

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
HEARING
August 9 2000
Jefferson City, Missouri
Volume 16

In the Matter of Missouri Gas Energy's)
Tariff Sheets Designed to Increase Rates)Case No.
for Gas Service in the Company's)GR-96-285
Service Area.)

SHELLY A. REGISTER, Presiding,
REGULATORY LAW JUDGE.
SHEILA LUMPE, Chair
CONNIE MURRAY,
M. DIANNE DRAINER, Vice-Chair
KELVIN SIMMONS
COMMISSIONERS.

REPORTED BY:
TRACY L. THORPE, CSR
ASSOCIATED COURT REPORTERS, INC.

1 A P P E A R A N C E S

2 FOR MISSOURI GAS ENERGY:

3 GARY W. DUFFY, Attorney at Law
4 P.O. Box 456
Jefferson City, Missouri 65102
5 573-635-7166

6 FOR MIDWEST GAS USERS' ASSOCIATION:

7 STUART W. CONRAD, Attorney at Law
1209 Penntower
3100 Broadway
8 Kansas City, Missouri 64111
816-753-1122

9 FOR CITY OF KANSAS CITY:

10 CATHLEEN MARTIN, Attorney at Law
11 601 Monroe Street, Suite 301
Jefferson City, Missouri 65102
12 573-634-2266

13 FOR RIVERSIDE PIPELINE & MID-KANSAS PARTNERSHIP:

14 CHARLES BRENT STEWART, Attorney at Law
1001 Cherry Street, Suite 302
15 Columbia, Missouri 65201
573-499-0635

16 FOR OFFICE OF THE PUBLIC COUNSEL:

17 DOUGLAS E. MICHEEL, Attorney at Law
18 P.O. Box 7800
Jefferson City, Missouri 65102
19 573-751-1304

20 FOR STAFF OF THE PUBLIC SERVICE COMMISSION:

21 THOMAS R. SCHWARZ, JR., Attorney at Law
22 ROBERT V. FRANSON, Attorney at Law
P.O. Box 360
Jefferson City, Missouri 65102
23 573-751-8700

24

25

1 (EXHIBIT NO. 191 WAS MARKED FOR
2 IDENTIFICATION.)

3 JUDGE REGISTER: We're resuming the hearing on
4 August 9th, 2000, 8:30 a.m. in Case No. GR-96-285 in the
5 matter of Missouri Gas Energy's tariff sheet designed to
6 increase rates for gas service in the company's service
7 area.

8 We have a couple preliminary -- or one
9 preliminary matter before we resume our cross-examination of
10 Ms. Hu. Yesterday we had a Motion to Strike Exhibit 189,
11 pages 1 and 2, for lack of foundation. In the redirect of
12 Ms. Ross we were able to determine that pages 1 and 2 had
13 errors because of the input information not getting in there
14 correctly and so those two pages were determined to be
15 incorrect. Page 3 was also cut off at the edge.

16 And so I am going to grant Mr. Franson's
17 motion and I'm going to strike all of 189, leaving it in the
18 record for the purposes of appeal and reading the
19 transcript. And I ordered Mr. Conrad, who agreed, to file a
20 corrected version of the monthly usage charts and those have
21 been provided today.

22 We marked them as Exhibit 191 and those will
23 be admitted into the record as a corrected version of
24 Exhibit 189.

25 (EXHIBIT NO. 191 WAS RECEIVED INTO EVIDENCE.)

1 JUDGE REGISTER: Okay. And all the parties
2 received their copy of 191, I received copies for the Bench.
3 And unless there are any other preliminary matters, we will
4 proceed with the cross-examination of Ms. Hu by Mr. Conrad.

5 MR. CONRAD: Thank you.

6 HONG HU, having previously been sworn, testified as follows:

7 CROSS-EXAMINATION BY MR. CONRAD:

8 Q. Good morning, Ms. Hu.

9 A. Good morning.

10 Q. I need to at the outset apologize to you
11 because I think in the briefing that we did on the -- I
12 started to say water case, but it's on -- yeah, it was the
13 water case, I referred to you by the wrong name and I
14 apologize for that. I had you labeled as Ms. Hong rather
15 than Ms. Hu.

16 A. That's fine.

17 Q. Tell me which one -- I know there's a
18 transposition.

19 A. In Chinese the name is a little bit different
20 pronounced than in English. We -- yeah, we do last name
21 first and first name last, so I understand.

22 JUDGE REGISTER: And you prefer to be
23 addressed as Ms. Hu; is that correct?

24 THE WITNESS: Yes.

25 JUDGE REGISTER: Thank you very much.

1 BY MR. CONRAD:

2 Q. Let's start out with just going back to -- oh,
3 let me start out this way. It's my understanding that
4 you're adopting or sponsoring, whatever the terminology is
5 that we're using in this proceeding, Mr. Hall's --

6 A. Yes. That's right.

7 Q. -- work?

8 Would you please turn then to his direct? And
9 I'm sorry, I don't have an exhibit number on that.

10 MR. FRANSON: 147.

11 BY MR. CONRAD:

12 Q. And it would be on page 11.

13 A. I'm there.

14 Q. Do you see at the bottom of the page a
15 reference to the decision by the Iowa State Commerce
16 Commission? I believe it's footnote 7.

17 A. Yes.

18 Q. And correct me if I'm wrong, but that looks
19 like that was the 1981 decision?

20 A. Yes.

21 Q. And Mr. Hall, for whom you are subbing, quoted
22 some from that decision. Correct?

23 A. Yes.

24 Q. Did you have occasion in preparing for
25 cross-examination in this proceeding to look at that

1 decision?

2 A. In preparing for this case, I did not have
3 time, but I believe I actually came across the same material
4 when I prepared for other cases. You know, this language
5 looks a little bit familiar to me.

6 Q. If you know, would you agree with me that
7 there is no longer such an entity as the Iowa State Commerce
8 Commission?

9 A. I don't know.

10 MR. CONRAD: Your Honor, I have an exhibit to
11 mark, please.

12 JUDGE REGISTER: Okay. It will be 192. Is
13 this a copy of that?

14 MR. CONRAD: No. Actually, it's not. It's a
15 later decision.

16 JUDGE REGISTER: Style of this is Re
17 Interstate Power Company, is that correct, Mr. Conrad?

18 MR. CONRAD: Yes, ma'am. And this is off of
19 the Lexus service.

20 (EXHIBIT NO. 192 WAS MARKED FOR
21 IDENTIFICATION.)

22 JUDGE REGISTER: When you offer it, I'll let
23 your colleagues offer whatever objections they have. And it
24 is also from the Iowa Utilities Board?

25 MR. CONRAD: Yes, ma'am.

1 JUDGE REGISTER: Dated May 31st, 1996.

2 MR. CONRAD: Right.

3 JUDGE REGISTER: You may proceed.

4 MR. CONRAD: Thank you.

5 BY MR. CONRAD:

6 Q. Ms. Hu, I wanted to ask you to direct your
7 attention to what's been marked for identification as
8 Exhibit 192. And that consists of five pages. What does
9 that appear to be?

10 A. It appears to be a public utility's report by
11 Iowa Utilities Board. It's titled Slip Opinion.

12 Q. Would you look there -- in the upper
13 right-hand corner of each of the pages -- I think the very
14 first page happens to start with the number 3 is how that
15 prints out. Would you look at the page that's denominated
16 page 5, please? It's actually the third one in the packet.

17 A. Yes. I'm there.

18 Q. The first full paragraph from the bottom of
19 the page starts out, The board has adopted?

20 A. Yes.

21 Q. Would you just read that paragraph for us,
22 please?

23 A. The board has adopted the minimum system
24 methodology for dividing distribution mains into separate
25 demand and customer-related components in two prior cases.

1 See Iowa Electric Light and Power Company, Docket Nos.
2 RPU-89-3 and RPU-92-9. The board is interested in exploring
3 the use of this methodology in allocating costs in
4 Interstate's next rate case and will, therefore, require
5 Interstate to design an alternative version of its cost of
6 service studies using Ag Processing's minimum system method
7 for dividing distribution mains. Ex. 201, Sch. 2.
8 Interstate must file these alternative studies at the time
9 it files its next rate case.

10 Q. Thank you, Ms. Hu. Now, would you turn to the
11 page that is marked as page 7?

12 MR. MICHEEL: Your Honor, at this point I'm
13 going to object. This hasn't been offered. It's not
14 admitted into evidence. And I don't think it's really
15 helpful to have this witness read into this record a case
16 that obviously appears in the public utility's records and
17 could easily be briefed.

18 Now, if Mr. Conrad wants to attempt to lay a
19 foundation through this witness -- I don't think my witness
20 has ever seen this document, has ever read this document.
21 Now, if Mr. Conrad wants to lay a foundation and attempt to
22 put this into evidence, he can do so. But until he does
23 that, until he puts this into evidence, it's only been
24 marked, I'm going to object to him requiring my witness to
25 read things into the record that she has no -- you know,

1 she's just reading information into the record.

2 JUDGE REGISTER: Mr. Conrad?

3 MR. CONRAD: At page 11, where I directed the
4 witness to review, the testimony that she has tendered here
5 in support and to stand cross on asserts that the Iowa
6 Utility Board -- actually the Iowa State Commerce
7 Commission, which she did not know no longer exists,
8 explicitly precluded the use of the so-called minimum system
9 methods or usage customer numbers or whatever it is that the
10 witness that she's standing cross for testified to.

11 I would draw your attention to the third --
12 the footnote to which I directed her in which the same type
13 of material, however from a substantially earlier case, was
14 quoted by this -- it would seem to me -- I was simply going
15 to ask her on page 7 to look at the three lines that are
16 numbered order 5 which directs the utility there to file
17 such a study in its next case. And that, as far as I'm
18 concerned, is the end of that exhibit except for one
19 question.

20 JUDGE REGISTER: All right.

21 MR. MICHEEL: Your Honor, that doesn't go to
22 my objection, which is a foundational objection. Certainly
23 the testimony that Mr. Conrad points to on page 11 --

24 MR. CONRAD: Excuse me. Have I offered it?

25 MR. MICHEEL: -- clearly states --

1 MR. CONRAD: I haven't offered it.

2 JUDGE REGISTER: Let Mr. Micheel finish.

3 MR. MICHEEL: -- clearly states the date of
4 the Iowa Commerce Commission's decision as 1981. If
5 Mr. Conrad wants to point out in brief that in this
6 proceeding they changed their mind, that's fine. I don't
7 think that that changes the fact that in 1981 that's what
8 the Iowa Commerce Commission did.

9 And I object to having my witness read from a
10 document that there's been no foundation laid of whether she
11 knows what the document is, whether she's read that. And
12 it's not in evidence at this time. And that's my objection.
13 And Mr. Conrad didn't respond to that objection.

14 MR. CONRAD: I attempted to.

15 JUDGE REGISTER: Mr. Conrad?

16 MR. CONRAD: Once again, responding to the
17 objection that's been made, this document has not been
18 offered.

19 JUDGE REGISTER: Do you intend to offer this
20 document?

21 MR. CONRAD: I haven't made a decision yet. I
22 was going to inquire as to what the witness knew about it.
23 This witness is tendered today. And I asked her at the very
24 outset of her cross-examination if she was here supporting
25 Mr. Hall's work and to stand cross on that work. Now, you

1 can put her on if you want, you can bring Mr. Hall back.
2 You take your pick. But as long as she's sitting there
3 under that tender, she is for purposes of this testimony,
4 ma'am, Mr. Hall.

5 MR. MICHEEL: Your Honor, may I voir dire this
6 witness?

7 JUDGE REGISTER: Just a moment. Mr. Franson?

8 MR. FRANSON: Your Honor, I will join in with
9 Mr. Micheel's objection. I don't believe it's proper to
10 take something that has not been offered into evidence and
11 have the witness read from it. And I would join in it for
12 that purpose, your Honor.

13 MR. MICHEEL: May I voir dire this witness to
14 show this court that she's never seen this document, she's
15 not familiar with this document?

16 JUDGE REGISTER: I don't think that it's
17 necessary to voir dire the witness, Mr. Micheel. He hasn't
18 offered it into evidence. I would ask for you to refrain
19 from reading from a document that's not been admitted into
20 evidence, but you may have the witness read the document.

21 I do think that this witness is adopting the
22 testimony of Barry Hall and Mr. Hall has testified as to
23 what two state commissions have found and has cited the case
24 law in his testimony, not in his brief. And so I think that
25 Mr. Conrad has some latitude there.

1 I will ask you to proceed. I'm going to
2 overrule the objections and ask Mr. Conrad to proceed and to
3 refrain from reading into the record any testimony that is
4 not in evidence.

5 MR. CONRAD: I have two more -- I just have
6 the two questions.

7 JUDGE REGISTER: Proceed, Mr. Conrad.
8 BY MR. CONRAD:

9 Q. Would you please read -- not into the record
10 as Judge has instructed, but would you just look at and read
11 to yourself for a moment the paragraph that's numbered five
12 on the page identified as 7 of that document? Let me know
13 when you're finished.

14 JUDGE REGISTER: What page are you -- I'm
15 sorry. Just a moment. What page are you having her read
16 from?

17 MR. CONRAD: I had asked her to look at --
18 it's numbered in this paragraph, but it's the fifth physical
19 page.

20 JUDGE REGISTER: Page 7?

21 MR. CONRAD: Yes, ma'am.

22 JUDGE REGISTER: And which paragraph?

23 MR. CONRAD: The one numbered five under, It
24 is therefore ordered.

25 JUDGE REGISTER: Thank you.

1 THE WITNESS: Yes. I'm finished.

2 BY MR. CONRAD:

3 Q. Without asking you to read that, does that
4 appear to you to effectuate the instruction that the board
5 found that you did read in previously?

6 A. Yes.

7 Q. Now, it's been noted already by your counsel
8 that this is dated May 31, 1996; is that correct?

9 A. Yes.

10 Q. When was the testimony that you're sponsoring
11 here prepared?

12 A. I'm sorry. Are you talking about the
13 paragraph in Mr. Hall's direct? Could you repeat the
14 question? What is --

15 MR. MICHEEL: We'll stipulate that the
16 testimony was filed on August 19th, 1996 consistent with the
17 affidavit of Barry Hall appearing on the first page of that
18 testimony.

19 MR. CONRAD: That's acceptable.

20 JUDGE REGISTER: That's what you were looking
21 for, Mr. Conrad?

22 MR. CONRAD: Yeah. I just wanted to confirm
23 that the testimony was issued by Mr. Hall --

24 MR. MICHEEL: We'll stipulate to that.

25 JUDGE REGISTER: Wait for Mr. Conrad to

1 finish, please.

2 MR. CONRAD: I simply wanted to confirm that
3 the decision had been issued several months before that.

4 JUDGE REGISTER: Did you have anything else,
5 Mr. Micheel?

6 MR. MICHEEL: No.

7 JUDGE REGISTER: Thank you.

8 Mr. Conrad --

9 MR. CONRAD: Yes, ma'am.

10 JUDGE REGISTER: -- whenever you're ready,
11 proceed.

12 BY MR. CONRAD:

13 Q. And let me ask your attention, please, on
14 page 19 of the direct.

15 A. Yes. I'm there.

16 Q. And at the bottom of that page there is
17 reference to an article by a Charles D. Laderoute. Do you
18 see that?

19 A. Yes.

20 Q. Are you familiar with that article?

21 A. I've looked at it. I can't say very familiar.

22 MR. CONRAD: I have an exhibit, your Honor.

23 JUDGE REGISTER: Is this a copy of this exact
24 document?

25 MR. CONRAD: My expectation is that the

1 witness will so testify, yes, your Honor.

2 JUDGE REGISTER: This is Exhibit 193.

3 (EXHIBIT NO. 193 WAS MARKED FOR
4 IDENTIFICATION.)

5 JUDGE REGISTER: It will be identified as the
6 article by Charles D. Laderoute, The Relative System
7 Utilization Method, paren, RSUM for Time Differentiated
8 Natural Gas Utility Cost Allocation Studies published in
9 Columbus, Ohio by the Natural Regulatory Research Institute,
10 1988, pages 273 through 283.

11 Proceed, Mr. Conrad.

12 MR. CONRAD: Thank you, ma'am.

13 BY MR. CONRAD:

14 Q. Ms. Hu, I've placed before you what's been
15 marked for identification as Exhibit 193. Can you identify
16 that document?

17 A. It appears to be an article written by Charles
18 D. Laderoute. Title is The Relative System Utilization
19 Method (RSUM) for Time Differentiated Natural Gas Utility
20 Cost Allocation Studies.

21 Q. Now, I note at the page indicated in the
22 direct testimony and the footnote that's numbered 13,
23 references made to this article and indeed to pages 273
24 through 283. Would you confirm that the page numbers at the
25 bottom of the item that has been identified and marked for

1 identification as 193 starts with page 273 and ends with
2 283?

3 A. Yes.

4 MR. MICHEEL: Your Honor, we'll stipulate this
5 is the article cited in footnote 13.

6 JUDGE REGISTER: Mr. Conrad?

7 MR. CONRAD: That's all I need. And with that
8 stipulation, then we'll offer this as Exhibit 193.

9 JUDGE REGISTER: Any objections?

10 Hearing none, this Exhibit 193 is admitted
11 into the record.

12 (EXHIBIT NO. 193 WAS RECEIVED INTO EVIDENCE.)

13 BY MR. CONRAD:

14 Q. Now, Ms. Hu, let me ask you now to move to
15 page 21 of the direct and focus your attention on the answer
16 beginning at line 3.

17 A. Yes. I'm there.

18 Q. I take it that -- when I say your testimony,
19 Ms. Hu, you understand that I mean in this particular case
20 Mr. Hall's testimony that you're sponsoring?

21 A. Yes.

22 Q. I understand that you didn't do this. But in
23 the testimony here, I take it that a procedure was used that
24 was modified from the original RSUM method. Do you see that
25 on line 3?

1 A. Yes.

2 Q. Does the document that's now been admitted
3 into evidence as Exhibit 193 represent the original RSUM
4 method?

5 A. Yes.

6 Q. So the testimony here indicates that there was
7 a further modification to that method then. Am I correct?

8 A. Yes.

9 Q. Now then, also at line 5, just below that, the
10 testimony indicates that the testifier had applied the
11 method in a slightly different fashion in this context. Did
12 I read that correctly?

13 A. Yes.

14 Q. So what we really have then in the testimony
15 that you're sponsoring is a modification of a modification
16 of the RSUM method; is that correct?

17 A. Yes. I think you can say that.

18 Q. Now, near the bottom of that same page -- oh,
19 forgive me, ma'am, and strike that.

20 Looking again at line 5, page 21, what were
21 the modifications that Mr. Hall made to the modifications
22 that Mr. Thompson made to Dr. Laderoute's RSUM method?

23 A. There are two modifications to the original
24 RSUM method.

25 Q. Now, excuse me, ma'am. That wasn't what I

1 asked you.

2 A. Let me finish. Because I'm not really
3 familiar with what Dr. Thompson did, I do know what's the
4 original point and what's the ending point. Is that enough
5 for you?

6 Q. Well, do you know what modifications Mr. Hall
7 made to the modifications that Mr. Thompson made to
8 Dr. Laderoute's RSUM method?

9 A. Let me think. Okay. I believe it's -- it
10 would be one of the two, but I'm -- I believe it would be
11 the -- let me think. Give me a minute. Let me look at it.

12 Q. Take as much time, ma'am, as you need.

13 A. Well, my understanding or my -- my belief
14 would be that what Mr. Hall did is economies of scale
15 modification. And Mr. Thompson's modification would be to
16 use the monthly demand instead of monthly usage. Is that --
17 did that answer your question? That --

18 Q. Is that your final answer?

19 A. Yes.

20 Q. Moving on down, ma'am, to line 21 -- pardon
21 me -- to line 15 on that page 21 --

22 A. I'm there.

23 Q. -- I take it that what was used here are
24 estimates of customer classes monthly peak demands. Do you
25 see that?

1 A. Yes.

2 Q. And I just want to draw your particular
3 attention and confirm that the word "estimates" is there
4 rather than actual monthly peak demands; is that correct?

5 A. Yes.

6 Q. Now, the material that has been included in
7 bold below that we'll come back to in a moment or two.
8 Please turn to the schedule that is marked as BFH-2 that's
9 attached to the Hall direct. Let me know when you're there.

10 A. Yes. I'm there.

11 Q. Is that schedule the document that would
12 contain the estimates of the customer classes that's
13 referred to at line 15 on page 21?

14 A. Yes.

15 Q. What period is represented by these numbers on
16 Schedule BFH-2?

17 A. I would think it would be the test period.

18 Q. And that period is, Ms. Hu?

19 A. I had -- now from my memory it would be '95 --
20 the test year ending May '95 -- okay. Let me think.
21 May 31st, '95. I don't have the exact -- I mean, I believe
22 we can find it from Mister -- let me see if --

23 JUDGE REGISTER: If you need a moment to look,
24 Ms. Hu, go ahead and take it.

25 MR. MICHEEL: Do you need a copy of Mr. Kind's

1 testimony, Ms. Hu?

2 THE WITNESS: Yeah. That would be good.

3 JUDGE REGISTER: Which one?

4 THE WITNESS: Actually, I would think it's
5 March 31st of '95.

6 JUDGE REGISTER: Do you want the recent one?

7 THE WITNESS: It's the 12-month period ending
8 March 31st, 1996 as updated through May 31st, 1996.

9 BY MR. CONRAD:

10 Q. So looking again at BFH-2, the March in the
11 far right column that would be, I take it, 1996. Am I
12 correct?

13 A. March of '96, that would be my understanding.

14 Q. And correspondingly the April in the far left
15 column, at least if not actually the farthest left column,
16 but the one that says APR, that would be a 1995 date.
17 Right?

18 A. Yes.

19 Q. Okay. Just wanted to be sure about the years.

20 Now, back again to Mr. Hall's direct at
21 page 22 and starting at line -- actually at line 3, he would
22 direct the reader to the next schedule --

23 A. Yes.

24 Q. -- right?

25 A. Uh-huh.

1 Q. Okay. And that would be identified as BFH-3.
2 Right?
3 A. Yes.
4 Q. Now, he indicates in that what he
5 characterizes as step one. And I'm just asking you if you'd
6 agree with me and see if I'm kind of following this method.
7 That what he's done is taken the columns from BFH-2 and
8 based on the very bottom number put those on Schedule 3, but
9 in descending order --
10 A. Yes.
11 Q. -- am I correct?
12 A. Yes.
13 Q. And by descending order, in other words, how
14 that would track is I'm looking, for example, at January,
15 which would be 1996 on Schedule 2. You see the number
16 846,485?
17 A. Yes.
18 Q. And then that tracks over to the first column
19 on Schedule 3. Am I --
20 A. Yes.
21 Q. -- doing right so far?
22 A. Yes.
23 Q. There's again that 846,485. And the next
24 highest from Schedule 2 happens to be December, 782,955, and
25 that comes in second on Schedule 3?

1 A. That's correct.

2 Q. And we just work through that in descending
3 order, highest to lowest as we move to the right?

4 A. Right.

5 Q. Okay. Now, below that on Schedule 3 he's put
6 some other numbers, and we'll come to those in just a
7 minute. But I just wanted to be sure that you can confirm
8 for me that the numbers at the bottom -- the total numbers
9 at the bottom of the columns on Schedule 2 really is what
10 drives the arrangement of the columns on Schedule 3. Am I
11 right so far?

12 A. Yes.

13 Q. Okay. And that they are the same numbers
14 although arranged in a different order?

15 A. Yes.

16 Q. Now, in his small box there kind of toward the
17 lower third of the page on Schedule 3, he appears to have
18 some numbers vertically oriented, 1, 2, 3 and then skipping
19 one and 4 and 5. Do you see those?

20 A. Yes.

21 Q. Now, the ones on the line that's identified as
22 1, would you agree with me that the -- the number there,
23 which I read as 92.49 and then a percent sign --

24 A. Uh-huh.

25 Q. -- indicates that the number right above it,

1 782,955, bears that percentage relationship to 846,485. So
2 far so good?

3 A. Yes.

4 Q. And in the next column over, 88.40
5 percentage -- do you see that?

6 A. Yes.

7 Q. That reflects the percentage that 748,315 is
8 of what number?

9 A. Of the first number.

10 Q. Of the 846,485?

11 A. Yes.

12 Q. And that at least with respect to that row,
13 that pattern of calculations follows across the sheet, does
14 it not?

15 A. Yes.

16 Q. Now, looking at row 2 and flipping back to
17 page 22, does that row represent Mr. Hall's raising to
18 the -- I think it's -- I don't really know how to say this
19 correctly, but Rth power?

20 A. Yes.

21 Q. And that's his economies of scale adjustment;
22 is that right?

23 A. That's correct. That's correct.

24 Q. And how I would derive that number would be by
25 taking in the case of -- let's look at December a second on

1 Schedule 3. I would take the 92.49 percent and I would
2 raise that to the .3088 power that's shown as an R factor on
3 Schedule BFH-1. Am I correct?

4 A. Right.

5 Q. And at least with respect to that row, that
6 same process follows across the page. Right?

7 A. Yes.

8 Q. Okay. Now then, let's look at -- explain to
9 me, if you will, how row 3 gets calculated.

10 A. The years -- for example, the first one,
11 2.38 percent, you use 100 percent minus 97.62 percent.
12 That's the incremental cost or the difference between these
13 2 percentages, the percentages for January and December.
14 And the next number would be the same thing. If you use
15 97.62 percent minus 96.26 percent, you've got 1.35 percent.

16 Q. And that same sequence just follows across the
17 page. Right?

18 A. Yes.

19 Q. But when you get to the very end in July, the
20 number takes a big jump there. Help me understand why that
21 is.

22 A. Because there is no further out -- there are
23 only 12 months, so there are no further other utilization of
24 the system. So you use 58.67 percent minus 0, which you got
25 58.67 percent.

1 Q. Now, the July that we're talking about there
2 on that column actually was July of 1995, looking back at
3 Schedule 2. Right?

4 A. Yes.

5 Q. And you'd agree with me that there was an
6 August of 1995?

7 A. Yes.

8 Q. Okay. It's just the fact that we're just
9 windowing in on those particular 12 months. Right?

10 A. Uh-huh.

11 Q. Now, the next row that he did not number is
12 just a fill, if you will, or a string of numbers from 1 to
13 12. And I take it that that's really intended to represent
14 some kind of an ordinal order of the columns therein.
15 Right?

16 A. It does have a meaning. Like, the first one,
17 it's 1. That is saying there is only one month that the
18 usage is the most. 846,485 is the demand. There is only
19 one month the usage reached that level. And then the second
20 column you see 2. In addition to -- you know, the index
21 that you understand, there's also a meaning saying there are
22 two months that usage has reached or -- over the level
23 782,955, and the same thing goes on.

24 Q. Okay. So, again, that number is really tied
25 then to the -- in your example the 782,955 or

1 correspondingly in the next column to the right the 748,315.

2 So far so good?

3 A. Yes.

4 Q. Okay. Now, is that number used in calculating
5 the row that he's labeled No. 4?

6 A. Yes.

7 Q. How does that work?

8 A. The first one you use 2.38 percent divided by
9 1, you get the same thing. And then the second column you
10 use 1.35 percent divided by 2, you get 0.68 percent.

11 Q. And --

12 A. And the same thing goes on.

13 Q. Okay. And so 1.57 is a third, if you will, of
14 the 4.70. Right?

15 A. That's correct.

16 Q. Okay. Now, the very last row, help me
17 understand how that's been calculated.

18 A. You add them together. Okay. Let me think a
19 little bit. That's -- step five for each month the cost
20 increment is entered with that sum for each month. For
21 instance -- for instance, January some odd increment, and
22 December some odd increment except the highest 2.38.

23 So, for example, the 14.58 percent, you just
24 add from 2.38 -- 2.38 percent plus .68 percent plus
25 1.57 percent plus 0.65 percent and goes on to the last one,

1 4.89 percent. Then you will get -- the sum is
2 14.58 percent.

3 And then the second months are -- you start
4 from .68 percent and add all the following numbers up until
5 the last one, 4.89 percent. And the sum is 12.20 percent.

6 Q. Okay. Now, would you agree with me that what
7 you and I have just kind of walked through is a fair number
8 of calculations?

9 A. Yes.

10 Q. But even though it's a fair number of
11 calculations, you several times made reference to the
12 numbers there that are in an unidentified row, that they're
13 the 846,485 and 782,955. Do you see those?

14 A. Yes.

15 Q. That's really what drives everything below
16 that. Right?

17 A. That's right.

18 Q. Okay. Now, turning back, if you would, with
19 me, please, to page 21 and at page -- at line 16 and
20 actually carrying over to the top of the next page, Mr. Hall
21 indicates that the LV customer class loads -- or peak
22 demands, excuse me, haven't been estimated in the same
23 fashion as the others?

24 A. Yes.

25 Q. Do you know how they were estimated?

1 A. For the non-weather sensitive customers we did
2 not have their peak demands. I believe Mr. Hall used a
3 ratio and applied that ratio to their average monthly usage
4 and get -- and got an estimate of their peak demands.

5 Q. And is it your understanding that he
6 subsequently provided some, what he felt, were better
7 estimates; is that right?

8 A. Yes. He filed supplemental direct.

9 Q. And would that be the document that's been
10 marked here as Exhibit 148, supplemental direct?

11 A. Yes.

12 Q. And would I find in there schedules that,
13 except for that supplementation, correspond to Schedules 2
14 and 3 that you and I have been working with?

15 A. Uh-huh.

16 Q. Okay. Let's go there for a moment. And
17 please direct your attention to BFH-3.1, 3.2 -- excuse me,
18 strike that. To Schedule BFH-2.1, 2.2, I believe it's 2.3.
19 Do you have those?

20 JUDGE REGISTER: Which document are we going
21 to?

22 MR. CONRAD: I'm sorry, your Honor. I
23 thought -- it would be 148, his supplement direct. I
24 apologize if I didn't make that clear.

25 JUDGE REGISTER: That's quite all right.

1 THE WITNESS: 2.1. I'm there.

2 BY MR. CONRAD:

3 Q. Right. Now, if I understood what Mr. Hall
4 did -- well, I'll tell you what, why don't you just tell me
5 what it is he did there on -- I think we can all see there's
6 a lot more numbers on those schedules than there were on the
7 corresponding BFH-2, but what is it that he's done there?

8 A. He's got the weather sensitive -- he's got
9 peak demand information for weather sensitive large
10 customers. And he also gathered every day demand
11 information -- or estimation non-weather sensitive large
12 customers.

13 Q. Okay. And so again, Schedule 2.1 to 2.3,
14 that's the revision or the update, whatever terminology you
15 want to use, to the original Schedule 2. Right?

16 A. Yes.

17 Q. Okay. Now, look at BFH-2.3 a second. And
18 recalling the operations that we went through before, what
19 would the month be that would be the month that would end up
20 the highest? Would that be January of '96?

21 A. Let me look at his title. Yes. That's
22 January.

23 Q. Yeah. The third from the far right?

24 A. Yes.

25 Q. And that number is 790,714?

1 A. Yes.

2 Q. The next highest, if I'm looking carefully
3 here, would be in the column just to the left, 720,146?

4 A. Yes. I agree.

5 JUDGE REGISTER: Where are you reading from?

6 MR. CONRAD: Your Honor, I'm on Schedule
7 BFH-2.3.

8 JUDGE REGISTER: Okay.

9 MR. CONRAD: I'm sorry. The columns are not
10 identified there. The identifiers for the columns are back
11 really two pages.

12 JUDGE REGISTER: And we're at the total at the
13 bottom line?

14 MR. CONRAD: Yes, ma'am.

15 BY MR. CONRAD:

16 Q. And I think, Ms. Hu, you had agreed with me
17 that 790,714 was the high number there?

18 A. Yes.

19 Q. And 720,146 was the No. 2?

20 A. Yes.

21 Q. And just very quickly, 702,824 was the next?

22 A. Yes.

23 Q. So we've got the top three right there?

24 A. Yes.

25 Q. Okay. Now, the point of that is to re-arrange

1 those in the order from the highest to the lowest, is that
2 correct, when we go to Schedule 3?

3 A. Yes.

4 Q. Let's go to Schedule 3. And turn through to
5 Schedule 3.3. And I'm not seeing, Ms. Hu, the No. 790,714
6 anywhere on the row that would appear to be the total on
7 BFH-3.3. Can you explain that to me?

8 A. I need some time to do a comparison of these
9 two schedules.

10 JUDGE REGISTER: Take all the time you need.

11 THE WITNESS: Apparently the -- the input for
12 each individual weather sensitive large customer's demand
13 data are not exactly the same. I -- my guess would be
14 Mr. Hall probably received updates from the Staff's demand
15 data that -- you know, he probably has updated the number.
16 Now, I do not know that for a fact, but that's -- that would
17 be the only reasonable explanation.

18 BY MR. CONRAD:

19 Q. You agree with me that the numbers at the
20 bottom of the column on BFH-2.3 are really nowhere to be
21 found on Schedule BFH-3.3; is that correct?

22 A. Yes. As I explained, because -- because this
23 is a sum of all the individual monthly demands. And if the
24 individual monthly demands change, the total would change
25 too.

1 MR. CONRAD: No further questions, your Honor.

2 JUDGE REGISTER: We're ready for questions
3 from the Bench. I don't believe --

4 COMMISSIONER DRAINER: I have one, if you'll
5 wait one moment.

6 JUDGE REGISTER: We'll give Commissioner
7 Drainer just a moment and she will have a question for you.

8 QUESTIONS BY COMMISSIONER DRAINER:

9 Q. Okay. Good morning.

10 A. Good morning.

11 Q. I would like just a clarification on the last
12 part of what Mr. Conrad was asking you, Ms. Hu, because when
13 the supplemental direct was filed, the first schedule, the
14 2.1 and then going to the Schedule 3, the revised
15 schedules --

16 A. Uh-huh.

17 Q. -- because the totals do change, just glancing
18 at the table -- and let me just take you through on the
19 first schedule, the 2.1. If you take the month of April --

20 A. Okay.

21 Q. -- if you look at the April column -- you
22 know, starting with residential Joplin, 28,995 and you kind
23 of look down that column at the numbers to the end of the
24 April column on 2.3 --

25 A. Uh-huh.

1 Q. -- where it ends up being 398,278 --
2 A. Yes.
3 Q. Okay. If you look at that column and then you
4 go to the revised Schedule 3 and go ahead and find April,
5 which is the sixth column over --
6 A. Yes.
7 Q. -- and you do a comparison of the numbers,
8 they would appear identical until you get to the end where,
9 as Mr. Conrad pointed out, now instead of 398,000 you have
10 360,654. And as you compare towards the end there -- what
11 is non-WS?
12 A. Non-weather sensitive customers, large
13 customers.
14 Q. Okay. Now, that appears to be where the
15 significant difference is, because in your first schedule
16 your non-weather sensitive customers in April would have
17 been -- 77,499 would have been the increment used. When you
18 look at April, it's 40,244, which accounts for the vast
19 majority of the difference.
20 So what I'd like to ask is, from Schedule 2 to
21 revised Schedule 3, why is that the only number that seems
22 to have had an adjustment down and it would appear to be
23 over 10 percent of the total has been reduced?
24 A. Okay. Now I think I know why these two
25 schedules are different. One thing that I -- in preparing

1 this case in reading Barry -- Mr. Barry Hall's testimony, I
2 noticed that he changed his method in calculating the ratio
3 of peak demand to monthly usage to be different from the
4 Staff's method.

5 Now, I would believe the first schedule -- the
6 Schedule 2 he's using the Staff's number. However, he
7 believes that a better method would be his own method, so he
8 changed that ratio. And the ratio is actually a smaller
9 ratio which results -- resulted in smaller peak demand for
10 non-weather sensitive customers.

11 Q. So you believe that the first schedule would
12 have been Staff's numbers and the adjustment using
13 Mr. Hall's method resulted in a change to the non-weather
14 sensitive customers?

15 A. Yes.

16 Q. Okay. Now, I would appreciate it if you would
17 do one thing for me. Again, taking the April Schedule 2.1
18 total, I'm going to ask you to subtract something, if you
19 don't mind. Have you got a pencil up there or a pen or a
20 calculator?

21 A. No. I don't have a calculator, but I do have
22 a pen.

23 Q. I don't think you'll need one.

24 MR. DUFFY: I'll be glad to loan this one.

25 THE WITNESS: I have a pen. That's fine.

1 JUDGE REGISTER: That would be fine,
2 Mr. Duffy. Thank you.

3 THE WITNESS: Thank you.

4 BY COMMISSIONER DRAINER:

5 Q. And the Schedule 2.3 April would have had a
6 total of 398,278?

7 A. Yes.

8 Q. Subtract from that the April total in the
9 second schedule, which is 360,659.

10 A. I got 37,619.

11 Q. All right. Now, if you will next -- the next
12 group I want you to subtract is this non-weather sensitive.
13 So the first non-weather sensitive is 77,499.

14 A. I'm sorry. Give me a second. I lost my
15 column.

16 Q. Sure. Go back to Schedule 2.3.

17 A. Okay.

18 Q. The first column.

19 A. Okay. Oh, 77,499. Yes. I see it.

20 Q. Okay. Good. Now, subtract from it the April
21 column in the second -- in the Schedule 3.3, which I had to
22 be 40,244?

23 A. Yes. I got 37,255.

24 Q. So there is still 364 units that aren't
25 accounted for. And I guess that was my one question I was

1 trying to get to. Even if I determine that Mr. Hall made an
2 adjustment using his method, then I still end up with
3 10 percent of the difference not being accounted for. Can
4 you tell me where that would be?

5 A. Yes. There are some differences in other
6 weather sensitive large customer's demand data too. For
7 example, if you look at -- the first column we have are
8 numbered that identifies which customer. Let's look at the
9 number for 9757132610, which is the last of the Joplin
10 customers. In Schedule 2.3, Mr. Hall has 123.

11 Q. Yes.

12 A. And in the Schedule 3.3 he has 64. And there
13 could be others too. Actually, there are.

14 Q. Now, why would a few of those have that
15 difference? The majority don't, and I guess how did that
16 individual -- why would those weather sensitive customers be
17 impacted in the calculation and not others?

18 A. That's what I explained to Mr. Stuart, that my
19 only guess would be the Staff's data has changed because
20 Mr. Hall got his data from the Staff. I don't know that for
21 sure, because I have not had an opportunity to talk to
22 Mr. Hall, however, I think that's the only possible or
23 reasonable explanation.

24 Q. So it may be that the Schedule 2 isn't really
25 relevant to the Schedule 3, that they're --

1 A. That's correct.

2 Q. That it would not have been the schedule that
3 should have been used?

4 A. I wouldn't know that. Mr. Hall probably
5 should use the most recent data for his Schedule 2.2. He
6 probably just overlooked it.

7 COMMISSIONER DRAINER: All right. Fine.
8 Thank you. I have no other questions.

9 THE WITNESS: Thank you.

10 JUDGE REGISTER: And I don't have any other
11 questions for you, Ms. Hu.

12 And let me see if there's any recross.
13 Mr. Duffy?

14 MR. DUFFY: No questions.

15 JUDGE REGISTER: Mr. Franson?

16 MR. FRANSON: No questions, your Honor.

17 JUDGE REGISTER: And, Mr. Conrad?

18 MR. CONRAD: I think just two.

19 RE CROSS-EXAMINATION BY MR. CONRAD:

20 Q. Ms. Hu, Vice-chair Drainer took you through
21 the personal explanation of the question that I had asked
22 you about the difference between Schedules 2 and 3. Do you
23 remember that?

24 A. Yes.

25 Q. And you suggested that there were some

1 possible explanations for that. Do you remember that?

2 A. Yes.

3 Q. Do you know that any of those explanations
4 are, in fact, the case?

5 A. For one thing --

6 Q. Do you -- no. I didn't ask you about a number
7 of things. Do you know from your own knowledge that any of
8 those scenarios are, in fact, the case?

9 A. I'm not 100 percent positive about all of the
10 explanations, but that's the only reasonable explanation
11 that I can think of.

12 Q. Do you know of your own knowledge that that is
13 the explanation for the difference?

14 MR. MICHEEL: Your Honor, the witness has
15 already answered that question to the best of her ability.
16 At this point it's --

17 JUDGE REGISTER: Sustained.

18 MR. MICHEEL: -- being cumulative.

19 JUDGE REGISTER: You just asked her the
20 question. She answered it. Let's go on.

21 BY MR. CONRAD:

22 Q. Would you agree with me, Ms. Hu, that what we
23 have here is a modification to Mr. Hall's modification to
24 Mr. Thompson's modification of the RSUM method?

25 A. No, I don't agree. It's not a modification to

1 Mr. Hall's modification to somebody else.

2 Q. But you were unable to account for the
3 difference between the methodology that he described in his
4 testimony going from Schedule 2 to Schedule 3?

5 MR. MICHEEL: I'm going to object, your Honor.
6 She's already answered that question. She said the
7 reasonable -- she gave a reasonable explanation, that's the
8 only explanation she can think of and she believes that's a
9 reasonable explanation.

10 JUDGE REGISTER: Mr. Conrad, were you asking
11 her something different?

12 BY MR. CONRAD:

13 Q. Is there any discussion in Mr. Hall's
14 testimony --

15 JUDGE REGISTER: You're withdrawing your last
16 question?

17 MR. CONRAD: Yeah.

18 JUDGE REGISTER: Thank you, Mr. Conrad.

19 BY MR. CONRAD:

20 Q. Is there any discussion in Mr. Hall's
21 testimony, Ms. Hu, of why that difference is?

22 A. No. As I just said when I answered
23 Commissioner Drainer's question, I think Mr. Hall probably
24 overlooked and he probably should have used the most recent
25 data in his Schedule 2 also.

1 MR. CONRAD: Thank you. That's all.

2 JUDGE REGISTER: Thank you, Mr. Conrad.

3 Redirect, Mr. Micheel?

4 COMMISSIONER DRAINER: Excuse me. I do have

5 one other question. I apologize for interrupting, but --

6 JUDGE REGISTER: No problem. Commissioner

7 Drainer.

8 FURTHER QUESTIONS BY COMMISSIONER DRAINER:

9 Q. Ms. Hu, if I'm asking a question they've

10 already asked you, I apologize, but to the best of your

11 knowledge, has the method that has been proposed by the

12 Office of the Public Counsel been adopted by this Commission

13 in the past?

14 A. I'm not aware of -- well, no, I don't think

15 so.

16 Q. Are you aware if this method has been accepted

17 and adopted in any other state commission's procedures?

18 A. I'm not aware of that.

19 COMMISSIONER DRAINER: Okay. Thank you. I

20 have no other questions.

21 JUDGE REGISTER: Unless there's any other

22 questions following that, I'm going to go to Mr. Micheel's

23 redirect.

24 REDIRECT EXAMINATION BY MR. MICHEEL:

25 Q. Ms. Hu, you received some questions about some

1 apparent differences in numbers on the supplemental direct
2 testimony Schedules 2 and 3. Do you recall those?

3 A. Yes.

4 Q. In preparing your testimony for this case, did
5 you have occasion to review Mr. Beck's testimony?

6 A. Yes, I did.

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

9 JUDGE REGISTER: Go right ahead.

10 BY MR. MICHEEL:

11 Q. Let me show you page 13 of Mr. Beck's rebuttal
12 testimony and ask you to read that to yourself. And does
13 that shed any light on to the possible difference in
14 numbers?

15 A. Yes. I think here Mr. Beck talked about the
16 same thing that I talked a minute ago about what Mr. Hall
17 did that is different from what the Staff did, that he used
18 a different factor to determine the monthly peak day demands
19 for the non-weather sensitive customers.

20 MR. MICHEEL: That's all I have. Thank you
21 very much, your Honor.

22 JUDGE REGISTER: Thank you, Mr. Micheel.

23 That concludes our cross-examination of
24 Ms. Hu. And I think now would probably be a good time to
25 take a break. Is there anything that we need to do before

1 we go off the record?

2 Okay. Let's go ahead and go off the record,
3 Tracy.

4 (A RECESS WAS TAKEN.)

5 MR. MICHEEL: We would call, your Honor, Ryan
6 Kind.

7 (Witness sworn.)

8 JUDGE REGISTER: Please be seated, Mr. Kind.

9 Mr. Micheel, please proceed.

10 RYAN KIND testified as follows:

11 DIRECT EXAMINATION BY MR. MICHEEL:

12 Q. Would you state your name and occupation and
13 business address.

14 A. My name is Ryan Kind. I'm chief energy
15 economist at the Missouri Office of the Public Counsel. My
16 address is P.O. Box 7800, Jeff City, Missouri 65102.

17 Q. Did you cause to be filed rebuttal testimony
18 on remand of Ryan Kind, which has been marked for purposes
19 of identification as Exhibit 184 in this case?

20 A. Yes, I did.

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

23 A. Yes, they would.

24 Q. Did you also previously file your direct,
25 supplement direct, rebuttal and surrebuttal testimony which

1 has been marked as Exhibit 18, 19, 21 and 22 and admitted
2 into evidence in this proceeding?

3 A. Yes. Those -- I think you're referring to the
4 pieces of testimony that are relevant to rate design. I
5 also filed some additional testimony on revenue requirement
6 issues in this case.

7 MR. MICHEEL: With that, your Honor, I'd move
8 the admission of Exhibit 184 and tender Mr. Kind for
9 cross-examination.

10 MR. FRANSON: 184 hasn't been offered into
11 evidence yet?

12 JUDGE REGISTER: No.

13 MR. FRANSON: Oh, the new one. All right.

14 JUDGE REGISTER: Any objections to 184?

15 MR. CONRAD: I may not have, but if I could
16 ask just a tiny bit of clarification. There is material --
17 and perhaps counsel can -- there is material in Mr. Kind's
18 rebuttal testimony -- or the remand rebuttal, 184 Exhibit --

19 JUDGE REGISTER: Right.

20 MR. CONRAD: -- that's been offered that
21 references material in Mr. Lewis's testimony that is subject
22 to a Motion to Strike both by Public Counsel and by our
23 client. In order to not waive those objections -- I'm a
24 little bit in doubt because I don't think, at least on most
25 of that, that probably Mr. Kind would have testified on

1 those topics at all had Mr. Lewis's testimony on those
2 topics not been filed.

3 MR. MICHEEL: That's correct, because it's
4 rebuttal testimony so he's rebutting Mr. Lewis.

5 MR. CONRAD: So it's that --

6 JUDGE REGISTER: Do you want to raise your
7 objections in your Motion to Strike and your application for
8 rehearing that is pending and so --

9 MR. CONRAD: Yeah.

10 JUDGE REGISTER: -- you'd ask that I receive
11 these subject to your objection and Motion to Strike?

12 MR. CONRAD: And beyond that I don't have
13 objection.

14 JUDGE REGISTER: And, Mr. Micheel, you're
15 telling me if that if we rule granting your Motion to
16 Strike, then you would withdraw your testimony of Mr. Kind?

17 MR. MICHEEL: Certainly not all of it. There
18 are certain portions of Mr. Kind's rebuttal testimony that
19 he rebuts certain specific statements that Mr. Lewis has
20 made in his direct testimony for which there are pending
21 Motions to Strike.

22 And if I understand Mr. Conrad correctly, he's
23 suggesting that those portions of Mr. Kind's testimony
24 should also be stricken if the Commission grants the Motions
25 to Strike filed by the Public Counsel --

1 MR. CONRAD: And only those portions.

2 MR. MICHEEL: -- and only those portions.

3 With that understanding, I do not have a problem, your
4 Honor.

5 JUDGE REGISTER: Okay.

6 MR. MICHEEL: But not all of Mr. Kind's
7 testimony responds to matters that I've asked to be
8 stricken.

9 MR. FRANSON: Your Honor, I have no objection
10 to Mr. Kind's testimony, but for clarification, if we're
11 going to have this -- I call it a conditional Motion to
12 Strike, shouldn't those parts be identified at some point so
13 if there is any time later, we don't have a question as to
14 what this was referring to?

15 JUDGE REGISTER: I think what we can do -- I
16 think I probably will be able to identify those questions in
17 Mr. Kind's testimony that would relate -- if we grant the
18 Motion to Strike, that I'd be able to identify in the
19 testimony which we would strike on the rebuttal.

20 If we grant Mr. Conrad's application for
21 rehearing on his issue of striking all of the pre-filed
22 testimony, that would be no problem.

23 In the Report and Order if I miss something
24 that should be stricken out of this, someone can always tell
25 me in a Motion for Clarification or a Motion for Rehearing.

1 If you want to at some point identify those and file that
2 with me, that's acceptable as well.

3 All right. So 184 is offered and subject to
4 the objections and the Motion to Strike and applications for
5 rehearing, it will be received.

6 (EXHIBIT NO. 184 WAS RECEIVED INTO EVIDENCE.)

7 JUDGE REGISTER: And Mr. Kind has been
8 tendered for cross-examination.

9 Can we go off the record for just a moment,
10 Tracy?

11 (Off the record.)

12 JUDGE REGISTER: And on cross-examination for
13 Mr. Kind, just to go through the list, Mr. Duffy, do you
14 have any cross?

15 MR. DUFFY: Not at this time, your Honor.

16 JUDGE REGISTER: And Staff, Mr. Franson?

17 MR. FRANSON: No, your Honor. No questions.

18 JUDGE REGISTER: And, Mr. Conrad?

19 MR. CONRAD: And I do, but it's surprisingly
20 short.

21 JUDGE REGISTER: Thank you. Would you please
22 proceed.

23 CROSS-EXAMINATION BY MR. CONRAD:

24 Q. Mr. Kind, good morning, first of all,

25 A. Good morning, Mr. Conrad.

1 Q. Would you please go to your surrebuttal
2 testimony that's Exhibit 22? And the page I wanted to ask
3 you to look at is page 12 and the question and answer at the
4 top, lines 1 through 15. Let me know when you're there.

5 A. I am there.

6 Q. I take it that at that location in your
7 testimony you're discussing an equal percentage increase
8 that you're proposing; is that correct?

9 A. Yes. That's the way I've stated it there in
10 the question, to apply any revenue requirement increase in
11 accordance with the percentage of total revenue requirement
12 currently collected from each customer class. It is --
13 that's another way of stating an equal percentage increase.
14 And, of course, I was referring to the current revenues in
15 the test year.

16 Q. And by total revenue requirement there on
17 line 4, just really to clarify, we're talking about the
18 revenue requirement in this case, not --

19 A. That --

20 Q. Pardon me?

21 A. I wasn't sure if you were done. Yes. That's
22 correct.

23 Q. Okay. Now, I'd like to ask you to work with
24 me for a moment or two on a brief and hopefully fairly
25 simple hypothetical. Mr. Kind, I'd like for you to assume

1 that there is a utility company -- I don't think we need to
2 talk about whether it's a gas or electric or water or
3 anything like that. But let's just assume that there is a
4 regulated utility company whose rates are currently what you
5 would consider to be in balance with its costs on a class by
6 class basis.

7 MR. DUFFY: Excuse me. Did you say in balance
8 or imbalance?

9 MR. CONRAD: Are in -- in, space, balance.

10 MR. DUFFY: Thank you.

11 THE WITNESS: Okay. I'm not sure exactly what
12 you mean by in balance. I could take a stab at that.

13 BY MR. CONRAD:

14 Q. No cross subsidization within the class.

15 A. All right. I don't think it could ever be
16 clearly stated there's no cross subsidization, because class
17 cost of studies involve the allocation of joint and common
18 costs, which is necessarily a subjective process. So I
19 think you could just say with all -- as far as you can go in
20 making that sort of a statement is that there appears to be
21 very little cross subsidization.

22 Q. Well, without regard to -- you know, to the
23 reality that you might experience, I mean, I think we can
24 work with that. Very minimal, if any.

25 A. Yeah. Okay. All right.

1 Q. Now, holding that situation in mind, I'd also
2 like for you to assume that that utility incurs an increase
3 in its cost of debt and that increase is of sufficient
4 magnitude that the utility is forced to seek a rate
5 increase. So far so good?

6 A. Yes. And I would assume that we're assuming
7 that all their other costs are pretty much remaining
8 unchanged and the balance between the number of customers,
9 volumes used and costs are the same, but we've just got a
10 change in this one element of their cost?

11 Q. Right. Just that one element has changed.

12 A. Okay.

13 Q. Now, just working with that simple
14 hypothetical, would you agree with me that an equal
15 percentage increase would not disturb the class by class and
16 rate balance? An equal percentage increase would not
17 disturb the relationship that we talked about at the
18 beginning?

19 A. Well, I think I'd agree mostly. There's maybe
20 a little bit of a difficulty I have in agreeing with that,
21 which is that you take into account the -- in determining
22 the revenue requirement, there's the costs that are
23 associated with the return on rate base and then there's the
24 costs that have to do with -- that are associated with
25 expenses.

1 And a change in debt cost would change --
2 would really have more of an effect on that portion of the
3 revenue requirement that -- would have more -- I'm sorry.
4 Would have a greater effect on that portion of costs which
5 are related to return on revenue requirement.

6 And each class while -- you know, the
7 percentage of costs attributable to each class in terms of
8 the return on rate base and the percentage of each class --
9 percentage -- I'm sorry -- the percentage of cost
10 attributable to each class that relates to the expenses,
11 those percentages could be different.

12 And so if you had mentioned a cost that would
13 clearly be, you know, just an increase somehow across the
14 board in each class's cost, and I can't really think of one,
15 but if there was such a cost and you mentioned that, then I
16 could agree with you.

17 Q. Well, an increase in debt like I've
18 hypothesized, a debt cost, that would be fairly close to the
19 paradigm that you're talking about?

20 A. I would just have to look at the numbers for a
21 specific company.

22 Q. I mean, we understand at least as to how the
23 accounting works there would be an increase in the interest
24 expense and so on in that hypothetical. But if you assumed
25 everything else stayed the same and that was pretty much a

1 uniform cost increase that the utility had to face across
2 its entire operation, the equal percentage wouldn't disturb,
3 to any significant degree, that relationship?

4 A. I think I'd really have to examine the
5 numbers. And it gets back again to a certain customer class
6 might be allocated, say, 40 percent of the costs
7 attributable that are a result of a return on rate base,
8 they might be allocated 45 percent of the costs that are in
9 the expense area.

10 And so I'd really want to see the numbers, but
11 if you're -- for purposes of your example if you're just
12 looking at -- just a really broad ballpark, you know, plus
13 or minus 5 or 10 percent, I think I could, you know -- I
14 could say I could respond to your hypothetical without
15 looking at some precise figure.

16 Q. I think that's a fair answer, Mr. Kind. I'll
17 try not to take that -- press that example beyond what --
18 it's just intended to be a simple situation.

19 Now, let's try another variation of that
20 theme. And I want to change the hypothetical just a bit.
21 We'll still keep our utility company and its rates are in
22 class by class balance. And I'll accept your limitation
23 that, you know, people can often disagree about that, but
24 let's just hypothesize a situation here in which virtually
25 everybody that looks at it would say, okay, we're in an

1 appropriate relationship, there is no cross subsidization of
2 a significant degree. So far so good? We're kind of going
3 to stay with that.

4 A. Yeah.

5 Q. Now, I'd like for you to assume for this one
6 that the nature of the cost increase that the utility now is
7 having to face is the necessity of financial support or to
8 expend the money to acquire and install some fairly
9 expensive electronic gas measurement equipment that is
10 solely installed on the installations of a fairly large
11 group of transportation customers.

12 MR. MICHEEL: Just a point of clarification,
13 Mr. Conrad, your initial hypothetical had any utility
14 company, be it water, electric or a gas company. And you
15 said to keep that same hypothetical in this question. Are
16 we now changing this to an LDC hypothetical?

17 MR. CONRAD: Yeah. I think we might want to
18 add that to it. We're kind of beginning to focus on a gas
19 company if that would be all right, Mr. Kind.

20 Thank you, Mr. Micheel, for that correction.

21 THE WITNESS: And you mentioned installing
22 some pretty expensive electronic metering for transportation
23 customers. Was that for all the customers in the class or
24 just certain selected customers?

25 BY MR. CONRAD:

1 Q. I think in our hypothetical let's just assume
2 that all the transportation customers are captured in a
3 class, transporters, and it would be applicable to all of
4 them.

5 A. Gotcha.

6 Q. Also with that, assume that the nature of that
7 requirement -- we might not be dealing with a Missouri
8 utility here, but the nature of that requirement would be
9 such that the utility is precluded from recovering that cost
10 from each of the customers directly, but would have to seek
11 a revenue increase in order to recover that cost. With me
12 so far?

13 A. Yeah. I think what you're saying is that in
14 Missouri we generally -- the situation is that if a certain
15 customer in particular for EGM -- I think I heard you
16 earlier in this hearing sort of citing some -- what you
17 thought were excessively high costs that some of your
18 clients need to pay for this type of thing. And I guess
19 you're saying that kind of thing wouldn't be an option in
20 this case.

21 Q. And the utility in order to recover this would
22 have to come to whatever the regulatory commission was and
23 seek an increase. Okay?

24 A. Okay. And I guess this is similar to the
25 other hypothetical in that we're assuming that there weren't

1 any changes in any of the other utility's costs --

2 Q. That's correct.

3 A. -- and the balance between customer growth,
4 volume growth and growth in all their other expenses would
5 keep things in balance?

6 Q. That's correct. The only thing that would be
7 necessary to change in this would be the costs of the EGM
8 equipment itself and whatever might be very specifically
9 related to that EGM equipment.

10 A. Okay. So we'd be assuming essentially that
11 their -- their rate of return is going to remain constant
12 and probably the return on utilities that are their peers
13 would remain constant between these two cases --

14 Q. Well --

15 A. -- except for the effect of this one --

16 Q. Yes.

17 A. -- change in cost?

18 Q. Yes. Now, holding that situation in mind,
19 would you agree with me that an equal percentage increase in
20 that situation that applied that cost increase to all the
21 customers of the utility proportions to their revenue would
22 introduce a cross subsidization between the transportation
23 class that we've identified and the rest of the customers?

24 A. Don't mean to be difficult, but I think I'd
25 really have to see the numbers. You mentioned a substantial

1 increase. In my mind, generally if each class is within a
2 few percent of their revenues being in line with the cost
3 that you've allocated to them in a class cost of service
4 study, it's about as accurate as you're going to get
5 probably.

6 And so I -- there would have to be some
7 switches that sort of caused that relationship, that
8 variance to -- to go beyond that level. And I'd have to
9 really look at the numbers to determine that.

10 Q. And you wouldn't see that just on my simple
11 hypothetical here, that there would be a shift at all from a
12 cost that was being incurred by the utility for the benefit
13 of the transportation customers, if any part of that were
14 shifted to any of the other customers, would it not disturb
15 that cross -- you don't see that as disturbing that cross
16 subsidization equivalence at all?

17 A. I would agree with you that there would be a
18 shift, but as I mentioned when you talked about your first
19 hypothetical, the class cost of service study process is
20 just necessarily -- there's some subjective determinations
21 made as to how to allocate joint and common costs. And --
22 because we can't actually go out and see, you know, which --
23 these feet of main right here are used by these customers
24 and these feet are used by this customer directly assigned
25 costs.

1 Q. Okay. So if I understand your concern about
2 that, is essentially what you're saying then is that you're
3 kind of adding to my hypothetical -- my beginning
4 hypothetical, you're adding enough what we might, for lack
5 of a better term, call slop in the numbers, but you're
6 suggesting that it would make it up, but you did acknowledge
7 I think -- I take it, that there would be a shift?

8 A. I acknowledged there would be a shift. I'm
9 not saying that that's a shift from no cross subsidization
10 to cross subsidization. In fact, it could be that the
11 shift -- you know, some -- I imagine some parties might
12 think the shift caused less cross subsidization perhaps and
13 others might think it caused more.

14 Q. But I think now we're kind of back to
15 struggling with the initial assumption that I asked you to
16 make, and that is that the utility's rates are --
17 hypothetically the utility's rates here were in a situation
18 that there was no cross subsidization except maybe for a
19 very minimal part that you may have with rounding of numbers
20 and so on like that.

21 MR. MICHEEL: Your Honor, at this time I'm
22 going to object unless Mr. Conrad can tie these amorphous
23 hypotheticals into something that's relevant to this
24 proceeding. I've given him some leeway to let him see where
25 he's going, but I mean, I don't see any relevance of this

1 hypothetical line of questioning and so I just make that
2 objection.

3 JUDGE REGISTER: I'm also concerned that he
4 has already answered your question and maybe not necessarily
5 the way you wanted, Mr. Conrad. But would you like to
6 respond to that?

7 MR. CONRAD: Yeah, I would. First of all, I'm
8 not finished with this. And I have one more alteration to
9 it. But this is an expert. Mr. Kind is regarded, I think,
10 as an expert witness. And we're trying to refine, I
11 think -- I've asked the questions and what I've been trying
12 to do is hone down really what the set of assumptions are so
13 when we look at this in the record, that it makes some
14 sense.

15 I mean, perhaps there's a level of
16 communication that's going on here between the Bench and
17 some of the other parties that I'm not involved in, but I'm
18 not hearing -- I'm just simply trying to put a fine point on
19 the assumptions that the witness is making so that we're
20 able to proceed.

21 Now, we've talked about -- and the witness's
22 testimony speaks about a situation in which an equal
23 percentage increase does not disturb things that he
24 perceives. And that's what my hypotheticals are aimed at.
25 And I believe that that's well within his testimony. It's

1 within his testimony and this is entirely proper
2 cross-examination.

3 JUDGE REGISTER: And these hypotheticals
4 relate to --

5 MR. CONRAD: Ma'am, we're talking about the
6 cost -- we're talking about the class cost of service
7 discussion in this proceeding, are we not? And that's what
8 I'm talking about here. This is how we deal with experts is
9 through hypotheticals in a lot of situations.

10 May I proceed? Do you want to go back and
11 look at his testimony?

12 JUDGE REGISTER: Give me just a moment,
13 Mister --

14 MR. CONRAD: I've been talking about an equal
15 percentage increase in all of these cases. And that's
16 exactly what's on lines 1 through 15 on the page of his
17 testimony that I directed him to.

18 JUDGE REGISTER: What page of the testimony
19 was that? Which exhibit?

20 MR. CONRAD: In the surrebuttal, page 12,
21 Exhibit 22.

22 JUDGE REGISTER: Page 12 of Exhibit 22. What
23 line was that?

24 MR. CONRAD: His question that was posed to
25 him, Could any cross subsidization that might exist at this

1 time be made even worse, in quotes, by applying a revenue
2 requirement increase to all classes in accordance with the
3 percentage of the total revenue requirement currently
4 collected from this customer class? That's an equal
5 percentage increase.

6 JUDGE REGISTER: Beginning on line 1 then?

7 MR. CONRAD: Yeah. Well, the question begins
8 on 1; his answer begins on 6 through 15. And I referenced
9 him to lines 1 through 15.

10 JUDGE REGISTER: I don't have any problem
11 with -- I'm going to overrule Mr. Micheel's objection. I
12 don't have any problem with you continuing with the
13 hypothetical as it relates to the cross subsidization, but I
14 would like you to move on to the next question. I think
15 your last question was asked and answered and would be
16 cumulative then.

17 BY MR. CONRAD:

18 Q. One last example, Mr. Kind. I want you to
19 assume the same utility. We can now, I think, admit that
20 it's a gas utility that we're talking about. And that
21 utility has the perhaps unique situation of having, as we've
22 talked, no cross subsidization to any significant degree in
23 its rates, and all parties would agree with that. That's my
24 hypothetical that I'm asking you to work with. You got that
25 so far?

1 A. Yeah. Subject to the same caveats when
2 referring to your first hypothetical.

3 Q. Now, assume in that case that the utility that
4 we're talking about engages in an extensive and
5 multi-million dollar program to replace service lines
6 throughout its system for its residential customers. Do you
7 have that assumption clearly?

8 A. Okay. And that's exclusively for residential
9 customers?

10 Q. That's correct.

11 A. Okay.

12 Q. And now add to that set of assumptions that
13 because of those expenditures, the utility is forced to seek
14 an increase in its revenue. Okay?

15 A. I'm with you.

16 Q. Now, in that case, would you agree that
17 spreading any allowed increase on an equal percentage basis
18 would introduce cross subsidy by shifting the cost of that
19 residential service line replacement program to the other
20 classes of customers?

21 A. I think I pretty much have to answer the way I
22 did the previous hypotheticals, is that it may, but I'd
23 really need to see the numbers. I mean, for one thing if
24 you're talking about, you know, no change in the overall
25 level of cost, well, the idea is they have maybe a

1 typical -- for a gas utility have rate cases every few years
2 so they had a rate case a few years ago.

3 But, you know, since that time there's been a
4 lot of physical plant that's being depreciated. And that
5 physical plant gets allocated to customer classes in
6 different proportions. And I got to look at the numbers to
7 see on the bottom line what's happened in terms of one
8 class -- I think what you're suggesting is one class that
9 their current revenues getting really out of whack in
10 relation to the costs that would be allocated to them
11 through a class cost of service study.

12 Q. I understand your answer to be that you do
13 agree that there could, would be a shift in that situation?

14 JUDGE REGISTER: I'm sorry. Could you --
15 BY MR. CONRAD:

16 Q. That there could be a shift in that situation?

17 A. Could, that's correct, yes.

18 Q. And just that one thing -- again, we're kind
19 of blue penciling again that one thing changing?

20 A. It's entirely possible, but I'd just be
21 speculating here to tell you that I, you know, really
22 thought it would.

23 Q. I'm sorry. I didn't mean to ask you to
24 quantify it, because we weren't working with numbers.
25 That's kind of the view of a hypothetical.

1 MR. CONRAD: Thank you. That's all I have.

2 JUDGE REGISTER: Thank you, Mr. Conrad.

3 We're ready for Bench questions. I think I
4 just have one question.

5 QUESTIONS BY JUDGE REGISTER:

6 Q. When it comes to the class cost of service
7 studies, is it correct to say that they're the starting
8 point for determining the rate design for a case?

9 A. Yes. I mean, that would definitely be Public
10 Counsel's view. And from, you know, looking at the
11 testimony of other parties and listening to the witnesses,
12 that also appears to be the view of the company and the
13 Staff as well.

14 Q. And can you tell me what are the other factors
15 that should be considered in determining whether there
16 should be a rate -- a class revenue shift -- class revenue
17 responsibility shift among the cost classes?

18 A. Yes. I think that I -- I outlined my view on
19 that in my testimony on page 6.

20 Q. Is that Exhibit 184?

21 A. That's correct. I meant -- yeah.

22 Q. Thank you.

23 A. Right. On page 6 at -- where the sentence
24 that begins at line 5 where I said, In addition to these
25 factors -- well, actually I guess I'm -- we may need to back

1 up a little more, but I think that's probably a pretty good
2 list you would have got.

3 In addition to these factors, Public Counsel's
4 class revenue requirement recommendations were based on
5 value of service, consumption characteristics, the quality
6 of customer service and rate affordability. Now, all of
7 those factors might not necessarily be pertinent to each
8 rate case, each set of circumstances.

9 In this particular case, quality of customer
10 service is especially relevant there because there were some
11 significant problems with the mistakes in billing and things
12 like that. And I attended a public hearing in Kansas City
13 where there was just a huge outpouring of MGE's customers
14 there that were just very dissatisfied with the quality of
15 service.

16 And so sort of what I'm getting at there is if
17 the cus-- company is really not providing satisfactory
18 service to a certain class of customers, that should be
19 taken into account. You know, after you get past the first
20 step of looking at the cost of service studies, then that's
21 another factor to be taken into account.

22 But that's an example of something -- that's
23 something that doesn't occur in most rate cases, but those
24 other factors would always be something that we would
25 consider, the rate affordability and just equity

1 considerations is another thing.

2 If a company is asking for a really large
3 increase in their overall revenue requirements to where if
4 it were just the revenue requirement increase alone before
5 any shifts might cause rates to increase by, say, 15 or 20
6 percent, then we would think well, is it really equitable to
7 ask, you know, one customer class to bear an even larger
8 burden then, say, 15 or 20 percent by adding a shift that --
9 that is indicated by a class cost of service study on top of
10 that and possibly causing their increase to maybe go up to
11 25 percent. Where just if you'd done an equal percentage
12 increase, it might have just gone up by 15 or 20 percent.

13 Q. Okay. And can you give me an example of value
14 of service, what that factor means?

15 A. Well, one way of looking at that factor is
16 that it can relate to the quality of customer service. If
17 customers -- if it's a real headache to receive service from
18 a gas utility even though it's the only utility in the area
19 just because of, you know, them giving you bills that aren't
20 really accurate and things like that, then your service
21 would, you know, not be as valuable as if you got the kind
22 of service that most people expect to get from regulated
23 utilities.

24 Q. And the fact of consumption characteristics,
25 can you explain that or give me an example?

1 A. Well, I guess one example might -- might just
2 be, say, low-income customers who can -- sometimes because
3 their houses are just really poorly insulated can -- can use
4 just tremendous amounts of gas in the winter.

5 And Public Counsel has in the past proposed
6 that those types of customers should be given some special
7 consideration, partly because sometimes if you charge them
8 the full bill, it's just going to lead to a situation where
9 they just get behind on their bills and to the point where
10 they really never even -- they almost stop trying to catch
11 up.

12 And then arrearages can get really high and
13 other customers can end up having to pay more just because
14 you've got a group of customers that just don't even really
15 try to stay current with their bills.

16 JUDGE REGISTER: I think that's all I have for
17 Mr. Kind.

18 Let me go to recross. Mr. Duffy, do you have
19 anything for Mr. Kind?

20 MR. DUFFY: Not based on your questions.

21 JUDGE REGISTER: Thank you, Mr. Duffy.

22 And, Mr. Franson?

23 MR. FRANSON: No questions, your Honor.

24 JUDGE REGISTER: Mr. Conrad?

25 MR. CONRAD: Yeah. Just a couple things, your

1 Honor, based on your questions.

2 RECROSS-EXAMINATION BY MR. CONRAD:

3 Q. Mr. Kind, do you remember an earlier
4 discussion that we had about a gentleman named Noack?

5 A. I've heard his name mentioned in this room and
6 I've heard that he has moved on to work for MGE, but I
7 don't -- can't say that I recall any other parts of the
8 discussion other than that his testimony is just not
9 considered relevant evidently to the issues that have been
10 remanded to the --

11 Q. Did you --

12 A. -- Commission.

13 Q. Excuse me. I'm sorry. I thought you were
14 finished. Had you finished your answer?

15 A. The end of my answer was that I think it was
16 determined his testimony is -- that it's not relevant to the
17 issues that have been remanded to the Commission.

18 Q. In response to a question from the Bench, you
19 indicated that one of the concerns was customer
20 satisfaction, the quality of customer service, billing
21 disputes and so on. Do you recall that?

22 A. Yes, I do.

23 Q. Do you recall the upshot of Mr. Noack's
24 testimony on behalf of the parties that he was representing?

25 A. I haven't reviewed it for this remand case

1 and --

2 Q. Of course, it's in the record, but --

3 A. Yeah. I -- you know, I'm really -- I just
4 remember that he was representing large customers, but I
5 couldn't tell you what issue.

6 Q. You wouldn't remember if that had anything to
7 do with service quality or billing disputes?

8 MR. MICHEEL: I'm going to object, your Honor.
9 My witness has already answered he doesn't know what
10 Mr. Noack testified about.

11 MR. CONRAD: Then the answer to my question is
12 no.

13 JUDGE REGISTER: I think he also said that,
14 but I'll let him confirm that. Overruled.

15 THE WITNESS: Could you repeat your question,
16 please?

17 BY MR. CONRAD:

18 Q. Rather than try to repeat it, why don't we
19 read it back.

20 JUDGE REGISTER: Tracy, can you read that last
21 question back for us.

22 THE COURT REPORTER: "Question: You wouldn't
23 remember if that had anything to do with service quality or
24 billing disputes?"

25 THE WITNESS: I'd really be guessing, but I

1 remember some testimony recently --

2 JUDGE REGISTER: Wait a minute. I'm going to
3 stop you. Just a moment, Mr. Kind. If you're saying you'd
4 be guessing, then you don't know; is that correct?

5 THE WITNESS: I don't know for certain.

6 JUDGE REGISTER: He doesn't know. Next
7 question, Mr. Conrad.

8 BY MR. CONRAD:

9 Q. Do you remember any of the clients that he was
10 appearing on behalf of?

11 MR. DUFFY: Well, your Honor, I'm going to
12 object because I thought that we had determined that
13 Mr. Noack's testimony was not relevant to this proceeding
14 hence, you know, he's not here and there isn't any
15 substitute for him to be here. So I think further reference
16 to Mr. Noack's testimony should be eliminated.

17 MR. CONRAD: I'm not referring to Mr. Noack's
18 testimony. I'm asking if this witness, who has responded to
19 a question from the Bench and responded to a question from
20 the Bench in a manner intended to suggest that the only
21 customers on this system that were experiencing service
22 quality difficulties and billing difficulties were
23 residential customers that appeared, in his terms, in mass
24 at a public hearing.

25 I am simply wanting to ask if this witness is

1 aware, as a representative of the Public Counsel, the Public
2 Counsel of the state of Missouri is aware of what other
3 customers other than representatives of the residential
4 customers have commented in this proceeding.

5 MR. DUFFY: That's not the question that I
6 heard. I heard him referring to Mr. Noack's testimony and
7 trying to get Mr. Kind to say what the essence of
8 Mr. Noack's testimony was.

9 MR. CONRAD: No. I asked him -- wait a
10 minute. I asked him -- read the question back then. I
11 asked him if he knew what the witness Noack's clients were,
12 who they were.

13 JUDGE REGISTER: Okay. Now, stop.
14 Everybody's got something to say here. I know what you
15 asked him. You asked him if he knew who the clients were.
16 He testified earlier, just a few moments ago, that he didn't
17 know who they were, but he knew that they were large volume
18 customers. Okay?

19 So I think that this has been asked and
20 answered. And to the last question he said, I think that
21 they were large volume customers, but he didn't know who
22 they were. He said that earlier. Okay?

23 If you want to ask him if he knows anything
24 about customer satisfaction for classes other than
25 residential, then ask him that and not necessarily if he

1 knows what Mister --

2 MR. CONRAD: That's fine.

3 JUDGE REGISTER: Go ahead.

4 BY MR. CONRAD:

5 Q. Do you know if customer satisfaction issues
6 were raised in this case for customers other than
7 residential?

8 A. I know of one. I recall one other person who
9 was speaking at the public hearing and he was from a church.
10 I don't know if he was the pastor of the church or what.
11 But this church -- I don't -- and I can't even recall what
12 their problems were, but I just know that in the mind of
13 this gentleman who represented the church, that they had
14 just some really significant problems -- customer service
15 problems with the company. And -- but I -- other than him,
16 I can't recall any other -- anybody other than residential
17 customers speaking at that public hearing.

18 JUDGE REGISTER: Now, you're just talking
19 about the public hearing. I believe I understand
20 Mr. Conrad's question to be in any customer complaints
21 throughout the case, not just at that hearing.

22 THE WITNESS: Okay.

23 JUDGE REGISTER: Did I understand that
24 correctly, Mr. Conrad?

25 MR. CONRAD: That's correct.

1 THE WITNESS: And, again, I would start
2 answering the way I did before when you stopped me just to
3 say I'm not -- you know, I'm not sure, but here's something
4 that might pertain to this case. And I can do that again if
5 you'd like.

6 JUDGE REGISTER: Yes. Now, you can -- do you
7 recall anything else that has to do with customer complaints
8 other than residential?

9 THE WITNESS: Again, it's not with certainty,
10 but I recall a recent gas case -- I think it was a recent
11 MGE case, where the large customers were looking for some
12 different procedure to resolve billing disputes that they
13 had with the company.

14 And I think the problem was maybe that -- the
15 problem was that the company would keep what the customer
16 believed was an overbilling subject to resolution of the
17 dispute. And that's really all the particulars that I
18 remember.

19 JUDGE REGISTER: And if Mr. Noack's testimony
20 dealt with customer complaints from large volume customers,
21 you wouldn't dispute that, would you?

22 THE WITNESS: I wouldn't know if it does or
23 doesn't. I really just didn't remember other -- what he
24 testified on. I knew that he testified on the subject --
25 some-- something having to do with the interests of large

1 customers, but what the subject was, I'm really not sure.
2 For -- you know, prior to his testimony actually being
3 excluded as not being pertinent to this case, I thought it
4 might have been the subject of class cost of service.

5 JUDGE REGISTER: Let me clarify. It's not
6 been excluded, but we just weren't discussing it here. When
7 you were testifying about the residential complaints that
8 you were testifying that you heard about at the hearing, was
9 it your intention to indicate -- to imply that there were no
10 other complaints from other classes?

11 THE WITNESS: No. I definitely was
12 misunderstood if anybody thought I was doing that. I was
13 just talking about the complaints that I recall from my
14 memory here today. And those particular complaints were
15 sort of -- you know, had a strong impression on my memory
16 because I actually heard them directly from the mouths of
17 the customer.

18 JUDGE REGISTER: Thank you, Mr. Kind.

19 Mr. Conrad, I'll let you ask anything else you
20 like.

21 BY MR. CONRAD:

22 Q. I take it from the last response you made from
23 the question to the Bench, that there's no particular
24 inference that you're trying to suggest, Mr. Kind, that
25 because one customer class comes to the public hearing and

1 complains and another customer class might come directly to
2 this proceeding and lodge their complaint, that either one
3 should be dealt with in any kind of different treatment by
4 the Commission insofar as a basis to award or penalize by
5 revenue increase; is that correct?

6 A. That's right. And I didn't even attend all
7 the public hearings in this case.

8 Q. Yeah. That has to do with customer service
9 issues rather than how rates should be designed?

10 A. I'm not following your question.

11 Q. That has to do -- what we were talking about
12 has to do with customer service issues and quality of
13 service issues rather than how rates are designed?

14 A. My testimony specifies that quality of service
15 issues are pertinent to how rates should be designed.

16 Q. And quality of service issues, again as raised
17 then by the Bench, in your view, should cause the customer
18 class that complains the loudest to receive the least
19 increase. Is that your testimony?

20 MR. MICHEEL: I'm going to object. That's
21 mischaracterizing the witness's testimony.

22 MR. CONRAD: This is cross-examination. And I
23 am responding to questions that you raised and that he
24 responded to. Now, I had a record that was -- that I was
25 satisfied with when I closed out the witness. You opened up

1 some additional areas both by your questions and by his
2 responses to them.

3 JUDGE REGISTER: And I get to do that,
4 Mr. Conrad.

5 MR. CONRAD: Yeah. But I get to fix it.

6 JUDGE REGISTER: Well, I'm --

7 THE WITNESS: Was there a question for me
8 that --

9 JUDGE REGISTER: No, you wait. There's an
10 objection on the floor.

11 I can't tell whether you were trying to
12 restate his testimony to him on that last question or if you
13 were asking him directly. Do you mind rephrasing that for
14 me?

15 MR. CONRAD: I'll attempt to.

16 JUDGE REGISTER: Thank you very much.

17 BY MR. CONRAD:

18 Q. You indicated, I thought, that you felt that
19 customer service -- or excuse me -- service quality issues,
20 Mr. Kind, were a factor that should be considered by this
21 Commission in designing rates; is that correct?

22 A. Yes. In this particular case.

23 Q. In what manner do you think this Commission
24 should consider customer quality issues in designing
25 individual customer class rates?

1 A. Just in a manner, you know, that -- it's just
2 a factor that should be taken into account. I guess I'm not
3 clear what you're getting at, in what manner.

4 I mean, it's a subjective determination if you
5 use class cost of service results as a -- you know, those
6 themselves are somewhat subjective, as I've described
7 earlier. And if you use them as a starting point to get the
8 ultimate end result in rate design, including any class
9 revenue shifts, I'm just saying that that's a factor,
10 quality of service, that you should take into account when
11 you go from here, being the class cost of service results,
12 to here, the ultimate rate design.

13 And I don't believe I've talked about a
14 specific manner as to -- as to how you take that into
15 account. I mean, maybe -- maybe other than the fact that if
16 those -- to the extent those problems are apparent and I
17 have knowledge about how those problems are apparent with
18 respect to residential customers and with respect to the one
19 church that I mentioned, and the Commission in their record
20 may have -- it may be -- there may be other problems that
21 are apparent when the Commission looks at that factor.

22 Q. And I think my question to you was, how should
23 the Commission take it into account?

24 A. And I've tried to answer that. I'm not sure
25 how to clarify that for you.

1 JUDGE REGISTER: Can I interject a question,
2 Mr. Conrad?

3 MR. CONRAD: To him or to me?

4 JUDGE REGISTER: To him. Would you make that
5 a consideration for all classes? The customer quality and
6 service issues would be something you would consider and how
7 that applies to each class; is that correct?

8 THE WITNESS: Certainly. I've tried to
9 express that here today.

10 JUDGE REGISTER: Mr. Conrad?

11 BY MR. CONRAD:

12 Q. I'll try one more. Shouldn't that be an issue
13 that is resolved in the company's overall rate of return
14 rather than using that as a justification to treat one class
15 over another differently?

16 A. I'm not sure that the Commission -- I really
17 don't know. It seems like you're getting into a legal
18 question there. But I guess from what I know, the
19 Commission is required to allow a utility company to have a
20 reasonable opportunity to get a fair return on their
21 business.

22 And it could be that the Commission would take
23 that into account, but I -- I don't know. It -- it could be
24 that -- I guess the best I could say is that subject to
25 whatever legal constraints there are, which I couldn't

1 describe to you today, of course, it's something that could
2 be taken in account in both areas.

3 Q. The Bench asked you specifically a question
4 about value of service. Do you recall that question?

5 A. I recall, yes, being asked about that.

6 Q. As I understand the value of service concept,
7 would you agree with me that that translates roughly into
8 charging what the market will bear?

9 A. I've -- I know that some people believe that
10 that's -- that's the way that concept should be applied. In
11 my mind, I think I have a broader understanding of that
12 concept.

13 Q. Your concept is that it would mark a level of
14 value or price above which the customer would select an
15 alternative lower cost or equivalent service?

16 A. No. No.

17 Q. What then is your definition of value of
18 service that you're using?

19 A. My definition would be that -- that probably
20 is one reasonable way to apply the concept. I would look at
21 it more in terms of what economists refer to as the utility
22 that they receive from a consumption of a good. And that's
23 a subjective evaluation of -- really of the level of
24 satisfaction that you're getting from a particular service.

25 Q. And with respect to the value of service

1 concept, you're not then seeing that as a pricing concept
2 that should be used in rate design, or are you?

3 A. I guess what you're suggesting is, like,
4 should -- you know, when you determine whether or not it's
5 justified for a utility to offer a flex rate to discount
6 their service so that they can match the price of
7 alternative fuels or bypass that, that's -- that's the idea.
8 And I guess in my mind, I've seen the concept used that way,
9 but that's really not -- not what I was referring to in
10 testimony here.

11 MR. CONRAD: I'll let the other one go. Thank
12 you.

13 JUDGE REGISTER: Redirect by Mr. Micheel?

14 REDIRECT EXAMINATION BY MR. MICHEEL:

15 Q. Yes. Mr. Kind, Mr. Conrad gave you a number
16 of hypotheticals. Do you recall those?

17 A. Yes, I do.

18 Q. And in those hypotheticals all other things
19 remained the same except for the one variable that he set
20 out. Do you recall those -- do you recall that factor?

21 A. Yes. He was suggesting that there could be a
22 situation where all of the things remained the same.

23 Q. In reality, is that what happens in a rate
24 case at all, other factors remain the same, or are there
25 other factors we consider?

1 A. I think it's virtually impossible for that
2 situation to come about. You'd pretty much have to just
3 somehow, you know, stop in time and just freeze things and
4 somehow be able to just fiddle with one factor and say,
5 okay, now we've got, you know, a new situation and based on
6 that situation, you know, what's -- how -- you know, what's
7 your view of how this hypothetical would work out.

8 Q. Do you have a view of the -- or do you think
9 that these hypotheticals are applicable to real world
10 situations such as this rate proceeding?

11 A. No. I mean, in this particular proceeding all
12 the levels of cost -- the different types of costs that the
13 company incurs have varied prior to their previous rate case
14 as well as I think their cost of debt and equity have
15 varied. It's just -- it's just -- I would -- I would say it
16 would be a one in a million chance that things might stay
17 the same, but I think that would be -- that's not even true
18 either. It's not that high of a likelihood.

19 Q. You had some questions from the Bench
20 regarding other factors that go into the class cost of
21 service study and other subjective factors. Do you recall
22 those questions?

23 A. Yes, I do.

24 Q. Are you suggesting that rates should only be
25 set based on those other subjective factors or should rates

1 be set based on those factors in concert of looking at a
2 class cost of service study?

3 A. As you stated, rates should be set based on
4 looking at those other factors as well as class cost of
5 service study results. The Commission needs to look at the
6 various studies and see if one -- if they believe one of the
7 studies are reasonable or somehow a combination of those
8 studies is reasonable as a starting point, if possible.

9 Q. And in arriving at your recommendation in this
10 proceeding for equal percentages, did you take into account
11 both class cost of study service results and those other
12 subjective factors?

13 A. Yes. I certainly did.

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

15 JUDGE REGISTER: Thank you, Mr. Micheel.

16 You're excused, Mr. Kind.

17 The next witness I have on our list is

18 Mr. Kies. Do you have cross-examination for Mr. Kies,
19 Staff?

20 MR. FRANSON: Yes, we do, your Honor. If I
21 could have just about two or three minutes.

22 JUDGE REGISTER: We'll go off the record a
23 minute, Tracy.

24 (Off the record.)

25 JUDGE REGISTER: Before we swear Mr. Kies in,

1 I just want to note -- this is something I kind of typically
2 do, but we do hearings frequently enough here you run into
3 it. But if you have an objection, most of you I see do wait
4 until the attorney speaking finishes the question and raise
5 your objection.

6 I do accept non-verbal cues that you have an
7 objection coming up so that I know to call on you next. And
8 I don't want there to be any misunderstanding that that
9 non-verbal cue is anything other than I see your hand and
10 I'll call you as soon as this person finishes the question.
11 And I did want that to be on the record.

12 So we will proceed with Mr. Kies' testimony
13 then. Mr. Kies is up here and raising his right hand.

14 (Witness sworn.)

15 JUDGE REGISTER: Thank you very much,
16 Mr. Kies. Have a seat and I will let Mr. Conrad do your
17 introduction.

18 MR. MICHEEL: Your Honor, if I may, I don't
19 know if Exhibit 1-- I'm sorry, Mr. Conrad, is it okay if I
20 go?

21 MR. CONRAD: You seem to be doing so.

22 MR. MICHEEL: I don't know if Exhibit 184 has
23 been admitted into the record.

24 JUDGE REGISTER: Yes. I believe I took it
25 subject to the motions and applications that are pending

1 decision.

2 MR. MICHEEL: Thank you, your Honor.

3 JUDGE REGISTER: Okay. Anything else
4 preliminary before we start with Mr. Conrad?

5 Okay. We'll try this again, Mr. Conrad.

6 DENNIS M. KIES testified as follows:

7 DIRECT EXAMINATION BY MR. CONRAD:

8 Q. Please state your name.

9 A. Dennis M. Kies.

10 Q. And your business address, Mr. Kies.

11 A. My business address is P.O. Box 12328,
12 Overland Park, Kansas 66212.

13 Q. Mr. Kies, are you the same person who has
14 previously -- a long time previously caused to be filed with
15 this Commission prepared direct testimony in question and
16 answer form that's been denominated as Exhibit 151; prepared
17 rebuttal, Exhibit 152; and prepared surrebuttal, Exhibit 153
18 on the dates of August 19, 1996, September 26, 1996 and
19 October 11, 1996 respectively?

20 A. That's correct.

21 Q. Do you have those testimonies before you at
22 this time?

23 A. I do, sir.

24 Q. Do you have any changes or corrections that
25 you would want to make?

1 A. Not to my knowledge at this time.

2 Q. It's my understanding, Mr. Kies, that those
3 have already been admitted. Is that your understanding?

4 A. That's my understanding, yes, sir.

5 Q. But if they were not and I were to ask you the
6 questions therein contained, would your answers today be the
7 same?

8 A. Yes, sir.

9 MR. CONRAD: Since these have already been
10 admitted, your Honor, I won't move them again, but we would
11 at that point tender Mr. Kies for cross-examination.

12 JUDGE REGISTER: Thank you very much,
13 Mr. Conrad. Exhibits 151, 152 and 153 are already admitted
14 into evidence in this record. And we will move to
15 cross-examination by Public Counsel, Mr. Micheel?

16 CROSS-EXAMINATION BY MR. MICHEEL:

17 Q. Would you agree with me, Mr. Kies, that the
18 Commission approved new rates for MGE effective
19 September 2nd, 1998?

20 A. That would be the 98-140 effective rate date,
21 Mr. Micheel?

22 Q. Yes, sir.

23 A. Yes. I would agree with that.

24 Q. Would you agree with me that those rates
25 superseded the rates approved in GR-96-285?

1 A. I would agree those are the currently
2 effective rates, yes.

3 MR. MICHEEL: Nothing further, your Honor.

4 JUDGE REGISTER: Okay. Thank you,
5 Mr. Micheel.

6 Cross-examination next by Staff. Mr. Franson,
7 are you doing that?

8 MR. FRANSON: Yes, your Honor.

9 CROSS-EXAMINATION BY MR. FRANSON:

10 Q. Mr. Kies, do you have your direct testimony,
11 that would be Exhibit 151, in front of you?

12 A. Yes, sir.

13 Q. Could you turn to page 4 of that, please, and
14 I would direct your attention to the question and answer
15 found at lines 19 through 21. Could you review that,
16 please?

17 A. I read that question and answer, yes.

18 Q. When you refer to these classes, are you
19 referring to the large general service and large volume
20 service classes?

21 A. Well, classes, that's -- I'm referring to
22 those classes because those are the only classes that show a
23 reduction for Mr. Gillmore's study, yes.

24 Q. So the answer to my question is yes?

25 A. Yes.

1 Q. Okay. Is that still your position today?

2 A. Yes.

3 Q. Okay. Do you have Mr. Gillmore's direct
4 testimony handy?

5 A. Let me double check.

6 Q. Okay. And if you've got it, would you get it
7 out, please?

8 JUDGE REGISTER: Which one?

9 MR. FRANSON: Mr. Gillmore's direct testimony,
10 your Honor. I'll have to check the exhibit number.

11 MR. DUFFY: 30.

12 JUDGE REGISTER: Direct is No. 30. Thank you.

13 THE WITNESS: I have his direct testimony with
14 me, yes.

15 BY MR. FRANSON:

16 Q. Do you know how many class cost of service
17 studies Mr. Gillmore did?

18 A. Mr. Gillmore did just one, his original cost
19 of service study is my understanding.

20 Q. Could you look at DSG-1 and then DSG-2 when,
21 in fact, there are -- well, if you could look at those and
22 the various schedules attached thereto.

23 JUDGE REGISTER: DSG-1?

24 MR. FRANSON: DSG-1 and all of -- starting at
25 DSG-1A starting at page 1 and then DSG-2 starting at page

1 No. 2A.

2 JUDGE REGISTER: Okay. These schedules on
3 DSG-1A, page 1. And what was the other one you wanted us to
4 look at?

5 MR. FRANSON: Starting at DSG-2.

6 MR. DUFFY: It's about that far in
7 (indicating).

8 JUDGE REGISTER: Okay. Thank you. Just for
9 the record, there are sub-letters on all of these that run
10 through G and H. Okay. 2A -- Schedule 2A.

11 MR. FRANSON: Yes, your Honor.

12 BY MR. FRANSON:

13 Q. And, Mr. Kies, I'd also -- after you've looked
14 at those briefly, if you could look at the direct testimony
15 of Mr. Gillmore, page 3, lines 11 through 22. That
16 explanation may help.

17 A. I'm with you now.

18 Q. Okay. Did he, in fact, do two cost of service
19 studies?

20 A. He, in fact, did two incorporating, as the
21 testimony indicates on page 3, Mr. Ditmore's.

22 Q. Okay. Are you, in fact, really only
23 advocating one of these?

24 A. My testimony -- yes, reflects --

25 Q. Which would that be?

1 A. -- for his original one.

2 Q. Okay. Now, let me turn your attention to -- I

3 believe it's DSG-1B which is attached to the --

4 A. DSG-1B?

5 Q. Yes. Could you look at line 8 there, please?

6 A. Eight?

7 Q. Yes, sir.

8 A. Okay.

9 Q. Does line 8 indicate that the class revenue

10 deficiency for each class, assuming a revenue increase for

11 the total company of \$33,219,663?

12 A. That's the revenue deficiency -- total company

13 revenue deficiency on line 8, yes.

14 Q. Okay. Now, however, the final revenue

15 deficiency for the company as ordered by the Commission was

16 substantially less than that -- than the 33 million; is that

17 correct?

18 A. That is correct.

19 Q. But line 8 does, in fact, indicate the

20 relative shifts between the classes for the company's cost

21 of service study; is that correct?

22 A. That's correct.

23 Q. Now, let me turn to page 9 of your rebuttal,

24 specifically lines 1 through 10.

25 A. Page 9 of rebuttal, Exhibit 152?

1 Q. Yes, sir.
2 A. Thank you.
3 Q. And lines 1 through 10, please.
4 A. I am there, Mr. Franson.
5 Q. You've had an opportunity to review that.
6 Now, therein you discuss your belief that the 50 cents --
7 50 percent interruptability adjustment to the large volume
8 service class peak should not have been made by the company
9 in their cost of service study; is that correct?
10 A. That's my statement, yes, because -- because I
11 believe actual peak is the proper measurement.
12 Q. Okay. Is that still your belief now?
13 A. That proper peak is the actual measurement,
14 yes, sir.
15 Q. And that is reflected that you -- that the
16 50 percent interruptability adjustment to the large volume
17 service class should not have been made. You still agree
18 with that?
19 A. I believe -- yes. I believe the peak is the
20 peak.
21 Q. Okay. Could you turn -- on Mr. Gillmore's
22 direct, there's Schedule DSG-1F. Could you turn there,
23 please?
24 MR. DUFFY: DSG-1F?
25 BY MR. FRANSON:

1 Q. 1-F.

2 A. I'm on DSG-F -- DSG-1F.

3 Q. Okay. Give me just a moment to get there too.

4 Okay. Now, on DSG-1F --

5 MR. FRANSON: Could I have just a moment, your
6 Honor?

7 BY MR. FRANSON:

8 Q. You have found 1-F. Is that, in fact,
9 correct?

10 A. That is correct.

11 Q. Okay. On line 5 -- okay. Is the last number
12 in line 5 -- is that the adjusted LVS peak of 1,688,306 that
13 you were referring to?

14 A. I believe so. The large volume peak volume --
15 this is peak month, by the way, not peak day or three-day
16 peak. This is a peak month.

17 Q. Okay. Did you do peak day or peak month or
18 does this show peak day or peak month?

19 A. I did not perform a cost of service study. I
20 went from Gillmore's. This -- Gillmore used the peak month.

21 Q. Do you believe the peak day is the appropriate
22 measure?

23 A. I believe the actual three-day peak is the
24 proper measure.

25 MR. FRANSON: I don't believe I have any

1 further questions, your Honor.

2 JUDGE REGISTER: All right. And that would
3 take us to Mr. Duffy for MGE.

4 MR. DUFFY: No questions.

5 JUDGE REGISTER: And I don't have any
6 questions.

7 And so we will go to redirect by Mr. Conrad.

8 REDIRECT EXAMINATION BY MR. CONRAD:

9 Q. Mr. Kies, counsel for Staff directed you to
10 your rebuttal at page 9 and queried you with respect to some
11 material from Mr. Gillmore's study. Please comment on why
12 you used Mr. Gillmore's study as the point from which you
13 took your analysis.

14 A. Well, I used Mr. Gillmore's study primarily
15 because based on the studies I've performed on this company
16 in the -- this company and its -- probably not this company,
17 but its predecessor companies, the methodologies used were
18 consistent with those I had used in the '70s, early '80s
19 when I was doing the cost of service study for this company.

20 As a matter of fact, in those days there was
21 only one cost of service study filed, which was Midwest Gas
22 Users'. When Western Resources bought gas service, finally
23 the company began to file cost of service studies. And in
24 response to that, we had the Staff and Public Counsel filing
25 theirs, so I discontinued performing one for each and every

1 case.

2 In reviewing Mr. Gillmore's methodologies, his
3 was the most consistent with the way I would perform the
4 study and had performed the studies in prior cases.

5 Q. Counsel for the Staff also queried you with
6 respect to whether Mr. Gillmore used a peak month or a peak
7 day or a series of peak days. Please comment on why --
8 although you have indicated that a three-day peak is what
9 you would prefer, please comment on why you nonetheless used
10 Mr. Gillmore's work.

11 A. Well, I used the coincident peak month in this
12 case primarily because this company can -- does not have the
13 capability to determine its actual three-day peaks. In
14 prior years we'd always have to get the peak data from the
15 pipeline rather than the company.

16 And to this date, the company still cannot
17 generate that data to provide. And, therefore, you
18 substitute the coincident peak month for a three-day peak.
19 And in past studies, as a matter of fact, I had presented
20 both a coincident month and the three-day coincident peak.
21 While the results varied some, they were consistent in the
22 trend they showed.

23 MR. CONRAD: I believe that's all. Thank you.

24 JUDGE REGISTER: Thank you very much,
25 Mr. Conrad.

1 Mr. Kies, I believe that you can be excused.
2 Let's go off the record for a moment.
3 (A RECESS WAS TAKEN.)
4 JUDGE REGISTER: Dr. Proctor has joined us
5 here and I'll swear him in and then we'll proceed.
6 (Witness sworn.)
7 JUDGE REGISTER: Thank you, Dr. Proctor.
8 Please be seated.
9 THE WITNESS: Thank you.
10 JUDGE REGISTER: Mr. Schwarz?
11 MICHAEL S. PROCTOR testified as follows:
12 DIRECT EXAMINATION BY MR. SCHWARZ:
13 Q. Would you state your name and business address
14 for the record, please.
15 A. My name is Michael S. Proctor. And my
16 business address is P.O. Box 360, Jefferson City, Missouri.
17 Q. By whom are you employed?
18 A. I'm employed by the Missouri Public Service
19 Commission.
20 Q. Are you the same Michael Proctor who caused to
21 be pre-filed in this matter Exhibit 108, rebuttal testimony
22 of Michael S. Proctor; and -- Exhibit 107, which is the
23 rebuttal; and Exhibit 108, which is the surrebuttal of
24 Michael --
25 A. I am.

1 Q. If I asked those questions of you today --
2 actually I don't have to do that.

3 Those exhibits have already been admitted into
4 evidence, have they not?

5 JUDGE REGISTER: The answer to that,
6 Dr. Proctor is yes.

7 MR. SCHWARZ: I'm sorry.

8 JUDGE REGISTER: The Bench will help you.

9 MR. SCHWARZ: I apologize for my confusion.

10 JUDGE REGISTER: I wasn't sure if you were
11 asking me or if you were asking Dr. Proctor.

12 MR. SCHWARZ: I understand. I would tender
13 Dr. Proctor for cross-examination on the issues before the
14 Commission on this remand.

15 JUDGE REGISTER: Okay. Exhibits 107 and 108
16 are already in the record. And Dr. Proctor has been
17 tendered for cross-examination. According to my list,
18 Mr. Duffy for MGE is first.

19 MR. DUFFY: No questions at this time.

20 JUDGE REGISTER: Mr. Micheel?

21 MR. MICHEEL: No questions for Dr. Proctor at
22 this time.

23 JUDGE REGISTER: Mr. Conrad?

24 MR. CONRAD: Yes, ma'am.

25 CROSS-EXAMINATION BY MR. CONRAD:

1 Q. Mister -- or forgive me -- Dr. Proctor, first
2 of all, good morning.

3 A. Good morning.

4 Q. This is still morning, I think. And we
5 appreciate you coming back this morning to talk to us.

6 Would you turn to page 14 of your rebuttal
7 testimony, please?

8 A. Yes.

9 Q. And concentrate your attention on line 11 and
10 following.

11 A. Okay.

12 Q. I want to focus more specifically on the
13 statement on line 15, The kind of allocation employed by
14 Mr. Hall should only be used when the purpose is to develop
15 seasonal rates for the costs of mains.

16 Did I get that approximately correct?

17 A. Yes.

18 Q. Now, have you had any occasion -- well, you
19 were not in the hearing room, I think, this morning; is that
20 correct?

21 A. That's correct.

22 Q. But you're familiar with the RSUM method that
23 Mr. Hall used some variations of?

24 A. Yes.

25 Q. Are you aware of his reference to an article

1 by Charles Laderoute?

2 A. I have a vague recollection of that, yes.

3 MR. CONRAD: Permission to approach the
4 witness, your Honor.

5 JUDGE REGISTER: Go right ahead.

6 BY MR. CONRAD:

7 Q. Dr. Proctor, I'm going to show you a copy of
8 what's been marked as Exhibit 193, which has previously been
9 identified and admitted into the record in this proceeding
10 as a copy of the article that's actually referred to in
11 Mr. Hall's testimony from Dr. Laderoute. Take just a
12 second, Dr. Proctor, and just kind of glance at that. Have
13 you had an opportunity to kind of --

14 A. Yes.

15 Q. -- run through it just briefly?

16 Let me direct your attention to the paragraph
17 at the bottom of actually the first physical page of that
18 exhibit, but it's the page that's marked 273.

19 A. Yes.

20 Q. And looking at that paragraph -- and if you
21 need a moment more to look at that, that would be fine. My
22 question to you is going to be, do you have the sense that
23 the method that that author is talking about would address
24 the gas costs that were incurred in the summer by off-peak
25 users and that the method was intended to minimize winter

1 gas costs -- off-peak gas costs, let's say, from being
2 charged to those summer -- or on-peak gas costs rather from
3 being charged to off-peak customers in the winter -- or the
4 summer? I'm sorry. By the time we got through that
5 question I --

6 JUDGE REGISTER: Are you going to withdraw
7 that question, Mr. Conrad, and start over?

8 BY MR. CONRAD:

9 Q. Just say no and we'll try again.

10 A. Would you repeat the question?

11 Q. I don't think there's any way I could and I'm
12 not going to insult the intelligence --

13 JUDGE REGISTER: So withdrawn, Mr. Conrad?

14 MR. CONRAD: I'll withdraw and start again.

15 BY MR. CONRAD:

16 Q. I think where we got off track was I asked you
17 to you look at the bottom paragraph of the very first
18 physical page. Are you there with me?

19 A. I am there.

20 Q. Okay. Just glancing at that, would it be a
21 fair statement that the RSUM method that Laderoute is
22 describing was addressed to gas costs that were incurred in
23 the summer by off-peak users and that the method was
24 intended to minimize winter gas costs from being charged to
25 those summer customers?

1 A. I think that's a portion of what he's
2 addressing here. I -- I think he's also -- just to clarify,
3 gas costs to some people mean the cost of the gas itself.
4 And -- and I think this goes beyond that. I think it goes
5 to facilities like peaking facilities that shouldn't be
6 allocated to customers that are using gas in the summer, so
7 it goes beyond just gas costs. It goes to the cost of
8 facilities as well.

9 Q. Now, let me ask you to move to -- it will be
10 the third physical page.

11 A. Okay.

12 Q. At the bottom of it is 275. And the very
13 first paragraph on that page, if you'd take a glance at
14 that. And I just have a question to ask you about that and
15 then we'll set this exhibit, I think, aside.

16 A. The paragraph at the top of the page or the
17 bottom?

18 Q. Right. Third time differentiated --

19 A. Third -- okay -- yes.

20 Q. Okay. Now, down about two-thirds of the way
21 through there's a sentence that starts, Customers who have
22 the ability?

23 A. Uh-huh.

24 Q. Customers who have the ability to increase
25 load in off-peak periods will have more of an incentive

1 given rates that track costs.

2 Did I read that --

3 A. You read that correctly, yes.

4 Q. By tracking costs, what do you suppose he was
5 meaning? Do you have a sense of what he might mean in your
6 experience?

7 A. In the context of the sentence, I think what
8 he's referring back to putting costs on a -- tracking costs
9 in the sense that certain costs are not caused by certain
10 loads. So in the context here of off-peak, off-peak loads
11 do not cause certain costs so if the rates don't include
12 those costs, then that gives those customers a price signal
13 to increase their usage.

14 Q. Now, the very next sentence talks about
15 additional loads in the summer months?

16 A. Yes.

17 Q. Look at that and tell me whether you agree
18 with that sentence.

19 A. Yes. I agree with that sentence.

20 MR. CONRAD: Your Honor, I think we're
21 probably done with that exhibit if I could retrieve it
22 before I --

23 JUDGE REGISTER: Go right ahead.

24 BY MR. CONRAD:

25 Q. Thank you, Doctor. I'll take that back. I do

1 have a couple of other things.

2 Now, I'd ask you to go back, if you would, to
3 the reference on page 14 of your rebuttal. The very next
4 statement where we were -- and I think we've talked about a
5 statement on line 15. And let's look at 16 now. It starts
6 out, While I do not see a need for?

7 A. Yes.

8 Q. I take it you're referencing seasonally
9 differentiated rates and indicating an opposition to them;
10 is that correct?

11 A. Let me read this.

12 Q. Sure.

13 A. I think I would characterize it as -- my
14 statement being that I didn't see any need to have
15 seasonally differentiated rates. I didn't -- I didn't
16 oppose them. I went on to say, If the Commission believes
17 that such differentiation is in the public interest -- in
18 other words, if there's a reason to do it, then using a
19 method such as the one proposed by the OPC, if it were going
20 to done correctly, would be the way I would do it.

21 Q. And that's where I -- thank you. That's kind
22 of where I wanted to focus our next bit of attention is on
23 the comment you had about a corrected version --

24 A. Yes.

25 Q. -- of the method.

1 What would be the correction or corrections
2 that you would make?

3 A. The Staff's position on allocation of
4 distribution mains is that at the very fundamental portion
5 of it, that the costs need to be separated between those
6 costs that are related to length in the system and those
7 costs that are related to demand. And once you've separated
8 the length component out of cost, then the method proposed
9 by the OPC could then be applied to the demand related
10 components.

11 Q. Now, do you know, Dr. Proctor -- and this may
12 be something that you may not have freshened up on, but
13 Mr. Hall, I think it's fair, characterized his method as a
14 modified RSUM method. Do you recall that?

15 A. Vaguely recall that, yes.

16 Q. And although you weren't here this morning, we
17 talked about how he got to that with Phil Thompson. You
18 remember Phil?

19 A. Yes.

20 Q. Was your comment about the corrected method
21 intended to refer to the RSUM method or the modification of
22 it or Mr. Thompson's modification of it or which, just so
23 we're clear?

24 A. The corrected version was applied to the --
25 what the OPC put into testimony, which would have been a

1 modified version of the RSUM.

2 Q. Now, let me ask you to jump ahead for a moment
3 to page 17. And at the very top of that page -- this is
4 again in your rebuttal, sir, Exhibit 107. There, I take it,
5 you wanted to address or were directing a comment to the --
6 you used the term "inappropriate application of the method
7 to MGE's distribution main cost." Method being Public
8 Counsel's method. Right?

9 A. That's correct.

10 Q. Explain to me what you mean by "inappropriate
11 application of the method to MGE's distribution main cost."

12 A. What I was talking about -- what I was talking
13 about in this paragraph was an application that I had done
14 in a Federal Energy Regulatory Commission case of something
15 similar to that, but the application was being made to
16 transmission lines, not distribution lines.

17 And the inappropriate application would go
18 back to the comment that you pointed out earlier where -- on
19 page -- I guess -- let's see -- was it page 14? Where I
20 said I would support an application of a corrected version
21 that would include a length component.

22 Length becomes extremely important to the
23 distribution system. Whereas, from the transmission
24 system -- well, length can be an important aspect of it.
25 That was up to FERC. And I don't want to get into all of

1 the things that FERC -- gyrations FERC has gone through on
2 this one, but I was just at this point saying don't --
3 Commission, don't confuse these.

4 Q. Well, let me just -- just again so I'm pretty
5 clear here and to put perhaps a slightly finer point on it,
6 what you just said I take to be that the method advocated by
7 Mr. Hall, as it's out of the box as it were before the
8 correction, is not recognizing that a large portion of the
9 distribution system main cost -- distribution main cost, I
10 should say, is related not to the size of the pipe --

11 A. Right.

12 Q. -- but rather to the length of the system and
13 pipes that are constituting that system --

14 A. That's correct.

15 Q. -- agree or disagree?

16 A. I dis-- I agree.

17 Q. All right. Now, what effect in a cost
18 allocator or a process that develops a cost allocator, what
19 effect is created -- maybe that's a better way to say it.

20 What effect results if the assertion that you
21 just made and that you and I agreed on is not recognized?

22 A. I think the ultimate impact -- and, of course,
23 it depends upon what type of allocator is used for
24 allocating the demands. But whether it's an RSUM allocator
25 or it's a peak demand allocator or -- if you just do it on

1 demands and don't recognize the length component, it's going
2 to tend to over-allocate the costs to the large customers.

3 Q. Now --

4 A. And under-allocate to smaller customers.

5 Q. -- let me ask you now to jump ahead, please,
6 to page 21. And I'm also going to -- well, let me focus
7 your attention to begin with, Dr. Proctor, at lines 10
8 through 12 --

9 A. Yes.

10 Q. -- on page 21. And there you're making some
11 reference to what are argued to be several errors that
12 Mr. Hall made. And you make reference to Mr. Beck's
13 testimony?

14 A. That's correct.

15 Q. Correct. Do you have the piece of Mr. Beck's
16 testimony available to you up there?

17 A. I don't have it with me.

18 Q. Either your counsel or I can supply it.

19 MR. SCHWARZ: No. That's fine.

20 JUDGE REGISTER: Go ahead, Mr. Conrad.

21 BY MR. CONRAD:

22 Q. Dr. Proctor, I've got a file here that
23 actually has all the various pieces of Mr. Beck's testimony.
24 And I just wondered if you could quickly identify for us so
25 we can kind of tie this together what part of Beck's

1 testimony you're referring to there that corrected the
2 errors?

3 A. It may take me just a minute.

4 JUDGE REGISTER: Take all the time you need,
5 Dr. Proctor.

6 THE WITNESS: He starts on page 11 of his
7 rebuttal testimony discussing the OPC allocators. My
8 recollection is it -- let me look through this.

9 JUDGE REGISTER: Take a moment to read it, if
10 you'd like to. We can go off the record, or maybe we'll
11 just wait for you.

12 MR. CONRAD: I was going to say before, I did
13 I think his reference was to 133 Exhibit, if that was the
14 rebuttal testimony.

15 JUDGE REGISTER: Right. Rebuttal testimony of
16 Daniel Beck, Exhibit 133.

17 THE WITNESS: Okay.

18 BY MR. CONRAD:

19 Q. Have you been able to identify the part you
20 were talking about?

21 A. Yes.

22 Q. Could you just identify it for us briefly?

23 A. Mr. Beck's rebuttal of OPC allocators starts
24 on page 11 and runs to page -- through page 18.

25 Q. And just so we haven't lost track of it, those

1 are the corrections that you're talking -- or the errors
2 that are addressed that you're talking about on page 21 of
3 your rebuttal testimony at line 11 and 12 and thereabouts?

4 A. That's correct. And those corrections are
5 summarized on Schedule 1 to his testimony.

6 Q. To Mr. Beck's testimony?

7 A. To Mr. Beck's testimony, rebuttal testimony.

8 Q. Now, Dr. Proctor, let me ask you to turn,
9 please, back to your testimony. And this time to your
10 surrebuttal. This would be Exhibit 108, and page 8 of that
11 exhibit, please, and looking at lines 9 through 11. Take a
12 second and refresh your recollection.

13 JUDGE REGISTER: You said page 8?

14 MR. CONRAD: Yes, ma'am. I believe I did.

15 JUDGE REGISTER: Thank you.

16 MR. CONRAD: Surrebuttal, Exhibit 108 also.

17 JUDGE REGISTER: Thank you.

18 THE WITNESS: Yes.

19 BY MR. CONRAD:

20 Q. And I take it there at line 9 you're referring
21 to your Schedule 5 that indicates including the scale
22 factor. What do you mean by -- when you refer to scale
23 factor, what is it you're referring to?

24 A. Okay. What that's referring to is on the
25 demand portion of the allocator, if the costs increase at a

1 decreasing rate with respect to the volume of gas, you need
2 to account for that with a scale factor.

3 And a scale factor is appropriate in the sense
4 that as the -- as the size of the pipe gets larger, okay,
5 the volume that can go through it increases at a greater
6 rate than the surface area of the pipe. I don't know if
7 that answers your question, but what it's saying is that an
8 increment -- the next increment demand costs less than the
9 previous increment.

10 Q. And that is laid out on your Schedule 5?

11 A. That's correct.

12 Q. And if you could flip to that for just a
13 second?

14 A. Yes.

15 Q. Three sets of tables. Right?

16 A. That's -- that's correct.

17 Q. I kind of got confused about what the IS stood
18 for, but integrated system, is that what you were
19 shorthanding there?

20 A. Let's assume it is.

21 JUDGE REGISTER: Okay. Wait a minute. In
22 looking at your testimony, can you tell for sure what that
23 IS stands for?

24 THE WITNESS: Boy, I'm sure it had a lot of
25 meaning. Integrated system.

1 JUDGE REGISTER: Thank you very much,
2 Dr. Proctor.

3 BY MR. CONRAD:

4 Q. And I take it from that -- and I just want to
5 look at the large volume service there. And the line,
6 Dr. Proctor, shifts in revenues, but I think that's what
7 you're talking about here. The 736,597 that appears on
8 line 11 of page 8, that's tying to the number on Schedule 5
9 shifts in revenues under large volume service at the table
10 at the top to positive 371,178. That's the one in the
11 middle. Right?

12 A. Yes.

13 Q. When you say negative and positive there, help
14 me understand what it is you're saying. Money should go
15 from that class or to that class?

16 A. It appears that the number in the third line
17 that's entitled Shift in Revenues is the difference between
18 the cost of service revenues and the current revenues. So,
19 for example, the negative 736,597 is the difference between
20 the 8 million 7 and the 9 million 5.

21 So since the cost of service revenues
22 represents what the customer should be paying under that
23 cost of service study and the current revenues, what they
24 actually are paying, then a negative number would represent
25 a revenue decrease that should go to that class.

1 Q. Now, if you would, flip back from Schedule 5
2 to page 8 again.

3 A. Okay.

4 Q. And coming on down that page you ask yourself
5 the question why there's such a large change. And at line
6 16 and 17 you attribute that to the higher -- or the high
7 load factor that these customers typically have; is that
8 fair?

9 A. That's correct.

10 Q. What, in your view and your experience, is a
11 relatively high load factor compared to a residential
12 customer?

13 A. My recollection is that a residential customer
14 may have something of the order of a 25 percent to
15 30 percent load factor because they're very temperature
16 sensitive. Large volume customers vary, but depends upon
17 their use of gas. I -- off the top of my head, I can't
18 remember exactly what the load factor was in this particular
19 case for the large volume customer, but it wouldn't surprise
20 me if it was in the 50 to 60 percent range.

21 Q. And just for clarity sake, when you say "load
22 factor," we're talking -- you and I are talking hopefully
23 about the same thing, which is the relationship -- I suppose
24 you could say ratio, but let's say the relationship between
25 what a particular customer -- or group of customers' peak

1 usage is compared to their average usage over some period?

2 A. Right. If you took -- if you took their total
3 usage and calculated it as a per day average, let's say, so
4 you took their total usage and divided it by 365 days and
5 you compared that, divided that by their highest usage, that
6 would be their load factor.

7 MR. CONRAD: Permission to approach.

8 JUDGE REGISTER: Go right ahead.

9 BY MR. CONRAD:

10 Q. Dr. Proctor, I'm going to show you an exhibit
11 that those of us who have been around have had a great deal
12 of fun with. It's Exhibit 191, consists of three pages. I
13 think you can probably focus your attention on just the very
14 first page.

15 And to shortcut that, I'll represent to you
16 that the last page was identified by Ms. Ross as from her
17 work papers. The page in the middle was simply a
18 transferring of her totals into a spreadsheet form. And
19 then the top sheet is just a graphing of those. Looking
20 at --

21 MR. SCHWARZ: If I might at this stage --

22 JUDGE REGISTER: Yes.

23 MR. SCHWARZ: -- it's my understanding that
24 the third sheet on that page is only part of a sheet of her
25 work papers, and it's not a copy of the entire work sheet.

1 MR. CONRAD: That's correct.

2 MR. MICHEEL: If I may, I've had no fun with
3 respect to Exhibit 191.

4 JUDGE REGISTER: Wait a minute. Now, let me
5 make sure -- Mr. Schwarz, do you have something else to add
6 there?

7 MR. CONRAD: I think maybe Mr. Schwarz's
8 question was driven by the fact that he had not realized we
9 had made the substitution; is that fair?

10 MR. SCHWARZ: That is correct.

11 JUDGE REGISTER: And that was a page that we
12 were pulling from Exhibit 7, wasn't it?

13 MR. CONRAD: No.

14 MR. SCHWARZ: No, no, no. I would like to
15 withdraw my statement.

16 JUDGE REGISTER: Okay. Thank you,
17 Mr. Schwarz.

18 MR. SCHWARZ: Yes. We're safe to move on from
19 my perspective.

20 BY MR. CONRAD:

21 Q. My question -- just a couple of questions,
22 Dr. Proctor. I don't want to take you into any of the
23 figures of it, but there are four lines. There's one
24 identified as Res, short for residential; SGS, short for
25 small general service; LGS, large general service; and then

1 we've totaled them. Do you see a class missing?

2 A. Yes.

3 Q. Okay. I'm going to come to that in a second.

4 Of the lines that are there, which one of those three
5 customers -- not looking at the total line, but just of the
6 three groups of customers -- would, to you, be most
7 indicative of a high load factor group of customers?

8 A. Well, the LGS has the flattest line, so that
9 would be indicative.

10 Q. So at least as we've organized that chart, the
11 flatness is what you're looking for?

12 A. Yes. The problem with the chart is it seems
13 to be cumulative. So in order for me to look at small
14 general service, I have to -- I think I have to subtract
15 that.

16 Q. Well, if you'd look -- without getting into
17 that -- that is not the correct thing. If you look at
18 page 2 --

19 A. Okay.

20 Q. -- you'll see the values.

21 JUDGE REGISTER: Do you need time to look at
22 the values on the original sheet and how they're transferred
23 over to the second sheet, Dr. Proctor?

24 MR. CONRAD: Your Honor, I'd also tell the
25 witness that the top line, the total, Dr. Proctor, is

1 cumulative.

2 THE WITNESS: Cumulative.

3 BY MR. CONRAD:

4 Q. That's the summing of the three below it. So
5 in that sense you're correct.

6 JUDGE REGISTER: Which one's that now?

7 MR. CONRAD: The one that says total or
8 t-o-t.

9 JUDGE REGISTER: Gotcha.

10 THE WITNESS: It's the total of the three
11 classes.

12 BY MR. CONRAD:

13 Q. That's the total of the three below it.

14 A. That's fine.

15 Q. Now, look, if you would, on the very last page
16 of that small packet. And there is a number that's given
17 for the large volume customers. Do you see that?

18 A. Yes.

19 Q. Roughly 31 million -- 31.7 million --

20 A. Yes.

21 Q. -- MCF and change?

22 If you were to just approximately draw that,
23 knowing what you do in your experience in how that class
24 uses natural gas, how would you describe where we would put
25 a line on that chart to represent the LVS customers?

1 A. Well, I suspect it would look similar to the
2 LGS -- or much more similar to the LGS than the residential
3 or the SGS. It could be flatter than the LGS curve.

4 Q. Now, is having a relatively high load factor
5 compared to residential customers a good thing?

6 A. Well, it certainly spreads the fixed cost over
7 a larger quantity of sales.

8 Q. And what we looked at earlier, that Laderoute
9 article, he made that same point too, didn't he?

10 A. Yes, he did.

11 MR. CONRAD: Your Honor, could I have just a
12 second? I may be able to --

13 JUDGE REGISTER: Certainly. And while we're
14 on the record, I just wanted to clarify what Dr. Proctor's
15 been testifying to as Exhibit 191, that was admitted earlier
16 today as a corrected version.

17 MR. CONRAD: Thank you, your Honor.

18 JUDGE REGISTER: Nothing further?

19 MR. CONRAD: No. I was able to eliminate --

20 JUDGE REGISTER: I'm sorry. I misunderstood,
21 Mr. Conrad.

22 BY MR. CONRAD:

23 Q. I did have one more we weren't able to
24 eliminate. Still staying with your surrebuttal,
25 Dr. Proctor, and let me advance you to the last page of

1 that, page 10, and looking at lines 9 through 11.

2 A. Yes.

3 Q. Is it still your position that class cost of
4 service imbalances should be corrected before an equal
5 percentage increase is applied?

6 A. I believe if all of the -- yes. I believe if
7 all of the studies that are acceptable to the Commission
8 show that there should be an increase for certain classes
9 and decrease for others, that those kinds of shifts should
10 be made -- or we should go in the direction of those shifts.

11 What I would add to that is, I view class cost
12 of service studies as a mix of art and science. And to view
13 a class cost of service study as a scientific certainty is,
14 in my view, an inappropriate view. I think that analysts
15 make judgments and the Commission has to look at those
16 judgments and weigh those in determining how much weight
17 they're going to put to a class cost of service study. If
18 things that are -- they find acceptable are moving in a
19 certain direction, I would certainly recommend that they go
20 in that direction.

21 MR. CONRAD: That one, I think, is all we had.
22 Thank you.

23 JUDGE REGISTER: Thank you, Mr. Conrad.

24 MR. CONRAD: Thank you.

25 JUDGE REGISTER: And that concludes our

1 cross-examination.

2 I have no questions for Dr. Proctor, and so
3 we'll go directly to recross -- redirect, excuse me,
4 Mr. Schwarz.

5 REDIRECT EXAMINATION BY MR. SCHWARZ:

6 Q. Dr. Proctor, when you compare load shapes, do
7 you commonly put the various load shapes on an equal scale,
8 for example, a zero to one scale?

9 A. You can.

10 Q. Why would you do so?

11 A. So that you would look at them on a relative
12 basis. Well, so that the size would not be as -- as
13 important a determinant in what you're looking at. What
14 you're looking at is the shape rather than a size.

15 So if you had a very small class and you put
16 it on a -- and when I say "small," small in terms of its
17 total usage -- and another class that was very large and if
18 you were trying to compare shapes, you would -- you'd put it
19 on a zero to one basis to look at the shapes. Otherwise,
20 the largeness would just dominate the smallness.

21 MR. SCHWARZ: I don't think I have any other
22 questions.

23 JUDGE REGISTER: Okay. Thank you,
24 Dr. Proctor. I believe that's all we have for you.

25 THE WITNESS: Thank you.

1 JUDGE REGISTER: You may be excused.

2 MR. CONRAD: We have nothing further for our
3 side of the case, your Honor.

4 JUDGE REGISTER: And I believe that does
5 complete all the witnesses that were scheduled. Mr. Conrad
6 has indicated they don't have anything further. Is there
7 anything further --

8 MR. CONRAD: Yes, we do have -- I guess I had
9 both a question and a clarification. One is we didn't ask
10 Dr. Proctor and didn't have any intention to about his
11 support testimony that was actually -- I think it was marked
12 as 159. And that was put in pursuant to the stipulation in
13 support of it, but I believe only in support of it. Is that
14 really part of the -- since that stipulation was rejected,
15 is that part of this hearing?

16 JUDGE REGISTER: That's a good question. Do
17 any of the other parties have a comment or a suggestion on
18 whether 159 needs to be considered by the Commission in
19 making a decision in the remand hearing?

20 MR. MICHEEL: I would think if the Commission
21 looks at the testimony and sees that it's testimony in
22 support of a stipulation that they've already rejected,
23 they'd know to stop reading.

24 MR. SCHWARZ: I can't think that Staff would
25 have any cause to refer to it or bring it to the

1 Commission's attention.

2 MR. DUFFY: I think it's legally irrelevant.

3 MR. SCHWARZ: Yeah.

4 MR. CONRAD: I think we'd agree, but I just
5 wanted to get that --

6 MR. SCHWARZ: Right.

7 JUDGE REGISTER: What about the schedules that
8 are attached to that?

9 MR. CONRAD: I think -- for my part, I think
10 they would be subject to whatever the same disposition is.
11 If, as Mr. Duffy says, it's legally irrelevant, I think the
12 attachments to it would be.

13 JUDGE REGISTER: And those graphs were based
14 upon the --

15 MR. SCHWARZ: They would have --

16 JUDGE REGISTER: -- previous Stipulation and
17 Agreement and, therefore, they would not have any --

18 MR. SCHWARZ: Well, they were prepared in
19 support of the Stipulation and Agreement which has been
20 rejected which is not the subject of the hearing. My guess
21 is that we just listed it because we pulled everything that
22 had Dr. Proctor's name on it.

23 JUDGE REGISTER: Okay. If the parties have no
24 objection, then I will remove the support testimony of
25 Michael S. Proctor filed in October of 1996 from the

1 evidence to be considered in this remand hearing.

2 MR. DUFFY: Are we going to do the same thing
3 with regard to Mr. Noack's?

4 JUDGE REGISTER: I am not going to do that
5 because there has at least been reference in this hearing
6 that there might be some factors in that testimony to be
7 considered. And since that testimony's already been
8 admitted in the record anyway, we'll simply leave it in this
9 mound of evidence.

10 MR. DUFFY: Well, I guess -- you know, I think
11 I want to at least state an objection to that on the basis
12 that everybody else was either here to be cross-examined in
13 person or by someone who adopted their testimony. And in
14 this situation Mr. Noack was not, and so I would have been
15 denied the opportunity to cross-examine Mr. Noack. So I
16 don't think that 154 and 155 ought to be considered in this
17 record.

18 JUDGE REGISTER: Mr. Conrad, your response?

19 MR. CONRAD: If you'll recall at the very
20 outset of this, the reason that Noack wasn't here is not
21 because of a desire to -- I think on the part of those
22 parties sponsoring that -- to abandon that testimony,
23 because he, in fact, did address, I believe, other issues
24 and those other issues were ruled by the Commission or not
25 ruled.

1 It was determined after that had been listed
2 out of an abundance of caution, I think was the phrase I had
3 used, that the issues that he did address were not part of
4 this remand hearing. That doesn't mean like -- and I think
5 the problem that I'm concerned about with Mr. Duffy's
6 comment would not be limited to Mr. Noack's testimony.
7 There have been scads of references, recalling this morning,
8 to references in the public hearing.

9 So I didn't think -- and I think I had raised
10 this to begin with when we had the prehearing and earlier,
11 this is a remand hearing, but it's a hearing that should
12 have taken place in the context of the overall hearing
13 originally and that's why it's back here.

14 So it's not -- this is not like a discreet
15 rate case. And it would be, I think, inappropriate -- and I
16 did not object to witnesses who made reference to other
17 parts of the hearing and Staff's accounting numbers and so
18 on that have gone before in the first part of the hearing.
19 You're looking at me like you're not tracking or
20 understanding what I'm saying.

21 JUDGE REGISTER: No. Do not assume anything
22 that I am thinking, because I don't wear my thoughts on my
23 face. So by looking at me you don't know what I'm thinking.

24 MR. CONRAD: The point is that I -- I would
25 feel free to brief and I think insofar as the address by the

1 Commission to the issues that are raised here, this is in
2 the context of the entire case, but those other witnesses
3 are already, as it were, in the can.

4 And as this had -- had this gone on in the
5 proper time sequence, this hearing that's taken two days
6 would probably have taken two days or the better part of it
7 back in October of 1996 and it would have been in that
8 context that we would have been deciding it. That's the
9 only concern that I have about Mr. Duffy's statement.

10 JUDGE REGISTER: Thank you, Mr. Conrad.

11 Are there any other comments on that issue?

12 MR. MICHEEL: I would just state this --

13 JUDGE REGISTER: Mr. Micheel?

14 MR. MICHEEL: -- the reason of the scads of
15 the public hearing testimony and everything that was
16 referred to was in response to questions I believe from the
17 Bench and from Mr. Conrad. It wasn't that Public Counsel is
18 trying to interject things outside of what we had agreed to
19 put into this remand record.

20 JUDGE REGISTER: And I want to -- I'm going to
21 rule at this point. I'm going to overrule your objection
22 there, Mr. Duffy. I think that all of the evidence in this
23 case -- in Case No. GR-96-285 that is already admitted into
24 evidence is subject to the Commission review.

25 We ask for the parties to identify those

1 pieces of evidence that they thought would have an impact on
2 the remand issues and those were identified. And
3 Mr. Noack's testimony was included in that. My
4 understanding at the -- I understand that at the prehearing
5 the parties decided they didn't think that that was actually
6 applicable. But there have been references to Schedule 7,
7 and although I know that those are just copies, I'm going to
8 have -- I already have had that document copied because it
9 had been, you know, referred to in this case. And so even
10 from the transcript, the Commissioners may want to review
11 that. They may want to see that document.

12 So I don't remember ever saying that we would
13 not refer to any other documents in this record, the
14 complete record in GR-9-- in all of the evidence in
15 GR-96-285. So I am going to leave it in the record.

16 If counsel, Mr. Duffy, for MGE, decides that
17 there is some cross-examination that is just absolutely
18 necessary and wants to request an additional hearing for
19 that purpose, then he can file that motion to do so.

20 At this point in time, though, I'm going to
21 say that they will be -- all of the evidence in the record
22 is subject to consideration by the Commission as they will
23 consider all factors and give them their due weight.

24 MR. CONRAD: Now, I have a second --

25 JUDGE REGISTER: Mr. Conrad, you have another

1 issue?

2 MR. CONRAD: We had an open item on
3 Exhibit 188 that yesterday the parties were going to do some
4 verification and to check about the totals on that. And I
5 would simply inquire if that has been done, because I'd like
6 for the record here not to be closed with that outstanding.

7 I think your reference, as I recall, left it
8 was that the other two cases, the 91-291 and 93-240 on that
9 exhibit were in the Commission's files, so really what we
10 were doing was just bringing that together.

11 JUDGE REGISTER: And I believe Mr. Schwarz had
12 indicated to us -- yes, that document has not been admitted
13 into the record yet. Mr. Schwarz has indicated in his
14 objection that maybe it was official notice that Mr. Conrad
15 wanted us to take of the records in the other two cases that
16 were presented as documents in this case. And if there's no
17 objection to that, I'll give you that opportunity to --

18 MR. SCHWARZ: I have no objection if the
19 Commission takes official notice of the Staff's accounting
20 schedules in those two cases.

21 JUDGE REGISTER: And so those pages of your
22 exhibit in Exhibit 188 purport to be copies of documents
23 from those files, and we will take official notice of those
24 pages which are representative of the official file in those
25 two cases. And if there is any objection to that or if

1 anybody finds any discrepancy, be sure and let me know.

2 MR. CONRAD: If we go that route, my
3 understanding is I'm obligated to provide copies, which I
4 already actually -- I'm trying to remember, but yeah, I
5 think we did provide copies of that.

6 JUDGE REGISTER: Of the official file. That
7 would be fine. Thank you very much.

8 MR. DUFFY: So are you saying 188 is received
9 subject to somebody pointing out an error in it, or are we
10 going to have some period of time for people to file
11 comments and if no one files comments, then it is received?

12 I'm assuming that the copies are accurate.
13 And if we're taking official notice, then it would seem to
14 me that unless somebody after the fact finds out that the
15 copies are inaccurate, that we ought to just go ahead and
16 admit 188.

17 JUDGE REGISTER: I have no objection to that.
18 We'll receive it as taking official notice. And if there
19 are any discrepancies, the parties should notify me at that
20 time.

21 (EXHIBIT NO. 188 WAS RECEIVED INTO EVIDENCE.)

22 MR. DUFFY: Can we go through the rest of the
23 exhibits at this time to see how they are?

24 JUDGE REGISTER: We certainly can. Now, this
25 is our limited schedule of exhibits for this remand hearing.

1 MR. DUFFY: I was going to start with 182. And
2 my understanding is that that is -- you have not ruled on
3 the Motions to Strike, you're taking those with the case.

4 JUDGE REGISTER: That's correct.

5 MR. DUFFY: So there is no ruling at this
6 point on 182.

7 JUDGE REGISTER: That's correct.

8 MR. DUFFY: I show 183 is admitted.

9 JUDGE REGISTER: Yes.

10 MR. DUFFY: And 184 is admitted but subject to
11 those same Motions to Strike.

12 JUDGE REGISTER: Right.

13 MR. DUFFY: And 185 is admitted. 186 is
14 admitted. I do not show 187 is admitted.

15 MR. FRANSON: I show 187 specifically not
16 admitted, because it was not offered.

17 MR. CONRAD: 187 was not offered.

18 MR. DUFFY: I show 188 received, 189 received,
19 190 received, 191 received. I did not show anything on 192,
20 and I show 193 received.

21 MR. FRANSON: 192 was never --

22 JUDGE REGISTER: Okay. Let me slow down. 189
23 was stricken, but is in the record.

24 MR. DUFFY: Right.

25 JUDGE REGISTER: And we already did 188. 190

1 you said is received?

2 MR. DUFFY: Yes.

3 JUDGE REGISTER: 191 I have as received.

4 MR. DUFFY: Yes.

5 JUDGE REGISTER: 192 was not offered.

6 MR. DUFFY: Right.

7 JUDGE REGISTER: 193 was offered and received.

8 MR. DUFFY: That's what I show.

9 JUDGE REGISTER: And that was our last exhibit

10 number for this remand hearing.

11 Okay. Briefing schedules?

12 MR. CONRAD: First transcript.

13 JUDGE REGISTER: First transcript. Anybody

14 need it faster than the typical two weeks?

15 MR. DUFFY: That would be nice if we could do

16 it if that will move up the briefing schedule. Can we get

17 it done in a week perhaps instead of two weeks? And I know

18 we're still on the record so it's sort of difficult for the

19 court reporter to respond at this point.

20 JUDGE REGISTER: Okay. Let's go off the

21 record for a moment.

22 (Off the record.)

23 JUDGE REGISTER: We've returned to the record.

24 We've been discussing the dates for transcript and initial

25 brief and reply brief. Our court reporter will have the

1 transcript to us within two weeks. That should be by the
2 end of -- or by four o'clock on August 23rd, 2000.

3 And given filing of the transcript by
4 August 23rd, the initial briefs will be due 25 -- 26 days
5 later actually. And it will be September 18th -- I'm sorry,
6 September 19th -- the hard copies must be filed with
7 records. The parties have agreed to exchange electronic
8 copies on the 18th.

9 And the reply briefs will be due
10 September 28th by the end of the filing day, hard copies to
11 be filed with records by that date.

12 Any other matters that need to be handled
13 before we close this hearing? Thank you very much.

14 WHEREUPON, the hearing in this matter was
15 concluded.

16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

OPC'S EVIDENCE:

HONG HU	
Cross-Examination by Mr. Conrad	2111
Questions by Commissioner Drainer	2139
Recross-Examination by Mr. Conrad	2144
Further Questions by Commissioner Drainer	2147
Redirect Examination by Mr. Micheel	2147
RYAN KIND	
Direct Examination by Mr. Micheel	2149
Cross-Examination by Mr. Conrad	2153
Questions by Judge Register	2169
Recross-Examination by Mr. Conrad	2173
Redirect Examination by Mr. Micheel	2185

MGUA'S EVIDENCE:

DENNIS M. KIES	
Direct Examination by Mr. Conrad	2189
Cross-Examination by Mr. Micheel	2190
Cross-Examination by Mr. Franson	2191
Redirect Examination by Mr. Conrad	2197

STAFF'S EVIDENCE:

MICHAEL S. PROCTOR	
Direct Examination by Mr. Schwarz	2199
Cross-Examination by Mr. Conrad	2200
Redirect Examination by Mr. Schwarz	2222

1	EXHIBITS INDEX		
2	Exhibit No. 184	Marked	Rec'd
3	Rebuttal Testimony of Ryan Kind on Remand		2153
4	Exhibit No. 188		
5	Comparison of rate base		2230
6	Exhibit No. 191		
7	Correction version of Exhibit No. 189	2110	2110
8	Exhibit No. 192		
9	Document entitled Re Interstate Power Company	2113	
10	Exhibit No. 193		
11	Article by Charles D. Laderoute	2122	2123
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

2235
ASSOCIATED COURT REPORTERS, INC.
573-636-7551 JEFFERSON CITY, MO
573-442-3600 COLUMBIA, MO