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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

December 10, 1997
Jefferson City, Missouri
Volume 5

In the Matter of Missouri Public)
Service, a Division of UtiliCorp)
United, Inc.'s Tariff Designed to)
Increase Rates for Electric Service) Case No. ER-97-394
to Customers in the Missouri)
Service Area of the Company.)

and

In the Matter of the Filing of)
Tariff Sheets by Missouri Public)
Service, a Division of UtiliCorp)
United, Inc., Relating to Real-Time) Case No. ET-98-103
Pricing, Flexible Rates/Special)
Contract, Line Extension Policy and)
Energy Audit Program.)

and

The Staff of the Missouri Public)
Service Commission,)
Complainant,)
v.)
UtiliCorp United, Inc., d/b/a)
Missouri Public Service,)
Respondent.)

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JOSEPH A. DERQUE, III, Presiding,
REGULATORY LAW JUDGE.
SHEILA LUMPE, Chairperson,
HAROLD CRUMPTON,
M. DIANNE DRAINER,
CONNIE MURRAY,
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

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P R O C E E D I N G S

JUDGE DERQUE: We're on the record.

I have a request from UtiliCorp to waive cross on Mr. Maurice Arnall on the issue of off-system sales. Is there any objection to that?

MR. MILLS: No objection.

JUDGE DERQUE: Poorly stated. Would you waive cross on Mr. Arnall?

MR. MILLS: Yes. For the issue of off-system sales, Public Counsel is willing to waive cross on Mr. Arnall.

JUDGE DERQUE: Thank you, Mr. Mills. Mr. Dottheim?

MR. DOTTHEIM: The Staff is also willing to waive cross on Mr. Arnall on off-system sales.

JUDGE DERQUE: Thank you. Cross-examination will be waived on Mr. Arnall, and he may be excused on that issue.

MR. COOPER: Thank you, your Honor. Are we ready to move forward with Mr. Browning?

JUDGE DERQUE: Yes. We're ready for Mr. Browning.

MR. COOPER: UtiliCorp would call Mr. John Browning.

(Witness sworn.)

1 MR. COOPER: Your Honor, we have two pieces
2 of testimony for Mr. Browning that need to be marked.

3 JUDGE DERQUE: Just a second. I have
4 rebuttal testimony of Mr. John Browning. That will be
5 No. 46, and the surrebuttal will be No. 47. Is that
6 correct, Mr. Cooper?

7 MR. COOPER: That's correct.

8 JUDGE DERQUE: We're off the record.

9 (Discussion off the record.)

10 (EXHIBIT NOS. 46 AND 47 WERE MARKED FOR
11 IDENTIFICATION.)

12 JUDGE DERQUE: We're back on the record.
13 Mr. Cooper?

14 JOHN C. BROWNING testified as follows:

15 DIRECT EXAMINATION BY MR. COOPER:

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

18 A. John C. Browning.

19 Q. By whom are you employed and in what
20 capacity?

21 A. UtiliCorp United, Vice President - Regulated
22 Power Marketing and Generation Dispatch.

23 Q. Have you caused to be prepared for purposes
24 of this proceeding certain rebuttal and surrebuttal
25 testimony in question and answer form?

1 A. Yes, I have.

2 Q. Is it your understanding that that testimony
3 has been marked as Exhibits 46 and 47 for
4 identification?

5 A. Yes.

6 Q. Do you have any changes that you would like
7 to make to that testimony at this time?

8 A. Yes. I have one change. In the surrebuttal
9 testimony on page 6, line 18, I'd like to strike the
10 words beginning at the very last word of line 18, the
11 word what through the word cases in line 19, and I
12 would like to insert the words practical values in
13 place of those stricken words.

14 Q. If I asked you questions which are contained
15 in Exhibits 46 and 47 today, would your answers,
16 including the correction you've just made, have been
17 the same?

18 A. Yes.

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

21 A. Yes.

22 MR. COOPER: Your Honor, I would offer
23 Exhibits 46 and 47 into evidence and tender the
24 witness for cross-examination.

25 JUDGE DERQUE: Is there any objection to the

1 admission into evidence of Exhibits No. 46 and 47?

2 (No response.)

3 JUDGE DERQUE: Hearing none, they will be
4 admitted.

5 (EXHIBIT NOS. 46 AND 47 WERE RECEIVED INTO
6 EVIDENCE.)

7 JUDGE DERQUE: Mr. Mills?

8 MR. MILLS: Thank you. Just a few
9 questions.

10 CROSS-EXAMINATION BY MR. MILLS:

11 Q. Mr. Browning, has UtiliCorp made a proposal
12 similar to the one it is making in this case for the
13 off-system sales incentive in any of its other
14 jurisdictions?

15 A. I'm not aware of any.

16 Q. Are you aware that any other utilities in
17 Missouri have made or had approved by the Commission
18 any such proposal?

19 A. I'm not aware of any.

20 Q. Are you aware of any utilities in any other
21 states that have proposed and had approved any such
22 proposal?

23 A. No, I'm not.

24 Q. Are you at all familiar with the earnings
25 sharing plan that MoPub has proposed in this case?

1 A. I believe it's a 50/50 sharing plan for
2 off-system sales margins.

3 Q. Okay. I'm talking about the other earnings
4 share, the incentive, the EEM that Mr. McKinney talks
5 about in his case --

6 A. No, I'm not.

7 Q. -- in his testimony.

8 Okay. Would Ms. Sotak be familiar with
9 that? If I wanted to ask some questions about how the
10 off-system sales incentive plan inter-relates with the
11 earnings sharing plan, would she be the witness to
12 talk to about that?

13 A. You'd have to ask her.

14 Q. Okay. For the purposes of the off-system
15 sales incentive plan, how are the revenues from
16 off-system sales calculated?

17 A. Revenues are tracked on a daily basis based
18 on purchases and sales made for off-system -- in
19 off-system transactions accumulated on a monthly
20 basis. I'm not sure I understand exactly what you're
21 wanting.

22 Q. Are those net of fuel expense?

23 A. Yes. All expenses related to those have
24 been already taken into consideration, fuel expenses,
25 offsetting purchase power expenses, and the cost of

1 transmission as well.

2 Q. Maintenance expenses?

3 A. Yes. Any variable expenses for maintenance
4 and operations are also taken into consideration.

5 MR. MILLS: I believe that's all the
6 questions I have for this witness. Thank you.

7 JUDGE DERQUE: Thank you, Mr. Mills.
8 Mr. Dottheim?

9 MR. DOTTHEIM: Yes. I have a number of
10 questions for Mr. Browning on off-system sales. I
11 should have noted earlier that, as far as
12 Mr. Browning's testimony on depreciation rates,
13 Mr. Woodsmall has the questions of Mr. Browning.

14 I think that's been addressed with the
15 Company previously and they've indicated no objection
16 to Mr. Woodsmall asking the cross on depreciation.

17 JUDGE DERQUE: Certainly, yeah, when we get
18 to it.

19 CROSS-EXAMINATION BY MR. DOTTHEIM:

20 Q. Good morning, Mr. Browning.

21 A. Good morning.

22 Q. I'd like to refer you to page 3 of your
23 rebuttal testimony. On page 3, you commence a
24 discussion of what you call marketplace risk
25 associated with off-system transactions, do you not?

1 A. Yes.

2 Q. On page 4, you talk about scheduling power
3 to take short or long positions, do you not?

4 A. Yes.

5 Q. Would you agree that the risks of trading
6 energy with other utilities and power marketers
7 includes uncertainty in estimating future energy
8 prices based upon supply and demand relationships in
9 comparison to estimating the costs of generating power
10 to serve native loads?

11 A. That's true.

12 Q. Is there a risk respecting forecasting based
13 on weather conditions?

14 A. Yes, there is.

15 Q. And continuing in your rebuttal testimony,
16 on page 6, you talk about constraints in the
17 transmission system that can limit the ability to
18 consummate the planned off-system transactions, do you
19 not?

20 A. Yes.

21 Q. Would you agree that transmission
22 contingencies such as tornadoes, floods and other
23 natural events have been experienced by electric
24 utilities for years?

25 A. Yes.

1 Q. In fact, they've been always experienced by
2 electric utilities, have they not?

3 A. Yes.

4 Q. On page 7 of your testimony, your rebuttal
5 testimony, another risk that you describe is that
6 generating units used in making off-system sales may
7 experience unplanned outages such as equipment
8 failures, do you not?

9 A. Yes.

10 Q. Isn't it the case that generating unit
11 unplanned outages have been a factor for years in the
12 process of engaging in off-system sales transactions?

13 A. That's true. The only difference is, in
14 today's marketplace, it's the question of volume and
15 the volatility of the market.

16 Q. Considering the various uncertainties which
17 you discuss in your rebuttal testimony which we've
18 just noted as well as the increase or existence of
19 competition and price volatility which you describe on
20 pages 8 and 9 of your rebuttal testimony, isn't it
21 true that Missouri Public Service has been able to
22 typically increase the revenues and margins that it
23 earns on off-system sales in the past several years?

24 A. At least in the past year particularly.

25 Q. Would it go further back than just in the

1 past year?

2 A. Before probably last fall, there was very
3 little difference.

4 Q. And when you say very little difference, how
5 would you define very little difference?

6 A. The levels of off-system transactions were
7 not significantly greater than what they had been for
8 the previous years.

9 Q. Were the margins different, though?

10 A. The margins before last fall?

11 Q. Yes.

12 A. I don't really have any knowledge of that.
13 That was outside of my area of expertise.

14 Q. It is true, is it not, that the Staff has
15 not alleged any imprudence or made any disallowance
16 regarding the actual off-system transactions engaged
17 in by Missouri Public Service in the test year and in
18 the update period covered by this case?

19 A. That's true.

20 Q. For instance, Staff has not alleged that
21 management failed to make all prudently possible
22 off-system sales, has it?

23 A. No, they haven't.

24 Q. And Staff has not alleged that Missouri
25 Public Service has failed to sell power off system for

1 reasonable prices, has it?

2 A. No, they haven't.

3 Q. Would you agree with me that actual off --
4 that by using -- excuse me. I'll start over.

5 Would you agree with me that using actual
6 off-system sales volumes and margins when rates are
7 set has the effect of including in rates all of the
8 market forces described in your rebuttal testimony?

9 A. I really don't. I don't agree with that
10 necessarily because of the volatility of the
11 marketplace. I think it's very difficult for you to
12 really capture in the way that you're trying to do it
13 what's going to happen in the marketplace.

14 Q. Other than the volatility in the
15 marketplace, are other forces captured such as what we
16 just described, the various contingencies due to
17 natural forces or equipment failures and the like?

18 A. No. I don't think they're completely
19 captured. Going ahead into the future, for instance,
20 while we haven't done it at this point, if we were to
21 increase the off-system sales even further than we
22 have, I think we would face some increased risk
23 because of the way that we would have to operate the
24 plants in order to be successful in doing that, and
25 that would lead to some increased exposure to

1 equipment failures.

2 Q. What would be the change in the operation of
3 the plants which you're referring to?

4 A. To increase off-system sales, we may very
5 well have to run those plants at higher capacity
6 factors, approaching maximum load, which is always a
7 greater risk for equipment failures. It's greater
8 wear and tear. There's a number of different things
9 associated with operating close to the maximum levels.

10 Q. But those would be determinations made by
11 the Company itself, would it not, as far as the
12 operating of those units?

13 A. That's right.

14 Q. If I could ask you to return to your
15 rebuttal testimony, on page 9 you discuss
16 infrastructure risk which include both the people and
17 the facilities used by MPS to make off-system sales;
18 is that correct?

19 A. Yes.

20 Q. Would you happen to have -- it hasn't been
21 marked as an exhibit yet, but would you happen to have
22 a copy of Staff witness Michael L. Brosch's rebuttal
23 testimony in this proceeding? If you don't have a
24 copy, I have one.

25 A. I believe I do, yes.

1 Q. I'd like to refer you to the schedule that
2 is attached to Mr. Brosch's rebuttal testimony. It's
3 the very last page before the back page, and I'd like
4 to ask you to take a look at that organizational
5 chart. I expect that you've already done so.

6 A. Yes.

7 Q. Do the positions in this organizational
8 chart include the dispatchers, power traders and other
9 support personnel that you discuss at pages 11 and 12
10 of your rebuttal testimony under the caption staffing?

11 A. Yes.

12 Q. Would you agree that the Staff has proposed
13 no disallowance or 50/50 sharing in this rate case on
14 the salaries and benefits charged to Missouri Public
15 Service for these staff people?

16 A. I'm not aware of any.

17 Q. And as far as the facilities that these
18 individuals employ to perform their jobs, isn't it
19 true that the Staff has now proposed that the
20 buildings, computers, furniture and other assets that
21 they use either be disallowed or shared 50/50 with the
22 shareholders?

23 A. I don't believe they have.

24 Q. The Staff hasn't proposed in this proceeding
25 any disallowances of generation plant investment or

1 generation plant expenses associated with making
2 off-system sales, has it?

3 A. No.

4 Q. And there is no Staff disallowance of office
5 facilities which you describe in your rebuttal
6 testimony?

7 A. No.

8 Q. There is no Staff disallowance, is there, of
9 fuel inventories and cost to manage fuel supplies in
10 this case, is there?

11 A. No.

12 Q. Would you agree that Missouri Public
13 Service's proposal to retain 50 percent of the
14 off-system sales margins as a reward for shareholders
15 does not include a proposal to remove a corresponding
16 50 percent of the personnel and facility costs
17 incurred by Missouri Public Service to permit
18 off-system sales be consummated?

19 A. No, it doesn't. I wouldn't refer to it as a
20 reward. I would consider it compensation.

21 Q. Is it your testimony that there are
22 significant risks associated with employing people
23 that can be fully included in the regulated revenue
24 requirements of Missouri Public Service in rate cases?

25 A. I'm not sure I understand the question.

1 Q. Is it your testimony that there are no
2 incremental resources required to make off-system
3 sales?
4 A. Yes.
5 Q. I'd like to refer you to your surrebuttal
6 testimony, and in particular I'd like to refer you to
7 page 13.
8 A. I don't have a page 13.
9 Q. Excuse me. On page 11. I'm sorry.
10 A. I don't think there's -- page 11?
11 Q. Yes.
12 A. In surrebuttal?
13 Q. Excuse me. I've got my two sets of your
14 testimony intermixed here. If I could have a moment,
15 please.
16 If I can refer you to your rebuttal
17 testimony, page 11, the sentences that start on line
18 12 and concludes on line 16.
19 A. Yes.
20 Q. Now, it's your testimony that there are
21 infrastructure risks associated with overstaffing and
22 with failing to staff appropriately to cease
23 opportunities?
24 A. Yes.
25 Q. But at the same time it's your testimony

1 that there are no incremental resources required to
2 make off-system sales?

3 A. Nothing of any significance anyway.

4 MR. DOTTHEIM: Thank you, Mr. Browning.

5 JUDGE DERQUE: Questions, Chair Lumpe?

6 QUESTIONS BY CHAIR LUMPE:

7 Q. Mr. Browning, on the off-system sales, are
8 these for -- are these planned or are they excess
9 capacity, or how do they fit into the company's
10 operation?

11 A. The off-system sales occur in a number of
12 different ways. They can occur on an hourly basis in
13 the real-time market or they can be planned in advance
14 by the next day's schedulers.

15 In almost all cases the off-system sales
16 have been sourced by off-system purchases. We are a
17 net purchaser of energy. The generation plant that we
18 operate almost entirely goes to native load customers.
19 So the off-system sales are almost entirely funded by
20 off-system purchases.

21 Q. So it's not -- it's not excess capacity of
22 your generation?

23 A. There are some times during the year that
24 that could occur. Situations that that might occur in
25 would be when we can find an opportunity to purchase

1 power for less than what our own generation is capable
2 of producing it for, but yet it may be a short enough
3 period of time that it's not -- perhaps not practical
4 for us to take that unit out of service. So in that
5 case we might actually source the sale off of the
6 generating plant, but those situations are fairly
7 rare.

8 Q. So it's basically you, the Company,
9 purchasing it for resale to someone else, this
10 operation?

11 A. In most cases.

12 Q. How did you arrive at the 50/50 sharing
13 formula? What calculation did you use?

14 A. That wasn't my number, and I guess I
15 couldn't explain the rationale behind that.

16 Q. Is there someone that's already testified or
17 will testify that could testify to that?

18 A. I'm not really sure who that person was.

19 Q. So somewhere within the corporate structure
20 50 percent arrived and we don't know how?

21 A. I don't know how.

22 Q. Or you don't know how. It would be
23 interesting to know how we might have arrived at that.

24 CHAIR LUMPE: I guess that's all the
25 questions I have. Thank you.

1 JUDGE DERQUE: Commissioner Murray?

2 COMMISSIONER MURRAY: Thank you.

3 QUESTIONS BY COMMISSIONER MURRAY:

4 Q. Good morning.

5 A. Good morning.

6 Q. On page 9 of your rebuttal testimony, lines
7 20 and 21, I'm referring you to the sentence, the
8 selling of excess energy off system involves operating
9 the generating facilities more hours per year and at a
10 higher -- and at higher load factors than without
11 off-system sales.

12 That would be an expense of operating
13 facilities more hours in order to accomplish the
14 off-system sales; is that correct?

15 A. That was a generic cost that I was
16 identifying. We haven't actually done that yet. But
17 if we were to do it to increase off-system sales, we
18 have some variable expenses for operations and
19 maintenance that we have already identified, but they
20 are based on operations at the levels that we
21 customarily utilize.

22 If we were to increase the operation of the
23 plant, then those variable expenses could change.
24 They could increase.

25 Q. So your reference, your statement there

1 under generation plant expenses, the purpose of that
2 statement was to indicate what?

3 A. To identify a potential risk involved with
4 increased off-system sales.

5 Q. And that potential risk would be a potential
6 increased expense?

7 A. Yes.

8 Q. And are you suggesting that that expense
9 should be included in the rate structure?

10 A. Not at this time. That's a risk that the
11 shareholders would have to deal with.

12 Q. You're suggesting that would be a
13 shareholder risk and not a ratepayer risk?

14 A. At this time, it's not identified in this
15 rate case. So until the next rate case comes around,
16 that would be something that the shareholders would
17 have to carry.

18 Q. On page 10 of your rebuttal testimony,
19 line 16, you talk about the costs incurred in
20 upstaffing to participate. What do you mean by
21 upstaffing?

22 A. That would be increasing the number of
23 people involved in the trading operation, which would
24 include both purchases and sales.

25 Q. And the purpose of that increase would be?

1 A. The opportunity to contact more potential
2 trading partners.

3 Q. Okay. Would you look at page 2 of your
4 surrebuttal testimony, lines 21 and 22, where you say:
5 The important point to make is that there are no costs
6 dedicated purely to off-system sales. What do you
7 mean by that statement?

8 A. I mean that the staff that we currently have
9 are there to perform the basic functions that need to
10 be performed for the native load customers, and
11 there's -- there would be no way that we could reduce
12 the staff that we had if we were not to do off-system
13 sales.

14 So the off-system sales obviously take a
15 little bit of time to perform, but it's nothing that
16 could be reduced as far as expenses are concerned if
17 we were not to do that.

18 Q. So are you saying that off-system sales may
19 require an increase in the number of staff?

20 A. If we were to increase in the future the
21 amount of off-system sales that we do, one way to do
22 that would be to increase the staff.

23 Q. And you're not -- you're testifying that you
24 have not increased the staff to date for off-system
25 sales?

1 A. That's true.

2 Q. You talked about -- you distinguished a
3 moment ago when you were being questioned by
4 Mr. Dottheim between compensation and reward. As I
5 recall your testimony, you said that you preferred not
6 to think of it as reward but rather compensation.

7 When you're looking at off-system sales,
8 you're looking at something that creates a risk and a
9 reward; is that correct?

10 A. Yes.

11 Q. And by the same token, off-system sales also
12 creates expenses and compensation?

13 A. Yes.

14 Q. So it's really kind of a matter of semantics
15 as to whether you call it reward or compensation.

16 If the risk-taker, if there is a risk-taker,
17 would not it be logical that the risk-taker would be
18 the person who receives the reward?

19 A. Yes, the risk-taker should receive the
20 reward.

21 Q. So would it be your testimony that if the
22 reward or the compensation for off-system sales were
23 to be shared by the ratepayers and the shareholders,
24 that the risks or the expenses should accordingly be
25 shared?

1 A. Yeah. If the ratepayers are assuming some
2 risk, then they should receive some of the reward. At
3 this point in time, shareholders are assuming all of
4 that.

5 COMMISSIONER MURRAY: Thank you. That's all
6 my questions.

7 QUESTIONS BY JUDGE DERQUE:

8 Q. Is it your testimony, Mr. Browning, that the
9 shareholders of UtiliCorp are assuming all of the risk
10 for off-system sales?

11 A. At this point in time, I believe that's
12 true.

13 JUDGE DERQUE: Okay. Let's see. Recross
14 based on Commission questions, Mr. Mills?

15 MR. MILLS: I have none, thank you.

16 JUDGE DERQUE: Mr. Dottheim?

17 REXCROSS-EXAMINATION BY MR. DOTTHEIM:

18 Q. This is just a follow-up to Commissioner
19 Murray's questions. Missouri Public Service in this
20 proceeding in this rate case, respecting the test year
21 or the update period used, the Company -- excuse me --
22 Missouri Public Service has not proposed allocating
23 any investment to -- other than in the manner that
24 it's traditionally been treated, has it?

25 A. Could you do that one more time, please?

1 Q. There's no change in the traditional manner
2 that investment has been allocated, and that is to
3 shareholders?

4 A. I'm not aware of any.

5 Q. No change in how expenses are being treated
6 either, is there, in this proceeding?

7 A. I don't believe so.

8 Q. That is, associated with off-system sales?

9 A. I believe that's true.

10 MR. DOTTHEIM: Thank you.

11 JUDGE DERQUE: Redirect, Mr. Cooper?

12 MR. COOPER: Yes, your Honor.

13 REDIRECT EXAMINATION BY MR. COOPER:

14 Q. Mr. Browning, you were asked some questions
15 about your staffing and staffing levels. Do you
16 recall those?

17 A. Yes.

18 Q. Could you explain to us what your staff does
19 in relation to the regulated operations of MPS?

20 A. The first priority of the staff is to do the
21 economic dispatch of the generating plant so that we
22 can achieve the lowest cost power supply with our own
23 facilities, and also to supplement our generation with
24 purchased power, again for native load at the lowest
25 cost that we can achieve. So those are our primary

1 responsibilities.

2 We have other responsibilities to the grid
3 in that we have to maintain reliable operations. So
4 ultimately it's the most economical power supply that
5 we can achieve for the native load customers.

6 Q. And how many people actually work for you
7 performing that function?

8 A. The people that are directly related with
9 that function, there -- now there are actually ten
10 people doing that right now. Six are generation desk
11 operators, and four are the next-day traders.

12 Q. When you say six are generation desk
13 operators, how many positions is that really that is
14 on duty at any given time?

15 A. That particular position is one that has to
16 man the generation desk 24 hours a day, 7 days a week,
17 365 days a year. So in order to do that, you need to
18 have about the number of people that we have just to
19 maintain one person there, to assure yourself that you
20 have one person there at all times.

21 So there may be some times when we can have
22 two people on the desk, which is very helpful, but in
23 most cases it's one person.

24 Q. How many people do you believe is necessary
25 to perform your regulated functions if you were just

1 performing them for the state of Missouri?

2 A. It would take the same number of people. It
3 would basically take the six people that we've got
4 right now. In fact, we're doing the work of three
5 states. We have three different control areas that we
6 are doing business for. We have Missouri, Kansas and
7 Colorado, and it's all being done by those same six
8 people.

9 And the costs for those people are allocated
10 between the states, and Missouri shares about 50
11 percent. So, in fact, we're doing the job with three
12 people, which under normal circumstances would be
13 completely impossible to accomplish.

14 Q. Do you believe that you could increase your
15 off-system sales revenues with the personnel you
16 currently have?

17 A. It would be very difficult to do that.
18 We're totally maxed out doing what we're doing right
19 now.

20 Q. You were asked some questions earlier about
21 the way you experience or had experienced increases in
22 off-system sales revenues. Would you necessarily
23 anticipate any increase in the future in off-system
24 sales revenues?

25 A. There could be, but again, there's many

1 risks involved with the marketplace today. One of the
2 risks that probably wasn't identified in the
3 testimony, it's of great concern to me, is the
4 potential loss of membership in MAP.

5 As it turns out, MAP has been very
6 beneficial to us in our off-system sales trading. We
7 are members of MAP by virtue of the fact that Kansas
8 City Power & Light is a member of MAP. We're a border
9 member.

10 I'm uncertain, and I think even Kansas City
11 Power & Light is uncertain as to whether they're going
12 to continue as members in MAP pending the merger that
13 they have with Western Resources.

14 MR. DOTTHEIM: I'm going to object. I think
15 the redirect and the answer has gone far beyond what
16 the questions were from the Bench in particular.

17 MR. COOPER: Actually, I'm referring to
18 questions from Mr. Dottheim earlier, who I believe
19 asked questions about the potential for increase in
20 the off-system sales revenues. I think Mr. Browning
21 is explaining why there may not be any increase in
22 off-system sales revenues in the future.

23 MR. DOTTHEIM: I also say that I think it's
24 beyond the cross-examination that I asked Mr. Browning
25 also.

1 JUDGE DERQUE: You're just barely inside the
2 scope of cross, Mr. Cooper. If we could answer the
3 MAP question and get on with it.

4 THE WITNESS: Again, there's great concern.
5 If KCP&L should cease to be a member of MAP, we would
6 no longer be able to participate in MAP, and MAP has
7 accounted for nearly 50 percent of our off-system
8 sales in the last year.

9 JUDGE DERQUE: While Mr. Cooper's thinking,
10 Mr. Browning, let me ask you one question. I have
11 Exhibit No. 2, the true-up reconciliation. I have the
12 adjustment, proposed Staff adjustment, I presume, in
13 off-system sales revenue net of fuel expense of
14 \$1,325,968.

15 Is that for this trued-up test year? Is
16 that the -- is that figure 100 percent of the net
17 profit? Is that correct?

18 THE WITNESS: I believe that's 50 percent.

19 JUDGE DERQUE: The million-three is
20 50 percent?

21 THE WITNESS: That's my understanding.

22 JUDGE DERQUE: Okay. Thank you.

23 MR. COOPER: Your Honor, I have no further
24 questions at this time. And I would state that as to
25 Commissioner Lumpe's question about the 50/50 sharing,

1 we do have Ms. Sotak who will be testifying on the
2 final Friday when this issue is continued and should
3 be able to address that.

4 JUDGE DERQUE: Commissioner Murray?

5 QUESTIONS BY COMMISSIONER MURRAY:

6 Q. I'd just like to follow up with something
7 that I'm a little confused about. Have there been any
8 increases in off-system sales expenses to date?

9 A. Expenses related directly to off-system
10 sales?

11 Q. Yes.

12 A. If there are, they'd be very, very small. I
13 couldn't identify them.

14 Q. Okay. So your statement earlier that the
15 shareholders have incurred all the risks so far, the
16 logical conclusion to that would be that what the
17 shareholders have incurred so far would be very, very
18 small; is that correct?

19 A. Well, the risk is more than just expenses.
20 The risk is in the trading function itself with the
21 price volatility and the assumptions that you make in
22 your next-day trading.

23 Q. But we're talking about -- are we talking
24 about what has occurred so far or what will occur in
25 the future?

1 A. In the case of price volatility, it's what
2 has already occurred. When we take positions, when we
3 purchase power for the next day and then commit to a
4 sale that's associated with that purchase, we don't
5 know exactly what the price is going to be in the next
6 day's market. So there's a potential to lose as well
7 as to win.

8 Q. So you're saying there was a risk, and they
9 were lucky in terms of that risk?

10 A. We like to think we take educated guesses,
11 but there's a certain amount of luck there, too.

12 Q. And has there been an increase in off-system
13 sales income to date?

14 A. Yes.

15 Q. And who received the reward for those
16 increases to date?

17 A. To this date, it would be the shareholders.

18 Q. Okay. And was that also a small amount, or
19 was that relatively substantial in terms of the risk/
20 reward combination?

21 A. I think it was fair.

22 COMMISSIONER MURRAY: All right. Thank you.

23 JUDGE DERQUE: Recross based on my question
24 and Commissioner Murray's questions?

25 MR. MILLS: No questions.

1 JUDGE DERQUE: Mr. Dottheim?
2 MR. DOTTHEIM: No question.
3 JUDGE DERQUE: Redirect?
4 MR. COOPER: No further questions.
5 JUDGE DERQUE: Okay. Thank you,
6 Mr. Browning.
7 MR. DOTTHEIM: Are we going to move on to
8 the cross of Mr. Browning on depreciation?
9 JUDGE DERQUE: Oh, okay. I'm sorry. I
10 didn't understand you wanted to do it now.
11 MR. WOODSMALL: Yes. It's my understanding
12 that Mr. Browning is not available next week when the
13 depreciation issue in chief comes up.
14 MR. DOTTHEIM: It was probably too small of
15 a footnote, but it was footnoted in the Hearing Memo.
16 JUDGE DERQUE: No. I'm overwhelmed with
17 details, Mr. Dottheim.
18 MR. DOTTHEIM: I understand.
19 JUDGE DERQUE: Let's go off the record and
20 take a ten-minute break.
21 (A recess was taken.)
22 JUDGE DERQUE: We're on the record.
23 Mr. Browning, you're still sworn.
24 MR. SWEARENGEN: Judge, just by way of
25 preliminary

1 JOHN C. BROWNING testified as follows:

2 DIRECT EXAMINATION BY MR. SWEARENGEN:

3 Q. Mr. Browning, you have in front of you
4 Exhibit 47, your surrebuttal testimony; is that
5 correct?

6 A. Yes.

7 Q. And beginning at the bottom of page 6 of
8 that testimony, is that where you discussed the
9 depreciation issue in this case?

10 A. Yes.

11 Q. And I think earlier, perhaps yesterday, you
12 made a change to your testimony on line 18 and 19,
13 lines 18 and 19?

14 A. Yes.

15 Q. And could you repeat for the record this
16 morning just so everyone is clear what that change
17 was?

18 A. On line 18, the very last word, what, begin
19 striking there through and including the word cases on
20 line 19, and insert the words practical values.

21 Q. And with that change to your depreciation
22 testimony, if you were asked those questions as
23 contained in pages 6, 7 and 8 of your surrebuttal
24 testimony, Exhibit 47, would your answers be the same?

25 A. Yes.

1 Q. Thank you.

2 MR. SWEARENGEN: That's all I have. I think
3 Exhibit 47 has probably been offered, but I will
4 reoffer it.

5 JUDGE DERQUE: Yeah. Exhibit 47 has been
6 offered and entered.

7 MR. SWEARENGEN: Thank you.

8 JUDGE DERQUE: Mr. Mills?

9 MR. MILLS: Thank you. I have just a few
10 questions.

11 CROSS-EXAMINATION BY MR. MILLS:

12 Q. Mr. Browning, let's start with that change
13 that you just made. What was the reason for that
14 change?

15 A. When I first wrote the testimony, I was
16 under the impression that this issue, I guess, had
17 been agreed to or approved by the Commission, the
18 depreciation retirement dates and things like that in
19 the 1993 case.

20 And after I wrote the testimony, I
21 discovered that that issue never was resolved, that
22 there was a settlement in the case and it just never
23 got discussed.

24 Q. Now, you talk at page 7 of your surrebuttal
25 testimony about the life extension program at Sibley,

1 and you state at lines 11 through 12 that you can
2 unequivocally state that this program only looked out
3 to the year 2010.

4 Are you saying there that there's no chance
5 that the Sibley plant will be running beyond 2010?

6 A. I would not say that there's no chance.
7 That was the target date for the life extension
8 program. We did not look beyond that year.

9 Q. It's not unheard of in the electric utility
10 industry for plants to run beyond what 20 years before
11 had been viewed as their retirement date?

12 A. It happens.

13 Q. Now, at page 8 of your surrebuttal
14 testimony, at lines 10 through 11, you say that you're
15 concerned that you may not be able to renegotiate the
16 leases at reasonable prices.

17 What has the Company done so far in terms of
18 renegotiating those leases?

19 A. I'm not currently involved in that process.
20 I think there is someone working on that, but I'm not
21 aware of what they've discussed.

22 MR. MILLS: I don't have any further
23 questions. Thank you.

24 JUDGE DERQUE: Thank you, Mr. Mills. The
25 Staff, Mr. Woodsmall?

1 MR. WOODSMALL: Yes.

2 CROSS-EXAMINATION BY MR. WOODSMALL:

3 Q. Mr. Mills just asked you a question
4 regarding a statement in your direct that says I can
5 unequivocally state this program only looked out to
6 the year 2010. Do you recall that question?

7 A. Yes.

8 MR. MILLS: I've got some documents to mark.

9 JUDGE DERQUE: I have what will be marked as
10 Exhibit 48. We'll call it Boilers and Combustion
11 Systems Case Study.

12 THE WITNESS: I don't have a copy.

13 JUDGE DERQUE: We're off the record.

14 (EXHIBIT NO. 48 WAS MARKED FOR
15 IDENTIFICATION.)

16 JUDGE DERQUE: We're back on the record.

17 Mr. Woodsmall?

18 BY MR. WOODSMALL:

19 Q. I've handed you what is marked Exhibit
20 No. 48. Can you tell me if you are the same John C.
21 Browning that co-authored this article?

22 A. Yes.

23 Q. And is it true this article appeared in
24 Power Magazine December of 1995?

25 A. Yes.

1 Q. Okay. Can you read for me in the third full
2 paragraph, it's on the first column of page 1, the
3 second sentence beginning with the word in?

4 A. In the mid-1980s MPS decided to upgrade the
5 units to ensure safe, reliable and efficient operation
6 until at least the year 2010.

7 Q. Okay. Similarly, on the third column on the
8 first page, you see some bullet points. Can you read
9 the first bullet point for me?

10 A. Yes. It says, ensure operation until the
11 year 2010 or beyond.

12 MR. WOODSMALL: Your Honor, I would offer
13 Exhibit 48 into the record.

14 JUDGE DERQUE: Is there any objection?

15 MR. SWEARENGEN: No objection.

16 JUDGE DERQUE: Exhibit No. 48 will be
17 admitted into evidence.

18 (EXHIBIT NO. 48 WAS RECEIVED INTO EVIDENCE.)

19 MR. WOODSMALL: I need to mark another
20 exhibit.

21 JUDGE DERQUE: It will be marked as Exhibit
22 No. 49, direct testimony of John C. Browning in
23 ER-93-37. Off the record.

24 (Discussion off the record.)

25 (EXHIBIT NO. 49 WAS MARKED FOR

1 IDENTIFICATION.)

2 JUDGE DERQUE: Back on the record.

3 Mr. Woodsmall?

4 BY MR. WOODSMALL:

5 Q. Yes. I've marked what's been marked as
6 Exhibit No. 49. Is this your direct testimony from
7 Case No. ER-93-37?

8 A. Yes.

9 Q. And I'll just note that I only copied the
10 cover page and pages 1 and 2, and it's on the issue of
11 Sibley rebuild. Is that what it denotes at the top?

12 A. Yes.

13 Q. Can you turn to page 2 under the heading
14 "Rebuild Program" and read for me the full sentence
15 beginning on line 16 of page 2 and ending on line 18
16 of page 2?

17 A. The goal of the program is to ensure safe
18 and reliable operation of the units at Sibley through
19 at least the year 2010.

20 MR. WOODSMALL: One final exhibit to mark
21 and then I'll be done. Oh, excuse me. At this time
22 I'd offer Exhibit 49 into the record.

23 MR. SWEARENGEN: No objection.

24 JUDGE DERQUE: Exhibit 49 will be admitted.

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

1 JUDGE DERQUE: It will be marked as Exhibit
2 No. 50, identified as March 1995, Volume 2, Supply
3 Side Resource Analysis.

4 We're off the record.

5 (Discussion off the record.)

6 (EXHIBIT NO. 50 WAS MARKED FOR
7 IDENTIFICATION.)

8 JUDGE DERQUE: We're back on the record.
9 Mr. Woodsmall?

10 BY MR. WOODSMALL:

11 Q. I've handed you what's been marked as
12 Exhibit No. 50, which is Volume 2 of Missouri Public
13 Service's Integrated Resource Plan filed March 16th,
14 1995. Do you have that document?

15 A. Yes.

16 Q. Okay. Did you participate in any way in the
17 filing of this document?

18 A. I may have provided some small amounts of
19 information for the document, but I was not a part of
20 the team that prepared this.

21 Q. What small amounts would that have been?

22 A. Answering questions. I don't recall
23 specifically what the information was, but I do recall
24 answering some questions from the people that prepared
25 this.

1 Q. Do you understand what the general goals of
2 the integrated resource plan is, are?

3 A. It was to lay out a plan, a future plan for
4 resources for the Company for a 20-year period, as I
5 recall.

6 Q. Okay. Would you turn to page 4 of that, and
7 that's a table, Table 2. -- excuse me. That's not the
8 right one. Page 5, Table 2.2-2. Do you see that?

9 A. Yes.

10 Q. Can you tell me, do I read that properly
11 when I state that this table shows that all current
12 Missouri Public Service generating units will continue
13 to operate or plan to operate through the year 2013?

14 A. I haven't seen this before, but it appears
15 to be that way.

16 Q. Okay. Can you tell me, in your knowledge,
17 has Missouri Public Service notified the Commission of
18 any changes in its IRP Plan pursuant to the IRP rule?

19 A. I would have no way of knowing that.

20 MR. WOODSMALL: At this time I'd offer
21 Exhibit No. 50 into the record.

22 MR. SWEARENGEN: No objection.

23 JUDGE DERQUE: Exhibit No. 50 will be
24 admitted.

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

1 BY MR. WOODSMALL:

2 Q. On page 3 real quickly, the paragraph
3 entitled 2.2.1, Existing Generation, could you read
4 that last sentence for me, please?

5 A. Prior to the low sulfur coal conversion
6 program, the Sibley plant was upgraded through a life
7 extension program to provide reliable and efficient
8 operation through at least the year 2010 or beyond.

9 MR. WOODSMALL: I have no further questions.
10 Thank you, your Honor.

11 JUDGE DERQUE: Commission questions, Chair
12 Lumpe?

13 QUESTIONS BY CHAIR LUMPE:

14 Q. Mr. Browning, is the Company recommending
15 accelerated depreciation on its plants?

16 A. I'm not familiar with everything that the
17 Company has proposed in this case. I'm not aware of
18 any accelerated depreciation on the Sibley plant or
19 the others that I'm associated with.

20 Q. So your testimony would be that you're
21 looking at the year 2010, depreciation out to the year
22 2010?

23 A. For the Sibley plant, yes.

24 Q. For the Sibley plant. If I heard correctly,
25 and I don't know if you were here -- and maybe I

1 didn't and maybe I read it incorrectly -- the Company
2 does not have a plan for divestiture of its generation
3 or does not support divesting the generation in the
4 new restructured era?

5 A. Not that I'm aware of.

6 Q. Okay. And if -- I guess my question really
7 would be, if you're planning or if the thought is that
8 these plants will not exist beyond the year 2010, what
9 is your generation plan at that point if it's not
10 divestiture? What is the plan for generation of power
11 for the Company?

12 A. We would have to secure other sources of
13 generation if the plants were to retire. That could
14 be purchased power from another utility. It could be
15 building another unit, either individually or in
16 partnership with someone else to replace the plants
17 that retire.

18 Q. And you would not be -- it does not include,
19 or maybe you don't know, simply leasing power. It
20 could be constructing new generation plants?

21 A. It could be any of those possibilities.

22 Q. Okay. But it's not your testimony that
23 there is a recommendation for accelerated depreciation
24 on the plant; is that correct?

25 A. In the case of Sibley here, 2010 has always

1 been the target.

2 Q. Okay. And you're not suggesting that
3 somehow it be -- the depreciation be completed in four
4 years instead of the year 2010?

5 A. As far as I know, 2010 is the year.

6 Q. It is the year?

7 A. Uh-huh.

8 CHAIR LUMPE: All right. Thank you.

9 JUDGE DERQUE: Mr. Mills?

10 MR. MILLS: No more questions based on
11 questions from the bench.

12 JUDGE DERQUE: Mr. Woodsmall?

13 MR. WOODSMALL: No more questions, your
14 Honor.

15 JUDGE DERQUE: Redirect, Mr. Swearengen?

16 MR. SWEARENGEN: Yes, your Honor. Thank
17 you.

18 REDIRECT EXAMINATION BY MR. SWEARENGEN:

19 Q. Mr. Browning, the article that you
20 co-authored that was published in December of 1995,
21 just for purposes of clarification, do you recall
22 approximately when that may have been written?
23 Sometime prior to December of 1995?

24 A. This article is one that had probably been
25 recycled three or four times in different forms, in

1 different publications, in different presentations.

2 I have to confess to the fact that I didn't
3 actually write the article. I provided many of the
4 thoughts that went into it. It was actually written
5 by Sargent & Lundy.

6 Q. And they gave you credit for that because of
7 the information that you provided in the background;
8 is that correct?

9 A. Right.

10 Q. Over what time frame was the information
11 there put together, do you recall?

12 A. Oh, the information was accumulated probably
13 over the course of the entire program, which --

14 Q. Which would have been?

15 A. -- began in 1986.

16 Q. Okay. Can you describe the Sibley
17 generating station just briefly, if you could, please?

18 A. Sibley is a coal-fired generating plant.
19 Utilizes cyclone furnaces, which unfortunately are
20 notorious for emissions, air emissions, and that's one
21 of our great concerns.

22 MR. WOODSMALL: Your Honor, I would object
23 at this point. I believe we're going a little far
24 afield of my questions related specifically to these
25 articles.

1 JUDGE DERQUE: We are going far afield,
2 Mr. Woodsmall, but this is an administrative hearing,
3 and nobody's bothered to explain this in the
4 testimony, and I bet the Commission would like to hear
5 it.

6 BY MR. SWEARENGEN:

7 Q. Go ahead with your answer.

8 A. It's a three-unit station, two 50-megawatt
9 units and one 400-megawatt unit. All three of the
10 units are coal-fired utilizing a cyclone furnace,
11 which one of its drawbacks is the production of
12 nitrous oxides in great quantities compared with most
13 other types of generation.

14 And certainly that is one of the concerns
15 that we would have as far as the future life of that
16 plant is concerned because of the environmental
17 regulations that have already been promulgated by the
18 EPA and the -- what are really out for comment right
19 now concerning NOX.

20 Retrofits to this plant in order to control
21 NOX could become very, very expensive. It could make
22 the plant an uneconomical asset for Missouri Public
23 Service. And, of course, that's still open for debate
24 at this point in time, but that is one of the concerns
25 that would certainly lead me to believe that this

1 plant would go beyond the year 2010.

2 Q. What would have to be done at the Sibley
3 generating station in order to allow those units to
4 operate beyond the year 2010?

5 MR. WOODSMALL: Your Honor, again, I would
6 object here, and I would note that there is some
7 mention in Mr. Roff's testimony about these points.
8 So the fact that we are far afield here is relevant.

9 MR. SWEARENGEN: Well, we're not far afield.
10 I mean, the whole thrust is they're trying to show
11 that Mr. Browning has said that the target is 2010 and
12 beyond, and I think in order to give him an
13 opportunity to explain what they have indicated he
14 said previously, he ought to be allowed to testify as
15 to what would be necessary to allow that to happen to
16 go beyond 2010. I think it's perfectly relevant.

17 MR. WOODSMALL: And that was the point of
18 the surrebuttal. We brought this up in rebuttal. He
19 had surrebuttal. He had his opportunity. We
20 mentioned this in our surrebuttal -- in our rebuttal.
21 So he had the opportunity to address this matter.

22 JUDGE DERQUE: Well, you cross-examined him
23 on it, Mr. Woodsmall. Mr. Swearengen's entitled to a
24 certain amount of redirect. If this information is in
25 the testimony, I don't recall it. Since I've got a

1 three-foot high stack of testimony, that's probably
2 not going to be unusual. Restate your question.

3 MR. SWEARENGEN: Yes. If you could just
4 summarize briefly, if you could, Mr. Browning, what
5 would have to be done at the Sibley generating station
6 in order to allow those units to operate beyond the
7 year 2010?

8 JUDGE DERQUE: Wait a minute, Mr. Browning.
9 I'm going to overrule it, but let's not get too far
10 into speculation, Mr. Browning.

11 THE WITNESS: Well, at that point in time
12 the units would be 50 years old. And in addition to
13 the concerns over the environmental regulations we
14 might have to meet, we would almost certainly have to
15 undergo another massive life extension program if we
16 were going to operate beyond that point.

17 I would expect that that program would be
18 much greater in magnitude than the one we've already
19 performed because of the additional age the units
20 would have on them at that time.

21 BY MR. SWEARENGEN:

22 Q. And what was the magnitude of the one that
23 you just performed?

24 A. \$68 million, if I recall correctly.

25 Q. And that was over what period of time?

1 A. That was over a six-year period.

2 Q. Mr. Woodsmall asked you some questions about

3 Exhibit 50, a document entitled UtiliCorp, Inc.

4 Missouri Energy Plan, March 1995.

5 A. Yes.

6 Q. Do you recall those questions?

7 A. Yes.

8 Q. With respect to page 5 of that document that

9 he referred you to, he noted the far right-hand column

10 of the year 2013. Do you recall that question?

11 A. Yes.

12 Q. Do you have any knowledge as to why that

13 particular year would show in that column?

14 A. Those are not my numbers. I really have no

15 direct knowledge of that.

16 MR. SWEARENGEN: Thank you. That's all I

17 have.

18 JUDGE DERQUE: Thank you, Mr. Swearengen.

19 Thank you, Mr. Browning.

20 (Witness excused.)

21 JUDGE DERQUE: It's my understanding that

22 we're going to begin corporate allocations; is that

23 correct?

24 MR. WOODSMALL: That's correct. And I

25 believe Staff's witness and Staff's attorney are here.

1 (Discussion off the record.)
2 JUDGE DERQUE: We're on the record.
3 It's my understanding that Mr. Dittmer, who
4 is the Staff's witness in this issue, has three pieces
5 of testimony; is that correct?
6 MR. SCHWARZ: That is correct. He has --
7 well, he has direct testimony, HC direct testimony
8 and -- but yes, direct, rebuttal and surrebuttal.
9 JUDGE DERQUE: That was my next question.
10 The surrebuttal and the direct that I have are HC and
11 the rebuttal is not; is that correct?
12 MR. SCHWARZ: That is correct.
13 JUDGE DERQUE: That will be -- the direct of
14 Mr. Dittmer will be 51 and 51HC. The rebuttal will be
15 52. The surrebuttal will be 53 and 53HC.
16 Off the record.
17 (Discussion off the record.)
18 (EXHIBIT NOS. 51 THROUGH 53HC WERE MARKED
19 FOR IDENTIFICATION.)
20 JUDGE DERQUE: We're back on the record.
21 (Witness sworn.)
22 JUDGE DERQUE: Thank you, sir.
23 JAMES R. DITTMER testified as follows:
24 DIRECT EXAMINATION BY MR. SCHWARZ:
25 Q. Mr. Dittmer, are you the same James Dittmer

1 who caused to be filed in this case what has been
2 marked Exhibit 51NP and 51HC, Dittmer direct,
3 Exhibit 52, Dittmer rebuttal, and Exhibit 53NP and
4 53HC, Dittmer surrebuttal?

5 A. I am.

6 Q. Do you have any corrections or changes to be
7 made to that testimony?

8 A. Just a few minor.

9 Q. If you would indicate those for the record,
10 please.

11 A. On Exhibit 51 --

12 Q. That being your direct?

13 A. My direct testimony. Page 31.

14 MR. SWEARENGEN: What page is that?

15 THE WITNESS: 31, line 8, in the heading
16 there, it currently reads allocation of ESF Cts. That
17 should have been costs to international.

18 On page 34, beginning at line 18 and
19 continuing through page 35 on line 12, I would merely
20 note that that is a direct quote. It should have been
21 indented and single spaced to make it more obvious
22 that that is a quote.

23 MR. SWEARENGEN: Excuse me. Could you give
24 me that one again, please?

25 THE WITNESS: On page 34, line 18, beginning

1 at line 18 and continuing through page 35, line 12.

2 MR. SWEARENGEN: Is this on Exhibit 51?

3 THE WITNESS: Yes. It starts out with
4 does -- does any corporate employee charge their time
5 directly to entities, such as international ventures,
6 not included in the Massachusetts Formula?

7 That is a direct quote from Staff testimony
8 in the Michigan case, and it should have been -- it
9 becomes -- it looks like it's my testimony, and it's
10 supposed to be a quote from other testimony provided.
11 And then on --

12 MR. SWEARENGEN: So I just want to make sure
13 I understand that, then. The answer that begins on
14 line 22 and runs over on page 35 how far?

15 THE WITNESS: Through line 12 --

16 MR. SWEARENGEN: Through line 12.

17 THE WITNESS: -- is a quote.

18 MR. SWEARENGEN: Is not an answer that
19 you're giving; it's a quote?

20 THE WITNESS: It's a quote included in my
21 answer. It's the answer of a Michigan staff witness
22 who I'm quoting.

23 And if you go to Schedule 1 affixed to
24 Exhibit 51, in the middle of the page, under the UMS
25 definitions, in the second line there it says however

1 early in 1997, and that should have been 1996.

2 MR. SWEARENGEN: Would you give me that one
3 again, please.

4 THE WITNESS: Okay. Schedule 1 affixed to
5 Exhibit 51.

6 MR. SWEARENGEN: Schedule 1. Okay. What
7 page?

8 THE WITNESS: Page 3, middle of the page,
9 there's a UMS writeup. The second line there it says:
10 However, early in 1997 this group was reorganized, and
11 it should have been 1996.

12 MR. SWEARENGEN: Okay. Thank you.

13 THE WITNESS: And then on page 62, near the
14 end of line 5, I'm going to delete the words "no doubt
15 recognizing that such activities are of no direct
16 benefit to ratepayers." And those are all the changes
17 on Exhibit 51.

18 Then on Exhibit 53, page 8, line 26, the
19 word to following Commission's attention to, that
20 should be deleted.

21 MR. SWEARENGEN: Page 8?

22 THE WITNESS: Page 8, line 26, the word to
23 should be deleted. And those are the only changes I
24 have.

25 BY MR. SCHWARZ:

1 Q. If I propounded the questions that are
2 contained in those three exhibits, 51, 52 and 53, to
3 you today, would your answers as corrected be
4 essentially the same?

5 A. Yes, they would.

6 Q. Are the answers to the questions true and
7 accurate to the best of your information, knowledge
8 and belief?

9 A. Yes, they are.

10 MR. SCHWARZ: I will not offer the exhibits.
11 Mr. Dittmer will be back on the stand on additional
12 issues next week. I will not offer them at this time.
13 I will, however, tender him for cross-examination.

14 JUDGE DERQUE: Mr. Mills?

15 MR. MILLS: No questions.

16 JUDGE DERQUE: Mr. Swearengen?

17 MR. SWEARENGEN: Yes. Thank you, your
18 Honor.

19 CROSS-EXAMINATION BY MR. SWEARENGEN:

20 Q. First question, Mr. Dittmer, turning back to
21 your Exhibit 51, your direct testimony, the change you
22 made on page 62, do you have that in front of you?

23 A. Yes, I do.

24 Q. I just want to make sure I understand it.
25 The answer that began on line 3 read originally, as

1 discussed previously, the corporate development ESF
2 focuses primarily on mergers, acquisitions and related
3 activities. UCU retained the majority of corporate
4 development costs, and then you said initially no
5 doubt recognizing that such activities are of no
6 direct benefit to ratepayers, but now you're striking
7 that no doubt recognizing that such activities are no
8 direct benefit to ratepayers.

9 My question is, why are you making that
10 change at this point?

11 A. Upon a reading of, I believe, Mr. Robert
12 Green's testimony, although it might have been
13 Mr. Richard Green's testimony, I believe they stated
14 that the reason that the Company is not allocating
15 more costs to mergers and acquisitions is they believe
16 it's a benefit to ratepayers and they said that in the
17 past.

18 I frankly did not remember this when I wrote
19 this, and I thought I had gone too far when I said no
20 doubt recognizing. They did say it in the last case.
21 So I withdrew that comment.

22 Q. What did they say in the last case? I'm
23 just --

24 A. They thought that corporate development was
25 a ratepayer benefit even though they were not asking

1 for recovery of corporate development costs.

2 Q. Okay. And then just as a follow-up to that,
3 if the Company believed at that time or still believes
4 that the corporate development costs do result in
5 ratepayer benefit, then what is your understanding as
6 to why the Company has not asked for those costs in
7 this case?

8 A. I believe the testimony says in the
9 interest -- earlier it refers back to the '93 case in
10 the interest of reducing it, reducing issues and
11 conservatism.

12 Q. Okay. And what would the position -- why
13 would they not be in this case? Why would the Company
14 not be seeking recovery of those costs in this case?

15 A. I'm not certain of that because Mr. Richard
16 Green directed the staff not or -- to seek recovery in
17 the next case, and herein they are not seeking
18 recovery. So I don't know the whole reason why
19 they're not.

20 Q. And when you say the staff, just to make
21 sure the record's real clear here, you're not talking
22 about the Public Service Commission Staff?

23 A. The UtiliCorp staff.

24 Q. And Mr. Green had directed the Company in
25 its next case to seek recovery of those costs?

1 A. In '93 he directed his staff to seek
2 recovery of corporate development costs in this case.

3 Q. But you would agree with me that the Company
4 is not seeking recovery of those costs in this case;
5 is that true?

6 A. Well, I would agree that they are not
7 seeking recovery of certain direct and incremental
8 corporate development costs.

9 I would not agree that they are -- I mean,
10 they are clearly trying to recover mergers and
11 acquisition costs outside the corporate development
12 costs. They're clearly trying to recover some of the
13 Ernst & Young.

14 Q. I understand that. That's fair. I think
15 your testimony says UtiliCorp retained the majority of
16 corporate development costs, and that would be your
17 testimony, that UtiliCorp has, in fact, retained the
18 majority of corporate development costs. By that you
19 mean they're not seeking recovery of the majority; is
20 that a fair statement?

21 A. What I mean by that, so I'm very clear, they
22 are not seeking the majority of the corporate
23 development costs that were recorded within the
24 corporate development ESF. If we'd expand corporate
25 development --

1 Q. I understand.

2 A. -- to generally mean mergers and
3 acquisitions, then I would say they haven't
4 necessarily captured the majority.

5 Q. But back to your statement as you have
6 changed it, you don't really know what the Company's
7 position would be in this case as to why they have, in
8 fact, retained the majority of the corporate
9 development costs as you have described?

10 A. I would -- you know, I can't say with
11 certainty, but, I mean, I would expect because they
12 receive a \$58 million termination fee from KCPL and
13 would not desire to share it with the ratepayers.

14 Q. Okay. And would it have any -- do you think
15 there would be any connection with what the Company
16 testified to in the prior as to why they were not
17 seeking recovery of that? Would that have anything to
18 do with it in your mind?

19 A. I certainly have some suspicions, yes.

20 Q. And what do you think?

21 A. My suspicion is that -- well, in the '93
22 case they were directed to go after corporate
23 development costs. In this --

24 Q. No. Excuse me. Let me restate the
25 question. I think you testified earlier you had an

1 understanding why in the '93 case the Company did not
2 seek corporate development costs.

3 A. Right.

4 Q. And what was that understanding as to why in
5 that case the Company did not seek --

6 A. Minimize issues and to be conservative.

7 Q. Okay. And you think that minimize issues
8 and to be conservative could also be reasons why the
9 Company is not seeking those costs in this case?

10 A. They could be, or they could be the fact
11 that the Company made \$58 million in termination fees
12 from KCPL and that would be an egregious position to
13 say we want the benefits of the 58 million but not
14 have the -- and have the ratepayers pay the costs of
15 corporate development.

16 Q. Explain that. Say that again, please.

17 A. I believe, I suspect -- I suspect the
18 Company recognizes that it would be a very tough
19 position to argue for full recovery of corporate
20 development costs in this case, full recovery, and at
21 the same time argue for full shareholder retention of
22 the \$58 million of the termination fees received from
23 the failed KCPL merger.

24 Q. And those termination fees right now, are
25 they an issue in this case?

1 A. The only way they arise is I have as an
2 alternative proposal, if the Commission doesn't go
3 along with my proposal to include additional mergers
4 and acquisition costs, that it may want to consider
5 bringing those termination fees above the line and
6 amortizing them.

7 Q. And if that happens, would there be a good
8 argument for a corresponding adjustment, then, for
9 recovery by the Company of its corporate development
10 costs?

11 A. Oh, I'd agree.

12 Q. Let me turn you to page 60 of your direct
13 testimony, please. Excuse me. Page 61. And just
14 reading your testimony there, and perhaps on page 60
15 as well, is it fair to say that you're in general
16 agreement with the Company's approach to allocating
17 its ESF costs?

18 And I'm looking principally at your answer
19 that begins on line 3 of page 61. You say, given the
20 constraints of UtiliCorp's accounting system in place
21 during 1996, and other than the previously described
22 deficiencies in allocating costs to M&A, international
23 and new product development/promotional activities,
24 the Company has made an earnest attempt to fairly
25 allocate or assign overhead costs to benefiting

1 business units.

2 And my question is, based on that, can I
3 fairly conclude that you're in general agreement with
4 the Company's approach to allocating ESF costs? I
5 know you go into some other issues, but overall?

6 A. Overall, I've not taken exception. There
7 are -- there are data constraints, but --

8 Q. I understand.

9 A. -- what generally I see is there is an
10 attempt to allocate costs to regulated and
11 nonregulated businesses. Right now we don't have as
12 good a cost allocation as we'd like, but there's an
13 attempt.

14 Q. And you say in your testimony at least an
15 earnest attempt?

16 A. Yes.

17 Q. That was the word you used, right?

18 A. That's my word.

19 Q. When you say earnest, what do you mean by
20 that?

21 A. A true, an honest.

22 Q. Sincere?

23 A. Sincere.

24 Q. Good faith?

25 A. Let's not go too far, no.

1 (Laughter.)

2 Q. Would good faith be earnest?

3 A. I would agree with that, but keep --

4 Q. Okay. And let me just -- and let me be fair
5 here. You go on to say, this statement doesn't apply
6 to marketing services which was technically an ESF in
7 '96, and you address that later, and then you go
8 through instances where you did not agree with the
9 Company.

10 A. Right.

11 Q. I understand.

12 A. I carve out the deficiencies for M&A,
13 international.

14 Q. Your rebuttal testimony -- let me back up
15 just a second. You'll recall, I think, will you not,
16 that -- oh, it was some time ago. We spent an
17 afternoon in Kansas City and I took your deposition,
18 deposed you with respect to your direct testimony.

19 A. I remember the deposition, yes.

20 Q. Took several hours, didn't it?

21 A. Uh-huh. A couple, I think.

22 Q. Your rebuttal testimony, then, Mr. Dittmer,
23 am I correct in understanding that it is limited to
24 what we've called the UtiliCorp new headquarters
25 building issue?

1 A. That's my understanding. In fact, I don't
2 even have that up here with me.

3 Q. Okay. That's an issue that isn't going to
4 be heard until next Wednesday; is that your
5 understanding?

6 A. That's my understanding.

7 Q. I do have one question, and I'll show you my
8 copy. At page 5, on lines 1, 2 and 3 of that, I'll
9 show you the statement. I even have the question I'm
10 going to ask you written there.

11 The statement that you make at the top of
12 page 5, and you're referring to some discovery
13 responses. You say, full and complete responses to
14 those outstanding items could still influence my
15 opinion regarding the feasibility of the building and
16 ultimately my rate base recommendation.

17 And my question is as written there. Is
18 this still your testimony?

19 A. Yes.

20 Q. Okay. Thanks. Now, your surrebuttal
21 testimony is back on the ESF or corporate allocations
22 issues; is that true?

23 A. That's true.

24 Q. Do you have that in front of you?

25 A. Yes, I do.

1 Q. Turn to page 10, if you would, please.
2 There on lines 12 and 13, and I think you're
3 discussing -- make sure I understand. You're talking
4 about the governmental affairs ESF at that point, and
5 you say the Commission -- finally the Commission,
6 meaning the Public Service Commission, the Missouri
7 Public Service Commission, is expected to represent
8 the public interest, not promoting private interests
9 as can be the case for UtiliCorp.

10 And my question to you is, is it possible
11 that the governmental affairs activities conducted by
12 UtiliCorp and/or its Missouri Public Service operating
13 division could promote the public interest?

14 A. It is possible, yes.

15 Q. Okay. So those activities could result in
16 something that would be good for the Company's
17 customers; would that be possible?

18 A. I would agree. It could, yes.

19 Q. And those same undertakings that might
20 benefit the Company's customers could also benefit the
21 Company's shareholders; is that true?

22 A. Yes, definitely.

23 Q. What about the public at large? And by that
24 I mean the public generally perhaps beyond its
25 customers. Could those activities also provide that

1 type of benefit?

2 A. Sure. Anything is possible.

3 Q. Okay. Let me ask you this question. In the
4 context of your audit and investigation, have you
5 pursued that rationale? Have you tried to determine
6 whether or not any of these types of benefits to the
7 Company's customers have occurred from any of these
8 undertakings, or is it your -- let me just finish
9 that. Is it your view that the Company just hasn't
10 provided you with any of that type of evidence?

11 A. Well, I state in testimony that it's a
12 matter of policy. It should be below the line and not
13 recoverable from ratepayers.

14 But I did attempt to ascertain what the
15 Company was up to, and I did find some bills in
16 Missouri and also learned of, not from the direct
17 lobbying Data Request but through other data, of some
18 activities taking place in Colorado and Iowa.

19 I don't profess to know all the details of
20 the bills. I'm not here to testify whether I agree
21 with it, but there are certainly some that, you know,
22 when I saw them I raised my eyebrows to. I don't
23 think this is something that's necessarily in the
24 public interest.

25 Q. Right. Let's just assume hypothetically

1 that a case could be made that these activities did,
2 in fact, benefit the public. Let's just say that we
3 came in here with evidence that proved that the
4 Company had undertaken activities that would be booked
5 into the governmental ESF or whatever, and clearly
6 everyone agreed that they did, in fact, benefit the
7 public.

8 Would it be your testimony still that
9 because of this Commission's policy those costs should
10 not be passed on to the ratepayers?

11 A. You're asking me to make an assumption --

12 Q. Yes.

13 A. -- that everything that the Company does is
14 in the public interest.

15 Q. No. Let's say we had one example. Let's
16 just use an example of a lobbying effort, let's say,
17 that clearly benefited the public, that you agreed,
18 Mr. Mills agreed, the Staff agreed, everybody in the
19 room agreed, yeah, that was something the Company did,
20 it was lobbying and it benefited the Company's
21 ratepayers directly. There's no argument about that
22 at all.

23 My question is, would it still be your
24 testimony that because of the Commission's policy,
25 those costs associated with that should not be passed

1 on to the ratepayers?

2 A. Yes.

3 Q. Okay. That's fine. That's fair. Thank
4 you.

5 On page 10, down at the bottom, the question
6 and answer that begins on line 14, you're talking
7 about Wiley, Rein and Felding costs, and I think --
8 you know, you audited this company from when? Were
9 you involved early in March of '96 or did you come on
10 later?

11 A. A little bit later. Probably more like
12 April or May '96.

13 Q. Excuse me. April or May of '96?

14 A. Correct.

15 Q. And you audited on and off from that time
16 continually. I mean, I guess you're still auditing,
17 aren't you?

18 A. We're pretty much done now, but I don't
19 expect to get much more information, but off and on is
20 the correct way of describing it because there were
21 certainly some times when the discovery was shut down
22 and we did very little.

23 Q. I understand. I made reference back earlier
24 to your rebuttal testimony where you indicated, you
25 know, maybe the Company can show me something and my

1 position will change, which I think is a pretty open-
2 minded position.

3 And here at the bottom of page 10 of your
4 surrebuttal you're saying in recent days you got
5 access to some material, and you looked at that, but
6 that still didn't change your mind; is that right?

7 A. Well, that data merely confirmed what I had
8 suspected all along.

9 Q. Right. Okay.

10 A. It ensured my mind.

11 Q. Okay. You say, I finally gained access to
12 sample memos, summaries, analyses, speeches and
13 reports prepared by Wiley, Rein for UtiliCorp
14 management. Based upon the review of such documents,
15 I conclude that the vast majority of Wiley, Rein and
16 Felding's time is spent on researching, monitoring,
17 promoting of opposing legislative bills before the
18 United States Congress.

19 In short, my review of the sample Wiley,
20 Rein and Felding work product has not persuaded me to
21 conclude that anything less than a hundred percent of
22 funds paid to this Washington law firm should be
23 disallowed for ratemaking purposes.

24 That's your testimony, isn't it?

25 A. That's my testimony.

1 MR. SWEARENGEN: Could I have -- could I
2 have an exhibit marked, please?

3 JUDGE DERQUE: Certainly. Be No. 54. That
4 will be numbered 54, identified as Wiley, Rein and
5 Felding work product.

6 MR. SWEARENGEN: And, your Honor, this is a
7 highly confidential exhibit.

8 JUDGE DERQUE: 54HC.

9 MR. SWEARENGEN: I'm not going to ask the
10 witness any questions about it, so we don't need to go
11 in-camera.

12 JUDGE DERQUE: It will be 54HC.

13 MR. SCHWARZ: How is it identified?

14 JUDGE DERQUE: Wiley, Rein and Felding work
15 product. We're off the record.

16 (EXHIBIT NO. 54HC WAS MARKED FOR
17 IDENTIFICATION.)

18 JUDGE DERQUE: We're back on the record.

19 MR. SWEARENGEN: Thank you, your Honor.

20 BY MR. SWEARENGEN:

21 Q. Mr. Dittmer, I think you now have in front
22 of you what has been marked for purposes of
23 identification as Exhibit 54HC, a multi-page document,
24 and the first page indicates a memo to John McKinney
25 from Jon Empson. The date is November 11, 1997, and

1 the subject is Wiley, Rein and Felding work product.

2 My question to you is, does this exhibit,
3 does Exhibit 54HC contain the documents that you
4 referred to in the last paragraph on page 10 of your
5 surrebuttal testimony?

6 A. It appears to, without looking through every
7 page. It's about the same height as the one that I
8 have a copy of.

9 Q. Okay.

10 A. Without reading every page, I think it is.

11 Q. Okay. I appreciate that. And I notice the
12 date on it or the memorandum is November 11, 1997, and
13 your testimony was filed on what date? Do you recall?
14 Sometime after that?

15 A. Yes, it was after that.

16 Q. You did review this material in Exhibit 54
17 before finalizing --

18 A. Yes.

19 Q. -- and filing your surrebuttal testimony?

20 A. This is what I was referring to when I wrote
21 the testimony.

22 Q. Okay. That's fine.

23 MR. SWEARENGEN: I would offer it into
24 evidence at this time, your Honor, Exhibit 54.

25 JUDGE DERQUE: Is there any objection to the

1 admission into evidence of Exhibit 54HC?

2 MR. MILLS: I don't have any objection to
3 the exhibit. I would note, though, that the
4 Hearing -- not the Hearing Memorandum -- the
5 Confidentiality Agreement and the Protective Order in
6 this case discuss certain categories of information
7 that can be considered highly confidential, and this
8 simply says it's highly confidential since they were
9 prepared for internal use, and I don't believe that's
10 one of the categories. I'm not sure it's properly
11 categorized as highly confidential information.

12 MR. SWEARENGEN: Well, we'd like to classify
13 it as such. I understand under the rules that other
14 parties can argue about that, and that's fine. We can
15 do that later on at some point in time.

16 But until the Commission would ultimately
17 rule on that, I would appreciate it if we could
18 continue to have it designated as highly confidential.
19 I'm certainly not requesting Mr. Mills or anybody else
20 to concede anything with respect to that. I
21 understand.

22 MR. SCHWARZ: My understanding of the
23 Protective Order is that the onus is on the party who
24 seeks to have something protected to identify those
25 portions which are protected.

1 I would note that some of this highly
2 confidential material is plainly in the public realm
3 at this stage, and I would propose that if the Company
4 wants to identify those portions which are actually
5 highly confidential, they do so before Mr. Dittmer
6 returns to the stand next week so that, if there are
7 any questions in that regard, that we can deal with
8 them at that time.

9 MR. SWEARENGEN: And that's perfectly
10 reasonable, your Honor. I think it's fair to say that
11 some of that material in there probably is in the
12 public realm, and we would be more than happy at a
13 later opportunity during the course of the next week
14 or two to clarify that.

15 JUDGE DERQUE: There's a substantial amount
16 of information that's designated as protected in one
17 fashion or another in this case, and I will assume, or
18 I can even instruct UtiliCorp at some point, perhaps
19 before January 1st of 1998, to file something
20 declassifying --

21 MR. SWEARENGEN: We'll be more than happy to
22 do that.

23 JUDGE DERQUE: -- the information. I'm not
24 going to put a big rush on it, but it probably needs
25 to be done before we get too far into considering the

1 issues.

2 But I'm very careful about material from
3 attorneys to clients, and I'll leave the whole thing
4 as an HC exhibit up and until the Company declassifies
5 it. If UtiliCorp can, it would be nice to declassify
6 it before Mr. Dittmer gets up again on the stand next
7 week.

8 MR. SWEARENGEN: That's fine.

9 MR. SCHWARZ: And I want to make clear that
10 my concerns go to the classification of the material
11 as confidential and not the admissibility or other.

12 MR. SWEARENGEN: Appreciate that. Thank
13 you.

14 JUDGE DERQUE: That being the case, Exhibit
15 No. 54 will be admitted and received at this time as
16 an HC exhibit.

17 (EXHIBIT NO. 54HC WAS RECEIVED INTO
18 EVIDENCE.)

19 BY MR. SWEARENGEN:

20 Q. Mr. Dittmer, back to your surrebuttal
21 testimony, if we could, please. On line -- excuse
22 me -- page 12, lines 3 or 4, you're talking about the
23 public affairs ESF or charitable contributions or
24 whatever terminology you want to use, and you say that
25 regardless of what other jurisdictions may

1 occasionally or partially allow, it is my
2 understanding that this Commission routinely disallows
3 all charitable contributions.

4 And earlier in response to a question I
5 asked you about lobbying expense, you said that's a
6 Commission policy and it's just disallowed. And is
7 the same thing true with respect to charitable
8 contributions, in your mind that it's a Commission
9 policy and it's -- they're simply disallowed?

10 A. I suppose policy would be the correct word.
11 I, you know, verified what I thought the case was.
12 The Commission routinely disallows charitable
13 contributions.

14 Q. And I guess my question to you on that would
15 be, as I asked you with respect to the lobbying
16 expense, if everyone got together and said, hey,
17 there's no question here's a charitable contribution
18 that directly benefited ratepayers. I'm not
19 suggesting there's any evidence of that necessarily
20 one way or another. Let's just assume there was.

21 It would still be your position that because
22 of the Commission's policy those costs could not be
23 passed on to ratepayers?

24 A. Well, on this one in particular, you have
25 the -- I mean, even if the Commission changed its

1 mind, I feel very strongly that you're putting the
2 ratepayers in the position of being an involuntarily
3 contributor.

4 Q. So then maybe you wouldn't say that the two
5 were necessarily the same. You would say that under
6 no circumstances should those costs be passed on
7 regardless of what the Commission's policy is?

8 A. That's my position.

9 Q. Okay. That's fine. Thanks. On page 12,
10 beginning on page 12 of your surrebuttal testimony,
11 you talk about economic development rider revenues,
12 and I understand that's an issue that's going to be
13 taken up later; is that correct?

14 A. That's my understanding.

15 Q. Okay. Good. Back to my original question
16 where I was asking you and you testified that the
17 Company made an earnest attempt to fairly allocate or
18 assign overhead costs to its business units, is it
19 fair to say that overall in this issue you had more
20 areas of agreement with the Company than you did
21 disagreement?

22 A. Yes. I mean, in terms of the ESF pools and
23 the allocation differences, we're generally in
24 agreement.

25 Q. And over the course of your audit, how many

1 months would you say you spent on the audit? I know
2 you were on and off, and can you just kind of give me
3 a ballpark figure of how much time you spent working
4 on this case starting back in May of '96?

5 A. Ballpark for me, I'm guessing here a little
6 bit, but somewhere around a thousand hours to maybe
7 1,200 or 1,300 hours.

8 Q. A thousand to 1,200 or 1,300 hours?

9 A. Yeah, just roughly.

10 Q. Okay. Now, I seem to recall early on in the
11 process, and it was probably before this rate case was
12 actually filed, I think maybe it was back during the
13 time of the KCPL/UtiliCorp proposed merger, you and I
14 think your colleague Mr. Brosch set up a series of
15 what I'm going to call informal interviews with
16 Company personnel to try to learn more about this ESF
17 issue.

18 A. Yes, we did.

19 Q. Do you happen to recall how many of those
20 informal interviews you conducted, just roughly?

21 A. Just a guess, a dozen.

22 Q. A dozen or so. And how many people would
23 have been involved with those? And by that I mean
24 when you conducted these interviews, at times were
25 there several UtiliCorp or MPS representatives there

1 to ask -- excuse me -- to answer questions?

2 A. At times there were three or four. Other
3 times it would just be, you know, the regulatory
4 affairs liaison and the individual.

5 Q. And who would the regulatory affairs liaison
6 be?

7 A. It might be Maurice Arnall, probably the
8 main person.

9 Q. Okay. Were attorneys usually present at
10 those informal interviews?

11 A. I don't recall an attorney ever being
12 present.

13 Q. Okay. They were transcribed, though; is
14 that correct?

15 A. That's correct.

16 Q. And you would ask the question or Mr. Brosch
17 would ask the question; is that right?

18 A. That's correct.

19 Q. And the Company would -- person that had the
20 information would respond?

21 A. Whenever they could, yes.

22 Q. Right. Did you find that process, these
23 informal interviews, helpful in coming to grips with
24 the ESF issue in this case?

25 A. Yes.

1 MR. SWEARENGEN: Could I have another
2 exhibit marked, please?

3 JUDGE DERQUE: Yes. It will be No. 55,
4 Exhibit No. 55, styled UtiliCorp interviews,
5 February 14th, 1997.

6 We're off the record.

7 (Discussion off the record.)

8 (EXHIBIT NO. 55 WAS MARKED FOR
9 IDENTIFICATION.)

10 JUDGE DERQUE: We're back on the record.
11 Mr. Swearengen?

12 MR. SWEARENGEN: Thank you, your Honor.
13 BY MR. SWEARENGEN:

14 Q. Mr. Dittmer, you have in front of you what
15 has been marked for identification as Exhibit 55.
16 It's a multi-page document entitled UtiliCorp
17 interviews, February 14, 1997, interview of Kris Paper
18 and Bob Browning; appearances for Utilitech, Inc.,
19 James R. Dittmer; for UtiliCorp, Maurice Arnall. And
20 it was prepared by Attorneys' Reporting Service of
21 Kansas City, Missouri.

22 Do you recall this particular interview that
23 you conducted?

24 A. I recall holding it. I don't recall very
25 many of the details.

1 Q. Okay. That's fine.

2 A. We didn't have any IT issues.

3 Q. I'm not going to ask you about any of the
4 details. This was one of the interviews that you
5 conducted in connection with the ESF issues generally;
6 is that right?

7 A. That's correct.

8 Q. Would this have been one of the shorter ones
9 perhaps? I picked it out because it wasn't -- the
10 transcript of the interview wasn't very long. The
11 short version looks like it's maybe 43 pages.

12 A. Clearly there were some that were longer. I
13 think there were a few, I don't know how many, that
14 were shorter.

15 Q. That's fine. And you said that you thought
16 perhaps you had done a dozen or so of these over the
17 course of your audit and investigation?

18 A. Approximately.

19 MR. SWEARENGEN: I would offer into evidence
20 Exhibit 55, your Honor.

21 JUDGE DERQUE: I have what's marked Exhibit
22 No. 55, transcript of interviews, February 14th, 1997.
23 Is there any objection?

24 MR. SWEARENGEN: Could we go off the record
25 for just a second?

1 JUDGE DERQUE: Off the record.
2 (Discussion off the record.)
3 JUDGE DERQUE: We're back on the record.
4 Is there any objection to the admission of
5 Exhibit No. 55?

6 MR. SCHWARZ: It does not deal with -- the
7 subject matter of the discussion does not deal with
8 the subject matter of ESFs. I will stipulate its
9 admission for the -- for limited use as being an
10 example of the type of interviews.

11 MR. SWEARENGEN: Let me just respond
12 briefly. It does involve -- it does not involve an
13 ESF, I think, that's an issue that's ended up at issue
14 in the proceeding, but it was one of the interviews
15 that he conducted in connection with the overall ESF
16 issue. So I think it is relevant from that
17 standpoint.

18 JUDGE DERQUE: Well, okay. Perhaps,
19 Mr. Swearengen, I'm augmenting Mr. Schwarz'
20 statements, but I'm not going to admit this for
21 anything regarding the truth.

22 MR. SCHWARZ: I'll withdraw my objection.
23 It's a settled issue.

24 JUDGE DERQUE: It is?

25 MR. SCHWARZ: Yeah.

1 JUDGE DERQUE: Let me finish what I was
2 going to say. I'm not going to admit it for the truth
3 of the matters in it or for impeachment purposes as to
4 various witnesses. If you want to use it as an
5 example, I have a vague idea that this is an example
6 of UtiliCorp's cooperation in discovery in this case,
7 and I will admit it for that purpose and for
8 demonstrative purposes as to the type of interviews
9 that were conducted but nothing else.

10 MR. SWEARENGEN: Thank you.

11 JUDGE DERQUE: I want the record to be clear
12 on that in that regard.

13 MR. SWEARENGEN: Thank you.

14 JUDGE DERQUE: Therefore, with the
15 reservations I've just stated, Exhibit No. 55 will be
16 admitted.

17 (EXHIBIT NO. 55 WAS RECEIVED INTO EVIDENCE.)

18 MR. SWEARENGEN: One last exhibit, your
19 Honor.

20 JUDGE DERQUE: That will be No. 56,
21 identified as deposition of James R. Dittmer in these
22 consolidated cases.

23 We're off the record.

24 (Discussion off the record.)

25 (EXHIBIT NO. 56 WAS MARKED FOR

1 IDENTIFICATION.)

2 JUDGE DERQUE: We're back on the record.

3 Exhibit No. 56 I'd like to identify as the
4 deposition of James R. Dittmer in these consolidated
5 cases, deposition of October 8th, 1997.

6 Mr. Swearengen?

7 MR. SWEARENGEN: Thank you, your Honor.

8 BY MR. SWEARENGEN:

9 Q. Mr. Dittmer, you now have in front of you
10 what's been marked as Exhibit 56. It was the
11 deposition that we took of you in connection with
12 these proceedings on October 8, 1997. Do you recall
13 that?

14 A. I do.

15 Q. And is this an accurate copy of your
16 deposition, including correction sheets attached on
17 the back?

18 A. I believe it to be, yes.

19 MR. SWEARENGEN: I would offer into evidence
20 Exhibit 56 at this time.

21 JUDGE DERQUE: Is there any objection to the
22 admission into evidence of Exhibit 56?

23 MR. SCHWARZ: No objection.

24 JUDGE DERQUE: It will be admitted.

25 (EXHIBIT NO. 56 WAS RECEIVED INTO EVIDENCE.)

1 BY MR. SWEARENGEN:

2 Q. One final question, and I've got a document
3 I'd like to have marked. I apologize. I only have
4 one copy of it. I will provide copies at the break if
5 that's permissible.

6 JUDGE DERQUE: Yeah. That's fine. This
7 will be marked Exhibit No. 57.

8 MR. SWEARENGEN: Thank you.

9 JUDGE DERQUE: Identified as a three-page
10 document, styled fax transmittal sheet of
11 November 19th, 1997.

12 MR. SWEARENGEN: Thank you.

13 JUDGE DERQUE: Off the record.

14 (Discussion off the record.)

15 (EXHIBIT NO. 57 WAS MARKED FOR
16 IDENTIFICATION.)

17 JUDGE DERQUE: We're back on the record.
18 Mr. Swearengen?

19 MR. SWEARENGEN: Thank you, your Honor.

20 BY MR. SWEARENGEN:

21 Q. Mr. Dittmer, you now have in front of you
22 what's been marked for purposes of identification as
23 Exhibit 57, a three-page document, the first page
24 being a transmittal sheet to you from Bob Amdor. It
25 has two pages attached. Do you recall receiving this

1 material?

2 A. Yes, I do.

3 Q. Okay. And this is in connection with the
4 Trans UCU issue which is one of the ESF issues that's
5 involved in this proceeding; is that right?

6 A. Yes, it is.

7 Q. Okay. Now, let me ask you, this was -- the
8 date of this is November 19, 1997. Did you take this
9 into account in your testimony in this proceeding?

10 A. I did not have a chance to address this in
11 my surrebuttal. It came in, as I recall, literally
12 the day before the surrebuttal was due. The printers
13 were rolling, and we discussed it, and we said just
14 let it go.

15 Q. Okay. Thank you.

16 MR. SWEARENGEN: I would move the admission
17 of Exhibit 57.

18 JUDGE DERQUE: Is there any objection?

19 MR. SCHWARZ: No objection.

20 JUDGE DERQUE: Seeing none, it will be
21 admitted.

22 (EXHIBIT NO. 57 WAS RECEIVED INTO EVIDENCE.)

23 MR. SWEARENGEN: That's all I have of the
24 witness. Thank you very much.

25 QUESTIONS BY JUDGE DERQUE:

1 Q. Mr. Dittmer, I perhaps am going to seem
2 uninformed in this regard, but there was a tremendous
3 amount of testimony in the case. I want to make sure
4 my record's good because my memory isn't. Under
5 what's on the True-Up Reconciliation, under Item D-9,
6 UCU corporate allocation issues --

7 MR. SCHWARZ: Can we get a copy?

8 JUDGE DERQUE: Sure.

9 BY JUDGE DERQUE:

10 Q. It's a three-page document, the important
11 page being page 2.

12 A. Okay.

13 Q. Have you ever seen this?

14 A. Yes, I have.

15 Q. Okay. The issues we're discussing at the
16 moment are the ESF corporate allocations. I
17 understand your testimony to say that would be letters
18 D-9A through K; is that correct? Is that accurate?

19 A. That is correct.

20 Q. Okay. And your testimony covers Items A
21 through K, all the way down to the corporate golf
22 balls?

23 A. Yes.

24 Q. Okay. You are proposing -- it's my
25 understanding from your testimony that you have

1 proposed a 50 percent disallowance for most or all of
2 these categories; is that correct? Is that accurate?

3 A. That is not accurate.

4 Q. Okay. Explain it to me, then.

5 A. We almost have to take them one by one.

6 Q. Okay. Well, some of them you did and some
7 of them you didn't; is that correct?

8 A. There's different -- yes. Some of them took
9 50 percent. Some of them are disallowed on another
10 basis.

11 Q. Okay. You mean totally disallowed?

12 A. Correct.

13 Q. Okay. Now, the ones you used the 50 percent
14 factor for, which ones?

15 A. Okay. I have to qualify and explain some of
16 these. Governmental affairs, they're -- a big part of
17 the test year expenditures were made to Wiley, Rein
18 and Felding, a Washington law firm, and I took 100
19 percent of those costs and disallowed them. The
20 remaining governmental affairs costs I disallowed
21 50 percent.

22 Q. Okay. The reason I'm doing this is to make
23 sure when the Commission makes a decision in this case
24 it is accurate.

25 A. That's correct.

1 Q. Rather than relying on my own limited
2 skills.

3 A. I would -- I don't know if this is an answer
4 to your question or not, but these are estimates of
5 the values because there's an interactive relationship
6 between allocation amounts and 50 percent disallowance
7 amounts and so forth.

8 So these are estimates that are subject to
9 some more revisions depending on how the Commission
10 might order a combination of issues.

11 Q. I understand. I understand that.

12 A. Okay.

13 Q. We're on B.

14 A. Okay. I'm sorry. Public affairs, there
15 were some professional organizations such as EEI and
16 American Gas Association and so forth. Those dues I
17 did not disallow. Those were paid out of public
18 affairs ESF.

19 The remaining public affairs costs I
20 disallowed all of those costs as being charitable
21 contributions and/or nonrecurring in nature.

22 Q. So the 249,444 is all of it?

23 A. Except for the AGA dues and the EEI dues
24 which were paid out of that ESF.

25 Q. Okay.

1 A. That ESF paid certain professional
2 organization dues. I did not take exception to those
3 expenditures.

4 Trans UCU. The Company's method of charging
5 out, charging UCU is largely the corporate aircraft
6 cost. The Company's method of charging out for the
7 use of those planes is to use an estimated or budgeted
8 cost per airplane hour.

9 So if an individual flies from Kansas City
10 to Washington, if the plane flew for hours, they'll
11 multiply two hours times the estimated variable cost.
12 I did not take exception to the variable cost being
13 allocated to the various divisions and business units.

14 There's a huge chunk, \$2.9 million of fixed
15 costs which is basically the lease cost on the planes
16 and hanger costs and so forth. That I excluded 100
17 percent of.

18 Severance costs I excluded 100 percent of.
19 The international and other costs, that would include
20 mergers and acquisitions and new product development,
21 there were 5 ESFs out of 20 that I took between 25 and
22 50 percent of the costs and disallowed.

23 Some of those, the finance ESF for instance,
24 there were some costs that appeared to be exclusively
25 and directly related to domestic operations. So I --

1 first, I mean, I did not exclude any of those costs.

2 When I got down to the remaining costs after
3 those costs appeared to be 100 percent domestic, I
4 would take a factor. In the case of finances I ended
5 up with 25 percent as being disallowed.

6 On external communications, there were a
7 portion of costs that I considered to be mostly
8 domestic. So I did not disallow any of that, but I
9 took 50 percent of the remaining external
10 communications costs.

11 Chief financial officer, I think I took a
12 flat 50 percent disallowance on that. There were no
13 direct assignments to domestic. Chief executive
14 officer, same, 50 percent. And the operations ESF, 50
15 percent.

16 And frankly, I think I discussed both of
17 these together because that's the way the adjustments
18 were created. There's two lines, allocations and
19 mergers and acquisitions. Late last week I had a call
20 from Gary Clemmons who's in the office, and I think he
21 pointed out that there may be a little bit of problem
22 with the numbers where we lumped things.

23 But the way I described those adjustments is
24 accurate. I'm just not as certain right now that the
25 numbers are in the right bucket.

1 Q. Between E and F or just in F?

2 A. Between E and F are the ones that -- I don't
3 know. I probably should check with him. I just
4 learned about this late last week when we were
5 preparing for the hearing, and I haven't had a chance
6 to go back and --

7 Q. The problem is when I read your testimony
8 there's so many buckets --

9 A. I agree.

10 Q. -- and so many categories and so many E and
11 Fs, it's impossible for one person to sort it all out.

12 A. Thank you for saying that. I'm kidding, of
13 course, but it is.

14 Q. Unless you're a heck of a lot smarter than I
15 am, and you probably are.

16 A. No. It is difficult to keep track of them
17 all.

18 Discretionary bonuses I excluded 100
19 percent. Relocation and recruiting costs we've -- is
20 not an issue anymore. That will come out.

21 Q. It will?

22 A. It should come out, yes.

23 Q. Okay. That's \$241,756?

24 A. There's actually -- it's not going to be
25 that number exactly. It's going to be roughly 200 or

1 210,000.

2 JUDGE DERQUE: Is that a settled issue,
3 Mr. Schwarz?

4 MR. SCHWARZ: Yes.

5 JUDGE DERQUE: Okay. I hate to take up our
6 time doing this.

7 MR. SCHWARZ: That's fine.

8 JUDGE DERQUE: It's just going to -- so
9 should I just eliminate that from the Commission's
10 consideration?

11 MR. SCHWARZ: I'm sure that we will be
12 addressing that to the Commission prior to --

13 JUDGE DERQUE: Somebody's going to advise me
14 of that?

15 MR. SCHWARZ: Yes.

16 MR. SWEARENGEN: I think you'll get an
17 updated Reconciliation that will show the number going
18 back into the revenue requirement.

19 JUDGE DERQUE: I need an updated
20 Reconciliation before I attempt to draft the Report
21 and Order.

22 MR. SCHWARZ: Correct.

23 MR. SWEARENGEN: Right.

24 BY JUDGE DERQUE:

25 Q. We are on I.

1 A. Time reporting, there is no dollar value,
2 but I'm recommending certain time reporting and job
3 description items be kept.

4 Q. I understand that.

5 A. Ernst & Young is 100 percent of the cost of
6 the study. Common plant allocation factors, on that
7 one I actually agreed with the Company's March filing
8 proposal for allocating common allocation. I pointed
9 out some problems with it, but I did not object to it.
10 The Company in rebuttal is creating this change.

11 Q. Yeah.

12 A. They're proposing a new method, or new after
13 March of 1997.

14 Q. I remember that issue. Thank you,
15 Mr. Dittmer.

16 JUDGE DERQUE: Recross, Mr. Mills?

17 MR. MILLS: No questions.

18 JUDGE DERQUE: Mr. Schwarz?

19 MR. SCHWARZ: I don't have recross.

20 JUDGE DERQUE: I'm sorry. Mr. Swearengen?

21 MR. SWEARENGEN: No, your Honor.

22 JUDGE DERQUE: Redirect, Mr. Schwarz?

23 MR. SCHWARZ: Yes.

24 REDIRECT EXAMINATION BY MR. SCHWARZ:

25 Q. With respect to the interviews that you and

1 Mr. Brosch had with UtiliCorp people, the example of
2 which was that of Ms. Paper and Mr. Browning, do you
3 recall that?

4 A. Yes.

5 Q. Did the Company verify those interviews,
6 that is verify the transcripts of those interviews?

7 A. No.

8 Q. You, in fact, requested them to do so?

9 A. The history on that issue, as I recall, was
10 there was an agreement with the Company that we would
11 ask for verified -- if we were going to use something
12 out of the document, we would ask for -- we would ask
13 a follow-up Data Request asking for confirmation.
14 That's what we started to do.

15 The Company, through a memo from -- or memo
16 or objection from Maurice Arnall, later said, no, we
17 have the right or ability to confirm the entire
18 transcript. So then we immediately made them
19 available to the Company and asked them to begin the
20 confirmation process. This was back in the March time
21 frame.

22 Things slowed down between April and May.
23 Approximately July I'm guessing I started pressing the
24 Company saying where are the statements? Have you
25 confirmed them? And I think the answer was, we sent

1 them out.

2 The first thing they did was -- I can't
3 remember the response, but they weren't -- the
4 regulatory people were not -- they did not think that
5 the people were editing them and confirming the way
6 that they expected them to. So they said we're going
7 to resubmit them.

8 So we're waiting. The Staff is waiting and
9 waiting and waiting, all along thinking we are going
10 to get confirmation of the entire transcript.

11 Then in August we get a letter from Maurice
12 Arnall that says, oh, yeah, we remember we have this
13 agreement, this original agreement that you're going
14 to get confirmation of specific pieces. So it was --
15 you know, first the Company says we want specific
16 confirmation of excerpts.

17 Then they say we need to confirm the whole
18 document. They tell us they're trying to confirm the
19 whole document. Then they came back and said, wait a
20 minute, the original agreement was we're going to
21 confirm individual pieces. So that's the history of
22 that issue as I recall it.

23 Q. So that while it was a helpful learning
24 tool, it was not necessarily a smooth one?

25 A. Well, certainly the trying to determine what

1 value and how we had to handle things was very
2 awkward, I believe. The actual tool, asking the
3 questions and getting the answers I thought was a good
4 tool. It's the way they were to be handled after they
5 were held that was awkward and burdensome and
6 contradictory.

7 JUDGE DERQUE: I need to take a break,
8 Mr. Schwarz. How much have you got?

9 MR. SCHWARZ: Don't know. I could probably
10 make it shorter if you took a break.

11 JUDGE DERQUE: Okay. We're going to recess
12 'til quarter to 11.

13 (A recess was taken.)

14 JUDGE DERQUE: On the record.

15 BY MR. SCHWARZ:

16 Q. Mr. Dittmer, I believe Exhibit 50 --

17 MR. SCHWARZ: Has Exhibit 56 been admitted,
18 Judge, the deposition?

19 JUDGE DERQUE: Yes.

20 BY MR. SCHWARZ:

21 Q. With respect to the deposition of
22 October 8th of this year, I believe you have a copy of
23 that up there. Do you recall that?

24 A. Yes, I do.

25 Q. Do you recall a line of questions in there,

1 and I would suggest that, just as an example, page 89
2 and following, where the use of percentage
3 disallowances on some of the corporate allocations,
4 ESFs, was at issue? Do you recall that that was --

5 A. Yes, I do recall.

6 Q. -- a line of questions?

7 I would ask you -- and there was some
8 discussion of your knowledge of the operating
9 subsidiaries and so forth. Let me ask you, about how
10 many subsidiaries and divisions does UCU have?

11 A. I think there are in excess of 90
12 subsidiaries. I don't know that they're all active.
13 Some are active. Some have been reorganized, but
14 they're on the book, some 90 subsidiaries the last
15 time I looked.

16 Q. And let me ask you this. Are there what I
17 will call for lack of a better term call cost pools
18 within the ESFs that are listed in your testimony?

19 A. Well, there are 20 ESFs, and then a number
20 of those ESFs are further delineated or further broken
21 down into what's referred to as responsibility
22 centers. For instance, information technology maybe
23 has 20 sub-cost pools within accounting and finance.
24 In total there's probably 60 or 70 cost pools.

25 Q. And is there positive time reporting in all

1 of those RCs?

2 A. I'm not aware of any positive time
3 reporting. I guess the closest you would come to
4 positive time reporting is that there are some
5 responsibility centers that work directly for a
6 business unit, and you might consider that to be a
7 form of positive time reporting, but not in the sense
8 of writing out what activities actually take place
9 versus what I think of as positive time reporting.

10 Q. Would that be the case, for instance, for
11 international, mergers and acquisitions and new
12 product ESFs?

13 A. Well, clearly there is no positive time
14 reporting. Well, I'm not aware of any positive time
15 reporting in the ESFs with which I've taken issue.
16 They only do exception time reporting for
17 international and M&A activities.

18 Q. Given that there was no -- or that there was
19 exception time reporting, how did your analysis of
20 those cost pools and so forth, how did that proceed?

21 A. Basically, I tried to look at all the cost
22 pools, and if I saw that a cost pool was not being
23 allocated to nonregulated activities, mergers and
24 acquisitions or internationals, then I would begin to
25 question why that would -- why that might make sense.

1 Clearly at this point you've got 60 cost
2 pools, dozens and dozens of business units and
3 divisions within business units that are receiving
4 some form of benefit. The extent of the audit was
5 basically to see who wasn't getting any allocation; if
6 they were getting allocation, how was it being done?

7 At this point in time, the majority of costs
8 still continue to be allocated on the Massachusetts
9 Formula. The Massachusetts Formula does -- it does
10 allocate costs to nonreg domestic operations, but
11 there is nothing in the Massachusetts Formula for M&A
12 activities or for international ventures.

13 Those are supposed to be done on an
14 exception basis, but then when I did my analysis, held
15 interviews, looked at Data Request responses, I saw
16 where -- that the exception accounting was not
17 capturing all these costs.

18 That, therefore, led me to the way I
19 ultimately developed the adjustments, which is take in
20 many cases 50 percent disallowances of certain ESFs to
21 account for internationals and mergers and
22 acquisitions and new product development and
23 activities.

24 Q. Thank you.

25 JUDGE DERQUE: Let me interject a question

1 on behalf of Chair Lumpe. The 50 -- the 25, 50
2 percent disallowances, what did you base that
3 percentage on?

4 THE WITNESS: It is -- basically, the
5 support for that is stated in the testimony. I
6 observed where entire ESFs, and I'm talking about the
7 chief executive officer and chief operating officer,
8 charged no time to the KCPL merger.

9 I've seen travel related to that cost, to
10 that effort. I've seen them fly across the country.
11 I was there during part of that and saw all the
12 activity. It simply was not a credible position to
13 believe their time sheets were accurately capturing
14 those things.

15 But my percentages are admittedly
16 subjective, looking at a number of different
17 documents, job descriptions, travel itineraries,
18 interviews held and so forth.

19 I can't be any more specific unless I can
20 get more tools to do a better or more refined
21 allocation. If the Commission disagrees with me that
22 this is too arbitrary, I haven't created enough
23 support, you know, I would, of course, be
24 disappointed.

25 But at a minimum I would hope that the

1 Commission would implement the positive time sheet
2 reporting and the other reporting that I'm requesting
3 so that the next set of auditors will have something
4 that will give them more comfort.

5 I feel, you know, between a rock and a hard
6 spot. You say I don't have quantitative analysis to
7 support 25 or 50 percent. As I say, I feel that the
8 companies already now have quantitated analyses to do
9 25 allowance, 50 percent allowance. Where did that
10 come from?

11 But the bottom line is, unless the
12 accounting procedures that I'm proposing are
13 implemented, we're always going to be in this
14 subjective mode of the auditor looking at travel
15 itineraries, talking with people, and then seeing
16 where they're supposed to be directly assigning these
17 things, but the evidence isn't there. They're missing
18 some things.

19 The question is not have they captured all
20 the costs because the answer to that is no. The
21 question is only how many didn't they capture? Is it
22 25 percent or 50 percent? And only better
23 recordkeeping can answer that.

24 JUDGE DERQUE: Thank you. Excuse me,
25 Mr. Schwarz. Go right ahead.

1 BY MR. SCHWARZ:

2 Q. To your knowledge, do the costs in the
3 governmental affairs ESF include costs for federal and
4 other states?

5 A. Definitely. It's all -- costs are not
6 categorized by jurisdiction or states at the
7 governmental -- for the governmental affairs ESF, at
8 least during 1996.

9 They're allocated using the Massachusetts
10 Formula. All the costs are pooled together, and they
11 allocated using the Massachusetts Formula.

12 Q. Did you attempt to get further information
13 regarding these activities?

14 A. I attempted to find out what all of the
15 governmental affairs expenditures were for, even in
16 other jurisdictions, and I was -- that information was
17 never provided. The Company always refused to provide
18 anything outside of Missouri.

19 Q. Turning to the Exhibit 57, which was the fax
20 to you from Mr. Amdor of November 19th, I do not want
21 to leave any misimpression that your surrebuttal would
22 have changed if this had been provided in a more
23 timely manner.

24 Had you had time to examine this document at
25 the time you were preparing your surrebuttal, would it

1 have changed your position?

2 A. I would have filed a fairly significant
3 amount of surrebuttal to this if I had had time to
4 respond to it.

5 Q. And what would be some of your comments on
6 this? Let me ask, for instance, about the number of
7 the passenger flights, which is on the second stapled
8 page. Both pages are labeled No. 1, but on the one
9 which is comparison of shuttle -- at the top on the
10 left, comparison of shuttle versus airline
11 assumptions, number of passenger flights, for
12 instance.

13 A. Yes. First of all, let me explain what I
14 think this is trying to say. This is trying to say
15 that the cost of the Company's Omaha shuttle, private
16 shuttle between Kansas City and Omaha is roughly
17 equivalent to commercial air fare if you consider all
18 costs, all costs, labor savings, time savings, extra
19 ground transportation and so forth.

20 What it basically concludes or attempts to
21 conclude is that the private cost is only about
22 3 percent higher than the commercial airline cost.

23 I think your question was, what about --
24 what was the number of passengers assumed in the
25 study, and right off the bat the Company assumed when

1 they were calculating the cost of alternative
2 commercial airlines, they assumed that they would have
3 5,500 one-way flights for commercial flights, but for
4 the use of its own plane they only used 4,526 or about
5 20 percent fewer flights. So right off the bat we're
6 not on the same page. We're not using the same number
7 of flights.

8 Q. That's the 4,000 is in their --

9 A. They had 4,526 flights per the test year, is
10 what I assume is what they're saying here. And what
11 they're saying if we had flown commercially, we would
12 have flown 5,500 flights at a cost of \$85 per trip for
13 each of those 5,500 flights. They didn't use the same
14 multiplier.

15 Q. What about their estimate of the cost of air
16 fare?

17 A. When I called, first of all, there's 11
18 flights daily on U.S. Air. There are several fares
19 available, but I focused on the flights that are
20 available the day before and the day of, and those
21 costs are considerably less than the \$85 he used.

22 And I would have to go back to my files to
23 get it, but, going from memory, I'm thinking it was
24 like \$39 if you can do a 24-hour advance purchase and
25 maybe \$59 if you order it the day of. So I don't know

1 where the \$85 came from.

2 Now, you know, perhaps those fares aren't
3 available all of the time, and maybe that's his
4 defense. But if I'm UtiliCorp United and I call U.S.
5 Air and I say I'm thinking about ordering 5,500
6 flights this year. Can you give me any deals? I
7 think you have a little bit of clout there.

8 I disagree with -- I mean, I highly suspect
9 that that number is wrong.

10 Q. What about the cost of ground
11 transportation?

12 A. The Company's taken the 5,500 one-way trips
13 and multiplied it times an assumed \$45 ground
14 transportation. They don't really provide the
15 support.

16 I'm going to make an assumption that -- or I
17 assume that that must be the added transportation to
18 get from downtown Kansas City to the KCI Airport. The
19 Company flies out of the downtown airport, which
20 admittedly is close to the Company's offices.

21 And I think they must be saying that if we
22 didn't do that we would have to take some kind of
23 ground transportation up to KCI, and that would cost
24 us \$45 each way. So if I'm going to go to Omaha
25 today, I call up a cab or I call up a limo and I say I

1 want to go to the airport. That's \$45. And I call up
2 again and return, it's another \$45. So it's \$90.

3 Now, they've assumed that each of these
4 people, each of the employees will take their own cab
5 or their own limo, that there will be no sharing of
6 costs.

7 I find this somewhat ironic and
8 contradictory. I was criticized for purportedly -- I
9 mean, I didn't do it, but I purportedly did not
10 consider load factor in the -- on the aircraft. I
11 question, why do these people have to ride by
12 themselves? Can't you share?

13 I called several travel transportation
14 services, and I did see prices up to \$45. I heard
15 them as low as \$25. I think we even had some over
16 \$45, but I had them as low as \$25. And all of them
17 that I can recall would allow up to four passengers,
18 no extra charge. Why the Company would assume that
19 they couldn't take the same limo I'm not sure, but it
20 appears to be inconsistent.

21 They also assumed that, even though they're
22 taking a limo, we're going to pay \$15 a day for
23 parking. Why would you have parking if you're taking
24 the limo? I might add, they took the highest parking
25 rate quoted at KCI.

1 Q. So in short, this material would not
2 persuade you of the efficiency of the --

3 A. Numerous holes, I mean just numerous. I
4 think there's another piece of this that I also would
5 have addressed had I had the opportunity, and that's I
6 think the Company maybe has a point on time saved,
7 time saved. They put that in here.

8 But there's a flip side to that argument
9 also, and that is you put five people on a plane.
10 You've got five -- I think they had a load factor of
11 four to five people in that plane. Unless all these
12 people are going to the same meeting and catching the
13 same flight back, that means that somebody's sitting
14 around waiting for the last person to get done.

15 If you fly commercially, you have a
16 chance -- as I said, they have 11 flights a day. You
17 have a chance to say, hey, I'm done. It's two
18 o'clock. I'm out of here. I don't have to wait for
19 the five o'clock shuttle.

20 Those type of calculations have to be
21 considered also to make this a fair study. I don't
22 think it's a fair study.

23 MR. SCHWARZ: I think that concludes.

24 JUDGE DERQUE: Thank you. Let's see. Is
25 there any recross on my questions, Commission

1 questions?

2 MR. SWEARENGEN: No, your Honor.

3 JUDGE DERQUE: Mr. Mills?

4 MR. MILLS: No.

5 JUDGE DERQUE: Thank you, Mr. Dittmer.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 JUDGE DERQUE: I have, Mr. Swearengen, one
9 piece of testimony for Mr. Green; is that correct?

10 MR. SWEARENGEN: That's right, your Honor.

11 JUDGE DERQUE: Mr. Robert Green.

12 MR. SWEARENGEN: He's got a nonproprietary
13 and a highly confidential piece.

14 JUDGE DERQUE: Do you have an extra copy of
15 the highly confidential? What I have is one that's
16 marked NP.

17 MR. SWEARENGEN: No, I bet I don't.

18 JUDGE DERQUE: Well, it's marked NP, but it
19 should be marked highly confidential.

20 MR. SWEARENGEN: I've just got the three for
21 the reporter, but I can get you --

22 JUDGE DERQUE: Be 58 and 58HC. We're off
23 the record.

24 (Discussion off the record.)

25 (EXHIBIT NOS. 58 AND 58HC WERE MARKED FOR

1 IDENTIFICATION.)

2 JUDGE DERQUE: We're back on the record.

3 For purposes of the record, I'd like to note
4 that my copy of Exhibit No. 58 is marked NP. I'm
5 going to consider the copy to be highly confidential.
6 Please have a seat, Mr. Green.

7 (Witness sworn.)

8 JUDGE DERQUE: Mr. Swearengen?

9 MR. SWEARENGEN: Thank you, your Honor.

10 ROBERT GREEN testified as follows:

11 DIRECT EXAMINATION BY MR. SWEARENGEN:

12 Q. Would you state your name for the record,
13 please.

14 A. Robert Green.

15 Q. Mr. Green, by whom are you employed and in
16 what capacity?

17 A. UtiliCorp United as President.

18 Q. Did you prepare or cause to be prepared
19 under your direction and supervision certain rebuttal
20 testimony in this proceeding?

21 A. I did.

22 Q. And do you have a copy of that testimony
23 with you this morning?

24 A. I do.

25 Q. There are two versions of your testimony,

1 Mr. Green. One is a nonproprietary version, and the
2 other is a highly confidential version. Do you have
3 the highly confidential version in front of you?

4 A. Yes, I do.

5 Q. Okay. And is it your understanding that
6 that's been marked for identification as Exhibit 58HC?

7 A. Yes, it has.

8 Q. Okay. And the nonproprietary version has
9 been marked simply Exhibit 58.

10 If I asked you the questions that are
11 contained in that testimony, would your answers today
12 be the same?

13 A. My answers would be the same today.

14 MR. SWEARENGEN: Thank you. At this time,
15 your Honor, I would offer into evidence Exhibit 58 and
16 Exhibit 58HC and tender the witness for
17 cross-examination.

18 JUDGE DERQUE: Thank you. Is there any
19 objection to the admission into evidence of
20 Exhibits 58 and 58HC?

21 (No response.)

22 JUDGE DERQUE: Seeing none, they will be
23 admitted.

24 (EXHIBIT NO. 58 AND 58HC WERE RECEIVED INTO
25 EVIDENCE.)

1 JUDGE DERQUE: Mr. Mills?

2 MR. MILLS: Thank you. I have just a few
3 questions.

4 CROSS-EXAMINATION BY MR. MILLS:

5 Q. Mr. Green, let me ask you this first. Did
6 you write the testimony that's been marked as 58 and
7 58HC?

8 A. I wrote portions of it. I met with Mr. John
9 Empson, John McKinney, Bob Amdor, and discussed the
10 outline and direction of the testimony and the issues
11 and asked them to research those issues and prepare a
12 draft, and then we went over the draft and
13 subsequently refined it and revised it until we
14 submitted the final version.

15 Q. And help me out here. The copy I've got is
16 the highly confidential version. Can you tell me
17 which portions are highly confidential?

18 A. I could not tell you which portions we've
19 identified as highly confidential. That's not clear
20 in the testimony before me.

21 Q. Okay.

22 JUDGE DERQUE: Let me interject. I'm
23 recalling this testimony. When I read this testimony,
24 there were schedules where the question in the
25 testimony, something in regard to could you please

1 explain this project, and it says, yeah, it's in
2 schedule such and such. And I get back to the
3 schedule and that's where the redacted portions are,
4 and my copy is redacted.

5 MR. SWEARENGEN: I have the -- if I may
6 speak to this and try to help everybody else, I have a
7 nonproprietary version in front of me, and the
8 testimony that was highly confidential is on pages 34,
9 35 -- excuse me -- pages 34 and 35, which pertain to a
10 matter which is no longer at issue in the case. So I
11 don't really understand --

12 JUDGE DERQUE: I said schedules. That's
13 exactly what I was talking about.

14 MR. SWEARENGEN: So I really don't think
15 there will be any need to get into that.

16 MR. MILLS: I didn't think so either, but it
17 wasn't clear to me if that was underlined for emphasis
18 or underlined because it was highly confidential.

19 MR. SWEARENGEN: I apologize for the
20 confusion.

21 MR. MILLS: I just wanted to be sure that
22 that's what it was and that I wasn't going to get into
23 some other stuff that was highly confidential.

24 BY MR. MILLS:

25 Q. Mr. Green, if I can get you to turn in your

1 testimony to the question and answer that starts on
2 page 26 and continues on to page 27.

3 A. Okay.

4 Q. Do you recall that testimony?

5 A. I do.

6 Q. It appears to me that at least three of the
7 letters cited, and perhaps more, were in response to a
8 letter from UtiliCorp to the individuals writing these
9 letters; is that correct?

10 A. Some of them were in response to
11 conversations we'd had about the proceeding, yes.

12 Q. So at least for the three responses at lines
13 11 through 22 on page 27, those appear to contain
14 references to the case that we're meeting about here
15 today; is that correct?

16 A. That specific quote, yes.

17 Q. Can you tell me what was conveyed to the
18 individuals writing those letters that you've quoted
19 about the case here today?

20 A. I think quite simply that the recovery of
21 an -- of economic development dollars was being
22 challenged by the Staff in this proceeding.

23 Q. Okay. Is it your understanding of the
24 ratemaking procedure that the Commission has the
25 authority to stop you from doing economic development

1 activity?

2 A. No.

3 Q. So what's being challenged in this case is
4 the recovery from ratepayers of those dollars?

5 A. Precisely.

6 Q. There's nothing at issue in this case that
7 would keep shareholders from using their own money to
8 continue with these activities regardless of the
9 decision in this case; is that correct?

10 A. No, I wouldn't say that's correct. I would
11 think the economics would cause the shareholders to
12 re-evaluate the efforts it was putting forward in that
13 regard if they were not recoverable.

14 Q. So if it's the shareholders' own money, then
15 it's probably not a good investment; is that what
16 you're saying?

17 A. Excuse me?

18 Q. You're saying that if the shareholders have
19 to use their own money to continue these activities,
20 they may re-evaluate?

21 A. And it is not recoverable in rates in any
22 way, they would re-evaluate, yes.

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

25 JUDGE DERQUE: Thank you, Mr. Mills.

1 Mr. Schwarz?

2 MR. SCHWARZ: I have a number of questions
3 for Mr. Green relating to the corporate allocations
4 issue. I also have a couple of questions on the
5 headquarters building, and the economic development
6 issues are being handled by Steven Gunn.

7 JUDGE DERQUE: We're talking about economic
8 development. We're talking about the EDS rider. Is
9 that economic development rider? Mr. Mills, I'm
10 asking you. You just asked him the questions.

11 MR. MILLS: The questions I asked are not
12 relevant to the economic development rider, although
13 it's my understanding that Mr. Green is here
14 testifying this morning on all the issues that he's
15 submitted testimony on.

16 JUDGE DERQUE: Yes. This is his only
17 scheduled testimony.

18 MR. SWEARENGEN: That's right.

19 JUDGE DERQUE: So within the very broad
20 scope of his testimony, yes.

21 MR. MILLS: The questions I asked were not
22 strictly relevant to the economic development rider
23 issue.

24 JUDGE DERQUE: Okay. That's fine.

25 MR. SWEARENGEN: I don't believe he's the

1 witness on that issue. He's not the witness on the
2 economic development rider.

3 JUDGE DERQUE: He's not, Mr. Swearingen, but
4 when this was written, it has to be written -- I was
5 trying to attach a money issue to what you were
6 saying.

7 MR. MILLS: Right. Those questions were not
8 the economic development rider issue.

9 JUDGE DERQUE: There's no issue on the
10 trued-up reconciliation attached to what you were
11 saying.

12 MR. MILLS: Well, yes, I believe there
13 probably is, but it's not the economic development
14 rider issue.

15 THE WITNESS: I think maybe the issue deals
16 with recovery of our economic development
17 expenditures, and you're proposing we recover half.
18 We're suggesting we should have full recovery.

19 MR. MILLS: Right. And I'm not sure exactly
20 how that's denominated on the Reconciliation.

21 MR. SCHWARZ: What Mr. Gunn --

22 JUDGE DERQUE: Let's go off the record.

23 (Discussion off the record.)

24 JUDGE DERQUE: Go ahead, Mr. Woodsmall.

25 MR. WOODSMALL: Just to clear up the record,

1 there are two economic development issues. There's
2 the issue of the imputation of economic development
3 rider revenues. That is denominated on the
4 Reconciliation as Issue C2.

5 JUDGE DERQUE: C2, yeah.

6 MR. WOODSMALL: That is handled by
7 Mr. Dittmer and another Missouri Public Service
8 witness other than Mr. Green.

9 JUDGE DERQUE: Okay.

10 MR. WOODSMALL: The other economic
11 development issue is D8.

12 JUDGE DERQUE: D8. Okay.

13 MR. WOODSMALL: And that is the Missouri
14 Public Service economic development group cost.
15 Mr. Green is handling that issue as well as
16 Mr. Mansfield for Staff. So there are two issues.

17 JUDGE DERQUE: That's fine.

18 MR. WOODSMALL: This is the MoPub group
19 issue.

20 JUDGE DERQUE: Thank you.

21 MR. MILLS: And the questions I was asking
22 pertain to the D8 issue rather than the C2 issue.

23 THE WITNESS: With that clarification, can I
24 expand my answer just briefly?

25 JUDGE DERQUE: No, you can't, at least not

1 right at the moment.

2 MR. SCHWARZ: At this stage I would defer to
3 Mr. Gunn.

4 JUDGE DERQUE: Mr. Gunn?

5 CROSS-EXAMINATION BY MR. GUNN:

6 Q. Good morning, Mr. Green. I have just a few
7 questions on the economic development as it relates,
8 again for clarification, to MPS.

9 Okay. In your testimony, I believe you
10 generally stated that the costs associated with the
11 Company's economic development activities should be
12 allotted in recovery of rates because these activities
13 directly benefit the Company's ratepayers; is that
14 correct?

15 A. Absolutely.

16 Q. And I believe on page 28 of your testimony
17 you stated that these activities increase company
18 revenues, and on page 24 you stated that the economic
19 activities directly created jobs, increased economic
20 activity in the community and stimulated and tax
21 revenues for the State; is that correct?

22 A. Yes.

23 Q. Isn't it likely that these increased company
24 revenues also benefit the Company's shareholders as
25 well?

1 A. They do to a point, but we think you need to
2 take a broader view of the benefits and look at what
3 it does for economic development in the State of
4 Missouri and understand the objectives of the
5 Department of Economic Development and the kind of job
6 creation that follows these efforts and the kind of
7 investment in the State for the long-term, rather than
8 look at the narrow short-term benefits and results of
9 these kinds of investments.

10 Q. I understand that. But the increased
11 revenues do also benefit the Company's shareholders,
12 correct?

13 A. To a certain extent, yes.

14 Q. And won't these jobs created by the economic
15 development activities and the economic development
16 activity increase in the community as well as the
17 increased state tax revenues benefit others other than
18 ratepayers?

19 A. Yes, certainly.

20 Q. Okay.

21 A. It will benefit the entire state in terms of
22 economic development and job creation and investment.

23 Q. On page -- again, on page 29 of your
24 testimony, you stated that the manufacturing
25 industries tend to be the primary energy users.

1 MR. SWEARENGEN: Excuse me. What page did
2 you say?

3 MR. GUNN: Page 29, lines 1 through 4.

4 MR. SWEARENGEN: Okay. Thank you.

5 BY MR. GUNN:

6 Q. And I also believe that you stated that
7 these industries benefit the Company by providing a
8 good base load and high load factors; is that correct?

9 A. Correct.

10 Q. Okay. And because the Company serves small
11 communities as indicated in your rebuttal testimony,
12 that the Company decided to engage in economic
13 development activities to maintain its investment and
14 as well as maintain community economic viability?

15 A. And further the economic development
16 objectives of the State of Missouri, yes, in
17 partnership.

18 Q. So isn't it reasonable to say that the
19 Company's economic development activities benefit not
20 only the Company but also the shareholders, the
21 ratepayers and other citizens of the state of Missouri
22 in general?

23 A. Absolutely.

24 Q. Okay. It's certainly not the Company's
25 position that the economic development activities are

1 necessary for the provision of electricity to its
2 ratepayers, is it?

3 A. Not directly and necessarily required, but
4 beneficial in the long run to the ratepayers, yes.

5 Q. Okay. But as far as provision of
6 electricity to the ratepayers?

7 A. To the existing customers?

8 Q. Correct.

9 A. Yes. We think there's a benefit in
10 attracting high load factor industrial customers that
11 increase jobs and investment in the state, absolutely.

12 Q. Okay. Limiting it to the provision of
13 electricity itself to the ratepayers?

14 A. We think there's benefit in attracting high
15 load factor customers to our service territory for all
16 our ratepayers in the provision of electricity, yes.

17 Q. You also stated, I believe it was on page 31
18 of your rebuttal testimony, that the Company's
19 economic development activities do not promote the
20 electricity that MPS sells and that many of the
21 economic development services are not even energy
22 related; is that correct?

23 A. Correct. It's an enabling strategy, the
24 objective being to attract jobs and investment in the
25 state of Missouri and specifically our service

1 territory.

2 Q. But yet wouldn't the Company's proposal to
3 include most, if not all, of its costs associated with
4 economic development mean that the captive ratepayers
5 through their rates would essentially foot the bill
6 for these activities even though these activities
7 benefited the Company, the shareholders, ratepayers
8 and others in the state of Missouri?

9 A. They would foot the bill, as you say, and
10 enjoy the benefits and the rewards of attracting high
11 load factor industrial customers, creating jobs and
12 attracting investment to the state.

13 So we view it as a win/win partnership with
14 the State of Missouri, and we try to highlight ten
15 very specific and demonstrable examples of how that
16 has been a win/win proposition, the biggest of which
17 is the Harley Davidson manufacturing plant, which is
18 the largest economic development project in the
19 country last year. It's going to create 500 jobs and
20 a net benefit of some \$20 million.

21 So we think we have in a powerful way
22 demonstrated the benefits of this program and that it
23 should be included in rate base.

24 Q. Okay. Are these benefits even on the Harley
25 Davidson plant exclusive to the ratepayers of MPS?

1 A. No, they're not exclusive, but they
2 certainly benefit the ratepayers of MPS, but the
3 benefits go beyond that for the whole State of
4 Missouri and further the objectives of the State of
5 Missouri's economic development department.

6 Q. Okay. But isn't it the ratepayers that will
7 essentially be paying for these economic development
8 activities?

9 A. Ultimately in the long run we think their
10 benefits outweigh any costs they might fund by
11 including that in rate base and that it's a win/win
12 proposition.

13 Q. But there are no other entities or persons
14 paying for these costs of economic development?

15 A. Oh, there are many individuals paying for
16 the costs of economic development. I mean, it's a
17 partnership, as I said. We work with counties and the
18 State, the Economic Development Department here at the
19 State of Missouri.

20 I mean, the Harley Davidson success is a
21 perfect example of that. We got a call from the State
22 Department of Economic Development, and we worked
23 closely with them, and we stepped up to the table to
24 make that transaction happen in a way that we think
25 benefits ratepayers, shareholders and the State of

1 Missouri and furthers the economic development agenda
2 of the State.

3 So we view it as a win/win/win proposition
4 and think it should very fairly be included in rates.

5 Q. Do the ratepayers of MPS have any input as
6 to which economic development activities the Company
7 will sponsor?

8 A. I think through processes such as this where
9 you're allowed to look at those expenses and
10 scrutinize them, that's how the ratepayers are
11 represented, by Public Counsel and by the Staff of
12 this Commission. So they do.

13 Q. On page 34 of your testimony, you stated
14 that you do not recommend that 100 percent of the
15 Company's economic development costs be retrieved in
16 rates; is that correct?

17 A. Yes. We've excluded certain promotional
18 items.

19 MR. GUNN: Okay. I have no further
20 questions.

21 JUDGE DERQUE: Thank you. Mr. Schwarz, do
22 you have cross-examination?

23 MR. SCHWARZ: Yes, I have some.

24 JUDGE DERQUE: Okay. Would you prefer to do
25 redirect all at once, Mr. Swarengen?

1 MR. SWEARENGEN: That would be my
2 preference, sure. In other words, we're going to go
3 through all of his testimony, all the issues that he
4 covers with him. That's fine.

5 CROSS-EXAMINATION BY MR. SCHWARZ:

6 Q. Sorry about the confusion, Mr. Green.

7 A. No problem.

8 Q. There's a distinct difference between the
9 Company and the Staff with respect to whether merger
10 and acquisition, international and new product costs
11 should be assigned to Missouri ratepayers; is that a
12 fair statement?

13 That is, the Company thinks those costs are
14 beneficial and should be passed through in rates, and
15 the Staff's position is that certainly with respect to
16 M&A and certainly a portion of the international and
17 new product should not?

18 A. Yes, but I think there's a recognition even
19 by the Staff that there are benefits. The issue
20 really revolves around the proper allocation of costs
21 between those activities.

22 Q. That's fair. And with that as background,
23 is it correct that you did not -- you did not charge
24 any -- directly charge any hours to M&A in 1996?

25 A. Yes. And our view with respect to that is

1 there is no incremental cost with respect to the
2 limited amount of time that I would spend on M&A, and
3 that whatever costs that is is far outweighed by the
4 benefits.

5 Q. As part of -- that's part of the dispute?

6 A. That's part of the issue.

7 Q. And the same is true for Sally McElroy who
8 heads external communications?

9 A. It's generally true for the senior
10 executives.

11 Q. Thank you.

12 A. In that the vast, vast majority of the cost
13 is within corporate development and is not being
14 recovered --

15 Q. That's fine.

16 A. -- in rates.

17 Q. With respect to merger and acquisition
18 activity or analysis within the Company, is it --
19 isn't it true, and I think it's probably generally
20 true in the business world, that pursuant to
21 confidentiality agreements all such documentation is
22 destroyed immediately after a non-consummated deal?

23 A. Destroyed or returned, yes.

24 Q. During 1996, were you on the board of United
25 Energy?

1 A. Yes.

2 Q. And that is -- describe United Energy, would
3 you.

4 A. United Energy is an electric distribution
5 company that we acquired in September of '95, 530,000
6 customers in the southeast suburbs of Melbourne,
7 Victoria in Australia.

8 Q. On page 40 of your testimony, you talk about
9 electric fly-over safety programs?

10 A. Yes.

11 Q. And I think there's \$195,000 that was
12 discussed there, if I can find it.

13 A. Correct.

14 Q. Was that \$195,000 incurred in the test year?

15 A. Yes.

16 Q. Was it all incurred in the test year, do you
17 know?

18 A. Yes, to the best of my knowledge.

19 Q. Do you have a copy of Mr. Dittmer's rebuttal
20 testimony?

21 A. Not with me here on the stand.

22 MR. SWEARENGEN: I've got one.

23 MR. SCHWARZ: Thanks, Jim.

24 JUDGE DERQUE: It's marked but not entered
25 as Exhibit 52 for the record.

1 BY MR. SCHWARZ:

2 Q. I note that Schedule 1 is some
3 correspondence, background and so forth on the UCU
4 headquarters building, and --

5 A. What's the page number?

6 Q. It's Schedule 1.

7 A. I've got it here. I've just got to get to
8 the first page. Okay.

9 Q. And I would say the first --

10 MR. SWEARENGEN: Excuse me. Is that a
11 letter from --

12 BY MR. SCHWARZ:

13 Q. Yeah, to you from Mr. Zimmer, and I would
14 say the first 15 pages or so are memos and letters and
15 correspondence. Are you generally familiar with that
16 correspondence?

17 A. Yes.

18 Q. Did the -- was the decision to go ahead with
19 that project made by the UtiliCorp board?

20 A. The decision to go forward with the project
21 would have been made by myself and Rick Green and
22 communicated to the board.

23 Q. But, I mean, a \$20 million project, does
24 that require board approval?

25 A. It -- a \$20 million project does not require

1 board approval.

2 Q. Okay. That's fine. So that it's safe to
3 say that you had a substantial hand in the project?

4 A. Absolutely.

5 Q. Very good. And I notice also the name of
6 Randall Miller. Could you identify him for me,
7 please?

8 A. He is in our finance group and is seated in
9 the front row right here.

10 Q. Okay. And he, too, was active in it?

11 A. Yes.

12 Q. In the project?

13 A. Yes.

14 MR. SCHWARZ: Thank you. I think that's all
15 I have.

16 JUDGE DERQUE: Thank you, Mr. Schwarz.
17 Redirect, Mr. Swearengen?

18 MR. SWEARENGEN: To make sure I understand
19 what you're doing now, you're finished with all of
20 the --

21 MR. SCHWARZ: As far as I know.

22 JUDGE DERQUE: Does the Staff have any more
23 cross-examination for Mr. Green? I assumed that was
24 it.

25 MR. SCHWARZ: No. We have no more --

1 JUDGE DERQUE: Okay.

2 MR. SCHWARZ: -- snakes lying in the grass.

3 MR. SWEARENGEN: And Mr. Mills is finished.

4 JUDGE DERQUE: I couldn't have said that

5 better myself.

6 (Laughter.)

7 MR. MILLS: I'm not going to volunteer

8 anything about snakes, but I'm finished, yes.

9 MR. SWEARENGEN: Thanks. Could I have just

10 a second, please, your Honor?

11 JUDGE DERQUE: How much do you have?

12 MR. SWEARENGEN: Just a couple of questions.

13 JUDGE DERQUE: Go ahead.

14 MR. SWEARENGEN: Thank you, your Honor.

15 REDIRECT EXAMINATION BY MR. SWEARENGEN:

16 Q. Mr. Green, during Public Counsel's question,

17 we all tried to make sure we knew what issue we were

18 talking about, and we concluded the issue is what is

19 called economic development costs.

20 And once that was resolved, once that was

21 clarified, you had an answer that you wanted to expand

22 on, and do you recall -- do you recall that

23 discussion, trying to clarify the issue and your

24 comment at that time that you wanted to expand on an

25 answer?

1 A. Yeah. I really had the opportunity. It was
2 looking at the benefits from a broader perspective
3 rather than just the benefits to the ratepayer and how
4 the job creation, the investment in the state and
5 furthering the state's economic development agenda are
6 benefits that we think should be considered by this
7 Commission when making a decision about inclusion in
8 rates.

9 Q. Okay. Thank you. You also had a question
10 about whether or not you had allocated any of your
11 own, I guess, personal costs to merger and acquisition
12 activities in 1996. Do you recall that question?

13 A. Yes.

14 Q. And from there there was some discussions
15 about United Energy, the business that UtiliCorp owns
16 in Australia. Do you recall those questions?

17 A. Yes.

18 Q. During 1996, would you have allocated time
19 and costs to international operations?

20 A. Yes, absolutely. And when looking at that
21 allocation, which is a significant issue in this case
22 for five different ESF groups, I think it's important
23 to step back and look at the big picture.

24 And when you look at that for the operations
25 ESF, you see that approximately 15 percent of the time

1 is allocated to international, 25 percent to the
2 unregulated domestic activities, leaving about
3 58 percent, I think, that is allocated to the
4 regulated business.

5 And I think when you look at it at that
6 level, it is very reasonable and fair. I must admit
7 when you go down and look at specific allocations, you
8 were able to find instances where we had not properly
9 allocated.

10 And we admit that, but we think that is de
11 minimus. We think the overall result is fair and
12 accurate, and we also think that you need to take into
13 consideration the kind of transformation the Company's
14 going through in terms of consolidating and
15 integrating the acquisition that have occurred over
16 the past dozen years.

17 And I think even Mr. Dittmer has suggested
18 that we're headed down the right path, but pulling the
19 systems together to enable us to better track those
20 costs. In fact, we're investing about \$11 million in
21 a new financial system that will allow us to do
22 activity-based costing and better allocate.

23 I think that the Commission Staff has agreed
24 that they've seen dramatic improvement from '95 to
25 '96, and I'd suggest you'll only see that allocation

1 methodology get better as we go forward, and it is
2 just one of the challenges inherent in the
3 consolidation and integration of the business, which
4 is something that the Commission and Staff have
5 suggested that we do for some time so that we can
6 realize the benefit of that -- of those acquisitions,
7 benefits which are going to flow to ratepayers in
8 Missouri in terms of lower allocations of central
9 costs like operations, like all the ANG ESF support
10 activities that go on principally in Kansas City
11 today.

12 MR. SWEARENGEN: That's all I have. Thank
13 you.

14 JUDGE DERQUE: Thank you, Mr. Swearengen.
15 It's my understanding that Mr. Green may be excused
16 for the remainder of the proceeding; is that correct,
17 Mr. Schwarz?

18 MR. SCHWARZ: That is correct.

19 JUDGE DERQUE: Mr. Mills?

20 MR. MILLS: That's correct.

21 JUDGE DERQUE: Thank you, Mr. Green.

22 MR. SWEARENGEN: Thanks.

23 THE WITNESS: Thank you.

24 (Witness excused.)

25 JUDGE DERQUE: We're going to recess for

1 lunch, resume at 1:15.

2 MR. WOODSMALL: Your Honor, this issue,
3 corporate allocations, is scheduled for two days.
4 It's becoming readily apparent, I believe, that we're
5 going to finish this well in advance of two days.

6 In order to keep the hearing moving, I would
7 propose to try and bump up an issue that is not a
8 consultant related issue, and Staff would propose
9 FAS 87, FAS 106 or maintenance, whichever the Company
10 chooses. Any one of those can be ready on Staff's
11 case by tomorrow.

12 JUDGE DERQUE: How about the next one?

13 MR. WOODSMALL: It's consultants.

14 JUDGE DERQUE: Oh, okay. Capital structure,
15 ROE and cost of debt, and I can't remember Steve Hill,
16 Mark Burdette or John Dunn.

17 MR. WOODSMALL: Two of three on rate of
18 return, capital structure are consultants.
19 Depreciation, the Company has a consultant. So I'd
20 propose that we go beyond that, and I'm looking at
21 pensions, OPEBs or maintenance, either one of those.

22 JUDGE DERQUE: Chuck Hyneman is here.

23 MR. WOODSMALL: And he's ready to go
24 tomorrow; and maintenance, Tom Shaw is ready to go
25 tomorrow. So it's the Company's choice.

1 MR. SWEARENGEN: Thanks. I've got to choose
2 between those two?

3 MR. WOODSMALL: If you have another one that
4 we don't have a consultant on.

5 JUDGE DERQUE: I've got FAS 87, FAS 106, and
6 what was your second choice?

7 MR. WOODSMALL: Maintenance.

8 MR. SWEARENGEN: I was going to say, I'd
9 like to visit with my folks over the lunch hour to see
10 who, in fact, is available to go forward.

11 JUDGE DERQUE: I was going to give you
12 whatever --

13 MR. WOODSMALL: The only reason I bring it
14 up is because it appears we're going to move a lot
15 quicker on this issue than I anticipated.

16 JUDGE DERQUE: Well, yeah. Well, we're not
17 going to take a day off. Off the record.

18 (The noon recess was taken.)

19 JUDGE DERQUE: Mr. Empson, you're still
20 sworn. Let's see. His testimony is in, is it not?

21 MR. SWEARENGEN: Yes. I would have a couple
22 preliminary questions.

23 JUDGE DERQUE: Sure. Okay. I have
24 Mr. Empson's rebuttal's been reserved. It's entry's
25 been reserved for cross-examination, I think by the

1 Staff but maybe by the Office of the Public Counsel.

2 I didn't write it down who it was. Okay. At any
3 rate, that's the status of Mr. Empson's testimony.

4 Mr. Swearengen?

5 MR. SWEARENGEN: Yes, your Honor. Thank
6 you.

7 JON EMPSON testified as follows:

8 DIRECT EXAMINATION BY MR. SWEARENGEN:

9 Q. Mr. Empson, I think you have in front of you
10 your direct and your rebuttal testimony; is that
11 correct?

12 A. I have my rebuttal here and the direct, yes.

13 Q. Okay. Your rebuttal testimony is
14 Exhibit 41; is that right? Do you recall?

15 A. Yes.

16 Q. Thank you. According to my copy of that
17 piece of testimony it covers three issues, government
18 affairs, public affairs and something called energy
19 life of a nation. Do I understand that that last
20 item, energy life of a nation, is no longer an issue
21 in this case?

22 A. That is correct.

23 Q. And the government affairs issue shows up on
24 the Reconciliation under Item D-9, Item A, and is that
25 your understanding?

1 A. Yes, it is.

2 Q. And the public affairs issue shows up on the
3 Reconciliation under Item D-9 as Item B; is that your
4 understanding?

5 A. Yes, it is.

6 MR. SWEARENGEN: That's all I have. At this
7 time I would tender the witness for cross-examination.

8 JUDGE DERQUE: Thank you, Mr. Swearengen.
9 Go over your letters again.

10 MR. SWEARENGEN: Yes. D-9, Item A,
11 governmental affairs; D-9, Item B, public affairs.
12 Those are the two issues which Mr. Empson's rebuttal
13 testimony covers.

14 JUDGE DERQUE: Okay. Thank you. I
15 appreciate that.

16 MR. SWEARENGEN: You're welcome.

17 JUDGE DERQUE: Mr. Mills?

18 MR. MILLS: I have no questions for this
19 witness.

20 JUDGE DERQUE: Mr. Schwarz?

21 CROSS-EXAMINATION BY MR. SCHWARZ:

22 Q. Mr. Empson, at the bottom of your rebuttal
23 testimony, page 2, you indicate that below-the-line
24 activity does not necessarily indicate
25 nonrecoverability in rates.

1 Can I conclude from your statements there
2 that you believe there's very little correlation
3 between recording an item below the line and
4 nonrecoverability in rates?

5 A. By the definition, just putting it below the
6 line does not mean it is nonrecoverable in rates. It
7 is just isolated as an item below the line, and then
8 specifically it says in the quote above on lines 14
9 through 18 that it does not preclude Commission
10 consideration of proof to the contrary for ratemaking
11 or other purposes.

12 That's what I was just trying to highlight.
13 There was some language indicated in the direct
14 testimony that they were routinely or typically not
15 allowed, and I was just trying to highlight that that
16 is not always the case. It is not a foregone
17 conclusion just doing it below the line is
18 nonrecoverable.

19 Q. Well, take a look at line 25, or beginning
20 on line 24, you say that Dittmer has continuously and
21 throughout his direct testimony improperly tried to
22 correlate below the line with nonrecoverability. Is
23 there, in fact, a correlation between items being
24 recorded below the line and their not being recovered?

25 A. Not necessarily.

1 Q. There's no correlation, you don't think? So
2 that would suggest that recording items below the
3 line, or items recorded below the line are more often
4 than not recovered in rates?

5 MR. SWEARENGEN: Your Honor, I'm going to
6 object to that. The witness answered the question not
7 necessarily. I think he's arguing with him. It's
8 argumentative, and I object on that basis.

9 MR. SCHWARZ: Let me see if I can rephrase
10 the question.

11 BY MR. SCHWARZ:

12 Q. What do you think correlate, as you use --
13 what do you mean by correlate?

14 A. That automatically if you record something
15 below the line, that it is a hundred percent assurance
16 it's not recoverable, that there is some kind of a
17 direct correlation between below the line as a
18 category and nonrecoverability.

19 And what I've tried to point out in my
20 rebuttal testimony is that our experience in other
21 jurisdictions is that that is not a necessary
22 correlation; that, in fact, you can go back in, as we
23 have demonstrated in Kansas and in Minnesota. We just
24 picked two of our jurisdictions and recovered those
25 costs.

1 Q. So you think you used the word correlate to
2 mean absolutely and at all times the same?

3 A. In my mind, when you correlate something,
4 it's like a one to one tradeoff. If you put it below
5 the line, you don't get recovery. That is a pure
6 correlation.

7 Q. Okay. Isn't it true that other employees at
8 UtiliCorp often use the term below the line to
9 describe an item that's not recoverable in rates?

10 A. I don't think I can make a general statement
11 to that effect.

12 MR. SCHWARZ: I'd like to have an exhibit
13 marked. It is responses to Staff DRs 741 and 779.

14 JUDGE DERQUE: That will be No. 59,
15 identified as Data Request response, Case No.
16 EO-97-144.

17 (EXHIBIT NO. 59 WAS MARKED FOR
18 IDENTIFICATION.)

19 BY MR. SCHWARZ:

20 Q. Have you had an opportunity to take a look
21 at those?

22 A. I've looked at the first one.

23 Q. Which is No. 779?

24 A. Yes. I've read them both.

25 Q. Taking a look at 779, the first one of the

1 two, Part B, would you read that into the record,
2 please.

3 A. The question itself?

4 Q. No. Just the response.

5 A. No. To the best of our knowledge, UtiliCorp
6 in prior years allocated direct flight billings to the
7 respective business unit. Residual costs were
8 recorded below the line.

9 Q. And does that suggest to you that they were
10 not recovered, the residual costs were not recovered?

11 A. It's just a statement of fact. The residual
12 costs were recorded below the line.

13 Q. Would you take a look at the DR 741 and read
14 the response there into the record, please.

15 A. Response: Contributions are recorded below
16 the line in Account 426. While the Company believes
17 all ratepayers benefit from these costs, no recovery
18 of contributions is included in current rates. The
19 detail behind these costs is not relevant.

20 Q. Okay. Thank you. Are you familiar with an
21 organization entitled the American Legislative
22 Exchange?

23 A. Yes, I am.

24 Q. Would you agree that during the test year
25 the Company made a number of payments to ALEC which

1 were charged to your ESF and ultimately allocated to
2 all business units?

3 A. Yes, I would.

4 Q. Under the Massachusetts Formula?

5 A. I believe that's the case, yes.

6 Q. Would you agree that the purposes, the
7 stated purposes of ALEC are to assist legislators and
8 the states by sharing research information and staff
9 support facilities, establish a clearinghouse for
10 bills at the state level and provide for a bill
11 exchange program, disseminate model legislation and
12 promote the introduction of companion bills in
13 Congress and state legislatures, improve
14 communications between state legislators and members
15 of Congress, formulate legislative action programs,
16 strengthen the position of state and local government
17 relative to the federal government, and develop
18 liaison with legislators in other countries on
19 problems of mutual concern?

20 A. I assume you're reading from a Data Request
21 Response that we provided to you and the definition of
22 what ALEC is.

23 Q. That is correct.

24 A. I would agree that that is the definition of
25 what that organization is about.

1 Q. Under your definition or the FERC
2 definition, would payments made to this
3 organization -- excuse me. Strike that, please.

4 Under your definition or the FERC USOA, you
5 would claim that payments made to this organization
6 would not constitute lobbying?

7 A. Yes.

8 Q. On page 9 of your rebuttal -- excuse me a
9 moment. Excuse me. Page 9.

10 A. I'm sorry. In the rebuttal?

11 Q. Page 9, you -- line 9, you suggest that it's
12 because he was not provided with formal work product
13 from Wiley, Rein that he made his adjustment.

14 Isn't it true that at the time that
15 testimony was filed and indeed until the materials
16 presented in mid November to Mr. Dittmer, that he
17 hadn't had any work product, formal or informal?

18 A. We had indicated there were not any formal
19 monthly reports that were provided or formal weekly
20 reports, that all we had would have been a series of
21 either correspondence or conversations. That's how we
22 worked with them.

23 Toward the end of this process, I had a call
24 from John McKinney just saying that Mr. Dittmer would
25 like to have some indication of what's going on. Is

1 there any product that we could provide, whether it's
2 formal or informal?

3 I then made a call to Wiley, Rein and asked
4 them to please search through their files, send us as
5 much of a representative sample of the type of product
6 they had, where I would not have seen this necessarily
7 because they work independently with a lot of our
8 business units, and send it.

9 So then we did provide that to Mr. Dittmer.
10 We did not consider that more of a formal work
11 product.

12 Q. How much did UCU pay Wiley, Rein in the test
13 year?

14 A. In the 1996 test year, it was approximately
15 \$1.8 million.

16 Q. And there's nothing in your files from them?

17 A. There was nothing in my files from them,
18 that is correct.

19 Q. UtiliCorp executives testify and lobby
20 before Congress and various state legislatures to
21 bring open access in electricity to the retail level?
22 Have they done so?

23 A. They have testified before legislative
24 committees, which by definition, as we have
25 demonstrated in my testimony, is not considered

1 lobbying. So if you use those two words together, I
2 cannot agree.

3 They have testified and provided
4 information, but that is always an exception both at
5 the federal level and the state level because you
6 would not be able to register or they do not require
7 you then to register as a lobbyist.

8 Q. Isn't it true that prior to 1996 UCU charged
9 charitable contributions below the line and that they
10 did not get allocated to the business units?

11 A. I'm afraid I can't say for sure what they
12 did or did not do. You say UCU. In some of our
13 jurisdictions remember that those contributions are
14 allowed in rates. They would be recorded above the
15 line.

16 For example, in the state of Kansas we're
17 allowed to recover 50 percent. In the state of
18 Minnesota we are allowed to recover 50 percent. So
19 those, in fact, would have been charged to the
20 business units, and those below the line would not
21 have been.

22 Q. Okay. Those charged below the line would
23 not have been?

24 A. To the best of my knowledge, if we'd taken
25 them in that account, they would not have been. I

1 cannot speak to the accounting, once again, once it
2 gets -- on how we charge them out to the various
3 accounts, but that would be my understanding.

4 Q. Isn't it true that earlier in 1997 the
5 Company indicated to Staff in DRs that it wasn't
6 necessary for the Company to provide any information
7 regarding ratepayer benefit attributable to charitable
8 contributions since such costs were recorded below the
9 line and not being recovered in rates?

10 A. I'm not aware of that DR.

11 Q. Assuming the Commission were to agree to
12 include charitable contribution in rates, would the
13 Company agree to perhaps once a year include something
14 on the customer bills along the lines of during the
15 past 12 months UtiliCorp has made contributions to
16 organizations such as the March of Dimes, the Leukemia
17 Society, Heart of America Council, American Cancer
18 Society and similar organizations. These
19 contributions only raised your electric bills by
20 approximately \$2 last year. Would that be
21 appropriate?

22 A. If that is a condition that the Commission
23 on approving this would require, I think it would be
24 appropriate if we did it in some kind of a bill insert
25 message to our customers to show them how we are

1 supporting some critical organizations in the state
2 that they all benefit from.

3 Q. In making charitable contributions, should a
4 notation be made on the cover letter or perhaps the
5 voucher itself that the charitable contributions are
6 made on behalf of the shareholders and ratepayers of
7 Missouri Public Service?

8 A. I think that would be a fine thing to do.
9 We would have no problem with that.

10 Q. Would you take a look at Exhibit 59, the
11 second page.

12 A. Which exhibit?

13 Q. That's the last one, the last exhibit that I
14 just handed you.

15 A. Okay.

16 Q. 59.

17 MR. SWEARENGEN: The Data Request?

18 MR. SCHWARZ: The Data Request.

19 THE WITNESS: Yes.

20 BY MR. SCHWARZ:

21 Q. And with reference to my earlier question,
22 the Company had responded in DR requests that backup
23 to the costs, or the benefits rather, wasn't relevant.
24 It would appear that that isn't, in fact, the
25 Company's position.

1 A. That's not what this answer says. All this
2 answer says is, while the Company believes all
3 ratepayer benefits from these costs -- believes all
4 ratepayers benefit from these costs, no recovery of
5 contributions is included in current rates.

6 That's because during the last regulatory
7 proceedings, as Mr. Dittmer explained on the stand
8 earlier, a decision was made by the Commission in the
9 1993 case to disallow the recovery of contributions.
10 It does not say we're not requesting contributions in
11 this case.

12 Q. Am I to understand, then, that charitable
13 contributions have not been eliminated from the test
14 year?

15 A. On the calculation of our revenue
16 requirement, it would have included the recovery, our
17 proposed recovery of charitable contributions.

18 Q. The question propounded by this DR talks
19 about the test year. It doesn't talk about company
20 decisions in prior rate cases.

21 That is, I mean, it would appear, and it is
22 the Staff's understanding, that in response to this DR
23 the Company was representing that contributions
24 recorded below the line in Account 426 were not at
25 issue in this rate case. Are you telling me now that

1 that's not the case?

2 A. Well, as Mr. Swearengen indicated when he
3 led or introduced this, he said it was a line item
4 that is at issue in this case.

5 This statement is saying no recovery of
6 contributions is included in current rates. We have
7 received other Data Requests asking for the
8 contributions that were made in 1996, the
9 contributions that were made in 1997. So I'm a little
10 confused on the direction that's being taken as we did
11 respond to those Data Requests, I believe.

12 Q. Are you aware of a commitment made by other
13 Company personnel to Mr. Traxler that this was not at
14 issue?

15 A. I am not aware of that.

16 MR. SCHWARZ: That's all.

17 JUDGE DERQUE: Redirect, Mr. Swearengen?

18 MR. SWEARENGEN: Just a couple, your Honor.

19 REDIRECT EXAMINATION BY MR. SWEARENGEN:

20 Q. Mr. Empson, just so the record is clear on
21 this point, when you talk about the -- talk about
22 charitable contributions, that issue, it's your
23 understanding that that issue is in the public affairs
24 ESF issue which is on the Reconciliation D-9, Item B;
25 is that correct?

1 A. That is correct. It was specifically
2 addressed by Mr. Dittmer this morning on policy of the
3 Commission as one of the line items.

4 Q. In his testimony?

5 A. That's correct.

6 Q. And do you recall I cross-examined
7 Mr. Dittmer on that subject?

8 A. Yes, you did.

9 MR. SWEARENGEN: That's all I have. Thank
10 you.

11 JUDGE DERQUE: Thank you. Thank you,
12 Mr. Empson. Is Mr. Empson done?

13 THE WITNESS: Except for the other dues.

14 JUDGE DERQUE: Does he get to spend a
15 couple, three more days in Jefferson City?

16 MR. SWEARENGEN: There is an issue on here
17 called dues and donations. It's Item D-10 on the
18 Reconciliation.

19 JUDGE DERQUE: Okay. There he is.

20 MR. SWEARENGEN: And Mr. Empson's testimony
21 on that issue is contained in his rebuttal testimony,
22 and I'm perfectly willing to have the Staff go ahead
23 and cross him on that now if they would like to and if
24 it's agreeable to the Commission, and then he will be
25 finished, I believe; is that right?

1 THE WITNESS: Uh-huh.

2 JUDGE DERQUE: That's basically what we're

3 dealing with. Since I know where we are, that's okay.

4 Mr. Mills, do you have any objection to that?

5 MR. MILLS: To crossing him on dues and

6 donations?

7 JUDGE DERQUE: If you're not prepared,

8 that's fine. You guys may not even have questions.

9 MR. MILLS: Actually, I think over lunch we

10 talked about maybe doing that tomorrow morning, and

11 I'd certainly be prepared by then.

12 JUDGE DERQUE: That's fine. So let's do it

13 tomorrow.

14 MR. SWEARENGEN: That's fine.

15 JUDGE DERQUE: Thank you, Mr. Empson. Off

16 the record.

17 (Discussion off the record.)

18 MR. SWEARENGEN: At this time call Leo

19 Morton to the witness stand.

20 JUDGE DERQUE: I have one piece of

21 testimony.

22 MR. SWEARENGEN: That's right.

23 JUDGE DERQUE: Okay. It will be the

24 rebuttal of Mr. Morton.

25 MR. SWEARENGEN: That's right.

1 JUDGE DERQUE: Exhibit 60.
2 (Witness sworn.)
3 JUDGE DERQUE: We're off the record.
4 (Discussion off the record.)
5 (EXHIBIT NO. 60 WAS MARKED FOR
6 IDENTIFICATION.)
7 JUDGE DERQUE: We're back on the record.
8 Mr. Swearengen?
9 MR. SWEARENGEN: Thank you. Before I ask
10 the qualifying questions of Mr. Morton, I'd like to
11 point out that what has been marked for purposes of
12 identification as Exhibit 60, his testimony, deals
13 with a variety of issues, and I'll try to identify
14 where they appear on the Reconciliation.
15 The first item is employee recognition, and
16 that shows up under Item D-9G, along with
17 discretionary bonus. The second item is recruiting
18 and relocation costs. That is Item D-9H, D-9H, and
19 it's my understanding that that issue is now settled.
20 Is that correct?
21 MR. SCHWARZ: It is no longer in dispute,
22 yes.
23 MR. SWEARENGEN: So on the Revised
24 Reconciliation that you will get hopefully sometime
25 soon, that will no longer be an issue, and there will

1 be some amount of money added back into the revenue
2 requirement.

3 JUDGE DERQUE: Okay. It's my understanding
4 that H is settled.

5 MR. SWEARENGEN: That's right.

6 JUDGE DERQUE: Is a settled issue. There
7 was another one this morning. Does anybody recall
8 what it was?

9 MR. SCHWARZ: It was --

10 JUDGE DERQUE: Or was it that one?

11 MR. SCHWARZ: It was that one.

12 JUDGE DERQUE: Okay.

13 MR. SWEARENGEN: And then finally,
14 Mr. Morton has listed severance, compensation
15 planning, and I believe that is the item under D-9D.

16 JUDGE DERQUE: D delta?

17 MR. SWEARENGEN: Delta, that's right. Does
18 everyone agree with me on that? Are we okay?

19 JUDGE DERQUE: Thank you, Mr. Swearengen. I
20 know this is troublesome, but it's got --

21 MR. SWEARENGEN: No, it's not. I think it's
22 a good idea. The Reconciliation is a little confusing
23 with the way we had the issues captioned in the
24 testimony. So we'll get that cleaned up. I'm ready
25 to proceed.

1 JUDGE DERQUE: You may proceed.

2 LEO MORTON testified as follows:

3 DIRECT EXAMINATION BY MR. SWEARENGEN:

4 Q. Have you been sworn?

5 A. Yes.

6 Q. Would you state your name for the record,
7 please.

8 A. It's Leo Morton.

9 Q. Mr. Morton, by whom are you employed and in
10 what capacity?

11 A. UtiliCorp United as Senior Vice President.

12 Q. And did you cause to be prepared for
13 purposes of this proceeding certain rebuttal testimony
14 in question and answer form consisting of about 12
15 pages?

16 A. Yes, I did.

17 Q. And are there any changes that you need to
18 make in that testimony? Are you aware of anything
19 that needs to be changed?

20 A. No, I don't believe so.

21 Q. So if I asked you the questions that are in
22 that testimony this afternoon, would your answers be
23 the same?

24 A. Yes, they would.

25 MR. SWEARENGEN: Okay. With that, I would

1 offer into evidence Exhibit 60 and tender Mr. Morton
2 for cross-examination.

3 JUDGE DERQUE: Is there any objection to
4 Exhibit No. 60?

5 MR. SCHWARZ: None.

6 JUDGE DERQUE: It will be admitted.

7 (EXHIBIT NO. 60 WAS RECEIVED INTO EVIDENCE.)

8 JUDGE DERQUE: Mr. Schwarz, would you like
9 to offer Exhibit No. 59?

10 MR. SCHWARZ: I will do so at this time.

11 JUDGE DERQUE: It's identified as Data
12 Request Response 97-144.

13 MR. SCHWARZ: I will offer it.

14 JUDGE DERQUE: Is there any objection of
15 admission into evidence of Exhibit No. 59?

16 MR. SWEARENGEN: No objection.

17 JUDGE DERQUE: It will be admitted also.

18 (EXHIBIT NO. 59 WAS RECEIVED INTO EVIDENCE.)

19 JUDGE DERQUE: Mr. Mills?

20 MR. MILLS: No questions.

21 JUDGE DERQUE: Mr. Schwarz?

22 CROSS-EXAMINATION BY MR. SCHWARZ:

23 Q. Mr. Morton, under severance program, what's
24 the typical severance pay for a terminated employee
25 depending on age and years? I mean, is there a

1 formula, age and years of service, that comes into
2 play?

3 A. Yes, there is. The formula for UtiliCorp is
4 that for every year of service you get five days of
5 pay, for every 10,000 in compensation another five
6 days, and for every year over age 40 five days.

7 Q. If the -- so when the Company terminates an
8 employee and gives them severance benefits, would
9 those benefits amount to, say, 20 or 30 weeks salary?

10 A. As a matter of fact, if you'd like, I did do
11 an analysis of a recent termination, well, a
12 termination in 1996 that involved about 11 people.
13 The average number of months of pay for those
14 individuals being terminated was five months, and that
15 is a cost that typically appears in the severance
16 cost.

17 I might add, though, that that is not all of
18 the severance expense, but that is the expense that
19 was in question.

20 Q. Okay. So in terms of payback, payroll
21 savings would offset that severance payment in about
22 five months; is that correct?

23 A. That part of it, yes.

24 Q. Right. Just the payroll?

25 A. Just the payroll part, but in -- I believe

1 that that is approximately half of what the total
2 severance cost is.

3 Q. With respect to the discretionary bonuses,
4 how do you gauge the effect on employees who do
5 meritorious work but don't get discretionary
6 recognition?

7 A. We're trying to develop an environment where
8 we encourage everyone to try to reach beyond. The way
9 we have our compensation constructed is typical for
10 companies in the -- in this industry and others.

11 That is, for base pay you get compensated
12 for doing the basic job. Then we establish specific
13 goals for the year for which we provide incentive pay.
14 So depending on how you perform, you can get the
15 maximum of that incentive pay.

16 These discretionary awards really recognize
17 that it's impossible to think of everything and that
18 there are situations that occur during the year where
19 an employee might go beyond, and when they do, we'd
20 like to be able to recognize that, and so we use those
21 discretionary awards for that purpose.

22 There are those, however, that for various
23 reasons may not be recognized, but they understand
24 that there is continuing an opportunity for them to be
25 recognized going forward. They can raise their hands

1 and say, hey, I did this, and we would consider that.
2 We would develop the proposal by their supervisors,
3 send it up as high as the chairman of the Company for
4 consideration.

5 Q. But basically it's better luck next time?

6 A. It could be.

7 JUDGE DERQUE: Wait a minute. This is
8 important. I'm going to interject in your stuff while
9 I still --

10 MR. SCHWARZ: I'm done.

11 JUDGE DERQUE: Oh, okay. Good.

12 QUESTIONS BY JUDGE DERQUE:

13 Q. Mr. Morton, this is kind of important. I
14 got confused there in the middle of this. You have a
15 base pay; is that correct?

16 A. That's right.

17 Q. Everybody gets that for doing the base job?

18 A. That's right.

19 Q. Okay. After that, do you have -- you set
20 goals for the year. If you achieve that goal, you get
21 paid some more; is that correct?

22 A. Yes. The way companies have for the last
23 ten or so years, they've started reducing the amount
24 of base compensation and including more incentive base
25 comp, and we do set goals for that, yes.

1 Q. I understand that, but as part of the
2 employee/employer contractual arrangement, you have
3 base pay plus assigned objectives which you also have
4 a set amount of pay for; is that correct?

5 A. Yes, that is correct.

6 Q. Okay. If you make the objective, you get
7 paid?

8 A. Yes, that is correct.

9 Q. And then is there anything over and above
10 that?

11 A. There are opportunities. If an employee
12 goes above and beyond specific goals that are set and
13 they do things that are quite innovative or that can
14 contribute to the ratepayers' benefit or to the
15 benefit of the company overall, we do recognize that
16 with discretionary awards.

17 Q. Okay. That answers my question.

18 JUDGE DERQUE: Okay. Mr. Schwarz, is it
19 simply the discretionary awards -- I have
20 discretionary bonus/employee recognition. Is that the
21 same thing?

22 MR. SCHWARZ: Yes.

23 JUDGE DERQUE: It is the discretionary
24 portion of this which the Staff would prefer to
25 disallow; is that correct?

1 MR. SCHWARZ: The Staff challenges the
2 discretionary program. It has not challenged in this
3 case the incentive program.

4 JUDGE DERQUE: Okay. Yeah. Using the term
5 discretionary, it's the Step 3 part of it that you're
6 arguing about?

7 MR. SCHWARZ: Yes.

8 JUDGE DERQUE: Okay. Any questions based on
9 what I just asked?

10 MR. SCHWARZ: Well, I think that we've
11 cleared it up.

12 MR. MILLS: No, I have no questions based on
13 questions from the Bench.

14 JUDGE DERQUE: Redirect, Mr. Swearengen?

15 MR. SWEARENGEN: Just a couple.

16 REDIRECT EXAMINATION BY MR. SWEARENGEN:

17 Q. If I can make it clear, Mr. Morton, it's
18 your understanding that it's the Step 3 level of
19 compensation that the Staff is arguing about here; is
20 that true?

21 A. Yes.

22 Q. Okay. And I think you indicated this is an
23 opportunity for an employee to obtain some additional
24 compensation if they've done something above and
25 beyond the goals which are established for the Step 2

1 level of compensation?

2 A. That's correct. It is -- it is our position
3 that we are facing a very tight employment market at
4 this point. In our Information Technology Group, for
5 example, we're experiencing a 41 percent turnover
6 rate.

7 And if you are going to compete today, you
8 have to do things that will -- that are competitive so
9 that employees will be attracted to your business.
10 We've studied it, and we know that if we can do
11 anything to prevent losing a person, that we will save
12 ourselves a lot of money.

13 For example, we know that through the
14 Saratoga Institute studies and others that replacing
15 an employee that you've lost costs you about one and a
16 half times that person's base salary and benefits.

17 So programs like this are a very, very
18 important part of our overall perspective when it
19 comes to incenting employees.

20 Q. Along those lines, is there anything going
21 on with the electric industry in general or your
22 company in particular that would cause you to be
23 particularly interested in maintaining your employees?

24 A. Yes. I mentioned the turnover rate to begin
25 with. We're located for most of our enterprise

1 support functions in Kansas City where the
2 unemployment rate is about 3.6 percent compared to
3 about 4.8 in the country as a whole. So it is very
4 important for us to attract and retain people there,
5 and I did mention the turnover rate that we're
6 experiencing.

7 There's one other issue as well. It appears
8 that UtiliCorp has been a target by other utilities
9 for people, and we have experienced that we have on
10 occasion been raided by other utilities.

11 Q. Let me ask you this question: The recent
12 unsuccessful merger attempt with Kansas City Power &
13 Light Company, did that have any impact on the
14 situation at your company with respect to employee
15 stability?

16 MR. SCHWARZ: I will object at this stage as
17 well beyond the scope of anything from --

18 JUDGE DERQUE: I understand that. I think
19 I'm going to let him answer it anyway.

20 THE WITNESS: Well, UtiliCorp --

21 JUDGE DERQUE: So was the last question,
22 Mr. Schwarz.

23 MR. SCHWARZ: I understand.

24 JUDGE DERQUE: Go ahead, Mr. Morton.

25 THE WITNESS: UtiliCorp has had objectives

1 to be a growth company, and many of our employees did
2 join the Company with the expectation of that growth,
3 and that merger being unsuccessful did signal to some
4 people that maybe it will not happen. So it has
5 become more difficult to retain employees.

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

8 JUDGE DERQUE: Thank you, Mr. Swearengen.
9 Thank you, Mr. Morton.

10 (Witness excused.)

11 JUDGE DERQUE: I have on my list the next
12 witness is Mr. Ken Jones; is that correct?

13 MR. SWEARENGEN: That's right.

14 JUDGE DERQUE: I have a direct, a rebuttal
15 and a correction of some sort.

16 MR. SWEARENGEN: I'm not sure what the
17 correction is.

18 JUDGE DERQUE: Schedules that were left out.
19 KCJ-1 and KCJ-3.

20 MR. SWEARENGEN: Do you have some schedules
21 that were left out of your testimony?

22 MR. JONES: I think originally, but I
23 thought they were filed subsequently.

24 JUDGE DERQUE: They were filed separately.
25 I'm going to include them in rebuttal, and that will

1 be -- 61 is the direct of Mr. Jones, and 62 will be
2 the rebuttal testimony with the omitted schedules.

3 Off the record.

4 (Discussion off the record.)

5 (EXHIBIT NO. 61 AND 62 WERE MARKED FOR
6 IDENTIFICATION.)

7 JUDGE DERQUE: We're on the record.

8 Mr. Swearengen.

9 MR. SWEARENGEN: Have you been sworn?

10 THE WITNESS: No.

11 (Witness sworn.)

12 JUDGE DERQUE: Thank you, sir.

13 Mr. Swearengen?

14 MR. SWEARENGEN: Thank you, your Honor.

15 KENNETH C. JONES testified as follows:

16 DIRECT EXAMINATION BY MR. SWEARENGEN:

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

19 A. Kenneth C. Jones.

20 Q. By whom are you employed and in what
21 capacity?

22 A. I'm employed by UtiliCorp United as Director
23 of Accounting Services.

24 Q. Did you cause to be prepared for purposes of
25 this proceeding certain direct and rebuttal testimony

1 in question and answer form?

2 A. Yes.

3 Q. And do you have a copy of your direct
4 testimony with you this afternoon?

5 A. I have a copy of my rebuttal.

6 A. Okay. Well, let me show you what has been
7 marked for identification as Exhibit 61, your direct
8 testimony. Are you familiar with that?

9 A. Yes.

10 Q. If I asked you the questions which are
11 contained in that testimony, would your answers be the
12 same?

13 A. Yes.

14 Q. Okay. And as far as you know, the subject
15 of your direct testimony is not an issue in this
16 proceeding; is that right?

17 A. That's correct.

18 Q. Okay. And you said that you had your
19 rebuttal testimony there with you?

20 A. Yes.

21 Q. And that's been marked for identification as
22 Exhibit 62; is that correct?

23 A. That's correct.

24 Q. Do you need to make any changes in that
25 rebuttal testimony at this time?

1 A. No.

2 Q. Do you have any corrections or --

3 A. No changes.

4 Q. -- anything of that sort?

5 A. No changes.

6 Q. So if I asked you the questions that are

7 contained in Exhibit 62 today, your answers would be

8 the same?

9 A. They would.

10 Q. Now, for purposes of clarity, Mr. Jones'

11 rebuttal testimony covers a variety of subjects, the

12 first one being incentive compensation, which is

13 listed on the Reconciliation under D-9, if I can find

14 it here. Was it D-9?

15 A. Actually, it's --

16 Q. Excuse me. Yeah. It is not an issue. It

17 has been eliminated. Merger and acquisition tracking

18 is, as I understand, not an issue.

19 International cost would be under Item D-9F,

20 I believe. The Ernst & Young synergy study would be

21 under D-9J. The common plant allocation factor right

22 now shows up under D-9K, but I understand that that's

23 going to be changed in a later Reconciliation.

24 And the last item on there is community

25 relations, and I believe that would come under the

1 public affairs category, Item D-9; is that correct,
2 Mr. Jones?

3 A. I'm listed as a witness, and this is not
4 absolutely correct, in D-9E, which should be entitled
5 allocations, common plant allocation factor.

6 Q. Right. I understand.

7 A. D-9F, mergers and acquisition, international
8 new product; I, ESF time reporting; and J, Ernst &
9 Young synergy study.

10 Q. Okay. So you believe that your testimony
11 covers those items?

12 A. Yes.

13 MR. SWEARENGEN: Okay. Is that perfectly
14 clear, your Honor?

15 JUDGE DERQUE: Yes, sir. I understand what
16 he's saying.

17 MR. SWEARENGEN: Okay. Good. Thank you.
18 With that, I would offer into evidence Exhibits 61 and
19 62 and tender the witness for cross-examination.

20 JUDGE DERQUE: Is there any objection to
21 admission into evidence of Exhibits 61 and 62?

22 (No response.)

23 JUDGE DERQUE: Seeing none, they will be
24 admitted.

25 (EXHIBIT NOS. 61 AND 62 WERE RECEIVED INTO

1 EVIDENCE.)

2 JUDGE DERQUE: Mr. Mills?

3 MR. MILLS: No questions.

4 JUDGE DERQUE: And Mr. Schwarz?

5 MR. SCHWARZ: Yes.

6 CROSS-EXAMINATION BY MR. SCHWARZ:

7 Q. Mr. Jones, are you -- well, how long have
8 worked for UtiliCorp?

9 A. Eight years.

10 Q. And you've been here the last day or two?

11 A. It seems like longer than that.

12 Q. Wait 'til next week.

13 (Laughter.)

14 Are you -- you heard reference to the
15 Company's case here at the Missouri Commission known
16 as ER-90-101?

17 A. Yes. Yes, I've heard that.

18 Q. Are you generally familiar with that? Let
19 me strike that.

20 Are you familiar with the Commission's --
21 that the Commission addressed cost of mergers and
22 acquisitions for UtiliCorp in that case?

23 A. I believe that was in Mr. Dittmer's
24 testimony.

25 Q. And are you aware that the Commission

1 ordered the Company to account for M&A costs
2 separately so they could be readily excluded in future
3 rate cases from A&G reflected in MPS' rates?

4 MR. SCHWARZ: May I approach the witness?

5 JUDGE DERQUE: Yes, sir.

6 BY MR. SCHWARZ:

7 Q. Show you a copy of the Commission Report in
8 ER-90-101.

9 A. Where are you reading from?

10 Q. Right here (indicating).

11 A. Okay.

12 Q. Now, at the bottom of page 4 and the top of
13 page 5 in your rebuttal testimony, you indicate that
14 UtiliCorp has made an effort to track M&A costs; is
15 that correct?

16 A. That's correct.

17 Q. Has the Company eliminated those costs from
18 the test years in this case?

19 A. No, they haven't. I believe they
20 followed -- if you would read further on in ER-90-101,
21 the reference -- there's reference in there that --
22 and I don't have it memorized, but were to track all
23 equivalent costs and actually have tracked those. In
24 fact, over 19 million of corp development costs are
25 recorded in corp development and not -- were not

1 allocated to the ratepayers.

2 Q. Let me repeat my question because I don't
3 think that was responsive. Have the costs that were
4 identified been eliminated from the test year by the
5 Company?

6 A. No. In fact, in the ER-90-101 it doesn't
7 say they should be eliminated from test year. It says
8 that they should have no detrimental impact to the
9 Missouri Public Service ratepayers, and the way we
10 perform the accounting, they've had no detrimental
11 impact.

12 Q. So you read the words, quote, so that they
13 can be readily excluded in future rate cases from A&G
14 reflected in MPS' rates, close quote, you don't read
15 that as meaning that the costs should be eliminated?

16 A. No. If you -- I'd like to explain.

17 Q. That's fine.

18 A. If you read the entire order, it says that
19 the -- we should do the accounting so that the impact,
20 M&A has no detrimental impact to the Missouri Public
21 Service ratepayers, and that's -- that's listed in
22 Mr. Dittmer's testimony. I'm not sure if it's
23 surrebuttal or rebuttal.

24 Q. Are you aware that in the last MoPub rate
25 case in 1993 the Company voluntarily tracked and

1 eliminated from test year the costs of service of some
2 payroll costs associated with the Company's M&A
3 program? And just so I'm clear, I'm talking about
4 payroll costs for personnel outside the corporate
5 development responsibility center.

6 A. No.

7 Q. At the bottom of page 8, you indicate that
8 Mr. Dittmer in his testimony proposes an additional
9 50 percent disallowance of CEO costs on top of amounts
10 already specifically assigned. Is that really true?

11 A. Yes. I believe it's true for some of the
12 RCAs. I think it's -- I think it's not true as far as
13 this COO's RCAs. The different RCs are treated
14 differently. I think there's five RCs in question,
15 and Mr. Dittmer's calculation was inconsistent between
16 the five.

17 Q. Is it true that the executive ESF, which is
18 Richard Green, did not direct charge any time to M&A
19 activities during the 1996 test year?

20 A. I believe in the executive's RCA there was
21 \$250,000 of costs, and that's payroll costs as well as
22 other costs, which Mr. Green did code to international
23 RCs. I think it's in excess of \$250,000 that was
24 charged, specifically allocated to these international
25 companies.

1 Q. M&A. Not international, M&A.

2 A. M&A? Yes. As I said before, that's -- it
3 has no detrimental impact to the customers because --

4 Q. Excuse me. I didn't ask about detrimental
5 impact. I just asked if the time was charged.

6 What about Mr. Robert Green, did the
7 operations ESF direct charge any time to M&A
8 activities during the test year?

9 A. No. I'd like to further explain. It's not
10 appropriate that he should charge --

11 Q. Mr. Jones --

12 JUDGE DERQUE: Mr. Jones, just respond to
13 the question, please.

14 THE WITNESS: No.

15 JUDGE DERQUE: Thank you.

16 BY MR. SCHWARZ:

17 Q. Is it your belief that neither Mr. Robert
18 Green nor Mr. Richard Green had any involvement in the
19 KCPL merger activity during 1996?

20 A. Could you repeat that?

21 Q. Is it your belief that neither Mr. Robert
22 Green nor Mr. Richard Green had any involvement in the
23 KCPL merger activities in 1996?

24 A. No. I surely believe they were involved.

25 Q. Is it true that the Company proposes to

1 allocate 30 percent of the executive ESF payroll costs
2 to international operations?

3 A. To allocate 30 percent? Actually, we're
4 specifically assigning a portion of the CEO's time to
5 international based on our --

6 Q. Those payroll costs?

7 A. Yes.

8 Q. Okay. They did not so allocate the benefits
9 or other office costs, though, did they?

10 A. Like I said before, they -- the costs, it's
11 our policy that we don't allocate the costs to the
12 international companies. So no, we didn't.

13 Q. They didn't assign the benefits to the
14 international --

15 A. That's correct.

16 Q. -- operations?

17 When other ESF employees direct charge hours
18 to international activities, aren't such hours loaded
19 for benefits?

20 A. I'm sorry. When other --

21 Q. When other ESF employees direct charge
22 payroll hours to international activities, isn't it
23 true that such hours are loaded for benefits?

24 A. I believe so.

25 Q. With respect to the Earnest & Young study,

1 can you identify specific applications to UtiliCorp of
2 the identified synergy?

3 A. Yeah, sure. Specifically, the decision was
4 made to purchase our new software package. That's one
5 specific example.

6 Q. Are you suggesting that that was driven by
7 the Ernst & Young study?

8 A. Yes.

9 Q. Do you recall that I earlier asked you about
10 Mr. Dittmer's disallowance of 50 percent of the CEO
11 costs on top of amounts already specifically assigned?
12 Let me just reask the question.

13 At the bottom of page 8 you discuss that
14 Mr. Dittmer proposes an additional 50 percent
15 disallowance of CEO costs on top of amounts already
16 specifically assigned.

17 A. Yes.

18 Q. Is that -- you believe that's true?

19 A. Yes.

20 Q. I show you what's a copy of Staff DR 1885,
21 and I would ask you to read both the question and the
22 response, if you would, please.

23 A. Question: Reference page 8 of Mr. Ken
24 Jones' rebuttal testimony. Please provide specific
25 calculations, referencing back to schedules and work

1 papers filed/provided to the Company, which
2 demonstrates that the impact of Mr. Dittmer's
3 50 percent additional disallowance of CEO costs when
4 added to the amount already specifically assigned
5 results in a greater disallowance than his adjustment
6 intended.

7 Response: During Mr. Dittmer's deposition,
8 he stated that he recalled that only hundreds of
9 thousands in total (Dittmer deposition, pages 80 to
10 '81) CEO costs were charged to international
11 companies -- or operations. Sorry. Since UCU charged
12 9.8 million in the ESF costs to international
13 operations in 1996, he perhaps mistakenly thought that
14 Mr. Dittmer had not intended to so alter the current
15 allocations to produce an unreasonable allocation
16 result. We were giving Mr. Dittmer the benefit of the
17 doubt that he had not recognized the extent of charges
18 already in place to support international operations,
19 since his deposition statements were significant
20 orders of magnitude off.

21 Q. Thank you.

22 MR. SCHWARZ: If I may, I would like to have
23 copies made of this DR and offer it as exhibit,
24 whatever the next number is.

25 JUDGE DERQUE: 63.

1 MR. SCHWARZ: 63, and I will do so
2 forthwith.
3 JUDGE DERQUE: Have you had an opportunity
4 to review that document, Mr. Swearengen?
5 MR. SWEARENGEN: Sure.
6 JUDGE DERQUE: Do you have any objection?
7 MR. SWEARENGEN: None.
8 JUDGE DERQUE: May I see it, Mr. Schwarz?
9 Do you have any objection?
10 MR. MILLS: I have no objections.
11 JUDGE DERQUE: I'm just going to write
12 No. 63 on the face of this to make sure when I get it
13 back that I know what it is.
14 MR. SCHWARZ: That's fine.
15 JUDGE DERQUE: There you are.
16 MR. SCHWARZ: Could we go into recess for
17 about two minutes? I think I'm about done. I'll just
18 go right out here and copy it.
19 JUDGE DERQUE: Why don't you finish up and
20 then we'll recess and you can copy it. Exhibit No. 63
21 will be styled Data Request MoPSC 1885.
22 MR. SCHWARZ: I think I am through.
23 JUDGE DERQUE: It's offered and admitted
24 without objection.
25 (EXHIBIT NO. 63 WAS RECEIVED INTO EVIDENCE.)

1 JUDGE DERQUE: Mr. Schwarz?
2 MR. SCHWARZ: Yes, sir.
3 JUDGE DERQUE: Do you have anything further?
4 MR. SCHWARZ: Nothing further.
5 JUDGE DERQUE: Redirect?
6 MR. SWEARENGEN: Just a couple, your Honor.
7 REDIRECT EXAMINATION BY MR. SWEARENGEN:
8 Q. Mr. Jones, I got a little confused there in
9 the questions that Mr. Schwarz was asking you about
10 the costs associated with the Kansas City Power &
11 Light Company merger, and he was -- he started his
12 questions referring you to page 5 of your rebuttal
13 testimony. Do you have that in front of you?
14 A. Yes.
15 Q. Down there on line 13 there's a question:
16 Did the Company request recovery of the 11 million of
17 costs associated with the UtiliCorp/KCPL merger
18 attempt in this case?
19 And your answer is: No. Incremental costs
20 associated with the KCPL merger were treated as
21 corporate retained, meaning that rate recovery of
22 these dollars has not been requested by UtiliCorp in
23 this case.
24 That's still your testimony, is it not?
25 A. That's correct.

1 Q. And when you say corporate retained, exactly
2 what does that mean?

3 A. That means that we don't charge the costs
4 out to the business units, and they're retained and
5 paid for by the shareholders.

6 Q. When you say incremental costs, what do you
7 mean?

8 A. The incremental costs are the costs, well,
9 beyond the direct payroll. Such as, for instance, my
10 direct payroll is paid whether I worked on the case or
11 not, and so --

12 Q. Give me an example of an incremental cost,
13 then.

14 A. Incremental cost could be Arthur Anderson
15 fees or I guess the underwriter fees. Those would
16 be -- those would be set up in the corporate
17 development RC, and paid for by the shareholders.

18 Q. And that's what the \$11 million is?

19 A. Yes.

20 MR. SWEARENGEN: Okay. Thanks. That's all
21 I have.

22 JUDGE DERQUE: Thank you, Mr. Swearengen.
23 We'll go off the record.

24 (Discussion off the record.)

25 (EXHIBIT NOS. 63 AND 64 WERE MARKED FOR

1 IDENTIFICATION.)

2 JUDGE DERQUE: We're on the record.

3 I have what's marked Exhibit No. 64, the
4 direct testimony of James S. Brook. It's my
5 understanding that cross-examination of Mr. Brook has
6 been waived; is that correct, Mr. Mills?

7 MR. MILLS: That's correct.

8 JUDGE DERQUE: And Mr. Schwarz?

9 MR. SCHWARZ: That is correct.

10 JUDGE DERQUE: Is there any objection to the
11 admission of Mr. Brook's direct testimony into
12 evidence?

13 MR. SWEARENGEN: I would move it be
14 admitted.

15 JUDGE DERQUE: Thank you.

16 MR. MILLS: No objection.

17 JUDGE DERQUE: No objection. It will be
18 admitted.

19 (EXHIBIT NO. 64 WAS RECEIVED INTO EVIDENCE.)

20 JUDGE DERQUE: We're off the record.

21 (Discussion off the record.)

22 JUDGE DERQUE: Back on the record.

23 MR. SWEARENGEN: I'm not sure that the Jones
24 testimony's been received. My check list shows it
25 hasn't been.

1 MR. SCHWARZ: Mine shows it has.
2 MR. MILLS: Mine shows it has, too.
3 JUDGE DERQUE: Whose testimony, Jones?
4 MR. SWEARENGEN: 61 and 62, Ken Jones.
5 JUDGE DERQUE: Yeah, it's in.
6 MR. SWEARENGEN: Good. Thanks.
7 JUDGE DERQUE: Off the record.
8 WHEREUPON, the hearing of this case was
9 adjourned until 1 p.m. Thursday, December 11, 1997.

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