class -- it's a result of the class  
12 cost of service study. I believe if you read Beck's  
13 testimony, he cites a movement toward cost-based rates as  
14 something that's their goal, but he does not recommend  
15 moving all the way toward class cost of service study  
16 results.

17 Q. And I understood your testimony in response to  
18 the question from the Bench that that was also your goal in  
19 the sense of moving in the direction of cost of service.  
20 Correct?

21 A. Yes. The company's goal both in original  
22 testimony and in my testimony is that the class cost of  
23 service study is a good starting point and cost-based rates  
24 have many advantages as tempered by other factors.

25 Q. And we won't go over again the discussion that

1 we had about which study was more accurate and superior  
2 because you've testified to that, but do I also note that at  
3 least the statement is true that the residential class --  
4 all three of the parties that had submitted cost of service  
5 studies recommended shifts in the direction of additional  
6 costs to the residential customer?

7 MR. MICHEEL: I would just object to the  
8 extent it's beyond the scope of questions from the Bench.

9 JUDGE REGISTER: Overruled. Proceed.

10 BY MR. CONRAD:

11 Q. Do you remember the question?

12 A. Yes, I do.

13 Q. And do you have an answer for it?

14 A. My answer is the results of all the class cost  
15 of service studies indicate that there should be revenue  
16 shifts toward the residential class to achieve pure  
17 cost-based rates.

18 MR. CONRAD: Thank you, your Honor.

19 JUDGE REGISTER: Mr. Duffy, do you want to do  
20 redirect at this point or is it time for a break?

21 MR. DUFFY: I think I can be very brief.

22 JUDGE REGISTER: Go ahead.

23 REDIRECT EXAMINATION BY MR. DUFFY:

24 Q. Do you recall when Mr. Micheel first started  
25 cross-examining you, he took you through a number of factors

1 that could have a bearing on the establishment of rates  
2 coming out of a cost of service study?

3 A. Yes, I do.

4 Q. Am I correct in my memory that one of the  
5 those things was historical class revenue impacts?

6 A. Yes.

7 Q. Is it also possible that future class revenue  
8 impacts could be a consideration?

9 A. Yes. That's true. And that was one of the  
10 considerations in this case was that not only was I  
11 concerned over the impact of the three-year period of '93  
12 through '96 on residential small general service customers,  
13 I was also concerned on more the longer range impact on  
14 those customers.

15 Because all the way through the '90s -- these  
16 rate cases are really driven off the main replacement  
17 program. That main replacement program was pretty well  
18 known, supported, reviewed by the Commission.

19 And in the '96 case, there was an anticipation  
20 of future main replacement program, accelerated programs in  
21 the near future providing the need for an additional rate  
22 case. So I was also concerned about not only was a  
23 20 percent increase a very large increase within a  
24 three-year period, I was concerned about the future  
25 increase. And so I thought it was inappropriate at that

1 point in time to further increase those rates to shift  
2 toward cost-based rates.

3 MR. DUFFY: That's all the questions I have,  
4 your Honor.

5 JUDGE REGISTER: Thank you, Mr. Duffy.

6 Mr. Lewis, I think that you can be excused.  
7 Given the circumstances, we're going to excuse Mr. Lewis  
8 from the hearings today and tomorrow. If there would be  
9 something that would come up, we would need to have him  
10 again, but that's an outside possibility.

11 THE WITNESS: Thank you, Judge.

12 JUDGE REGISTER: Thank you, Mr. Lewis.

13 Okay. Tracy, let's go off the record for a  
14 minute.

15 (A RECESS WAS TAKEN.)

16 JUDGE REGISTER: Let's go ahead and go back on  
17 the record. And, Staff, would you like to proceed with  
18 Mr. Beck?

19 MR. FRANSON: Mr. Schwarz will be doing this.

20 MR. SCHWARZ: Does he need to be sworn?

21 JUDGE REGISTER: You're right. He does.

22 (Witness sworn.)

23 JUDGE REGISTER: Thank you, Mr. Beck. Please  
24 be seated.

25 DANIEL I. BECK testified as follows:

1986  
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573-442-3600 COLUMBIA, MO

1 DIRECT EXAMINATION BY MR. SCHWARZ:

2 Q. Would you state your name for the record,  
3 please.

4 A. Daniel I. Beck.

5 Q. And where are you employed?

6 A. I'm employed with the Missouri Public Service  
7 Commission.

8 Q. And are you the same Daniel Beck who caused to  
9 be filed previously in this case direct testimony, which has  
10 been marked and admitted as Exhibit 131; supplemental  
11 direct, which was marked Exhibit 132; rebuttal, which was  
12 marked Exhibit 133; and surrebuttal testimony, which was  
13 marked 134?

14 A. Yes, I am.

15 Q. And have you also submitted rebuttal testimony  
16 on remand which has been marked as Exhibit 183?

17 A. Yes, I did.

18 Q. And with respect to Exhibit 183, if I ask you  
19 the same questions as were propounded therein, would your  
20 answers be the same?

21 A. Yes, they would.

22 Q. And are the answers true and correct, to the  
23 best of your knowledge?

24 A. Yes.

25 Q. Do you have any corrections to make to your



1 testimony?

2 A. No, I do not.

3 MR. SCHWARZ: With that, I would offer  
4 Exhibit 183 and tender Mr. Beck for cross-examination.

5 JUDGE REGISTER: Okay. Are there any  
6 objections to the admission of Exhibit 183 into the record?

7 Hearing none, the Exhibit 183 is admitted into  
8 evidence.

9 (EXHIBIT NO. 183 WAS RECEIVED INTO EVIDENCE.)

10 JUDGE REGISTER: And for cross-examination we  
11 go to Mr. Duffy for MGE.

12 MR. DUFFY: No questions at this time.

13 JUDGE REGISTER: Okay. And, Mr. Micheel, did  
14 you have any questions for Public Counsel?

15 MR. MICHEEL: No questions at this time, your  
16 Honor.

17 JUDGE REGISTER: And, Mr. Conrad, for Midwest  
18 Gas Users'?

19 MR. CONRAD: Yes. A few, your Honor.

20 JUDGE REGISTER: Please proceed.

21 CROSS-EXAMINATION BY MR. CONRAD:

22 Q. Good morning, Mr. Beck.

23 A. Good morning.

24 Q. Mr. Beck, you participated in some aspects of  
25 the hearing -- the original hearing in this case, didn't

1       you?

2               A.       That's correct.

3               Q.       And some of the -- some other issues besides  
4       those that we have reserved for today?

5                       JUDGE REGISTER: I didn't understand the  
6       question.

7       BY MR. CONRAD:

8               Q.       The pause that I've elicited from the witness  
9       suggests to me that I didn't make myself clear and I may  
10      have confused him. When I said "participate," Mr. Beck, I  
11      was meaning had you had any other opportunity to testify in  
12      GR-96-285?

13              A.       Yes, I did.

14              Q.       Okay. Now, at the time the hearing closed in  
15      96-285, what was your position, Mr. Beck, insofar as the  
16      appropriate adjustments that should be made to class cost of  
17      service?

18              A.       I did not testify to the appropriate  
19      adjustments for class cost of service in total. Instead, I  
20      was sponsoring specific allocators that were used in the  
21      class cost of service that Anne Ross put together -- Staff  
22      Witness Anne Ross.

23              Q.       And it was your position then, I take it, that  
24      those allocators should be used in preference to those of  
25      any other party. Correct?

1           A.       That's correct.

2           Q.       And just by way of introduction, generally you

3       took issue with Mr. Gillmore's work and Public Counsel's

4       work?

5           A.       With regard to allocations of mains, meters,

6       regulators, services.

7           Q.       That's what we're focusing on --

8           A.       Yes.

9           Q.       -- today, of course.

10                  Okay. Let's start then on page 6 of your

11       direct, which is Exhibit 131, your Honor. And let me direct

12       you to lines 15 through 19, and take a second and reacquaint

13       yourself with that and let me know when you're there.

14           A.       Could you give me that cite one more time?

15           Q.       Page 6.

16           A.       Of?

17           Q.       Of your direct.

18           A.       Okay.

19           Q.       Lines 15 through 19. There's an answer there.

20           A.       Okay.

21           Q.       Are you there, sir?

22           A.       Yes, I am.

23           Q.       Okay. I take it from that answer that you,

24       for your purposes, did not use data from MGE's service

25       territory; is that correct?

1           A.       That is -- it is correct that I did not use  
2 data from all the counties in MGE's service territory.

3           Q.       Well, I take it your answer there indicates  
4 that the data that you used was available sampled data; is  
5 that correct?

6           A.       Yes. That is exactly what it says in line 17.

7           Q.       And you used that because data from MGE  
8 to -- your preparatory statement there, you tried to obtain  
9 complete property records. That data was unavailable.  
10 Correct?

11          A.       The -- the only confusion I'm having here --  
12 and I'm not trying to be argumentative -- is just simply  
13 that some of the data -- a small portion of the data that I  
14 used was part of MGE's service territory, but there were  
15 other portions of the data that I used that was not. And so  
16 I'm not trying to -- and I certainly do not want to  
17 represent that small portion that I used as being  
18 representative of MGE.

19          Q.       Would I be correct that your sample data is  
20 shown on Schedule 4 of your direct?

21          A.       That is correct.

22          Q.       Where did this data come from, Mr. Beck?

23          A.       This data was developed by Staff -- let me see  
24 if I have a cite, but basically was developed by Staff in  
25 previous work to -- and actually, it's a compilation of

1 multiple cases of data -- data from multiple cases that we  
2 developed.

3 Q. I see there the name of a community that we've  
4 become familiar with the last few weeks, Brunswick. Where  
5 is Brunswick located? About the third of the way down.

6 A. I was going to say I don't even see it on the  
7 list. I can honestly not say.

8 Q. Do you know where Passaic is?

9 JUDGE REGISTER: Can you spell that?

10 MR. CONRAD: The very first one on the list,  
11 your Honor, P-a-s-s-a-i-c.

12 JUDGE REGISTER: Schedule 4.

13 THE WITNESS: I cannot recall where Passaic  
14 is.

15 BY MR. CONRAD:

16 Q. Do you know, Mr. Beck, what natural gas  
17 company provides service to Butler?

18 A. Yes.

19 Q. What natural gas company provides service to  
20 Butler?

21 A. Well, at the time of this filing or today?

22 Q. We've turned the clock back, so we're talking  
23 about the period of time that you had filed this testimony.

24 A. Okay. Arkansas Natural Gas filed -- or it was  
25 a district -- there was a Butler district of Arkansas

1 Natural Gas at that time.

2 Q. Now, the county data that you referenced for  
3 MGE, would that be Buchanan, third from the bottom?

4 A. I'm sorry. The county data that I referenced  
5 for MGE?

6 Q. On Schedule 4.

7 A. Buchanan County is the third one listed if  
8 that's what your -- the question you're asking.

9 Q. Is that in MGE's service territory?

10 A. No. To my -- to my knowledge, it's not.

11 Q. Is St. Louis or St. Louis County in MGE's  
12 service territory?

13 A. No.

14 Q. Would you agree with me that you've never used  
15 Kansas City data for Missouri Gas Energy?

16 A. No. I would not.

17 Q. Where is Kansas City data on this Schedule 4?

18 A. I honestly can't recall. I -- I know one of  
19 the things I was just glancing at when I made that answer is  
20 Jackson, which is actually a town and not a county. So I  
21 cannot identify specifically any one town that's in MGE's  
22 service territory.

23 Q. So let me then ask the question again after  
24 you've refreshed your recollection. Is it true that you've  
25 never used Kansas City data for the analysis of Missouri Gas

1 Energy?

2 A. For the specific calculations of property  
3 parcels at this time, I would have to say that's true  
4 without further review.

5 Q. I take it then that your assertion is that  
6 St. Louis and St. Louis County must be comparable to Kansas  
7 City. Is that your assertion?

8 A. They're certainly similar.

9 Q. What investigation have you made to verify  
10 comparability?

11 A. I don't think that I did any study per se,  
12 that -- to analyze that.

13 Q. Now, is the point of this, Mr. Beck, to  
14 calculate some average sized -- I think you used the term  
15 parcel or lot, property? Is that a fair characterization?

16 A. That's correct.

17 Q. Where on -- well, let me first ask you, what  
18 did you calculate was the average size residential lot or  
19 parcel?

20 A. At the -- I guess it would be four lines up,  
21 third number over is .25 acres.

22 Q. Forgive me. Were we still on Schedule 4, your  
23 reference, sir?

24 A. Yes.

25 Q. Well, that's the figure at the bottom of the

1 column that says area stroke parcel. Right?

2 A. Yes.

3 Q. Quarter acre is the average?

4 A. Yes.

5 Q. Now, where on the average size, residential  
6 lot do you assume the load that is being served is located?

7 A. The calculations that we performed really  
8 don't try to locate the exact spot where the load is  
9 located. Instead what the calculations do is try to  
10 determine what one side of that parcel would measure, what  
11 that distance would be.

12 Q. Well, let's jump ahead. The purpose of that  
13 really, Mr. Beck, isn't that to try to get some handle on  
14 the length of the line? Isn't that what your objective is?

15 A. It would be the length of -- the length of the  
16 main that is specifically located from the previous property  
17 owner's take point to that property owner's take point.

18 Q. Now, if I was looking again at Schedule 4 and  
19 following the lead that you have identified, would I  
20 correctly read that you're identifying the large volume area  
21 stroke parcel at 19.38 acres?

22 A. That's correct.

23 Q. Are you making an assumption regarding the  
24 shape? Are you assuming that it's square?

25 A. Yes. That is -- that is an assumption.



1           Q.       Just in an effort, Mr. Beck, to try to kind of  
2       shortcut that, have you done any study at all to actually  
3       verify the locations of loads -- natural gas loads that  
4       might be located on industrial properties in the Kansas City  
5       area, the service area of MGE?

6           A.       No. We have not done any study to locate  
7       where the loads are on those lots.

8           Q.       Let me ask you, Mr. Beck, now, to turn,  
9       please, to your supplemental direct.

10                  MR. CONRAD: I'm struggling for the exhibit  
11       number, your Honor, and not finding it.

12                  JUDGE REGISTER: 132.

13                  MR. CONRAD: I believe it was 132, yes. Thank  
14       you.

15       BY MR. CONRAD:

16           Q.       And I'd ask you there, Mr. Beck, to turn to  
17       what you've labeled as Revised Schedule 5. Let me know when  
18       you're there and you find that reference.

19           A.       Yes, I'm there.

20           Q.       Could you tell me very briefly why you  
21       prepared this schedule?

22           A.       There were several updates to the data. In  
23       this case there was changes to the customer numbers and to  
24       the peak demands. And it appears -- let me make -- be  
25       specific -- also to the length of main per customer.

1           Q.       So Revised Schedule 5 then reflects those  
2 updates, does it not?

3           A.       That's correct.

4           Q.       Okay. Let me direct your attention to the  
5 column that's identified Main Length Stroke -- or I take it  
6 that's a per customer. Are you with me so far?

7           A.       Yes, I am.

8           Q.       Does that show an average length of main for  
9 an LVS customer as 667 feet?

10          A.       Yes, it does.

11          Q.       Now, if I went to the store and asked the  
12 person to supply me with pipe that was 5.1119 inches in  
13 diameter on that same line, what store would you direct me  
14 to to find that size pipe?

15          A.       I'd say it would be a very specialty type  
16 store.

17          Q.       Probably the five-inch pipe. Right?

18          A.       Do you mean would the store then try to sell  
19 me the five-inch pipe?

20          Q.       Well, that would probably be what they have,  
21 wouldn't it?

22          A.       That would probably be true.

23          Q.       Now, would you agree with me that most, if not  
24 all, of the LVS customers that you've identified that have  
25 an average length of main of 670-- 667 feet would have

1 delivery requirements that exceed 600 MCF annually?

2 A. I really couldn't say what their annual  
3 delivery take would be.

4 Q. Do you know what the tariff requirements are,  
5 Mr. Beck, to become an LVS customer?

6 A. I certainly don't have those in front of me.

7 Q. Let me ask the question this way, Mr. Beck,  
8 see if it rings a bell with you. Are you aware of any  
9 limits on the amount of main that MGE is required as a  
10 matter of its tariffs to provide to a customer at no cost to  
11 the customer?

12 A. There are main extension tariffs that detail  
13 those.

14 Q. Have you had occasion to look at those tariffs  
15 ever --

16 A. Yes, I have.

17 Q. -- in your work?

18 MR. CONRAD: Your Honor, I'm going to have an  
19 exhibit.

20 JUDGE REGISTER: Be Exhibit 185.

21 MR. CONRAD: Thank you.

22 JUDGE REGISTER: I'm marking this as MGE  
23 Tariff Sheet R-59.

24 MR. CONRAD: Right.

25 (EXHIBIT NO. 185 WAS MARKED FOR

1 IDENTIFICATION.)

2 JUDGE REGISTER: And that's marked as Exhibit  
3 No. 185 for identification. Proceed.

4 MR. CONRAD: Thank you, your Honor.

5 BY MR. CONRAD:

6 Q. Mr. Beck, I've handed you what's been marked  
7 for purposes of identification as Exhibit 185. Would you  
8 describe this document, if you can, please?

9 A. It is a -- it is Tariff Sheet No. R-59 for  
10 MGE's service territory.

11 Q. And this is something you mentioned you had  
12 occasionally worked with before, you've seen this before?

13 A. That's correct.

14 MR. CONRAD: Your Honor, although this is part  
15 of what I think is on file with the Commission and so  
16 perhaps notice would be appropriate, I would move its  
17 admission.

18 JUDGE REGISTER: Any objections to admitting  
19 Exhibit No. 185 into the record at this time?

20 Hearing no objections, Exhibit 185 is admitted  
21 into the evidence.

22 (EXHIBIT NO. 185 WAS RECEIVED INTO EVIDENCE.)

23 MR. CONRAD: Thank you, your Honor.

24 BY MR. CONRAD:

25 Q. Mr. Beck, let me draw your attention now to

1 paragraph 9.04.

2 A. Uh-huh.

3 Q. And I won't ask you to read that, but if you  
4 would take just a moment and -- I mean, I won't ask you to  
5 read it aloud and burden the record with that, but if you  
6 would take just a moment and familiarize yourself with that,  
7 please.

8 A. Okay.

9 Q. Would it be a fair characterization of that to  
10 say that provision applies to customers who would use more  
11 than 600 MCF of gas annually?

12 A. Yes.

13 JUDGE REGISTER: I'm going to -- excuse me.  
14 Just for clarification, your question is about the part that  
15 starts at the bottom, 9.04?

16 MR. CONRAD: Yes, ma'am.

17 JUDGE REGISTER: Okay. Thank you. Go ahead  
18 and proceed.

19 MR. CONRAD: I think the witness had answered  
20 yes to that question.

21 JUDGE REGISTER: Yes.

22 BY MR. CONRAD:

23 Q. Would it also be a fair characterization that  
24 paragraph 9.04 demarks a procedure that customers of that  
25 size or greater would have to go through some kind of an

1 economic analysis of the character of the service requested  
2 including the estimated revenue to be derived from that  
3 service before the company would hook them up?

4 A. Yes. I think it's the -- the analysis would  
5 be the character of service, the estimated revenue, and the  
6 estimated expense.

7 Q. And it would also be subject to potentially  
8 other terms and conditions, that very last sentence, as they  
9 might agree?

10 A. That's correct.

11 MR. CONRAD: Your Honor, let me give you  
12 another exhibit, please.

13 JUDGE REGISTER: The next exhibit will be  
14 marked for identification as 186. I'm identifying it as MGE  
15 Tariff Sheet R-58.

16 (EXHIBIT NO. 186 WAS MARKED FOR  
17 IDENTIFICATION.)

18 BY MR. CONRAD:

19 Q. Mr. Beck, I've now shown you -- laid before  
20 you actually what has been marked by the Regulatory Law  
21 Judge for identification as Exhibit 186. I ask you again if  
22 you would identify that document?

23 A. This is Sheet No. R-58 of MGE's tariffs.

24 Q. And this again is something, I take it, that  
25 you had indicated you worked with and are familiar with?

1           A.       That's correct.

2           MR. CONRAD: Your Honor, I'd move admission of  
3 Exhibit 186 again, even though it's part of the Commission's  
4 records.

5           JUDGE REGISTER: Any objections to admission  
6 of Exhibit 186 into the record?

7           Hearing none, Exhibit 186 is admitted into the  
8 record.

9           (EXHIBIT NO. 186 WAS RECEIVED INTO EVIDENCE.)

10          JUDGE REGISTER: Proceed, Mr. Conrad.

11          MR. CONRAD: Thank you.

12 BY MR. CONRAD:

13          Q.       Mr. Beck, referring now to Exhibit 186 and  
14 specifically to paragraph 9.02, please take just a moment  
15 and refamiliarize yourself with that and let me know when  
16 you've kind of read through it.

17          A.       I have.

18          Q.       Very well. Would it be a fair  
19 characterization of that provision that it would apply to  
20 firm customers with annual requirements less than 600 MCF?

21          A.       That's correct.

22          Q.       Based very quickly, Mr. Beck, on your  
23 experience in this field, would you agree with me that a  
24 typical or average residential customer would use about 125  
25 to perhaps 130 MCF in a year?

1           A.       I would say no more than that probably, but  
2       somewhere in -- in that range.

3           Q.       So would it be a fair characterization then of  
4       this provision that it would be applicable to new  
5       residential customers?

6           A.       That would certainly be one of the groups.

7           Q.       Could also apply to small general service  
8       customers, I take it?

9           A.       That's correct.

10          Q.       As long as they were less than 600 MCF in a  
11       year?

12          A.       That's correct.

13          Q.       Would it also be a fair characterization that  
14       as long as the main extension that would be required to  
15       attach that customer was 75 feet or less, that there would  
16       be no charge to the customer for doing that hook-up?

17          A.       No. That would not be correct because there's  
18       an exception there, the second sentence from the last  
19       that -- that it could be required for unusual construction  
20       conditions.

21          Q.       That's what somebody might characterize -- I  
22       recall that you're an engineer. You've heard what we call a  
23       rock clause, haven't you?

24          A.       Uh-huh. Yes, I have.

25          Q.       And would you say that that sentence would



1 constitute a rock clause?

2 A. Yes. Rocks, going under someone else's  
3 building, fun things like that.

4 JUDGE REGISTER: Okay. But for the record,  
5 what is a rock clause?

6 MR. CONRAD: Do you want --

7 THE WITNESS: Basically --

8 MR. CONRAD: I would ask the witness if he --

9 THE WITNESS: The language -- the language in  
10 the tariff says, Unusual construction conditions or  
11 barriers. And that's really what we're talking about here  
12 is the situation where the conditions are very unusual and  
13 there are -- or there's a clear barrier to the company  
14 putting in a line. That that's -- in that case, for  
15 example, just because you're going 75 feet doesn't mean it's  
16 anything near a typical installation.

17 JUDGE REGISTER: Doesn't mean a straight 75?

18 THE WITNESS: It may not be straight. You may  
19 have to go, you know, significantly lower than you normally  
20 do. You may have to chip rock out piece by piece just to --  
21 so you have a place to lay the pipe. Again, you may have  
22 some building that you have to go around or under. I mean,  
23 all these things do happen in real life.

24 JUDGE REGISTER: Okay. Thank you.

25 BY MR. CONRAD:

1           Q.       Subject to that exception, which I take it  
2       you've indicated is the exception rather than the rule, the  
3       example -- or the Regulatory Law Judge used the term "a  
4       straight 75." If the extension was a straight 75 under this  
5       provision, would the company be paying for that or the  
6       customer?

7           A.       If it was a straight 75 without the  
8       exceptions, the company would be paying for that.

9           Q.       Now, Mr. Beck, would you agree with me --  
10      well, strike that.

11                    If I understand your testimony, Mr. Beck, the  
12      stand-alone costs that you've calculated represents only a  
13      portion of the total installed cost of the service lines.  
14      Would that be a correct statement?

15           A.       The stand-alone costs represent a portion of  
16      the replacement costs value of the total system.

17           Q.       Okay. I asked the question rather poorly and  
18      I think I used -- I think I may have used the term "service  
19      lines," but you took it the way I intended it, Mr. Beck, the  
20      total system. I apologize if I confused you. But it is  
21      just a portion?

22           A.       It's -- yes, it's a portion of replacement  
23      costs.

24           Q.       Now, if I'm looking again at Revised  
25      Schedule 5, do I correctly understand your Revised

1 Schedule 5 that the stand-alone cost for all the classes  
2 totals to \$371.8 million?

3 A. The replacement stand-alone cost is 371 --  
4 well, \$371 million with a few more decimal places behind it.

5 Q. I said 371.8, but 371 million and some change?

6 A. Yes.

7 Q. If you walked in with a \$372 million bill,  
8 you'd get some money back?

9 A. Yes, you would.

10 Q. Now, you understand, Mr. Beck, that that's  
11 greater than the total rate base for MGE in this case?

12 A. Yes, I do.

13 Q. And I take it that you would agree with me  
14 that it is the value of the rate base that is used to  
15 determine MGE's revenue requirement; is that correct?

16 A. That is correct.

17 Q. And that rate base is valued for rate-making  
18 purposes at original cost less accumulated depreciation?

19 A. That's correct.

20 Q. Now, are you proposing to revalue all of MGE's  
21 rate base at its replacement value so that you could  
22 recalculate MGE's revenue requirement?

23 A. No. No, I'm not.

24 Q. Would you agree with me that if you did so  
25 based on your numbers, that it would end up being something

1       like \$1.3 billion?

2               A.       I seem to remember that figure out in  
3       testimony, so -- I believe it was actually citing --  
4       Mr. Kies' testimony citing OPC's number, but I think ours --  
5       our number should have come up with a number pretty close to  
6       that.

7               Q.       Well, let me help me help you out a little  
8       bit. Look at your rebuttal, page 17.

9               JUDGE REGISTER: Number of that exhibit?

10              MR. CONRAD: I believe that would be 133, your  
11       Honor.

12              JUDGE REGISTER: Thank you. What was that  
13       page number?

14              MR. CONRAD: Page 17.

15       BY MR. CONRAD:

16              Q.       And then line 15.

17              A.       Yes. 1.3 billion and the infamous change.

18              Q.       And really what you're discussing there at  
19       lines 13 through 15 of page 17 of Exhibit 133 is calculating  
20       a ratio of replacement costs for two-inch main to the  
21       replacement cost for the total distribution system. And so  
22       the way I understand that sentence to read is the  
23       replacement costs for the total distribution system would be  
24       that \$1.3 billion number. Right?

25              A.       That's right.

1           Q.       Now, I understand, Mr. Beck, that the more  
2       recent installations -- and I want to drop a footnote on  
3       recent installations, what we're talking about again is the  
4       test period in this case.

5           A.       Okay.

6           Q.       That the more recent installations, at least  
7       at the time you were doing this work, had been a plastic  
8       pipe. Correct?

9           A.       The majority of mains that are put in these  
10      days are plastic pipe.

11          Q.       And would you agree with me that it is the  
12      larger and the older installations that you have priced as  
13      replacement costs supposedly to account for the effective  
14      inflation?

15          A.       The -- may I repeat the question? I believe  
16      the question was, is it the larger and the older costs are  
17      the ones that I used to calculate replacement costs. And  
18      the answer is, no. I used all of the book costs and  
19      escalated all of those values to calculate a replacement  
20      value, not just one -- not just the old.

21          Q.       But in order --

22          A.       Forgive me.

23          Q.       I'm sorry. I didn't mean to -- I thought  
24      you'd finished. Had you finished your answer?

25          A.       Yes, I had.

1           Q.     Let me ask you to turn back to your page 10 of  
2     your rebuttal testimony and draw your eye down toward the  
3     bottom of the page to line 22 and following.

4           A.     Yes.

5           Q.     You use the term there -- actually I believe  
6     on line 23 -- of "vintage"?

7           A.     Yes.

8           Q.     What are you referring to by vintage?

9           A.     The age of the various pieces of pipe in the  
10    company's database.

11          Q.     Now, have you priced upward the cost of \$5.30  
12    per foot for the plastic pipe?

13          A.     That -- those are the company's numbers from  
14    their minimum system study.

15          Q.     But your indication here is that -- I'm  
16    looking again at line 22 on that page, that one foot of the  
17    two-inch plastic main is more than 100 percent higher of the  
18    other materials --

19          A.     That's correct.

20          Q.     -- due to vintaging?

21          A.     That's correct.

22          Q.     And the plastic is what you're looking at on a  
23    more current basis; is that correct?

24          A.     I think that would be a fair characterization,  
25    that the vintage of plastic pipe would be newer.

1           Q.     And indeed right above that, line 9, you're  
2     indicating there in the answer that begins on line 9, the  
3     company's plastic mains are newer vintage?

4           A.     That's correct.

5           Q.     So when you at the bottom of page 10 refer to  
6     the handy Whitman indices to adjust the historic cost, isn't  
7     it true that you are referring to older installations?

8           A.     I am referring to all installations that took  
9     place prior to the test year basically.

10          Q.     But would you agree with me, Mr. Beck, that  
11     the effect of the adjustment that you reference there is  
12     greater on older installations than on the brand-new ones?

13          A.     Certainly. Because what you're trying to do  
14     is account for the effects of inflation.

15          Q.     Now, are you familiar, Mr. Beck, with the  
16     concept of depreciation?

17          A.     Yes.

18          Q.     And I take it you might agree with me that if  
19     there were two customers whose installations were made at  
20     the same original cost but one had been in place and subject  
21     to depreciation for 20 years while the other had been  
22     installed for only two years, the value on the utility's  
23     books of the investment for the older customer would be  
24     lower than that of the more recent installation?

25          A.     Yes. Given that scenario, that's true.

1           Q.     Now, you indicated you are familiar with the  
2     concept of depreciation, Mr. Beck, and I have no intention  
3     of taking you deeply into that subject, but you have --

4           A.     I appreciate that.

5           Q.     -- you have done some depreciation studies, I  
6     take it?

7           A.     No, I have not.

8           Q.     You haven't. Okay. Would you be able to  
9     respond as to a typical depreciation period for meters,  
10    regulators, service lines from your experience?

11          A.     I -- I don't know that I could really -- I  
12    mean, I could give a ballpark, but I don't know that it  
13    would be of much value to the Commission.

14          Q.     Well, why don't you give the ballpark and let  
15    the Commission decide?

16          A.     Okay. Well, given the codicil that it's a  
17    ballpark estimate, somewhere in the 20- to 30-year range.

18                 MR. CONRAD: Forgive me, your Honor. Just a  
19    moment.

20    BY MR. CONRAD:

21          Q.     Now, Mr. Beck, have you, in the course of your  
22    work here, made any study of the age of some of the customer  
23    installations for the larger customers on the system?

24          A.     No. I have not made any study on the specific  
25    ages.



1           Q.     And just for an example, Mr. Beck, do you know  
2     how long the Federal Government's installation at 95th and  
3     Troost in Kansas City has been there?

4           A.     No, I do not.

5           Q.     Do you have any idea how long there has been a  
6     steel plant located on the Blue River in Kansas City?

7           A.     No.

8           Q.     Would you agree with me that it's entirely  
9     possible that for some of those installations, that they  
10    have been in place for a sufficient period of time that the  
11    original value of the installation has been completely or  
12    nearly completely depreciated off of MGE's books?

13          A.     That would certainly be possible.

14          Q.     Now, are you generally familiar with MGE and  
15    its predecessor's service line replacement program?

16          A.     Generally, yes.

17          Q.     We've kind of been calling that from one time  
18    to the next SLRP?

19          A.     Yes. That's the acronym.

20          Q.     Would you just very briefly -- I don't want to  
21    get into a narrative here, but just tell me what you  
22    understand that program to be.

23          A.     Briefly, I understand that program to be that  
24    there were serious problems with the service lines and,  
25    therefore, the company -- and actual accidents that occurred

1 and, therefore, the company began a program to replace the  
2 older lines.

3 Q. Do you occasionally get, coming across your  
4 desk, news bulletins from the utilities that you work with?

5 A. Occasionally, I guess.

6 Q. Would you be able to identify one if I were to  
7 provide you a copy?

8 A. I -- I don't think I could say without seeing  
9 the document.

10 Q. That's fair.

11 MR. CONRAD: That's my lead-in, Judge. I've  
12 got another exhibit.

13 JUDGE REGISTER: Exhibit No. 187. Right?

14 MR. CONRAD: I think that's correct.

15 JUDGE REGISTER: Let's go off the record a  
16 moment, Tracy.

17 (EXHIBIT NO. 187 WAS MARKED FOR  
18 IDENTIFICATION.)

19 (A RECESS WAS TAKEN.)

20 JUDGE REGISTER: And we have had our lunch  
21 break and we are resuming the record. We were in the  
22 testimony of Mr. Beck. And Mr. Stuart Conrad was  
23 cross-examining on behalf of his client, Midwest Gas Users'  
24 Association.

25 And we had a discussion just briefly

1 previously off the record about Exhibit 154 and Exhibit 155.  
2 And this is the direct testimony of Michael Noack and the  
3 rebuttal testimony of Michael Noack.

4 And Mr. Conrad tells me that he doesn't  
5 believe there's any testimony here which affects the issues  
6 which are now before the Commission, is that right,  
7 Mr. Conrad?

8 MR. CONRAD: Yeah. That's correct. Mr. Noack  
9 has gone over to the other side.

10 JUDGE REGISTER: He's now employed by Missouri  
11 Gas Energy is what I understood you to say.

12 MR. CONRAD: And I would reflect that he was  
13 perceived by them to be -- I have it on his counsel's  
14 authority that he was a very damaging witness and so they  
15 thought it was better to just hire him. But more to the  
16 point --

17 JUDGE REGISTER: That would be tongue in  
18 cheek.

19 MR. CONRAD: -- the issues that were covered  
20 by the direct, 154, and the rebuttal, 155, with Mr. Noack  
21 upon review are not part of the issues that are in this  
22 proceeding.

23 And while that is before me too, I would also  
24 mention just for the record and for the benefit of the  
25 Commission, I believe Mr. Lewis had made reference -- and I

1 actually had intended to do this and I forgot to -- had made  
2 reference at one portion of his testimony to an issue  
3 about -- forgive me, Gary, the issue that I'm thinking of is  
4 one that was actually part of the court's order, but has  
5 been subsequently resolved by the Commission order in  
6 98-140. And that was the --

7 MR. MICHEEL: Tariff sheet 68.

8 MR. CONRAD: -- tariff sheet issue. Thank  
9 you. I can't remember the number, but I think it was 68 or  
10 something like that.

11 MR. DUFFY: That's my recollection.

12 MR. CONRAD: What I had so aptly characterized  
13 as the steal-your-gas provision that has been since removed,  
14 expunged from the tariff. That also, your Honor, is not an  
15 issue before us, even though I think that actually was  
16 within the scope of several things that the court did do  
17 because by the time that happened, that had already been  
18 disposed of by the Commission in the later case. I don't  
19 know if that helps.

20 JUDGE REGISTER: I appreciate you making that  
21 record. I know we talked about that at prehearing, and I  
22 had forgotten that at this point, so I'm glad you did  
23 mention it.

24 MR. CONRAD: So for the same reason, the  
25 people don't have to brief that again.

1 JUDGE REGISTER: Okay. Is there anything else  
2 preliminary before we resume the cross-examination of Daniel  
3 Beck?

4 Okay. Then I will ask you to proceed,  
5 Mr. Conrad. We were marking Exhibit 187. And everybody's  
6 had an opportunity to read that?

7 Mr. Conrad, go ahead.

8 MR. CONRAD: No. I'll defer if you want to --

9 JUDGE REGISTER: No. I just wanted to make  
10 sure that no one needed additional time on that.

11 BY MR. CONRAD:

12 Q. Mr. Beck, just to briefly kind of recap, I  
13 think just before we had taken the lunch break, I had laid  
14 before you a copy of what's been marked for identification  
15 as Exhibit 187 being a news bulletin of sorts from KPL Gas  
16 Service. Do you recognize the name KPL Gas Service?

17 A. I do recognize that name, yes.

18 Q. My understanding is you've been with the  
19 Commission since November of '87; is that correct?

20 A. That's correct.

21 Q. Let me direct your attention down one, two,  
22 three, I think the fourth and fifth paragraphs on this. And  
23 perhaps you had a chance to review it over the lunch break.  
24 Did you have a chance to look at it?

25 A. Yes. And this is the first time I've seen

1       this document.

2               Q.       Okay.  So you're not in a position to  
3       authenticate it, but does that help you in refreshing your  
4       recollection about the purpose of the SLRP program?

5               A.       I think it is consistent with what my  
6       knowledge of the SLRP program is.

7               Q.       And that, I take it, would be generally stated  
8       as a replacement program of the unprotected steel service  
9       and yard lines within MG-- what is now MGE's service  
10      territory?

11              A.       Yes.  That is -- that is correct.

12              Q.       And just to be clear, so it's not just hanging  
13      out there, would you agree with me that KPL Gas Service was  
14      one of the several predecessor companies to what is now  
15      known as Missouri Gas Energy insofar as the service  
16      territory is concerned?

17              A.       My recollection is, is that actually KPL owned  
18      more than just MGE's service territory, but they did own  
19      MGE's service territory.

20              Q.       And this would have been about the time, give  
21      or take, that that program was getting started?

22              A.       I -- the fall of 1988 is what this document  
23      says, and I have nothing to dispute that.

24              Q.       Okay.  Okay.  Now, Mr. Beck, I want to kind of  
25      change gears with you and -- have you been involved -- you

1       were involved in the 96-285 case, the part of it we're  
2       hearing today and the earlier portion. Right?

3             A.       That's correct.

4             Q.       Were you involved in the prior case, which  
5       would have been KPL Gas Service?

6             A.       No, I was not.

7             Q.       Okay. Would you be able, generally, to agree  
8       with me that the rate base for this company has been  
9       increasing over a period of time?

10            A.       Given -- given the questions that went on --  
11       or the topics that went on prior, could you define the  
12       period of time that I can address?

13            Q.       Okay. Let's say the last six or seven years.  
14       Let's say since -- you started with the Commission in  
15       November of '87?

16            A.       That's correct.

17            Q.       And although you didn't work on the case, you  
18       probably, you know, had some contact maybe with people that  
19       did. Correct?

20            A.       They worked in the same department, if that  
21       counts.

22                    MR. DUFFY: It sounds like a contagious  
23       disease.

24       BY MR. CONRAD:

25            Q.       Are you familiar with something called the

1 Exhibit Manipulation System?

2 A. I've heard that term used.

3 Q. You've heard the term "EMS run," haven't you?

4 A. Yes.

5 Q. Okay. Would you recognize a Staff EMS run if  
6 I were to lay one before you?

7 A. In this GR-96-285 I'm sure I would.

8 Q. And you probably recognize it in at least  
9 insofar as format?

10 A. Yes. Format is fairly standard.

11 MR. CONRAD: I have an exhibit.

12 JUDGE REGISTER: This will be Exhibit 188. Do  
13 you have copies for everybody?

14 MR. CONRAD: Yes, ma'am.

15 JUDGE REGISTER: We can go off the record,  
16 Tracy.

17 (EXHIBIT NO. 188 WAS MARKED FOR  
18 IDENTIFICATION.)

19 JUDGE REGISTER: Go ahead, Mr. Conrad.

20 MR. CONRAD: Thank you, your Honor.

21 BY MR. CONRAD:

22 Q. Mr. Beck, let me ask you to look at what I've  
23 placed before you and has been marked for identification as  
24 Exhibit 188. And let's kind of work from the back on this  
25 because that may make the most logical sense of the



1 document.

2 MR. CONRAD: And I apologize, your Honor, for  
3 not getting the pages numbered, but we didn't have our  
4 numbering machine down here and I didn't want to just scrawl  
5 it.

6 BY MR. CONRAD:

7 Q. If you would come, Mr. Beck, about five pages  
8 from the back, you'll see there a copy of the Accounting  
9 Schedule 2, the lower right-hand corner 2-1. Do you happen  
10 to have the final accounting schedule that was put together  
11 in this case available to you?

12 A. I don't have it with me.

13 MR. CONRAD: Permission to approach, your  
14 Honor.

15 JUDGE REGISTER: Yes. Go ahead. And I'm  
16 going to -- I want to make sure I'm on the same page,  
17 because there are two documents that are marked Accounting  
18 Schedule -- actually more than two -- 2-1.

19 MR. CONRAD: For the benefit of the record,  
20 that's a function, I think, of that EMS system that always  
21 numbers that schedule the same.

22 JUDGE REGISTER: If I'm looking at the right  
23 one, this is the 11th page.

24 MR. CONRAD: Right. And if you look at the  
25 top of the page, it will say GR-98-25 G.

1                   MR. MICHEEL: When you say final accounting  
2                   schedule, do you mean the Staff's final accounting schedule,  
3                   the Public Counsel's?

4                   MR. CONRAD: Staff's final accounting  
5                   schedule. Are you guys using an EMS system?

6                   MR. MICHEEL: Sometimes we do, sometimes we  
7                   don't. I'm just trying to understand what schedule you're  
8                   talking about.

9                   MR. CONRAD: And I didn't know if you weren't.  
10                  I'm showing the witness what's dated  
11                  October 16, 1996 in a red binder.

12                 BY MR. CONRAD:

13                 Q.       And that appears -- there's several accounting  
14                 schedules there, Mr. Beck, but the one on top is the one --

15                 JUDGE REGISTER: What document is this marked  
16                 exhibit --

17                 MR. CONRAD: That is -- that would be  
18                 something, I believe, your Honor, from the main part of the  
19                 case. I don't have the full exhibit list, but that would be  
20                 Staff's accounting schedules.

21                 JUDGE REGISTER: It's not one of the exhibits  
22                 we have?

23                 MR. CONRAD: I think it's not one of the  
24                 exhibits that you have on your list today, but I think it  
25                 would probably be one -- I think it would be relatively high

1 in the numbers just because of the sequencing.

2 JUDGE REGISTER: Okay. And I've got the  
3 original list here. Let me make sure so we have this  
4 identified clearly in case one of the Commissioners do want  
5 to pull it out.

6 MR. CONRAD: Sure.

7 JUDGE REGISTER: Is that document there  
8 marked?

9 THE WITNESS: It's dated October 16th, if  
10 that --

11 BY MR. CONRAD:

12 Q. Mr. Beck, what does it say at the bottom right  
13 above the date? Does it say updated or --

14 A. Well, above Jefferson City, Missouri it says,  
15 Staff accounting schedules updated.

16 JUDGE REGISTER: I have a revised schedules, I  
17 have revised surrebuttal Schedules 1, 2 and 3.

18 MR. CONRAD: Witnesses sponsoring it would be  
19 various because of the nature.

20 JUDGE REGISTER: Okay. I'm wondering if it  
21 wasn't marked. Well, it may have been -- they may have  
22 separated it by schedule even. It's not on this list -- or  
23 I don't have anything that's just like that, so are you  
24 going to be offering that?

25 MR. CONRAD: I wasn't going to be offering

1       what I have in my folder. This is an extraction from that  
2       and two others.

3                   JUDGE REGISTER: Let me take a quick look at  
4       it.

5                   MR. CONRAD: Sure.

6                   JUDGE REGISTER: And everyone else has seen  
7       these updated accounting schedules?

8                   MR. DUFFY: No.

9                   JUDGE REGISTER: Okay.

10                  MR. MICHEEL: I'd have to look to make sure  
11       that those are consistent with the ones -- the last ones in  
12       the case.

13                  JUDGE REGISTER: Okay. Let's go off the  
14       record, Tracy, and let everybody take a look at this  
15       document.

16                  (Off the record.)

17                  JUDGE REGISTER: Okay. The exhibit that  
18       Mr. Conrad was referring to is Exhibit No. 7, Updated  
19       Accounting Schedules dated October 16, and they were  
20       admitted into the record it looks like October 21st.

21                  MR. CONRAD: And I withdrew those from  
22       Mr. Beck, but I'd like for him to --

23                  JUDGE REGISTER: Have those.

24                  MR. CONRAD: -- at least have an opportunity  
25       to look back over that.

1 JUDGE REGISTER: Go ahead and proceed with  
2 your questioning, Mr. Conrad.

3 BY MR. CONRAD:

4 Q. Okay. Mr. Beck, we had started from about the  
5 fifth page back. And are you able to locate that same  
6 accounting schedule, No. 2-1, pertaining to Case GR-96-285  
7 that appears to be dated here October 16, 1996, 1332 in the  
8 afternoon?

9 A. Yes, I have. And that is a part of that  
10 document.

11 Q. Okay. Now, that's not obviously a complete --  
12 that page and the four pages that follow are obviously not a  
13 complete copy of Exhibit 7, are they?

14 A. No. Not a complete copy.

15 Q. But that is at least the pertinent page kind  
16 of summarizing the rate base that was part of Staff's  
17 case -- I take it this is the final accounting schedule at  
18 least that we were provided. Would you agree with me as to  
19 that?

20 A. I think it was the last accounting schedule  
21 put into evidence.

22 Q. And looking then -- just holding that page  
23 with your thumb and then looking at the very first page of  
24 the packet that I've marked 188, could you just verify  
25 quickly --

1 MR. CONRAD: And, your Honor, the reason,  
2 frankly, I'm doing this is to avoid your subject to check --

3 JUDGE REGISTER: Thank you.

4 MR. CONRAD: -- problem to give the witness an  
5 opportunity to just see that we have transcribed the figures  
6 correctly to the summary.

7 BY MR. CONRAD:

8 Q. If you would do that, please, Mr. Beck.

9 A. Should I be verifying all the way down for  
10 GR-96?

11 Q. You can if you'd like. That would probably  
12 save us a little bit of time on that column, because I've  
13 tried to give you the main service meters and meter  
14 installation numbers.

15 A. Okay.

16 Q. And I think you'll find those at the  
17 appropriate points in the accounting schedules that follow.

18 A. Yes. I've identified that all those numbers  
19 were transcribed correctly under the column labeled  
20 GR-96-285.

21 Q. Okay. Now, Mr. Beck, would you now -- moving  
22 further forward in the packet from the run that was dated in  
23 October of 1996 --

24 JUDGE REGISTER: Are you talking about further  
25 in the packet Exhibit 188 --

1 MR. CONRAD: Yes, ma'am.

2 JUDGE REGISTER: -- or Exhibit 7?

3 MR. CONRAD: Yes, ma'am. I'm sorry. I

4 apologize. I didn't make that clear.

5 BY MR. CONRAD:

6 Q. Further forward in the packet, Mr. Beck, of

7 Exhibit 188. Would you agree with me that the next -- I

8 believe it is the next four pages would appear to be from an

9 EMS run of Mr. Solt -- you know who Mr. Solt is, by the way,

10 don't you?

11 A. Yes, I do. Also been referred to as Dr. Solt.

12 Q. Occasionally by the Court of Appeals. He can

13 hang that on the wall.

14 JUDGE REGISTER: I'm going to number your

15 pages, Mr. Conrad.

16 MR. SCHWARZ: In order from the back or in

17 order from the front?

18 JUDGE REGISTER: From the front.

19 MR. CONRAD: I do apologize, your Honor.

20 JUDGE REGISTER: It is good we can keep our

21 sense of humor here. From the front.

22 MR. CONRAD: The copier got the best of me

23 before I got a chance to get them numbered.

24 JUDGE REGISTER: With those machines that will

25 happen.

1 BY MR. CONRAD:

2 Q. Mr. Beck, although I'm not sure if it's my  
3 turn right now, but I would ask you to do the same brief  
4 verification operation on the 93-240 column.

5 JUDGE REGISTER: Okay. Before you do that --  
6 you can go ahead and start comparing those, if you would.  
7 The first page in the packet that refers to 93-240 is the  
8 one he's looking at?

9 MR. CONRAD: Yes, ma'am.

10 JUDGE REGISTER: And the next several pages  
11 after that; is that correct?

12 MR. CONRAD: Yes. All of those -- the next, I  
13 believe, three pages following that.

14 JUDGE REGISTER: Pages 7, 8, 9 and 10 in my  
15 numbered version here. If you'd like to number those pages,  
16 Mr. Beck, I'd --

17 THE WITNESS: Okay.

18 JUDGE REGISTER: -- give you time to do that.

19 THE WITNESS: And once again, the numbers have  
20 been transcribed correctly.

21 BY MR. CONRAD:

22 Q. And, finally, Mr. Beck, starting with, I  
23 believe, the page now that her Honor has numbered as page 2  
24 and carrying through to page 6 in that packet of 188 -- of  
25 Exhibit 188, please note that that's from GR-91-291, and



1 would ask you to check the columns and the figures on that  
2 GR-91-291 column.

3 A. Yes. These numbers are consistent. I would,  
4 however, add that just for the mains and some of the very  
5 specific categories they were -- they were compiled  
6 because the Staff EMS run had them broken down into smaller  
7 components. But the designation of the account with the  
8 three zeroes behind it basically implies that summary.

9 Q. Now, before you leave page 2, we've talked a  
10 few moments ago about KPL Gas Service Company. And you  
11 recognize that as at least the service territory predecessor  
12 to MGE. Right?

13 A. The immediate predecessor, yes.

14 Q. Would the same be true if you looked at  
15 page 7? That particular one pertains to Western Resources,  
16 Inc. You recognize that name also?

17 A. And I misspoke. Western Resources would --  
18 was the immediate predecessor. KPL was prior to that.

19 Q. And, actually, would you agree with me that  
20 KPL Gas Service Company and Western Resources are really one  
21 large entity or were at this time? At the time these were  
22 filed -- we're looking at a sequence, aren't we, Mr. Beck?

23 A. Yes, we are. And it --

24 Q. And it's all the same service territory?

25 A. It's all the same service territory that is

1       being served.

2                   MR. CONRAD: Now, your Honor, before I offer  
3       these, I'll make the note that what would be pages 11, 12,  
4       13, 14 and 15 would be from Exhibit 7, which is actually  
5       part of this record in this case.

6                   The other materials -- we do have the  
7       originals of the Staff accounting schedules here if anyone  
8       would like to look at them and do their own comparison, but  
9       they are documents on file at the Commission, so -- and I  
10      think the witness has -- let me ask.

11      BY MR. CONRAD:

12                  Q.       They appear, at least as you worked your way  
13      through the packet, to be Staff EMS runs?

14                  A.       Yes, they do.

15                  Q.       Even though you didn't personally work on but  
16      one or two of those cases, you recognize the format and so  
17      on?

18                  A.       That's correct.

19                  MR. CONRAD: All page 1 is, your Honor, that's  
20      not actually part of anyone's record as we've done it,  
21      that's just a summary sheet to avoid having to go line by  
22      line, number by number, to just try to bring it all  
23      together. So it's offered as really just a compilation.  
24      And I would with that then offer Exhibit 188.

25                  JUDGE REGISTER: Exhibit 188 --

1                   MR. SCHWARZ: I'll object, I think. I'm not  
2 clear that there is a foundation for -- certainly there -- I  
3 have no objection to the last -- well, page 11 and the  
4 following.

5                   JUDGE REGISTER: That's what I was going to  
6 say. Hang on just a second. 11 through 15 are already  
7 admitted into the record in Exhibit 7.

8                   MR. SCHWARZ: That's correct. That's my  
9 understanding.

10                  JUDGE REGISTER: So I'll take objections on  
11 Exhibit 188, 1 through 10 at this time.

12                  MR. SCHWARZ: There have -- actually I have  
13 objections -- my objection goes to pages 2 through 10  
14 because there's really no foundation. Mr. Beck has said  
15 that they appear to be in the same format as Staff EMS runs,  
16 but he's also stated that he did not work on -- specifically  
17 that he did not work on Case GR-93-240.

18                  And there's been certainly nothing to this  
19 stage to establish that he worked or didn't work on  
20 GR-91-291. There is no testimony that -- he is certainly  
21 not sponsoring these pages and has not done so.

22                  He has verified that the page No. 1 of this  
23 exhibit is an accurate summary of the subsequent pages, but  
24 certainly Mr. Beck has not provided a foundation for pages 2  
25 through 10 and, therefore, those portions of the summary.

1                   Now, if the Commission -- if I understood the  
2                   last portion of Mr. Conrad's tender of this, it may have  
3                   been that he's asked the Commission to take official notice  
4                   of its records in those cases, and that might provide a  
5                   basis for the foundation.

6                   But we certainly haven't had an opportunity to  
7                   verify them. And I think that this might be an exception to  
8                   the no subject to check provisions. I don't -- I do not  
9                   suspect Mr. Conrad of hoisting false documents either on the  
10                  witness or the Commission, but I think that procedurally  
11                  we're entitled to examine the Commission records which the  
12                  Commission would take notice of.

13                  JUDGE REGISTER: Right. Any other comments or  
14                  responses in there?

15                  MR. MICHEEL: I would just join the objection  
16                  as it relates to lack of foundation to the rates in  
17                  GR-91-291 and GR-93-240. This witness specifically  
18                  testified with respect to GR-93-240 that he had no knowledge  
19                  of that case, he did not work on that case.

20                  I think it's wholly inappropriate to ask this  
21                  witness to vouch for numbers from a case that he's not  
22                  familiar with, that those numbers are correct. And the same  
23                  goes with GR-91-291.

24                  MR. DUFFY: I'll join in the objection on the  
25                  basis that a proper foundation has not been laid for the

1 admission of pages 1 through 10 and the first three columns  
2 on page 1. I would agree that he has laid proper foundation  
3 for the GR-96-285 numbers but not for any of the other  
4 numbers.

5 JUDGE REGISTER: Since these are documents  
6 that are subject to official notice, what I want to do is  
7 ask the attorneys to get with Mr. Conrad -- I don't know  
8 whether you have those documents in there or -- that's fine.  
9 And, you know, just have your witnesses verify, you know,  
10 whatever you want to do.

11 And then tomorrow morning I'll rule on that  
12 and I'll find out if there are any further objections on  
13 that. But that will give everybody the opportunity to  
14 verify the documents and then we can take official notice.  
15 But I do want to give everybody an opportunity to look at  
16 those. And then I'll look -- then I'll take that objection  
17 up tomorrow morning if there still is an objection on those.  
18 And we'll go from there. Okay?

19 Is there anything that -- I'm not ruling on  
20 the offering of Exhibit 188 at this time, but will rule on  
21 that tomorrow morning after everyone has had an opportunity  
22 to review the documents.

23 MR. CONRAD: And although I don't have  
24 multiple copies, your Honor, we do have the -- what we  
25 understand or at least what we were provided in the course

1 of those cases. And Midwest was an Intervenor in those two  
2 cases and actually I believe Mr. Kies was a witness in both  
3 of them, and he may be able to respond in that area.

4 JUDGE REGISTER: If we take official notice of  
5 them, we will identify those documents where this  
6 resource -- which were the resources for this compilation in  
7 the record tomorrow. And that way if anyone wants to go  
8 back and take a look at them, it will be described  
9 sufficiently so that they may do so. Okay?

10 Anything else, Mr. Conrad?

11 MR. CONRAD: Let me take just a moment and  
12 review my notes here.

13 BY MR. CONRAD:

14 Q. Mr. Beck, let me change gears with you again  
15 and ask you to return to Exhibit 133, that being your  
16 rebuttal testimony, page 2. And about midway down that  
17 page, I think starting at line 10 and following, if I read  
18 correctly, you're criticizing there Mr. Gillmore's study  
19 because it's based on historical costs, as you termed it.  
20 Correct?

21 A. The minimum system study was based on  
22 historical cost.

23 Q. Now, those historical costs, you'd agree with  
24 me, are the costs that are taken from the utility's books  
25 net of depreciation. Correct?

1           A.     No, that is not correct.

2           Q.     Where do those historical costs come from?

3           A.     Those historical costs come from the company's

4     books, and there is no net of depreciation to them.

5           Q.     So those are just the recorded original costs

6     before the depreciation adjustments are applied; is that

7     correct?

8           A.     That is correct.

9           Q.     Now, would I be -- if you'd hold your finger

10    at page 2 in your rebuttal, are you talking about the same

11    historical costs there that you are at page 4 of your direct

12    at line 19?

13                 JUDGE REGISTER:   Page 4 of his direct?

14                 MR. CONRAD:   Yes, ma'am.

15                 JUDGE REGISTER:   Exhibit 131?

16                 MR. CONRAD:   And that would be Exhibit 131.

17                 JUDGE REGISTER:   And what line are we at?

18                 MR. CONRAD:   Page 4, line 19.

19                 THE WITNESS:   No.   And the reason why is

20    because the -- the records referred to on line 19 are for

21    Account No. 380, which is services.   The -- the -- in my

22    rebuttal testimony the historical costs that we're talking

23    about are Account 366, which is mains.

24    BY MR. CONRAD:

25           Q.     Okay.   So there's not a correspondence then

1       between those two things?

2               A.       Not a direct correspondence.  They're both  
3       from the same set of books.

4               Q.       Now, turn back, if you would, to your rebuttal  
5       and to the next page of it, which is page 3.  And at the top  
6       of that page I take it you're criticizing Mr. Hall's study;  
7       is that correct?

8               A.       As the paragraph goes on, yes.

9               Q.       Now, down on -- or on into that paragraph I  
10      believe you identify one error as monthly peak demands that  
11      are based on incorrect monthly peak day normal weather.  Do  
12      you find that reference?

13              A.       Yes, I do.

14              Q.       What is the nature of the error that you're  
15      claiming that Mr. Hall has made?

16              A.       The nature of that particular error is that  
17      the data used to compute monthly peaks was normalized peak  
18      day weather, and the data set that he used was from a prior  
19      earlier set that was created and that was later updated by  
20      Staff.

21              Q.       Now, we'll talk to Mr. Hall's surrogate I  
22      guess later on, but you'd agree just as a general  
23      proposition that the monthly peaks, the way Mr. Hall does  
24      his work, are fairly important to that work; is that  
25      correct?



1           A.       That's correct.

2           Q.       Now, I also understand that you believe that  
3       Mr. Hall made an error in his estimation of weather  
4       sensitive monthly peak day demand. Do you see that  
5       reference?

6           A.       Yes.

7           Q.       And do I also understand that you criticize  
8       his methodology of estimating monthly peak day demands for  
9       non-weather sensitive LVS customers?

10          A.       Yes.

11          Q.       Based on your criticism here, how significant  
12       do you believe that error -- or those two errors, I guess --  
13       maybe it's one error that's looked at in two different ways,  
14       how significant is that in the results of Mr. Hall's study  
15       from your perspective?

16          A.       I'm certain it would have a direct effect on  
17       resulting allocators. I'm trying to recall, but I do not  
18       believe that we quantified that. "We" being Staff.

19          Q.       Now, I also notice that you refer to incorrect  
20       calculation of the ratio of peak to average use. Do you see  
21       that reference?

22          A.       Yes.

23          Q.       What is it that you're contending Mr. Hall did  
24       wrong there?

25          A.       Basically, it's a matter of addition. In the

1 case -- what Mr. Hall did was he calculated the ratio of  
2 peaked average for each customer and then -- and then  
3 averaged that value. And my contention would be that you  
4 sum the peaks, sum the averages and then -- and divide the  
5 resulting ratio out of those two. That's -- it's the  
6 mathematics is what I'm contending.

7 Q. Now, it's possible, I take it, for you to  
8 quantify those -- shall we say the significance or the  
9 effect or the impact of what you're claiming as errors?

10 A. Yes, it would be possible.

11 Q. And, in fact, if you would refer to your  
12 Schedule 1 that's attached to your rebuttal -- are you  
13 there, Mr. Beck?

14 A. Yes, I am.

15 Q. Okay. Would I be generally correct that  
16 Schedule 1 attached to your rebuttal Exhibit 133, summarizes  
17 the corrections that you contend should be made to  
18 Mr. Hall's study to allow to adjust for what you contend are  
19 his errors? Is that right?

20 A. That's correct.

21 Q. So as I move across here in these various  
22 boxes, those would be Mr. Hall's allocators in his -- you're  
23 talking about his direct filing, I take it you mean his  
24 direct testimony, his initial rate design filing?

25 A. That's correct.

1           Q.     And then those changed a little bit in the  
2 supplemental direct that Mr. Hall filed?

3           A.     That's correct.

4           Q.     The next three boxes are the corrections that  
5 you would apply to them; is that right?

6           A.     Yes. That is correct.

7           Q.     And you end up with a box that's kind of  
8 separated and off to the right there. What is that box off  
9 to the right?

10          A.     It's nothing that Mr. Hall did. It is Staff's  
11 supplemental direct filing allocators.

12          Q.     Oh, okay. Those are your numbers?

13          A.     That's my numbers.

14          Q.     Okay. So would it be fair then for me to look  
15 at Schedule 1 and see the progression across from left to  
16 right and after you've made your three corrections to  
17 compare the corrected Hall numbers to your direct filing?  
18 Is that the intent of that exhibit?

19          A.     I think it was, yes.

20                 MR. CONRAD: Your Honor, I believe that is  
21 all.

22                 JUDGE REGISTER: Okay. And so that would  
23 conclude our cross-examination. We go to the Bench. I have  
24 no questions for Mr. Beck.

25                 Recross, Mr. Duffy, do you have any questions

1 for Mr. Beck?

2 MR. DUFFY: No, ma'am.

3 JUDGE REGISTER: And, Mr. Micheel?

4 MR. MICHEEL: No.

5 JUDGE REGISTER: And there's nothing to  
6 recross there. You don't have any further questions, do  
7 you, Mr. Conrad?

8 MR. CONRAD: Given that there were no  
9 questions from the Bench --

10 JUDGE REGISTER: I just wanted to make sure.

11 Mr. Schwarz, do you want to redirect?

12 MR. SCHWARZ: If I might.

13 REDIRECT EXAMINATION BY MR. SCHWARZ:

14 Q. Early in response to a question from  
15 Mr. Conrad you indicated, I think, that the provider of  
16 service at this time in Butler, Missouri was Arkansas  
17 Natural Gas. If I suggested to you that it's Associated  
18 Natural Gas, would that --

19 A. That would be correct.

20 Q. I notice from Exhibit 131 that it was prepared  
21 in August of 1996, some four years ago; is that correct?

22 A. That's correct.

23 Q. And with reference to Schedule 4 to your  
24 direct testimony, which was the list of communities and  
25 counties that you used in preparing your calculations --

1 would you take a look at that?

2 A. Yes.

3 Q. Okay. Did you review that schedule prior to  
4 this hearing today?

5 A. I -- I did not give it a re-review when I --  
6 preparing for this testimony.

7 Q. Did you have an opportunity over the lunch  
8 hour to review that list in light of Mr. Conrad's inquiry  
9 about service territory of MGE?

10 A. Yes, I did.

11 Q. And what did you -- do you conclude?

12 A. I did -- I concluded that Buchanan County,  
13 which was, I believe, specifically asked, is in the MGE  
14 service territory. And I apologize for the confusion, but I  
15 simply knew that St. Joe Light & Power serves them for  
16 electric. And I -- again, Buchanan County is served by MGE.

17 Q. Why is the Kansas -- there's no data from the  
18 Kansas City area?

19 A. Frankly, it was a matter of cost. At the time  
20 that Staff was calculating these estimates, and it really  
21 was over a several-year period, we contacted the Kansas City  
22 collector's office and they wanted -- I believe the figure  
23 was \$25,000 to make a computer run. And we made the  
24 decision not to spend that \$25,000.

25 Q. You were asked on cross if the Office of the

1 Public Counsel used any of the same allocators as Staff. Do  
2 you recall that question?

3 A. Yes, I do.

4 Q. On further reflection, would you care to  
5 modify your answer?

6 A. Yes. I incorrectly stated that for meters,  
7 services and regulators, that OPC did not use the same  
8 allocators as Staff. In truth, OPC did use the same  
9 allocators as Staff for those three accounts and it was  
10 only -- mains was the primary difference.

11 Q. Do you recall a question about the age of a  
12 federal installation at 95th and Troost and a steel plant  
13 near the Blue River in Kansas City?

14 A. Yes, I do.

15 Q. Assuming for the moment, and hypothetically,  
16 that those facilities were each 100 years old, would that in  
17 any way suggest that the facilities serving them as far as  
18 natural gas service were of the same vintage?

19 A. No. It wouldn't indicate either when they  
20 first started having gas service or when any later  
21 replacement programs took place.

22 Q. Turning to your rebuttal testimony, which is  
23 Exhibit 133, page 17 thereof -- do you have that?

24 A. Yes, I do.

25 Q. On lines 13 through 15 there's some discussion

1 of replacement costs for two-inch main and the total  
2 distribution system. I'm still not clear on that. I'd ask  
3 you to explain those figures for me, if you would.

4 A. Yes. In the context here, those numbers are  
5 simply the total dollars that it would take to put in the  
6 mains -- the two-inch mains that the -- that's -- at that  
7 moment for MGE's system and the two-inch -- or the total  
8 mains is the second number.

9 And I guess that -- that whole number there,  
10 to put it in perspective, Mr. Lewis was referring to the  
11 55 percent minimum system study. And if you look at those  
12 numbers there, you realize that the ratio of two-inch mains  
13 to the total system is nowhere near the 55 percent number  
14 when you put it in a replacement cost basis.

15 Q. Excuse me a moment.

16 Again, on your rebuttal testimony on  
17 Schedule 1, looking at your final correction to Public  
18 Counsel's mains allocator and then yours, the Staff's  
19 supplemental, would you say that those figures are close?

20 A. Yes, they are. They're fairly close.

21 Q. So essentially the difference between the  
22 Staff and OPC's approach and the company -- and the numbers  
23 adopted by the company would be attributable to the  
24 difference between using the minimum approach and the  
25 approach that Staff and OPC took?

1           A.       The -- those allocations of mains -- those  
2 methodologies used for allocations of mains are the primary  
3 difference.

4           MR. SCHWARZ: I think that's all I have.

5           JUDGE REGISTER: Okay. I believe we're  
6 finished with Mr. Beck at this point.

7           Thank you, Mr. Beck.

8           And we're ready for Staff's Witness Anne Ross.  
9 Let's go off the record for a moment.

10           (A RECESS WAS TAKEN.)

11           JUDGE REGISTER: Anne Ross is our next  
12 witness.

13           (Witness sworn.)

14           JUDGE REGISTER: Thank you. Please be seated.

15           And, Mr. Franson?

16           MR. FRANSON: Thank you, your Honor.

17 ANNE E. ROSS testified as follows:

18 DIRECT EXAMINATION BY MR. FRANSON:

19           Q.       Ma'am, could you please state your name.

20           A.       Anne Ross.

21           Q.       And how are you employed?

22           A.       I'm employed by the Missouri Public Service  
23 Commission.

24           Q.       How long have you been so employed?

25           A.       Since September '89.



1           Q.     And, ma'am, in what capacity are you employed  
2 with the Missouri Public Service Commission?

3           A.     I'm a regulatory economist in the electric  
4 department in the operations division.

5           Q.     Ma'am, have you previously filed testimony  
6 before the Commission in Case No. 96-285?

7           A.     Yes.

8           Q.     And, in fact, you had prepared direct  
9 testimony, Exhibit No. 140; is that correct?

10          A.     Yes.

11          Q.     And supplemental direct testimony, which was  
12 141; rebuttal testimony, 142; and surrebuttal testimony, I  
13 believe 143?

14          A.     Yes.

15          Q.     Ma'am, you also filed other testimony; is that  
16 correct?

17          A.     Yes.

18          Q.     But the only ones -- only testimony that goes  
19 with rate design and cost of service are Exhibits 140  
20 through 143?

21          A.     Yes.

22                 MR. FRANSON: Your Honor, I believe Exhibits  
23 140 through 143 are already in evidence, and I don't believe  
24 I have any further questions. I would tender the witness  
25 for cross-examination.

1 JUDGE REGISTER: I do have Exhibits 140  
2 through 143 on the record as admitted into evidence.

3 MR. FRANSON: Your Honor, I might also mention  
4 that there were Exhibits 167, 168 and 169, which I did not  
5 go into with Ms. Ross because they were schedules attached  
6 to her testimony and, therefore, would be included.  
7 However, those were refiled. Did you want me to go into  
8 those to establish a record on that?

9 JUDGE REGISTER: I don't think we probably  
10 need to establish any more than you just did.

11 Does anybody have any objection to -- well,  
12 they're already admitted.

13 MR. FRANSON: I believe they are already  
14 admitted.

15 JUDGE REGISTER: I believe they're already  
16 marked as separate exhibits as well. 167, 168 and 169 are  
17 also revenue schedules sponsored by Ms. Ross in her rebuttal  
18 and surrebuttal. So those are also already admitted into  
19 the record.

20 I did want to note also that Mr. Schwarz was  
21 here earlier and he had to leave. Mr. Franson is  
22 representing the Staff at this time as primary counsel.

23 So we are going on to the cross-examination of  
24 Staff's witness. This would bring Mr. Duffy. Yes. I'm  
25 sorry. Mr. Duffy, did you have any questions for Ms. Ross?

1 MR. DUFFY: Not at this time, your Honor.

2 JUDGE REGISTER: And, Mr. Micheel, for Public

3 Counsel, do you have any questions for Ms. Ross?

4 MR. MICHEEL: Not at this time, your Honor.

5 JUDGE REGISTER: And, Mr. Conrad, did you have

6 questions for Ms. Ross?

7 MR. CONRAD: Just a few.

8 JUDGE REGISTER: Thank you. Please proceed.

9 CROSS-EXAMINATION BY MR. CONRAD:

10 Q. Good afternoon, Ms. Ross.

11 A. Good afternoon.

12 Q. Did I understand your testimony just a moment

13 or two ago to be that now you're working on the electric

14 side?

15 A. Yes.

16 Q. You like electrons or methane better?

17 A. Methane. Am I on the record?

18 JUDGE REGISTER: Yes.

19 BY MR. CONRAD:

20 Q. Let me start with your direct testimony that's

21 Exhibit 140 and right at page 1. And looking down at

22 line 2-- I believe it's line 24, we're talking about the

23 peak demand calculation for this case. Correct?

24 A. Yes.

25 Q. Now, you use the term "calculated," I know, in

1 a very studied way. What do you mean by the term  
2 "calculated"?

3 A. Using customer numbers that were provided to  
4 me by the company and by the Staff and regressions that were  
5 done by the Staff for the weather sensitive customers and  
6 analysis of the usage of the non-weather sensitive  
7 customers, I calculated peak demands, normalized peak  
8 demands for the classes.

9 Q. So it's not that the peak demand numbers were  
10 just supplied to you by the company, you had to go through  
11 some operations --

12 A. Yes.

13 Q. -- to derive them?

14 That's one thing I want to talk with you a  
15 little bit about here are some of those operations. And  
16 let's focus now to the next page on page 2 and kind of  
17 coming down the page to line 17. And the answer that begins  
18 there and continues actually I believe, Ms. Ross, over to  
19 the top of the next page. So take a moment and  
20 refamiliarize yourself with that, if you need to.

21 JUDGE REGISTER: Page 2 beginning at 17?

22 MR. CONRAD: Page 2 beginning at 17 the  
23 question, your Honor, actually is at 14.

24 JUDGE REGISTER: Thank you.

25 THE WITNESS: Okay.

1 BY MR. CONRAD:

2 Q. In that paragraph you reference toward the  
3 beginning of it average daily demands. I think that's a  
4 reference really on the very first line.

5 A. Yes.

6 Q. And if I understand that, you derived average  
7 daily demands by doing a division. Correct?

8 A. Yes.

9 Q. And the divided or the -- let's see, I guess  
10 it would be the dividend, wouldn't it, the dividend was the  
11 monthly usage. Right?

12 A. Yes. The numerator was --

13 Q. Do I understand that you had the monthly usage  
14 for the LVS customers?

15 A. Yes.

16 Q. Where does that appear in your testimony or  
17 schedules?

18 A. I'm sorry. I don't understand your question.

19 Q. Does that appear, the monthly -- the month by  
20 month usage for the LVS customers, does that appear anywhere  
21 in your schedule?

22 A. I don't think so. I had individual customer  
23 information, so that would be confidential. And I don't  
24 believe it appeared in my testimony.

25 Q. You didn't even provide the totals?

1 A. No.

2 Q. Obviously the totals by themselves wouldn't be  
3 confidential, now, would they?

4 A. Wait, just a second. Actually, yes, I did  
5 provide the -- well, I provided the peak demand usage in my  
6 supplemental direct testimony, but not the monthly usages it  
7 looks like.

8 Q. Now, how many LVS -- I know we had -- there  
9 was some back and forth about the number of LVS customers,  
10 if you recall in this case, and the meters and so on. Do  
11 you recall that controversy?

12 A. Yes.

13 Q. My purpose in this question isn't to re-open  
14 that. But my question is to ask you just -- would it be  
15 fair that there are about 400-some LVS customers that you  
16 were working with?

17 A. No. When I looked back over this, it looks to  
18 me like there's probably 336 customers, individual unique  
19 companies, if you will.

20 Q. Now, you're not suggesting that you took 336  
21 individual monthly values and divided all those individually  
22 by 12, are you? You probably summed them first and then  
23 divided that by 12?

24 A. No.

25 Q. You took the 336 --

1           A.     I believe I looked at all 336 of them, yes.

2           Q.     -- individually?

3                     But, in any event, we do not have the monthly  
4     usage anywhere in your materials?

5           A.     Not in my testimony. That should have been in  
6     my work papers.

7           Q.     Now then, the next step that you appear to  
8     have taken is to divide that by the appropriate number of  
9     days. With me so far?

10          A.     Yes.

11          Q.     And that would give you an average daily  
12     demand. Right?

13          A.     Yes.

14          Q.     And then that was used to calculate monthly  
15     peaks for non-weather sensitive customers. Right?

16          A.     Yes.

17          Q.     How did you do that?

18          A.     Okay. For -- for the non-coincident peak  
19     demands it looks like I took the maximum of the monthly  
20     peaks. So for each customer I looked at their 12 average  
21     peak demands and chose the maximum. For coincident peak  
22     demands I used the maximum daily peak demand in the billing  
23     months of November through February.

24          Q.     I guess my question maybe was a little bit  
25     more basic than -- I think you were anticipating maybe where

1 I was going, but let me back you up just a second. How did  
2 you identify what's a weather sensitive and non-weather  
3 sensitive LVS customer?

4 A. To be honest, in this case, I don't remember  
5 exactly the criteria I used to determine -- to differentiate  
6 a weather sensitive from a non-weather sensitive customer.  
7 I often do regression analyses on all the customers. And if  
8 I get an R squared that's above some threshold, I determine  
9 that the customer is weather sensitive. Some of them you  
10 can just look at and you see that they're weather sensitive.

11 Q. And others, I take it, you could just look at  
12 and see that they're not?

13 A. Yes.

14 Q. Let's focus for just a moment or two on the  
15 not.

16 A. Okay.

17 Q. If you were to put that customer's monthly  
18 usage on some kind of a chart or graph, how would you  
19 describe -- where the vertical axis was so many MCFs and the  
20 horizontal axis was 12 sequential months --

21 A. Right.

22 Q. -- what would you expect a non-weather  
23 sensitive LVS customer's load curve to look like?

24 A. I would expect for it to be fairly flat. It  
25 might even be going down in the winter months and up in the



1 summer months with -- for natural gas would be atypical of a  
2 customer that was heating.

3 Q. Now, if you remember, Ms. Ross, for those that  
4 you did a calculation to identify that they were weather  
5 sensitive, the converse would be true, so you would expect  
6 to see something other than a flat line on them --

7 A. Yes.

8 Q. -- right?

9 A. Yes.

10 Q. And the less flat the line, the more weather  
11 sensitive; is that fair?

12 A. If it's flat in the right places. You know,  
13 sometimes -- as I said, sometimes I might see them with  
14 higher usage in the summer. And, you know, given that we're  
15 working with natural gas, I would identify them as a  
16 non-weather sensitive customer.

17 If their usage corresponded, we would tend --  
18 I would tend to graph them against heating degree days  
19 rather than just across time. And if their usage  
20 corresponded with heating degree days in that their usage  
21 was higher when there were more heating degree days, that's  
22 what I would expect to see with a weather sensitive  
23 customer.

24 Q. Now, you mentioned annual peak heating degree  
25 days. How was that identified for your study?

1           A.       That would have been given to me by the people  
2       in our department that did weather normalization.

3           Q.       And using all of that data, you then would  
4       estimate, I think is your term here, both the non-coincident  
5       and the coincident peak demands?

6           A.       Yes.

7           Q.       So you'd agree with me, I take it, that all of  
8       the peak demand that you used was really calculated peak  
9       data rather than just taken from a series of meter readouts  
10      or something?

11          A.       Yes and no. For the non-weather sensitive  
12      customers, no, these were observed peak month usages. By  
13      necessity, those are estimated because we don't have daily  
14      demands. We're looking for a daily demand figure a lot of  
15      times and we don't have daily demands on any of the  
16      customers, so by -- by necessity, they're estimated.

17          Q.       I'm interested in your statement, Ms. Ross,  
18      that you don't have daily demands on any of the customers.  
19      And I want to be sure that we're talking about the time  
20      period for this case rather than today. Are you and I on  
21      track there?

22          A.       Yes. You know, today I might be able to do  
23      daily demands. I don't know what they're capable of  
24      metering. At this point in time I don't believe they were  
25      metering them on a daily basis.

1           Q.     Are you familiar with the EGM devices that are  
2     installed by transportation customers?

3           A.     I'm not familiar with those that are currently  
4     installed, no.

5           Q.     Were you familiar with those that were  
6     installed and active at the period of time that you were  
7     doing this work?

8           A.     To some extent, yes.

9           Q.     You recognize that those were installed at the  
10    expense of the customer?

11          A.     I'm sorry. I can't speak to that.

12          Q.     You don't know. Do you recall anything about  
13    the circumstances of how they came to be installed and who  
14    paid for them?

15                 MR. DUFFY: I'm going to object unless there's  
16    some relevance shown as to how that tends to prove or  
17    disprove some sort of allocation of mains or meters type of  
18    issue that's going on here.

19                 JUDGE REGISTER: Anybody else want to comment  
20    on that?

21                 MR. FRANSON: We are getting pretty far  
22    afield, your Honor, as far as the witness has already  
23    indicated she is only generally familiar with where he's  
24    going at best, so I would join in the objection.

25                 JUDGE REGISTER: Mr. Conrad, do you want to

1 respond?

2 MR. CONRAD: Well, it's gone about as far,  
3 your Honor, as I had intended to take it, because -- the  
4 area of my curiosity is these devices were installed  
5 pursuant to agreements and are supposed to be capable of  
6 providing that data and have been in place since a good  
7 number of years before this case got started.

8 I was just kind of curious as to why that data  
9 wasn't apparently being made available or utilized. I  
10 don't -- this isn't an issue about EGM. That's not what --  
11 I'm talking about her data and the data that she got to work  
12 on. And my question is prompted not by anything I have on  
13 my list here, but by her response that she was not able to  
14 get daily demands.

15 MR. DUFFY: Well, and I certainly don't object  
16 to Mr. Conrad inquiring about the source of the daily  
17 demands, but when we get to who paid for the EGM material or  
18 meters, I don't see how that has anything to do with the  
19 peak demands.

20 MR. CONRAD: Well, you would if you'd paid the  
21 \$6,000 to install them.

22 MR. DUFFY: I move that that comment be  
23 stricken, your Honor.

24 MR. CONRAD: Well, you strike it. It's in the  
25 tariff.

1 JUDGE REGISTER: Sustained. That last  
2 statement by Mr. Conrad is stricken.

3 And I'm going to sustain the objection and ask  
4 you to move on. I think the witness has already said she  
5 doesn't have any knowledge about the EGM equipment and so I  
6 think that would include your last question, Mr. Conrad. So  
7 I'd ask you to ask your next question.

8 BY MR. CONRAD:

9 Q. Now, you agree, Ms. Ross, that the test year  
10 ended March 31, '96 and the known and measurable period  
11 ended May 31, 1996. Right?

12 A. Yes.

13 Q. Let's go back to your direct testimony, which  
14 is in Exhibit 140. I'd ask you to turn to Schedule 1, which  
15 is at the end, if you will, the last pages in my packet.  
16 And this appears to be a schedule that was run in August of  
17 1996, early in the afternoon I --

18 A. Yes.

19 Q. Okay. Was this the first of several such  
20 schedules that you did in this case?

21 A. It was the first of such schedules that I  
22 filed in this case, yes.

23 Q. Do you recall how many you ended up doing?

24 A. Not exactly, no. Quite a few.

25 Q. Let's just for refresher, and largely for me,

1 kind of very quickly walk through this. I don't want to go  
2 through every figure. Just see what it relates to. We get  
3 to a rate base up here that's a total rate base. That's the  
4 number kind of in the center of the page but it's the top of  
5 the total column. Do you see that?

6 A. Uh-huh. Yes.

7 Q. 333 million and change as we talked about  
8 earlier with Mr. Beck?

9 A. Yes.

10 Q. And then we get to a return figure and we add  
11 the expenses and total them and get to the total cost of  
12 service. You have down here a zero revenue increase plug?

13 A. Yes.

14 Q. Would you help me understand what that plug is  
15 and why it's there?

16 A. Yes. Yes, I will. The plug is designed to  
17 make the costs that are contained in this study equal to  
18 current revenues contained in this study. That way we can  
19 get an idea of revenue shifts that would occur before --  
20 that way -- let me stop for a second. That way the revenue  
21 requirement that the company's asking for is not a factor in  
22 the increases or decreases for each class. So we're  
23 basically removing the effect of the company's requested  
24 revenue increase.

25 Q. And help me to understand the necessity to do

1       that.  Is that because the figure that you're really  
2       starting with up here, the rate base figure, would represent  
3       not the rate base from the prior case where those rates were  
4       set, but what the company is either contending or what Staff  
5       has audited and found?

6             A.       Yes.

7             Q.       So to carry that on out and maybe looking at  
8       the column of particular interest to us, the large volume  
9       customers, if you looked at required margin revenue and  
10      current margin revenue, those numbers are pretty close.  
11      Right?

12            A.       Yes.

13            Q.       And by the way, when you and I use the term  
14      "margin" here, could you help be sure that everybody's on  
15      the same wavelength there?  We're not talking about marginal  
16      costs in the economic sense, are we?

17            A.       No.  We're talking about non-gas costs.

18            Q.       So if I do that calculation just on those  
19      required margin revenues and current margin revenues,  
20      actually the current margin revenue on this schedule from  
21      the large volume customers would be in excess of what was  
22      required.  Right?

23            A.       Let's see.  Yes.

24            Q.       And that's even after we've gone through the  
25      allocation of the rate base to the various classes --

1           A.     I'm sorry.

2           Q.     -- correct?

3           A.     Could you repeat that last --

4           Q.     That's after we gone through the allocation of

5           the rate base to the various classes?

6           A.     Yes.

7           Q.     And you did that allocation based, I guess, on

8           Mr. Beck's product, partly?

9           A.     Partly, yes.

10          Q.     So then I'm still, I guess, having trouble.

11          If we've allocated out the 333 million, I'm still having

12          trouble understanding what that 933,000 in parens is. Can

13          you help me there?

14          A.     Yes. Okay. Over in the Total column, under

15          Required Margin Revenues, we have -- let me see --

16          current -- okay. Under Required Margin Revenues my study is

17          showing that the company needs to earn \$104 million. Then

18          in my study, my study is saying that they are currently

19          earning 115 million in margin revenues. So in this case

20          we're saying that the company would need a decrease of

21          \$11 million in their margin revenues to get them to cost of

22          service.

23          Q.     And then help me again with the 933 number.

24          A.     Okay. We take the zero revenue increase plug

25          and allocate that to each class based on their share of



1 required margin revenues or of cost of service.

2 Q. Now, we'll come back, Ms. Ross, to a more --  
3 hopefully a more current schedule here fairly quickly --

4 A. Yeah.

5 Q. -- that I think will maybe tie up some things  
6 we talked about a few minutes ago. But before we do that,  
7 we talked about the monthly usage levels on the LVS  
8 customers and how you worked with that?

9 A. Yes.

10 Q. You did have monthly usage information that at  
11 least was generally available for the other classes; isn't  
12 that true?

13 A. Yes.

14 MR. CONRAD: Your Honor, I have an exhibit.

15 JUDGE REGISTER: Okay. Our next exhibit  
16 number on our list is 189. We're marking this document as  
17 Monthly Usage by Resale Class as just the name for the  
18 chart. Right?

19 MR. CONRAD: Right.

20 JUDGE REGISTER: Is there something generally  
21 you'd refer to this as, Mr. Conrad?

22 MR. CONRAD: Well, I think it would be  
23 actually a monthly usage chart for those three classes and  
24 the total.

25 JUDGE REGISTER: So we'll call it monthly

1 usage charts.

2 MR. CONRAD: Okay.

3 JUDGE REGISTER: Three-page document.

4 (EXHIBIT NO. 189 WAS MARKED FOR  
5 IDENTIFICATION.)

6 JUDGE REGISTER: You may proceed, Mr. Conrad.

7 MR. CONRAD: Thank you.

8 BY MR. CONRAD:

9 Q. Ms. Ross, let me first ask you to look at  
10 Exhibit 18-- what's been marked for identification at this  
11 point as Exhibit 189. And turn, please, to the very last  
12 page. I'd ask you, Ms. Ross, if you would be able to  
13 identify that document?

14 A. Not with 100 percent surety. It looks like my  
15 style, but I don't -- I haven't looked at this in a couple  
16 years, so I'm not positive.

17 Q. Well, I'd be happy to represent to you that  
18 it's from a packet of your materials that was provided to  
19 us, but I understand if you want to take a minute and check  
20 it against your work papers or so on.

21 JUDGE REGISTER: Do I understand -- did I  
22 understand you to say, Mr. Conrad, that these are work  
23 papers or from an exhibit that Ms. Ross sponsored?

24 MR. CONRAD: No. This is from -- as far as  
25 I'm given to understand, this is from her work papers that

1 she made reference to earlier.

2 MR. MICHEEL: Mr. Conrad, my page has a TO.  
3 Is that supposed to be totals? It's cut off.

4 MR. CONRAD: Yeah. I noticed that on mine  
5 too. And I see the copier has ill-serviced us on that one  
6 copy.

7 MR. FRANSON: Which arguably would be the most  
8 important column.

9 MR. CONRAD: Well, maybe.

10 JUDGE REGISTER: Ms. Ross, do you have your  
11 work papers with you on this case?

12 THE WITNESS: No. These are the work papers I  
13 used for the -- I mean, these would be peak demand work  
14 papers, so I actually haven't even dug them out for this  
15 remand hearing.

16 JUDGE REGISTER: Would they be in boxes by  
17 now?

18 THE WITNESS: Boy, I'm not sure where they'd  
19 be, but I'd look.

20 MR. CONRAD: Your Honor, if it will speed  
21 things along, I'll be happy -- this is the only copy of this  
22 full pack that we have, but I'll be happy to show that to  
23 the witness with your permission and see if that will help  
24 her.

25 JUDGE REGISTER: I think that might help us.

1     You're talking about data request responses, is that what  
2     that is?

3                     MR. CONRAD:  Actually, for the benefit of the  
4     record -- I suppose we can mark this, but I didn't intend  
5     to, you know -- it's got multiple pages.  This is titled  
6     Revisions, Anne Ross, September 1, 1996

7                     THE WITNESS:  Okay.

8                     JUDGE REGISTER:  Let me take a quick look at  
9     it and let the others look at it.

10                    MR. CONRAD:  I've got a copy to show the  
11    witness, but that's the only copy of the full thing that we  
12    have.

13                    JUDGE REGISTER:  Okay.  Why don't you let the  
14    other attorneys look at that and then let Ms. Ross look at  
15    it?

16                    MR. CONRAD:  Well, I'll let her attorney look  
17    at it first.

18                    MR. FRANSON:  Mr. Conrad.

19                    MR. CONRAD:  Thank you.  With your Honor's --  
20    by your leave, I'll go ahead and show this to the witness

21                    JUDGE REGISTER:  That's fine.

22                    MR. CONRAD:  It's come apart.

23                    JUDGE REGISTER:  Mr. Conrad, in that packet  
24    that Ms. Ross is looking at now is the more original copy  
25    than this one -- or your original copy?

1                   MR. CONRAD: Yes, ma'am. And, as I said, I  
2 just noticed here as we pulled these out that that for some  
3 reason did not get fed fully through the copier.

4                   JUDGE REGISTER: We can get a copy of it made.

5                   MR. CONRAD: I'll be happy to substitute it.  
6 We'll get that fixed.

7                   JUDGE REGISTER: I can get my secretary --

8                   MR. CONRAD: There's a full -- for some  
9 reason, I think it just slid over on the glass.

10                  JUDGE REGISTER: It's that automatic feeder.  
11 They never line up right.

12                  Ms. Ross, are you done looking at that packet?

13                  THE WITNESS: Yes, I am.

14                  JUDGE REGISTER: Mr. Conrad, do you want to  
15 resume your questions?

16 BY MR. CONRAD:

17                  Q.     Ms. Ross, I've supplied you with a packet of  
18 the material that some time ago was supplied to us. Have  
19 you been able to locate -- well, first of all, do you  
20 recognize that packet now that you've had a chance to look  
21 at it?

22                  A.     Yes, I do.

23                  Q.     And those are some of your work papers?

24                  A.     Yes.

25                  Q.     Do you find within that packet what would, at

1       least in the parlance that we're using here today, be the  
2       original of the last page of what's been marked for  
3       identification as Exhibit 189?

4           A.       Yes.

5           Q.       And without trying -- well, subject to the  
6       fact that the one that's attached to 189 appears to have  
7       slid over a little bit on the copier, does it appear to be  
8       the same document --

9           A.       Yes.

10          Q.       -- from all you can see?

11                   Now, Ms. Ross, if you want to hold onto that  
12       packet for a few moments, let me ask you to look at the  
13       second page of Exhibit 189. You'd agree with me -- what's  
14       been marked for identification as Exhibit 189. You'd agree  
15       with me that that particular sheet, which is really five  
16       columns, August through July and then four labeled columns,  
17       that's not part of your work paper packet, is it?

18          A.       No, it's not.

19          Q.       And I'd represent to you, ma'am, that  
20       that's -- subject to sleepy eyes -- our summarization, if  
21       you will, of the data that's on the last page. And to avoid  
22       us having to go through subject to check, if you'd take a  
23       moment or two and look at that and see that the numbers have  
24       been properly transcribed?

25          A.       So this should match up with the last page of

1 my work papers?

2 Q. Yes, ma'am.

3 A. Okay.

4 Q. Let me give you just a real quick example and  
5 you follow along with me.

6 A. Okay.

7 Q. On your work paper sheet the MCF volumes for  
8 use in allocation factors --

9 A. Okay.

10 Q. -- the April total for residential,  
11 4,520,234 --

12 A. Okay.

13 Q. -- and you see in the residential column --

14 A. Yes.

15 Q. -- fourth from the bottom for April 4,520,234?

16 A. Yes.

17 Q. Would you be able to -- with reasonable time  
18 here, be able to check as many of the other numbers as you'd  
19 like to verify that you're happy with those?

20 A. Yeah, I suppose.

21 Q. Okay. Would you do that, please?

22 A. Okay. I've found a discrepancy. Let me  
23 just -- I'll just mark them and then when I'm done --

24 MR. FRANSON: Which was the first?

25 MR. CONRAD: I was sleepy.

1 THE WITNESS: Okay. I've -- with the  
2 exception of one number, they seem to be the same numbers.  
3 BY MR. CONRAD:  
4 Q. Please tell me which one that is so we can get  
5 that fixed.  
6 A. February residential. And it's 16 off.  
7 Q. Should be 83--  
8 A. 24740.  
9 Q. -- 24740?  
10 A. Yeah.  
11 Q. And instead is -- the last three digits are  
12 724?  
13 A. Yes.  
14 Q. So we're 16 MCF off?  
15 A. Yes.  
16 MR. FRANSON: Which number was that? I'm  
17 sorry.  
18 THE WITNESS: February residential, total.  
19 BY MR. CONRAD:  
20 Q. But the rest of them -- the rest of them  
21 check?  
22 A. Uh-huh. Yes, they do.  
23 JUDGE REGISTER: Are you asking Ms. Ross to  
24 make that correction on your exhibit?  
25 MR. CONRAD: We can. I'll be happy to do it,



1       since we're going to do the last page again for you, but I  
2       don't think it's going to alter what we -- the 16 MCF's on  
3       that is not going to do a lot.

4       BY MR. CONRAD:

5               Q.       Now, Ms. Ross, you're familiar with  
6       spreadsheets -- electronic spreadsheets, aren't you?

7               A.       Yes.

8               Q.       And you know that in order to produce a graph  
9       on an electronic spreadsheet, you have to somehow get the  
10       data into the electronic spreadsheet?

11              A.       Yes.

12              Q.       And we didn't have your electronic work paper  
13       here from that packet that I showed you earlier, so in order  
14       to create the graph that's on the front, we had to pull the  
15       numbers off of your work paper. Are you with me so far?

16              A.       Yeah.

17              Q.       You look puzzled.

18              A.       No. I'm -- I think -- I don't think I'm  
19       puzzled.

20              Q.       And just to your own satisfaction, look at  
21       those four columns in comparison with the four lines on the  
22       graph at the very first and see if they would appear  
23       accurately to you to reflect the relationships in those  
24       numbers?

25              A.       I'm not sure I can do that, Mr. Conrad,

1 without sitting down and really, really looking at this.  
2 You know, the numbers on the graph are in two, four, six,  
3 eight and these are exact numbers and --

4 Q. Sure. But just in rough order of magnitude,  
5 doesn't it appear -- does it appear to be off?

6 A. I can't tell.

7 JUDGE REGISTER: Okay. Mr. Conrad, you're  
8 asking her to testify from a document that's not yet been  
9 offered into evidence. And what are you -- are you asking  
10 her for foundational purposes to determine if it's accurate?

11 MR. CONRAD: Yes. If it's accurate to her eye  
12 for the graphing of the numbers on the second sheet.

13 MR. FRANSON: And, your Honor, I believe the  
14 witness has already indicated that based on what she sees,  
15 she's not able to do that at the present time in the manner  
16 requested by Mr. Conrad.

17 JUDGE REGISTER: I believe that's what the  
18 witness said, Mr. Conrad. If you want to go over this with  
19 the witness -- you know, you want to offer this one in the  
20 morning, you can take some time so they can check the  
21 numbers.

22 MR. CONRAD: I'll be happy to do that. I'm  
23 interested in saving the time. I don't want to frustrate  
24 Ms. Ross with having her go through that. In fact, I have  
25 the computer here and she can play with it if she likes.

1 JUDGE REGISTER: If you want to have her  
2 review those numbers and then ask her later if she can do  
3 that or -- I don't know if you have another witness who  
4 might be able to do that, but I don't think she's able to do  
5 that by just looking at it.

6 MR. CONRAD: Well, why don't we do this? Why  
7 don't we at least at this point in time -- and I know if I  
8 don't do this right, there will be an avalanche of  
9 objections, but why don't we offer at this point in time  
10 Exhibit 189 subject to the following thing --

11 MR. FRANSON: Well, your Honor, I think he  
12 made one prediction that's very prophetic. There will be an  
13 avalanche of objections.

14 JUDGE REGISTER: Mr. Franson, just a minute.  
15 Let him finish his offer and then I'll let you go next.

16 MR. FRANSON: I'm sorry. I thought --

17 MR. CONRAD: First of all, we will either  
18 supply or however your Honor prefers, let you make the copy  
19 of one that has not slipped askew through the copier on the  
20 last page.

21 JUDGE REGISTER: Page 3.

22 MR. CONRAD: And I think Ms. Ross has already  
23 identified that as being part of her work papers. As to  
24 page 2 and page 1 -- page 2, we'll make the correction,  
25 obviously the adjustment that Ms. Ross has identified and

1 satisfy her with respect to that.

2 And then as to page 1, which is the -- just  
3 the graphical representation of the data that's on page 2,  
4 we'll be happy to take a few minutes with Ms. Ross at the  
5 end of the day or whatever she would like and let her  
6 examine the spreadsheet and the calculations therein so she  
7 can then be satisfied that the operations have been done  
8 correctly.

9 And with those -- subject to those  
10 limitations, we'd go ahead and offer it. And I understand  
11 that you may want to hold it until tomorrow.

12 JUDGE REGISTER: I'm not going to rule on  
13 this -- the offering of this exhibit at this point. I do  
14 want the parties to take a moment -- take time to look at  
15 that. Mr. Conrad will substitute his corrected pages, and  
16 in the morning I'll take your objections if you still have  
17 some in regard to these documents. Is that acceptable?

18 MR. DUFFY: You're making the rules.

19 MR. FRANSON: Well, certainly -- your Honor, I  
20 believe -- obviously you make the rules, but I guess from  
21 what I'm hearing, Mr. Conrad is finished with his foundation  
22 subject to the fact that he's going to correct or substitute  
23 pages, but I still -- if he's done with this, your Honor, I  
24 still have not heard anything on relevance. And I haven't  
25 heard him say he's going to cover that issue tomorrow. And

1       that would be my primary objection at this time or I can  
2       wait until tomorrow to see if he does, in fact, address  
3       that.

4                   JUDGE REGISTER:   Why don't you make your  
5       objections and if there's some way for him to cure them in  
6       the morning -- or you all can go through them and you can  
7       have those out.

8                   MR. CONRAD:   Your Honor, that one I think is  
9       curable now.

10                  JUDGE REGISTER:   Wait a minute.   Mr. Conrad,  
11       let him make the objection first and then I'll let you cure  
12       it.

13                  MR. FRANSON:   Your Honor, he has gone through  
14       and established that these pages, whatever they are or  
15       purport to be, come from some work papers that Ms. Ross  
16       apparently created about four years ago.   He still hasn't  
17       established what they are, what they have relevance to.  
18       It's just been a lot of questions about all of these charts.

19                  And your Honor, quite frankly, there's been  
20       absolutely no statement or questions about what this is.  
21       And we know who created it, we know approximately when it  
22       was created, but we don't know why it was created by this  
23       witness, we don't know what it pertains to.   Some very basic  
24       information that would in some way make it relevant we  
25       haven't heard.   And that would be my first objection.   The

1 other would be foundation, but I understand you want to hear  
2 that tomorrow.

3 JUDGE REGISTER: Let's see if he cures those.  
4 Mr. Duffy, did you have anything you wanted to offer at this  
5 time?

6 MR. DUFFY: No. I liked his objection.

7 JUDGE REGISTER: Okay. Anybody else want to  
8 offer an objection at this time?

9 MR. MICHEEL: I would just state that it seems  
10 odd that we're getting an exhibit offered here with a graph  
11 that there have been objections to and the witness has said  
12 that she can't qualify whether the graph is right or wrong  
13 and we're going to go off, you know, tonight and we're going  
14 to sit down and see if we need to make corrections to the  
15 graph. It seems to me the graph comes in or the graph is  
16 out based on this representation and what Mr. Conrad has  
17 offered to the witness, and the witness has indicated she  
18 can't tell.

19 MR. FRANSON: Your Honor, it would also seem  
20 incumbent on Mr. Conrad to make any corrections and not  
21 create this witness -- for this witness to have extra work  
22 to get in his exhibit that she's already testified to she  
23 cannot do what it is he wants. He seems to want her to do  
24 his work for him essentially.

25 JUDGE REGISTER: Okay.

1 MR. CONRAD: Excuse me. Is it time for me?  
2 JUDGE REGISTER: Mr. Conrad?  
3 MR. CONRAD: Is it time for mine?  
4 JUDGE REGISTER: Yeah. Go ahead and respond.  
5 MR. CONRAD: The packet that has not been  
6 marked -- and perhaps that would maybe be the better way to  
7 do this. I thought I was trying to save time, obviously  
8 that didn't work. I thought I was trying to save paper.  
9 Obviously that may have not worked. But let's just -- let's  
10 just find out.  
11 Ms. Ross recognized the packet when I showed  
12 it to her. And I didn't go ahead and go on through what  
13 would have been foundation for the packet. We identified  
14 the sheet out of it as being her work paper.  
15 Despite the lack of animosity here, Ms. Ross  
16 is an adverse party and this is an out-of-court statement  
17 that's offered as an admission of a party. She's  
18 acknowledged that it's there, that it's relevant.  
19 Now, the next thing is, if it's desirable, we  
20 can go ahead and ask -- be happy to ask Ms. Ross if she will  
21 talk to us a little bit about the packet that I showed her  
22 and what the purpose of that was and what use she made of  
23 the figure. Want to do that?  
24 JUDGE REGISTER: In regard to page 3 of  
25 Exhibit 189, Ms. Ross has testified that this does appear to

1 be a document out of her packet. And the only problem we  
2 have with this is that it is an incomplete document which  
3 needs to be cured, and I think is probably easily done.

4 With regard to page 2 of Exhibit 189, Ms. Ross  
5 has indicated that it is -- appears to be just a restatement  
6 of her earlier document with the exception of one error  
7 which is easily corrected. The only thing Ms. Ross said  
8 that she cannot testify to or identify is the chart which  
9 Mr. Conrad indicated that he -- or your client produced, you  
10 or your client?

11 MR. CONRAD: Well, actually QuatroPro produced  
12 it, so I --

13 JUDGE REGISTER: And you identify using the  
14 same numbers --

15 MR. CONRAD: These are the drivers.

16 JUDGE REGISTER: So you used a restatement of  
17 what's in the third document.

18 MR. CONRAD: It's just a graphical  
19 representation of it.

20 JUDGE REGISTER: And I'm going to let  
21 Mr. Conrad go ahead and ask his questions that may take care  
22 of the relevance objections and then I'll take that  
23 objection --

24 MR. FRANSON: Thank you, your Honor.

25 JUDGE REGISTER: -- at a later time.



1                   Proceed, Mr. Conrad.

2       BY MR. CONRAD:

3           Q.       Ms. Ross, let me turn you back to the packet  
4       that we had just one of. And I don't have it in front of me  
5       so you'll have to kind of help me with that. Tell me what  
6       that packet is.

7           A.       It's a packet containing revisions that I made  
8       after I filed my direct testimony in August.

9           Q.       And would those revisions be incorporated in  
10      either your supplemental, direct or rebuttal, which?

11          A.       These would be incorporated in my supplemental  
12      direct.

13          Q.       So those materials in the packet from which  
14      this last page is drawn, as we've previously identified,  
15      those are materials that you prepared or developed in the  
16      course of preparing your supplemental direct testimony filed  
17      in this proceeding. Correct?

18          A.       Yes.

19          Q.       And did you make those documents available to  
20      the parties at some prior time?

21          A.       The packet?

22          Q.       Yes, ma'am.

23          A.       Yes. I --

24          Q.       The covering memo on that, did you prepare  
25      that?

1           A.       Yes.

2           Q.       Now, with specific regard to the sheet that  
3       seems to be causing so much consternation, look at the --  
4       see if you can locate that again, please, in the packet, the  
5       September 1 packet.

6                   JUDGE REGISTER:  The document that is  
7       identical to No. 3 of Exhibit 189?

8                   MR. CONRAD:  The last page, yes.

9       BY MR. CONRAD:

10          Q.       Let me know when you're there.

11          A.       I've found it.

12          Q.       Okay.  And it's titled MCF Volumes for Use in  
13       Allocation Factors.  Correct?

14          A.       Yes.

15          Q.       And is it true that this was provided to us  
16       with the representation from you that these were the MCF  
17       volumes that you used in developing the allocation factors?

18          A.       Could you clarify your question?

19          Q.       I'll attempt to.  We've already established  
20       that you provided us and other parties too with the packet  
21       that's dated September 1?

22          A.       Yes.

23          Q.       So far so good.  And this is part of it?

24          A.       Yes.

25          Q.       And you've identified the whole packet as

1 being materials that you prepared in support of and in  
2 development of your prepared direct testimony. Right?

3 A. No. I don't think so, because some of the --  
4 some of the pages in this packet were prepared by other  
5 people.

6 Q. Other people from Staff?

7 A. Yes.

8 Q. Okay. But they're materials that you relied  
9 on --

10 A. Yes.

11 Q. -- in preparing your supplemental direct  
12 testimony --

13 A. Yes.

14 Q. -- including this sheet (indicating)?

15 This -- well, okay. I'm not trying to hide  
16 something from you. This is the page 3 of what's been  
17 marked for identification as Exhibit 189?

18 A. Yes.

19 MR. CONRAD: Now, your Honor, I think that's  
20 quite adequate foundation.

21 JUDGE REGISTER: Mr. Franson, your objection?

22 MR. FRANSON: Well, your Honor, foundation is  
23 one thing. We have a foundation that this third page of  
24 this Exhibit 189 which is entitled MCF Values for Use in  
25 Allocation Factors was in some packet either relied on or

1 created in part or in whole by Ms. Ross.

2 We still don't know -- so what? We know it  
3 came from there. We still don't know why it's being used,  
4 what it's being offered for and what exactly it is and how  
5 it relates to anything in the case, your Honor. So I renew  
6 my relevance objection.

7 And also, your Honor, we certainly do not have  
8 a foundation for the first page. And we certainly have a  
9 serious lack of foundation on the second page. So, your  
10 Honor, on foundation and relevance, I renew my objection.

11 All we know is a little bit about page 3 and  
12 then Ms. Ross said maybe the numbers were transposed  
13 correctly with the exception of one. And that's nice to  
14 know, but it still doesn't tell us the relevance of this  
15 document, especially page 1, to anything in the case.

16 JUDGE REGISTER: Mr. Duffy, did you have  
17 anything to add?

18 MR. DUFFY: No, ma'am.

19 JUDGE REGISTER: Mr. Micheel?

20 MR. MICHEEL: No, your Honor.

21 JUDGE REGISTER: I'm going to overrule the  
22 objection as to relevance. I think in the very least it's  
23 in support -- or one of the documents there was offered as a  
24 work paper in support of the supplemental direct testimony.  
25 And the other -- the first two pages are purported to be

1       restatements in different fashions or different forms.

2                   And I'm going to wait and rule on the  
3       admission of that document until tomorrow when we get the  
4       corrected pages in there. We've had a lot of discussion  
5       about this packet, Mr. Conrad, and I think I'd like to have  
6       it marked as Exhibit 190.

7                   MR. CONRAD: That's fine.

8                   JUDGE REGISTER: And you'll have copies made  
9       and ready tomorrow?

10                  MR. CONRAD: I'll be happy to do that if I can  
11       retrieve it from Ms. Ross.

12                  JUDGE REGISTER: I think that would make the  
13       record more clear.

14                  MR. CONRAD: And this will be 190?

15                  JUDGE REGISTER: 190.

16                  MR. MICHEEL: How are we going to identify  
17       that, your Honor?

18                  JUDGE REGISTER: We're going to mark that as  
19       revision work papers from Anne Ross -- or of Anne Ross,  
20       September 1, 1996.

21                  MR. CONRAD: So I will put 190 on this.

22                  JUDGE REGISTER: September 1, 1996 is what's  
23       on there. Right? Is that what I told you, Mr. Micheel?

24                  MR. MICHEEL: Yes, your Honor.

25                  JUDGE REGISTER: Thank you.

1                   Proceed, Mr. Conrad.

2                   MR. CONRAD: I would note that the packet  
3 we're in the process of getting done here has 20 pages.

4                   JUDGE REGISTER: 20 pages. Thank you.

5                   MR. FRANSON: Your Honor, could we take about  
6 a two-minute break? I believe the witness needs a little  
7 bit of water.

8                   JUDGE REGISTER: Let's go off the record,  
9 Tracy.

10                   (A RECESS WAS TAKEN.)

11                   (EXHIBIT NO. 190 WAS MARKED FOR  
12 IDENTIFICATION.)

13                   JUDGE REGISTER: The last thing I think we did  
14 was we marked Exhibit 190.

15                   MR. CONRAD: 190.

16                   JUDGE REGISTER: It was the packet of  
17 information. I believe that I marked that as revision work  
18 papers by Anne Ross, September 1, 1996 and there are  
19 20 pages. And I've numbered those pages as well. And the  
20 item that -- the page that is No. 3 in Exhibit 189 is on  
21 page 11 -- or is page 11 of this 20-page document. It  
22 follows the divider page marked COS and has the title MCF  
23 values for use in allocation factors.

24                   Mr. Conrad, do you want to proceed?

25                   MR. CONRAD: Yes. I have just have a couple

1 questions more of Ms. Ross. And before I pick those up,  
2 just so the record is clear -- because when she was talking  
3 about this packet, we didn't really have it marked.

4 JUDGE REGISTER: Right.

5 BY MR. CONRAD:

6 Q. Ms. Ross, you've been now provided a copy of  
7 the packet of 20 pages that's been marked for identification  
8 as Exhibit 190?

9 A. Yes.

10 Q. The discussion that you and I had over the  
11 last few minutes, perhaps less than several hours, but more  
12 than a minute or two, about the packet dated September 1,  
13 1996, would that discussion now apply to what's been marked  
14 for identification as Exhibit 190?

15 A. Yes.

16 Q. And those are the work papers and the other  
17 materials that you and I talked about a few minutes ago?

18 A. Yes.

19 Q. The last thing, Ms. Ross, that I have that I  
20 wanted to talk to you about was Exhibit 169. Do you have a  
21 copy of that available to you up there?

22 JUDGE REGISTER: Before you go on, Mr. Conrad,  
23 to another exhibit --

24 MR. CONRAD: Yes, ma'am. Do you want me to  
25 offer 190 at this point?

1 JUDGE REGISTER: And we have the better copy  
2 now of 189. Other than the relevancy objection, which I've  
3 already ruled on, are there still objections to  
4 Exhibit 189?

5 MR. FRANSON: Yes, your Honor. On page 1 --  
6 the first page, you know, we still haven't had that  
7 authenticated. We still don't know exactly what it is.

8 And, your Honor, I would object to this  
9 witness being requested to spend her evening doing work  
10 essentially for Mr. Conrad. Judge, it is not the place of  
11 cross-examination to invent new things and verify work done  
12 by Mr. Conrad or his experts.

13 It is not Ms. Ross' place. It is her job to  
14 respond to cross-examination about things she did or that  
15 are within her area of expertise. Creating evidence for  
16 Mr. Conrad is not one of those purposes, your Honor.

17 And for that reason, I would object, number  
18 one, to her being asked to do any work regarding his  
19 exhibit; and, number two, your Honor, I would renew the  
20 objection to the first page, your Honor, because it still  
21 has not been established as far as a foundation what that  
22 is.

23 JUDGE REGISTER: Mr. Duffy? Mr. Micheel?

24 MR. DUFFY: I would join in the objection.

25 MR. MICHEEL: I've said my piece, your Honor.



1 JUDGE REGISTER: Mr. Conrad?

2 MR. CONRAD: Well, as I think your Honor is  
3 probably aware, while we were off the record, Ms. Ross and I  
4 together with her counsel sat down and actually went to the  
5 spreadsheet here on my computer which is still up. And  
6 although I have no intention of marking it as an exhibit and  
7 providing 15 copies of this computer, the chart is there and  
8 she has gone through and verified that. I did the work.  
9 Ms. Ross wasn't asked to do that. And I'll just -- by your  
10 leave, I'll just ask.

11 BY MR. CONRAD:

12 Q. Ms. Ross, did you and I just sit here at this  
13 table and go through this exhibit?

14 A. Yes, we did.

15 Q. And were you satisfied that after I added the  
16 commas --

17 A. After you added the commas and after we set  
18 the correct print range, yes, then I was satisfied.

19 Q. So you're satisfied with that now?

20 A. Yes. I believe that that graph is a graph of  
21 these numbers.

22 MR. CONRAD: And, your Honor, we will be happy  
23 to -- just so the record is clear, I'll even make a copy --  
24 in fact, I was starting to do that when you called us to  
25 order, was to make a copy of this computer file for

1 Ms. Ross.

2 JUDGE REGISTER: If any other counsel wants  
3 that available, make it available to counsel.

4 MR. CONRAD: If anybody else wants it, they  
5 can have it.

6 JUDGE REGISTER: I'm satisfied Exhibit No. 189  
7 is -- the two first documents are documents that are  
8 reflecting the numbers off of the third document, which  
9 Ms. Ross has identified as part of the packet out of 190.  
10 And they are simply compilations of the same numbers she has  
11 verified are accurate representations, and I'm going to  
12 admit Exhibit 189 into the record.

13 (EXHIBIT NO. 189 WAS RECEIVED INTO  
14 EVIDENCE.)

15 JUDGE REGISTER: The third page attached to  
16 189 is still an incomplete document, but it has now been  
17 provided in Exhibit 190 as page 11 and so that is not an  
18 error. That's harmless error, if anything at all. Okay.

19 MR. CONRAD: Your Honor --

20 JUDGE REGISTER: How about Exhibit 190?

21 MR. CONRAD: If your Honor would prefer, we'd  
22 be happy to, you know, provide a corrected 189 for  
23 everybody's reference. And I sense that that's not an  
24 issue.

25 JUDGE REGISTER: I think for the record I've

1 just noted where it can be found and it's not necessary for  
2 me. If the parties would like to have one, please do so.

3 MR. DUFFY: Your Honor, just for my notes,  
4 what is the status of 190? Has that been offered?

5 JUDGE REGISTER: That was the next one I was  
6 moving to.

7 MR. DUFFY: Excuse me.

8 JUDGE REGISTER: No problem. Exhibit 190,  
9 Mr. Conrad?

10 MR. CONRAD: And I think we've gone through  
11 now with 190, and Ms. Ross and I are on the same track  
12 there, and we've identified that, although I don't want to  
13 ask all those questions again. I think they're in the  
14 record. I would really -- at your Honor's prompting, I  
15 would move the admission of Exhibit 190 so all this kind of  
16 ties together.

17 JUDGE REGISTER: Objections to Exhibit 190?  
18 Hearing none, Exhibit 190 is admitted into the  
19 record.

20 (EXHIBIT NO. 190 WAS RECEIVED INTO EVIDENCE.)

21 THE WITNESS: May I talk to my counsel for a  
22 minute?

23 JUDGE REGISTER: Counsel, do you need a break  
24 to --

25 MR. FRANSON: Yes, we do, your Honor. We need

1 a break. I'd ask for a five-minute recess, your Honor.

2 JUDGE REGISTER: Let's take a couple. It's  
3 unusual, but we will allow you to confer with your client.

4 (A RECESS WAS TAKEN.)

5 JUDGE REGISTER: Back on the record, Tracy,  
6 please.

7 And, Mr. Conrad, if you'd like to proceed.

8 MR. CONRAD: Yes, ma'am. Just a couple of  
9 other areas.

10 BY MR. CONRAD:

11 Q. Ms. Ross, when we were talking just a moment  
12 ago, I asked you to take a look at Exhibit 169. Are you  
13 there?

14 A. Yes.

15 Q. Okay. I had promised you that we'd give you a  
16 chance on a more current summary of the cost of service  
17 study. And this looks like to us this would be the chance.  
18 Am I correct that this is the last one of these that you did  
19 for the case before we closed things out?

20 A. This is -- this is the last one that I filed.

21 Q. You might have done some others, but not --  
22 this is the last one you did file?

23 A. Yes.

24 Q. And I note up there at the top left the rate  
25 base number is

1 three-hundred-and-forty-one-seventy-four-eight-forty-five.

2 Do you see that?

3 A. Yes.

4 MR. CONRAD: Permission to approach the  
5 witness, please.

6 JUDGE REGISTER: Go right ahead. Thank you,  
7 Mr. Conrad.

8 BY MR. CONRAD:

9 Q. Ms. Ross, I'm going to show what has actually  
10 been previously marked in this case and admitted at an  
11 earlier time Exhibit No. 7, Staff accounting schedules. Do  
12 you recognize that document?

13 A. Yes.

14 Q. Probably all too familiar. Would you verify  
15 for me that under -- on the very first page which is  
16 Accounting Schedule 1-1, that the net original cost rate  
17 base number matches your number?

18 A. Yes, it does.

19 Q. Okay. And would I be correct in understanding  
20 that Exhibit 1-- I believe it's 169 was prepared by you to  
21 reflect the final run from the Staff on accounting schedules  
22 that are also reflected in Exhibit 7?

23 A. Yes.

24 Q. Now, Ms. Ross, did you have occasion to  
25 participate in a prior case for this company?

1 A. Yes.

2 Q. And would that case be GR-93-240?

3 A. Yes. I believe I participated in that case.

4 MR. CONRAD: Your Honor, by your leave, I'd  
5 approach the witness again with Exhibit 188.

6 JUDGE REGISTER: Go right ahead.

7 BY MR. CONRAD:

8 Q. Ms. Ross, I want to show you what's been  
9 marked and -- ruling on which is pending, but it has been  
10 marked for identification as Exhibit 188. Were you in the  
11 hearing room a little bit ago when we talked about this?

12 A. Yes.

13 Q. Now, I've picked up the one that didn't have  
14 the page numbers on it, but would you check with me and see  
15 if we have copies here of the Staff's accounting schedules  
16 from that case that you might remember in the GR-93-240?

17 JUDGE REGISTER: For the record, the pages  
18 that Mr. Conrad is referring to are pages 7, 8, 9, and 10  
19 are those that are referenced to in GR-93-240.

20 MR. FRANSON: Is that Exhibit 188, your Honor?

21 JUDGE REGISTER: Exhibit 188, that's correct.

22 THE WITNESS: Mr. Conrad, what am I supposed  
23 to be checking these for?

24 BY MR. CONRAD:

25 Q. Well, I just wondered if you had -- you did

1 participate in GR-93-240, did you not?

2 A. Yes, I did.

3 Q. Do you recognize that as being portions of the  
4 Staff's accounting schedules?

5 A. No, I don't. I don't remember the numbers  
6 from 93-240.

7 Q. At least insofar as you're aware, it looks  
8 like an EMS run or part of it?

9 A. It does.

10 Q. Sure. Okay.

11 MR. CONRAD: I believe, your Honor, that's all  
12 we have for Ms. Ross. Thank you.

13 JUDGE REGISTER: Thank you, Mr. Conrad.

14 Commissioner Murray, do you have any  
15 questions?

16 COMMISSIONER MURRAY: I don't. Thank you.

17 JUDGE REGISTER: I do have a couple little  
18 questions.

19 QUESTIONS BY JUDGE REGISTER:

20 Q. Can you tell me what you referred to earlier  
21 as a regression analysis? Can you tell me what that is?

22 A. Okay. Regression analysis is a technique --  
23 it's a statistical technique that you use to find the  
24 relationship between two variables, an independent and  
25 dependent. For example, heating degree days and usage.

1 It -- oh, I -- I believe that -- well, I better not say  
2 that, because I'm not sure.

3 Q. If I understand, would you chart those two  
4 variables then to determine if there is a relationship?

5 A. You could, but actually the regression itself  
6 just gives you an intercept and then it gives you a slope.  
7 And the slope tells you that for a change in the independent  
8 variable, it tells you what the change in the dependable  
9 variable will be.

10 Q. Okay. That's all I need.

11 A. Good.

12 JUDGE REGISTER: That's all I have.

13 Recross of Ms. Ross by MGE?

14 MR. DUFFY: No questions.

15 JUDGE REGISTER: Mr. Micheel, for Public  
16 Counsel?

17 MR. MICHEEL: No, your Honor.

18 JUDGE REGISTER: And, Mr. Conrad?

19 MR. CONRAD: Nothing further.

20 JUDGE REGISTER: Redirect then for Ms. Ross,  
21 Staff?

22 MR. FRANSON: Yes, your Honor. Could we have  
23 about two minutes, your Honor, off the record?

24 JUDGE REGISTER: All right.

25 (Off-the-record.)



1 MR. FRANSON: Your Honor, I believe we're  
2 ready to proceed.

3 JUDGE REGISTER: Go right ahead, Mr. Franson.

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

6 JUDGE REGISTER: Go right ahead.

7 REDIRECT EXAMINATION BY MR. FRANSON:

8 Q. Ms. Ross, I'm going to hand you what's been  
9 admitted into evidence -- actually, do you have a copy of  
10 189?

11 A. Yes, I do.

12 Q. And do you have a copy of 190?

13 A. Yes, I do.

14 Q. Okay. Ma'am, could you turn to page 11 of  
15 Exhibit 190?

16 A. Yes. My pages aren't numbered though.

17 Q. Okay. Well, ma'am, that would correspond to  
18 the last page of Exhibit 189 and it is entitled MCF Values  
19 for Use in Allocation Factors.

20 A. Yes.

21 Q. Have you located that?

22 A. Yes.

23 Q. Ma'am, did you create that document?

24 A. Yes, I did.

25 Q. Okay. Now, comparing Exhibit 190, which is

1 the page you created from your work papers, and the third  
2 page, other than the Total column being cut off, is there  
3 any substantial difference between them?

4 A. No.

5 Q. Ma'am, turning your attention to Exhibit 189,  
6 the middle page of three pages, we'll call it page 2, what  
7 does that appear to be?

8 A. A restatement of my monthly volumes for the  
9 residential small general service and large general service  
10 class.

11 Q. Did you, in fact, prepare that?

12 A. No.

13 Q. But did you, in fact, verify that it is  
14 correct with one exception, I believe, in the February  
15 residential that you've testified to earlier?

16 A. Yes. Although I didn't check the Total  
17 column.

18 Q. You did not go through and independently add  
19 all of that up?

20 A. No, I didn't.

21 Q. Ma'am, do you have a calculator?

22 A. Yes.

23 Q. Could you, in fact, go through each of those  
24 months and see if the totals are correct?

25 A. Certainly.

1 Q. Do the August one first.

2 JUDGE REGISTER: Are these totals not on  
3 page 11 of the Exhibit 190?

4 MR. FRANSON: They are, in fact, your Honor.

5 MR. CONRAD: Your Honor, I think I can save  
6 some time because it is late in the afternoon. This was the  
7 correction that Ms. Ross and I made to what was this sheet  
8 (indicating), because we found when we went in to check the  
9 formulas that one of the columns had been slid over. And so  
10 the totals that are on that sheet do not reflect the sum of  
11 those three, but they now do. And that's what I've been  
12 suggesting that we can provide to you, and she's verified.

13 MR. FRANSON: Is that what you're going to  
14 provide corrected tomorrow?

15 MR. CONRAD: Oh, yeah.

16 BY MR. FRANSON:

17 Q. The bottom line is, Ms. Ross, you did not  
18 create this page 2?

19 A. No, I didn't.

20 Q. Okay. Ma'am, turning your attention to the  
21 front page, have you ever been asked by anyone here today  
22 what this chart is?

23 A. No.

24 Q. You have, in fact, been asked about the other  
25 two pages and whether you recognize those two pages; isn't

1       that correct?

2           A.       Yes.

3           Q.       This front page, did you create that?

4           A.       No.

5           Q.       When you first saw it today, did you know what

6       it was?

7           A.       Well, no.

8           Q.       And now do you know what it is?

9           A.       Yes.

10          Q.       What is it?

11          A.       Well, it's an uncorrected version of the

12       monthly usage of the residential small general service and

13       large general service class and then the sum of the monthly

14       usages of those three classes.

15          Q.       Now, you say "uncorrected." What do you mean

16       by that?

17          A.       Well, the total line is -- reflects the error

18       on page 2. So the total line only adds residential and SGS.

19          Q.       Okay. What is the error on page 2 that you're

20       referring to?

21          A.       The total column is only -- only reflects the

22       addition of the first -- or the second and third column, the

23       residential and the SGS column. The large general service

24       usage was inadvertently not added in.

25          Q.       Okay. Ma'am, prior to today, had you ever

1       seen this document -- this page 1 --

2           A.       No.

3           Q.       -- of Exhibit 189?

4           A.       No.

5           Q.       Ma'am, if I understand you correctly, on  
6       page 1 is it fair to say that the total -- well, we'll call  
7       it a line on there, that it is, in fact, incorrect?

8           A.       Yes.

9           Q.       And that is because the large general service  
10       class was not added to the totals?

11          A.       Yes.

12                 MR. FRANSON: Your Honor, at this time I  
13       would, in fact, move to strike page 1 of Exhibit 189.

14                 JUDGE REGISTER: Just 1 or do you want 1 and  
15       2?

16                 MR. FRANSON: Just 1. Just page 1.

17                 JUDGE REGISTER: I'm going to direct --  
18       because I don't think there was -- it was not my  
19       understanding earlier that there was an error in Exhibit  
20       No. 189 on both -- as I understand it now, page 1 and 2,  
21       but --

22                 MR. FRANSON: Your Honor, I'm sorry. I would  
23       add page 2 to that same Motion to Strike. Thank you.

24                 JUDGE REGISTER: I'm going to overrule your  
25       Motion to Strike and I'm going to -- because it is already

1 admitted into the record, but I am going to ask Mr. Conrad  
2 to provide us all new copies of 1 and 2.

3 If I understand correctly, Ms. Ross, when you  
4 reviewed through the process that Mr. Conrad used to produce  
5 the page 1 of Exhibit 189, it did come out with the correct  
6 numbers when the input was corrected?

7 THE WITNESS: Yes.

8 JUDGE REGISTER: And did that also correct the  
9 error we had found earlier where --

10 MR. CONRAD: Yes.

11 JUDGE REGISTER: -- the one number was  
12 incorrect?

13 MR. CONRAD: Actually, Ms. Ross corrected that  
14 herself.

15 JUDGE REGISTER: If you'd produce those  
16 documents for us --

17 MR. CONRAD: Be happy to do so.

18 JUDGE REGISTER: -- and we'll substitute those  
19 in the morning.

20 MR. CONRAD: Do you want to use the same  
21 number or do you want to have a corrected --

22 JUDGE REGISTER: No. We'll use the same  
23 number. And we'll remove the incorrect documents from the  
24 record.

25 MR. CONRAD: That's fine.

1 MR. DUFFY: Your Honor --

2 JUDGE REGISTER: I suppose in that respect  
3 we'll be striking the incorrect records.

4 MR. DUFFY: -- I don't mean to tell you how to  
5 run your case, but it would seem to me because of all of the  
6 discussion that we had about these things, that it would  
7 make more sense for record purposes if we did not substitute  
8 physically the pages, but that we kept what you've already  
9 marked and admitted as Exhibit 189, and that this new  
10 document receive a new exhibit number so that when  
11 somebody's reading this transcript later, they can  
12 understand that what is shown as 189 has errors in it and  
13 what presumably will be shown as 191 is the corrected  
14 version of it.

15 JUDGE REGISTER: That's a good suggestion,  
16 Mr. Duffy, and well taken.

17 MR. FRANSON: Your Honor, if I may -- maybe we  
18 can't do this, but 189 and 189-A would be easier to read in  
19 the transcript. You'd see 189 referred to and then 189-A we  
20 would know is the same material. I don't know if that's  
21 possible with the exhibit numbers.

22 MR. CONRAD: That was the thrust of my  
23 question, your Honor, whether you wanted to use the same  
24 number. We can designate it corrected or C or whatever.

25 JUDGE REGISTER: Any objection to 189-A?

1                   MR. DUFFY: I vote for 191 because that's the  
2                   next number.

3                   JUDGE REGISTER: 191 is what we'll mark those  
4                   corrected copies. And I'm going to call those corrected  
5                   monthly usage charts. Why don't you just give us the whole  
6                   exhibit again?

7                   MR. CONRAD: That's -- well, yeah. Because --

8                   JUDGE REGISTER: The third page as well --

9                   MR. CONRAD: -- the last page. Then it will  
10                  all make sense.

11                  JUDGE REGISTER: And I'll mark that -- I'll  
12                  make it corrected from Exhibit 189 with a reference to 189.

13                  All right. Where were we?

14                  MR. FRANSON: I still have a couple more  
15                  redirect questions, your Honor.

16                  JUDGE REGISTER: Okay, Mr. Franson, go ahead  
17                  and proceed.

18                  MR. FRANSON: Thank you, your Honor.

19                  BY MR. FRANSON:

20                  Q.       Ms. Ross, could you turn to Exhibit 190,  
21                  page 11? Are you there, ma'am?

22                  A.       I think so, but I don't have page numbers  
23                  again.

24                  Q.       Page -- I'm sorry. Exhibit 190, page 11.  
25                  Ma'am, is the total -- this is the one up at the top



1       there -- is that total for the residential small general  
2       service and large general service -- once that is corrected  
3       as has been discussed, is that actually a representation of  
4       MGE's system volumes?

5           A.       No, it's not.

6           Q.       And is there, in fact, a class that's omitted?

7           A.       Yes.

8           Q.       Which class is that?

9           A.       The large volume class.

10          Q.       In fact, isn't there information about the  
11       large volume class on page 11 of Exhibit 190?

12          A.       It looks like there's their total annual  
13       volume.

14          Q.       And if you would turn to Exhibit 189, when  
15       that is, in fact, corrected, the total, isn't it also true  
16       that that does not represent the -- it's not a  
17       representation of MGE's system volumes?

18          A.       No. It doesn't include -- that's correct. It  
19       doesn't include the large volume or the meter gas life  
20       usage.

21                   MR. FRANSON: I don't believe I have any --

22                   JUDGE REGISTER: So we're finished with

23       Ms. Ross?

24                   MR. FRANSON: Just one moment, your Honor.

25                   JUDGE REGISTER: Okay.

1 BY MR. FRANSON:

2 Q. Ms. Ross --

3 MR. FRANSON: I'm sorry, your Honor, if I may  
4 proceed.

5 JUDGE REGISTER: No. Go right ahead.  
6 Proceed.

7 BY MR. FRANSON:

8 Q. During the course of questioning, I believe  
9 Mr. Conrad asked you about whether or not you filed updates  
10 to your work papers and other information; is that correct?

11 A. Yes.

12 Q. And do you know, did the company ever file an  
13 update to its cost of service study?

14 A. I don't recall.

15 MR. FRANSON: No further questions, your  
16 Honor.

17 JUDGE REGISTER: Thank you, Mr. Franson.

18 Ms. Ross may be excused.

19 It's 4:30 today. The next witness who's  
20 listed is Ms. Hu, but I see that we also have  
21 cross-examination from Staff and Midwest Gas Users'  
22 Association. I think we're going to end the hearing today  
23 and reconvene in the morning beginning with  
24 cross-examination of Ms. Hu.

25 MR. MICHEEL: Could we just perhaps put Ms. Hu

1 up and get the preliminary questions out of the way today so  
2 we can just get to the cross-examination tomorrow?

3 JUDGE REGISTER: I don't have any objection to  
4 that.

5 MR. FRANSON: No objection.

6 JUDGE REGISTER: Sound reasonable to  
7 everybody?

8 Okay. Call Ms. Hu to the stand then.

9 MR. MICHEEL: We could call Hong Hu to the  
10 stand.

11 (Witness sworn.)

12 HONG HU testified as follows:

13 DIRECT EXAMINATION BY MR. MICHEEL:

14 Q. Ms. Hu, would you state your name and how  
15 you're employed.

16 A. My name's Hong Hu. I'm employed as a public  
17 utility -- public utility economist by the Office of Public  
18 Counsel.

19 Q. And could you describe for me your educational  
20 background briefly?

21 A. I have a bachelor of engineering degree in  
22 MIS, management information system, from Tsinghua University  
23 in China. I also have master of arts degree in economics  
24 from Northeastern University. And I'm also an ABD, all but  
25 dissertation Ph.D., from University of Missouri at Columbia.

1           Q.     And while you've been employed at the Office  
2 of Public Counsel, have you had occasion to participate in  
3 developing cost of service studies?

4           A.     Yes.

5           Q.     And have you developed cost of service studies  
6 for natural gas utilities?

7           A.     Yes, I have.

8           Q.     And are you here today to adopt the direct  
9 testimony, which has been marked as Exhibit 147 of Barry F.  
10 Hall; the supplemental direct testimony of Barry F. Hall,  
11 Exhibit 148; the rebuttal testimony of Barry F. Hall,  
12 Exhibit 149; and the surrebuttal testimony of Barry F.  
13 Hall, Exhibit 150?

14          A.     Yes, I am.

15                 MR. MICHEEL: With that, your Honor, I would  
16 tender Ms. Hu for cross-examination and ask that -- I guess  
17 those pieces of testimony have already been admitted into  
18 the record.

19                 JUDGE REGISTER: Exhibits 147, 148, 149 and  
20 150 are exhibits already admitted into this record. They  
21 are the testimony -- the pre-filed testimony of Barry F.  
22 Hall. And we'll resume testimony in the morning on  
23 cross-examination.

24                 Do you have very much cross, Mr. Franson?

25                 MR. FRANSON: No, your Honor. Probably under

1 half a dozen questions.

2 JUDGE REGISTER: If you want to proceed today  
3 and can go until 5:00 -- is that acceptable with the  
4 parties?

5 MR. FRANSON: Actually, I could probably  
6 finish it and I probably won't even need that long if I  
7 could have about one minute.

8 JUDGE REGISTER: Let's give it a try.

9 MR. MICHEEL: Thank you, your Honor. I  
10 appreciate that.

11 CROSS-EXAMINATION BY MR. FRANSON:

12 Q. Ms. Hu, do you have copies of Mr. Dan Beck's  
13 testimony?

14 A. Yes, I do.

15 Q. Specifically, Exhibit 133, which was the  
16 rebuttal testimony of Mr. Beck?

17 A. Yes, I do.

18 Q. Okay. Ma'am, could you turn to pages 11  
19 through 14 -- actually -- well, let's start at page 11,  
20 Ms. Hu. What I'm asking is, have you had an opportunity to  
21 review Mr. Beck's testimony?

22 A. Yes. Briefly.

23 Q. And are you aware that Mr. Beck suggested  
24 various corrections to Mr. Hall's testimony and --

25 A. Yes. I'm aware of that.

1 Q. Ma'am, could you turn to Schedule 1 of  
2 Exhibit 133, rebuttal testimony of Mr. Beck?

3 A. Yes. I'm there.

4 Q. Okay. Have you had an opportunity to review  
5 that?

6 A. I looked at it.

7 Q. Okay. Ma'am, would you be able to say whether  
8 or not you would agree with Mr. Beck's corrections to  
9 Mr. Hall's testimony as presented in Schedule 1?

10 A. As Mr. Hall indicated in his surrebuttal, we  
11 don't think these corrections are necessary.

12 Q. So is it fair to say you would disagree with  
13 them?

14 A. Yes. That's right.

15 MR. FRANSON: Your Honor, I don't believe I  
16 have any further questions.

17 JUDGE REGISTER: Okay. Let's stop there today  
18 and we'll resume in the morning at 8:30.

19 WHEREUPON, the hearing was adjourned until  
20 8:30 a.m., August 9, 2000.

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| 1  | EXHIBITS INDEX                                 |        |       |
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| 3  | Direct Testimony on Remand of Brad Lewis       | 1902   |       |
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| 5  | Rebuttal Testimony on Remand of Daniel I. Beck | 1902   | 1988  |
| 6  | Exhibit No. 184                                |        |       |
| 7  | Rebuttal Testimony of Ryan Kind                | 1902   |       |
| 8  | Exhibit No. 185                                |        |       |
| 9  | MGE Tariff Sheet R-59                          | 1998   | 1999  |
| 10 | Exhibit No. 186                                |        |       |
| 11 | MGE Tariff Sheet R-58                          | 2001   | 2002  |
| 12 | Exhibit No. 187                                |        |       |
| 13 | News bulletin from KPL Gas Services            | 2013   |       |
| 14 | Exhibit No. 188                                |        |       |
| 15 | Comparison of rate base                        | 2019   |       |
| 16 | Exhibit No. 189                                |        |       |
| 17 | Monthly usage charts                           | 2061   | 2085  |
| 18 | Exhibit No. 190                                |        |       |
| 19 | Revision work papers of Anne Ross              | 2081   | 2086  |
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